

*“Packaged Commodities”*  
*Interpretation with reference to relevant statutes*



**SINGHANIA & PARTNERS<sub>LLP</sub>**  
SOLICITORS AND ADVOCATES

## Scope of the Presentation

- What is a Packaged Commodity and relevant Provisions under the Standard of Weights and Measures Act, 1976(Standards Act), Standards of Weights and Measures (Packaged Commodities) Rules, 1977(PC Rules) and the Standard of Weights and Measures (Enforcement ) Act, 1985 (Enforcement Act).
- Relevant Judgments interpreting the term “Packaged Commodity”.
- Labeling requirements.
- A comparative study of the new “Legal Metrology Act”.

# “Packaged Commodity”

## Standards Act

- Section 2(b) defines “Commodity In Packaged Form”

## PC Rules

Rule 2 (1) defines “Pre-packed Commodity”

- Definition under Rule 2 (1), prior to amendment in 2006, included the term “package” to be construed as a package containing a “pre-packed” commodity.

# Relevant Judgments

- AMA Hospitality Pvt. Ltd VS. GNCT of Delhi and ANR (the “Brownie” case.) - MANU/DE/3342/2010
- Eureka Forbes Limited vs. Union of India and Ors. – AIR2003AP275
- Whirpool of India Ltd. vs. Union of India & Ors.
- Subhash Arjandas Kataria vs. State of Maharashtra and Ors.- AIR 2006 Bom 293

## AMA Hospitality Pvt. Ltd VS. GNCT of Delhi and ANR

### Issues:

- Whether sale of the food commodity in question (Brownie in this case) in a paper wrapping is a violation of Section 33 of the Enforcement Act.
- Durability of the package relevant.
- Reference to Rule 2 (1) of the PC Rules .
- Exemption granted under Rule 34 (d) of the PC Rules.

## Eureka Forbes Limited vs. Union of India and Ors

- Whether Vacuum cleaners are covered under Standards and Rules?
- Reading of PC Rule 3, 2 (1) and Section 2 (b) of the act leads to a conclusion that unless the manufacturer, packer or retailer *intends* to sell in a packaged form, the act and the rules, the act and the rules have no applicability in this case.
- Only when the commodity is offered for sale in a packaged form does the manufacturer have to comply with the provisions of the act and the rules and not otherwise.
- The Judgement in the case “Philips India Ltd vs. UOI ” has been relied upon.

## **Whirpool of India Ltd. vs. Union of India & Ors.**

### Issues

- Whether “Refrigerator” is a packaged commodity?
- Refrigerator fits the definition of a packaged commodity as per Section 2 (b) and Rules 2 (1) of the acts and rules respectively.
- “Opening of package causing no alteration to the value” established as the deciding point.

## **Subhash Arjandas Kataria vs. State of Maharashtra and Ors**

- Whether sunglasses qualify as a pre-packed commodity?
- Rule 2 (1) of the PC Rules has been relied upon as the deciding factor.

## Labeling Requirements

- Section 39 of the Standards Act, which deals with inter-state transactions, states  
*“Quantities and origin of commodities in packaged form to be declared”*.
- Rule 6 of the PC Rules, 1977 provides for declaration to be made on every package.

## Some Interesting Observations:

- Name and address of the manufacturer to be mentioned.
- Details of the person to be contacted in case of consumer complaints with relation to the product.
- Specified commodities to be packed and sold in recommended standard packages as per Rule 5.
- The weight and measurement of the commodity to be declared as “when packed” for products likely to undergo any variation in weight or measure.

- Declaration with respect to weights and measurements of the product to be only in standard units. Applicability in case of advertisement too.
- Certain packages exempted from the applicability of the Rules.

## Legal Metrology Act, 2009

(w.e.f April 1, 2011)

Legal Metrology Act, 2009	SWM ACT AND RULES
1) “Pre-packaged “commodities defined in the act itself and has no mention in the rules.	1) Pre-packed commodities defined in the rules.
2) “Commodities in packaged form” not included in the definitions.	2) “Commodities in packaged form” defined under Section 2(b) of the SWM Act, 1976.
3) “Quantity” of the commodity pre-determined	3) “Value” of the commodity pre-determined
4) Testing, examination and inspection of the commodities excluded from the definition of pre-packaged commodities.	4) Testing, examination and inspection of the commodities included in the definition.

Thank You!



[www.singhaniania.in](http://www.singhaniania.in)