

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

...  
CRMC No. 395/2017

Reserved on: 29.05.2026  
Pronounced on: 03.07.2026  
Uploaded on: 03.07.2026

Whether the operative part or full  
Judgment is pronounced: **Full**

Hindustan Coco Cola Beverages Pvt  
Ltd having its registered office at B-  
91, Mayapuri Industrial Area Phase-1,  
New Delhi 110064 having amongst  
others a plant at Hindustan Coca Cola  
Beverages Pvt. Ltd 47-50 (A&B)  
Industrial Extension Area, Gangyal  
Jammu & Kashmir 180010 through  
Mr. K. K. Giri, Factory Manager S/o  
Mrityunjoy Giri Aged 46 years

.....Petitioner(s)

Through: Mr. Virender Bhat, Advocate

**Versus**

1. Assistant Controller Legal  
Metrology, Reasi
2. Inspector, Legal Metrology, Reasi

.....Respondent(s)

Through: Mr. Dewakar Sharma, Dy.AG

**CORAM: HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE**

**JUDGMENT**

1. The Criminal Complaint titled '*Inspector Legal Metrology, Reasi v. Domino's Pizza Katra & Anr.*', preferred by the Inspector, Legal Metrology, Reasi (respondent No. 2 herein) against the petitioner and the co-accused for the alleged commission of offence under

Section 18 of the Legal Metrology Act, 2009 ('the Act') read with Rules 6 and 2(bc) of the Legal Metrology (Packaged Commodities) Rules, 2011 ('the Rules'), along with the subsequent order taking cognizance and issuing process passed thereon by the Court of learned Judicial Magistrate First Class (Munsiff), Reasi (hereinafter referred to as the 'learned Magistrate'), are sought to be quashed, inter alia, on the following grounds:

- a. That the bottle in question obviously bears all declarations mandated by the Act and rules made thereunder including net quantity and MRP and there is no allegation that any bottle was sold above the printed MRP.
  - b. That even, otherwise the price of concerned beverage and other packaged commodities manufactured by the petitioner is not fixed or regulated by any law for the time being in force, therefore the petitioner has complete freedom to fix the price of the said commodities.
  - c. That mere act of declaring different MRPs for the same packaged products cannot constitute contravention of any provisions of law including the Legal Metrology Act and Rules made thereunder.
  - d. That the sale of packaged beverages/bottles within select channel environment cannot be equated to a sale *simpliciter* at a standard retail outlet in the open market. The ambience provided to customers at such select channels completely distinguish the transaction from general trade. Consequently, pricing or supply within these distinct commercial frameworks cannot be subjected to a strict parity comparison for the purposes of the Act and Rules.
2. Learned counsel appearing for the petitioner, to supplement the grounds of challenge made in the petition, has submitted that there was no statutory bar or prohibition under the Act or the Rules

preventing a manufacturer from declaring different Maximum Retail Prices (MRPs) for an identical commodity based on distinct channels of trade at the relevant point of time. Dual pricing is a widely recognized socio-economic reality. The practice of declaring different MRPs on identical products under varying commercial market circumstances is not only judicially protected but also legislatively recognized. This is evident from the explicit statutory framework of Section 4A of the Central Excise Act, 1944, which provides for the valuation of excisable goods with reference to the retail sale price declared on the package, and explicitly contemplates scenarios where different retail prices are declared on different packages of identical goods. The Act and the Rules merely mandate the prominent declaration and printing of the MRP on the packaging. So long as a commodity (such as a 600 ml beverage bottle carrying an MRP of ₹60 at a select premium outlet and ₹35 elsewhere) carries all mandatory statutory declarations and is sold at or below its own uniquely printed MRP, no offence under Section 18 of the Act read with Rules 6 and 18(2) of the Rules can be said to be made out. The impugned criminal complaint is fundamentally misguided as it is founded entirely on a mere 'price disparity' between different retail environments. The complaint does not contain any allegation of overcharging above the printed MRP, nor does it allege any structural violation of labelling or packaging norms. Learned counsel further submits that it is a settled position of law that a manufacturer retains the absolute autonomy to determine and declare the retail price of its goods. The Government does not

scrutinize the fiscal reasonableness of an MRP unless the commodity is specifically controlled under the Essential Commodities Act, 1955, or any other price-control legislation, as explicitly clarified by the Department of Consumer Affairs vide its official *Frequently Asked Questions* (Annexure 'D' to the petition). The statutory amendment prohibiting different MRPs for identical pre-packaged commodities was not in force on the date of the alleged offense, i.e., 25th October 2016 (having only come into effect prospectively on 1st January 2018) and a criminal or penal provision cannot be applied retrospectively to criminalize conduct that was perfectly lawful at the time of its commission. He has relied upon the judgment of the Hon'ble Apex Court in "**Pallavi refractories and others vs. Singaneri Collieries Co. Ltd.**" 2005(2) SCC 227.

3. Per contra, the learned Counsel appearing for the respondents robustly defended the impugned proceedings, submitting that the learned Magistrate committed no error of law in taking cognizance and issuing process upon the complaint filed by respondent No. 2. It is contended that during inspection conducted at the co-accused's premises on 25<sup>th</sup> October 2016, it was detected that the co-accused was charging an inflated price of ₹60/- for a 600 ml Coca-Cola bottle. He asserts that this amounted to an illegal overcharge of ₹25/- when contrasted against the standard Maximum Retail Price (MRP) of ₹35/- fixed for an identical commodity in the open market. It is the specific case of the respondents that such arbitrary price discrimination and dual-pricing of identical pre-packaged

commodities directly contravenes the mandate of Section 18 of the Act, read alongside Rules 2(bc) and 6 of the Rules, thereby fully justifying the initiation of criminal prosecution.

4. Heard learned counsel appearing for the parties and perused the record.
5. The petitioner-company is engaged in the business of manufacturing, packaging, distribution and sale of non-alcoholic carbonated beverages. On 25<sup>th</sup> October 2016, respondent No.2 visited the premises of M/s Dominos Pizza, Katra, and found that the product of the petitioner-company i.e. pet bottle of Coca-Cola (600 ml) was priced at Rs. 60/-, whereas the similar product in the open market was available for Rs. 35/-, thus it was alleged that the petitioner and the other accused were overcharging Rs. 25/-, thereby violating the provisions of Section 18 of the Act and Rule 2(bc) and 6 of the Rules. Consequently, respondent No.2 filed the complaint before the learned Magistrate, who issued notice to the petitioner to appear before and submit the written statement.
6. It is the contention of the petitioner that, at the material point of time, no provision of law prevented a manufacturer from declaring differential MRPs for the same packaged commodity; there being no prohibition under the Act or the Rules made thereunder, such a declaration was legally permissible, and therefore no offense is made out against the petitioner.
7. According to the respondents, the petitioner and the co-accused have committed the violation of Section 18 of the Act and Rules 2(bc) and 6 of the Rules.

8. Before this Court enters upon the determination of the controversy involved herein, it would be appropriate to advert to the relevant provisions alleged by the respondents to have been violated by the petitioner and the co-accused.
9. The respondent-Department has alleged that the petitioner-Company violated Section 18 of the Act, which structurally regulates mandatory statutory declarations and pricing benchmarks on pre-packaged commodities. It would be thus appropriate to extract Section 18 of the Act, hereunder:

“18. Declarations on pre-packaged commodities. —

(1) No person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed.

(2) Any advertisement mentioning the retail sale price of a pre-packaged commodity shall contain a declaration as to the net quantity or number of the commodity contained in the package in such form and manner as may be prescribed.”

10. Section 18 of the Act provides that no person shall, among other things, pack or sell any prepackaged commodity unless such package is in such standard quantity or number and bears on it such declarations and particulars in such manner as may be prescribed and that any advertisement mentioning the retail sale price of a pre-packaged commodity shall contain a declaration about the net quantity or number of the commodity contained in the package.
11. Rule 2(bc) (Unamended) of the Rules defines “Institutional Consumer’ and the same is extracted as under:

“Institutional Consumer” means the institution who hires or avails of the facilities or services in connection with transport, hotel, hospital or other organization which buy packaged commodities directly from the manufacturer or from an importer or from wholesale dealer for use by that institution, and the package shall have declaration ‘not for retail sale’.

12. It must be adumbrated that although Rule 2(bc) was substantially amended in the year 2017, the incident dates back to 2016. The present controversy must, therefore, be resolved strictly in accordance with the unamended provision in force at the material time. The respondents have been unable to satisfy this Court as to how a prosecution can lie against the petitioner for an alleged violation of Rule 2(bc), given that the provision is purely a definitional clause for 'Institutional Consumer'.
13. Pursuant to Rule 6 of the Rules, a pre-packaged commodity intended for sale must carry distinct and conspicuous information detailing, inter alia, the manufacturer, packer, date of manufacture or pre-packing, and the relevant expiry or 'best before' metrics. It is additionally mandated under the same provision that every package shall bear its declared retail sale price. It is the admitted case of the parties that the product in question bore a retail price of Rs. 60.
14. Rule 18 of the Rules governs the sale, distribution, delivery, display, and storage for sale of packaged commodities by both wholesale and retail dealers. The rule explicitly mandates that no retail dealer, manufacturer, packer, importer, or wholesale dealer shall sell any packaged commodity at a price exceeding its declared retail sale price. Furthermore, it prohibits any such dealer or person from obliterating, smudging, or altering the retail sale price indicated by the manufacturer, packer, or importer.
15. The contention of the petitioner is that there was no law at the relevant point of time that prohibited the manufacturer from declaring differential MRPs for the same packaged product and once

there is no prohibition under any law including the Act and Rules framed thereunder, declaration of differential MRPs for the same product was permissible, as such, no offence is made out against the petitioner.

16. Initially, Rule 18 of the Rules contained no prohibition against declaring differential MRPs for the same product; however, following an amendment in 2017, sub-rule (2A) was inserted into Rule 18 to introduce such a restriction, which provides that “Unless otherwise specifically provided under any other law, **no manufacturer or packer or importer shall declare different maximum retail prices on an identical pre-packaged commodity by adopting restrictive trade practices or unfair trade practices as defined under 2[clause (nnn) and clause (r), respectively] of sub-section (1) of section 2 of the Consumer Protection Act, 1986 (68 of 1986)**”.

17. It is, therefore, manifest that on the date of the alleged inspection, there existed no bar preventing a manufacturer from declaring differential MRPs for an identical product. This restriction was brought into force for the first time only w.e.f. 01.01.2018 through G.S.R. 629(E), dated 23<sup>rd</sup> June, 2017. Consequently, this Court is of the considered opinion that the uncontroverted facts fail to disclose the commission of any offense by the petitioner-company.

18. In view of the detailed discussion and the settled legal position delineated hereinabove, this Court is of the considered view that the continuation of the impugned criminal proceedings would amount to nothing short of an abuse of the process of law. Consequently, the

criminal complaint titled '*Inspector Legal Metrology, Reasi v. Domino's Pizza, Katra & Anr.*', pending before the Court of learned Judicial Magistrate First Class (Munsiff), Reasi, for the alleged commission of offenses under Section 18 of the Act read with Rules 2(bc) and 6 of the Rules, along with the order taking cognizance and all consequential process issued thereunder, are hereby quashed.

19. Copy of this order be sent to learned Magistrate for information.

**(Rajnish Oswal)**  
**Judge**

**Jammu**  
03.07.2026  
*Ajaz Ahmad, Secy*

Whether approved for reporting? Yes

