

APPEAL TRIBUNAL OF THE FAIR TRADING COMMISSION SEYCHELLES

VIMALATHITHAN VAIRASAMY

APPELLANT

VERSUS

FAIR TRADING COMMISSION

RESPONDENT

CASE NO. CPA/INS17/129

APPEAL

1 On the 9th November 2017, the Fair Trading Commission conducted a routine
2 inspection of the business premises of the Appellant situated at Takamaka,
3 Mahe. During the inspection the officials of the Fair Trading Commission
4 observed the following contraventions of the Consumer Protection Act 2010,
5 namely:

6

7 a. In accordance with Section 19 (1) (b) read with Section 19 (2) (a) in that
8 20 items were found not to have information or labels in plain language;

9

10 b. In Accordance with section 20 (1) read with Section 20 (3) in that 4837
11 items were found to be displayed for sale without any price displayed to
12 the consumers in relation to the goods;

13

14 c. In accordance with Section 24 (1) in that 55 items were displayed for sale
15 at a date later than the expiry date of those items, also triggering the
16 provision of Section 50 (1) in that the supplier failed to comply with the
17 general safety provisions by offering for sale expired goods.

18

19 d. In accordance with Section 25(1) read with Section 25 (2) in that the
20 supply failed to supply proper sale records.

21

22 The Commission was of the view that a compliance notice would not be
23 sufficient to remedy the situation, given the gravity of the breaches and

24 therefore filed a case before the Board of the CommissionerS in respect of those
25 contraventions.

26 After having heard the evidence of the Appellant including the evidence that
27 the breaches had already been rectified, the Board of Commissioners imposed
28 the following fines:

29

30 a. For the Contravention of Section 19 (1) (b) read with Section 19 (2) –
31 SR1,500

32

33 b. For the contravention of Section 20 (1) read with Section 20 (3) (a) –
34 SR6,000

35

36 c. For the contravention of Section 24 (1) – SR3,000

37

38 d. For the contravention of Section 25 (1) read with Section 25 92) –SR5,000

39

40 e. For the convention of Section 50 (1) (a) read with Section 50 (2) (a) –
41 SR3,000.

42

43 In mitigation the Appellant accepted that he had committed the offences as
44 set out above, but his assurance that he would not repeat these similar offences
45 and gave his personal undertaking that the offences set out above would not
46 be repeated and, in addition, his small shop was not doing well financially and
47 he asked the Tribunal not to confirm immense penalty as such difficult times.

48

49 The Tribunal, after having carefully considered the plea in mitigation of the
50 Appellant and, after deliberation has come to the following conclusions:

51

52 a. The penalty for the contravention under Section 19 (1) (b) remains
53 unchanged, at SR1,500.00

54

55 b. The penalty for the contravention under Section 20 (1) read with Section
56 20 (1) read with Section 20 (3) (a) the penalty remains at SR6,000

57

58 c. The penalty for the contravention under Section 24 (1) remains at SR3,000

59

- 60 d. The penalty for the contravention of Section 25 (1) read with S50 (2) (a)
61 remains at SR5,000
62
- 63 e. For the contravention under Section 50(1) (a), the legal officers have
64 asked the Tribunal to set aside the fine.
65

66 After consideration of the pleas of the Appellant that at the time of the visit by
67 the officers of the Fair Trading Commission the owner of the business was abroad
68 and the workers failed to comply with the law. The Legal Office representing
69 the Fair Trading Commission impressed upon the fact that the offending items
70 were food-based and if they had been consumed they could have caused
71 health difficulties.
72

73 Given these circumstances, we reduce the fines as follows:
74

- 75 a. For the contravention under Section 19 (1) (b) we reduce the fine to
76 SR1,000.00
77
- 78 b. For the contravention under Section 20 (1) we reduce the fine to SR5,000
79
- 80 c. For the contravention under Section 24 (1) we reduce the fine to SR1,500
81
- 82 d. For the contravention of Section 25 (1) we reduce the fine at SR4,000
83

84 The fines are to be paid by 31st January 2021.
85

86
87 Dated this 21st day of December 2020
88

89
90
91



92 George TIRANT
93 MEMBER



John RENAUD
CHAIRMAN



Gerard ADONIS
MEMBER

