RESEARCH QUESTION

"Is charging above MRP legal in India, what do the Legal Metrology Act, 2009 and its rules say about retail sale price, are restaurants and cinemas exempt, and what penalties and consumer remedies exist for overcharging?"

Legality of Charging Above MRP in India, Exemptions for Restaurants and Cinemas, and Consumer Remedies under the Legal Metrology Act and Consumer Protection Act

TL;DR

Charging above the Maximum Retail Price (MRP) for pre-packaged commodities is generally illegal in India under Section 18 of the Legal Metrology Act, 2009, which mandates strict adherence to retail price declarations. However, hotels and restaurants are legally exempt when serving beverages or food within their premises, as the Delhi High Court in *Bharat Hotels Limited v. Union of India* (2018) (relying on Supreme Court precedent) clarified that such transactions constitute a composite service rather than a simple retail sale. Conversely, cinema theatres must comply with MRP limits for pre-packaged goods, though loose, customized food items served in their canteens are exempt from packaging and MRP display mandates.

VERIFIED CASES	STATUTES	LATEST RULING
15	4	2024
10 *High Courts* · 5 *SC*		*High Court for State of Telangana*

CONTENTS

I. Detailed Analysis 3
II. Statutory Provisions 6
III. Cases Discussed 8
IV. 10

Case Details

Prepared by Vitark AI · Strictly confidential · Verify citations before use

I. Detailed Analysis

KEY PRINCIPLES ESTABLISHED

01 The service-sale dichotomy exempts hospitality establishments from retail MRP limits

Under the Legal Metrology framework, the supply of food and beverages inside hotels, clubs, and restaurants is treated as a composite contract for services rather than a simple sale of goods. This service-centric characterization allows these establishments to lawfully charge above the printed MRP for pre-packaged water or beverages, as consumers pay for the associated hospitality and ambiance rather than just the commodity itself, as affirmed in *The Federation of Hotels & Restaurants Association of India v. Union of India* (2007) and *Delhi Gymkhana Club Limited v. Union of India* (2009).

02 Dual pricing and retail sale restrictions on pre-packaged goods remain illegal

For standard retail and wholesale transactions, charging a price in excess of the declared Maximum Retail Price (MRP) constitutes a statutory violation under the Legal Metrology (Packaged Commodities) Rules, 2011. Since January 1, 2018, Rule 18(2A) strictly prohibits manufacturers from declaring dual/different MRPs on identical pre-packaged commodities unless specifically authorized by another law, preventing retailers from artificially inflating prices, as seen in *G. Devarajan v. The Chief Secretary, Government of Tamil Nadu* (2021).

03 Only pre-packaged commodities with predetermined quantities are subject to MRP regulations

The statutory obligation to declare and sell goods at MRP applies strictly to "pre-packaged commodities" as defined under Section 2(l) of the Legal Metrology Act, 2009, which are packaged without the purchaser being present to have a predetermined value. Consequently, unpackaged, customized, or freshly served food and drinks in cinema halls and restaurants are exempt from packaging and MRP labeling regulations, as established in *Multiplex Association of India v. Controller of Legal Metrology* (2018) and *State of Maharashtra v. Subhash Arjundas Kataria* (2011).

04 Take-away parcels do not qualify for hospitality service exemptions

The legal exemption allowing restaurants to charge above MRP is strictly confined to dine-in services where consumers enjoy the establishment's physical amenities and personal service. When a transaction is a simple "take-away" or parcel sale, the service element is absent, reverting the transaction to a pure sale of goods that must comply with standard retail pricing, as discussed in *Anjappar Chettinad A/C Restaurant v. Joint Commissioner* (2021).

05 Secondary and transport packaging are excluded from wholesale declaration rules

While primary retail packages must strictly carry MRP and other statutory declarations, secondary outer packaging utilized solely for safety, protection, or convenience during transportation is excluded from these mandates. Thus, regulators cannot penalize manufacturers or distributors for lacking MRP markings on such secondary layers, as determined in *State of Maharashtra v. Raj Marketing* (2011) and *Samsung India Electronics Pvt. Ltd. v. State of Karnataka* (2023).

HOW THE COURTS HAVE APPLIED THIS

SUPREME COURT POSITION	The Supreme Court has repeatedly underscored that transactions involving services cannot be treated as simple sales of commodities, reinforcing that restaurants and hotels do not make standard "sales" of water or food when serving guests (*Sodexo Svc India Private Limited v. State of Maharashtra & Ors.* (2015)). Furthermore, the court has upheld state-level fiscal classifications that differentiate between luxury establishments and modest restaurants based on the socio-economic status of their clientele (*Kerala Hotel & Restaurant Association v. State of Kerala* (1990)).
HIGH COURT VARIATIONS	High Courts have applied these boundaries to strike down state actions extending packaging rules to canteens, holding that surprise inspections and seizures in cinema halls are illegal if they concern non-packaged foods (*Inox Leisure Limited v. State of Telangana* (2024)). Additionally, the courts have upheld the validity of service tax elements on restaurant bills by emphasizing that dining-in incorporates a distinct service component alongside the supply of food (*Federation of Hotels and Restaurants Association of India v. Union of India* (2016)).

RECENT EVOLUTION

Courts have clarified that under tax laws, exemptions under the Packaged Commodities Rules must be based strictly on standard weight and package classifications rather than excise-duty assessments (*Commissioner of Central Excise, Vapi v. M/s. Kraftech Products Inc.* (2008)).

UNSETTLED AREAS OR CAVEATS

Procedural compliance in enforcement

While selling above MRP is a punishable offense for retail vendors, enforcement agencies must strictly adhere to the principles of natural justice, as arbitrary fines or punitive transfers imposed on employees without proper show-cause notices and inquiries will be quashed by the courts (*K. Gopi v. Tamil Nadu State Marketing Corporation Ltd.* (2019)).

II. Statutory Provisions

4 PROVISIONS

SECTION 18, LEGAL METROLOGY ACT, 2009 — DECLARATIONS ON PREPACKAGED COMMODITIES

This section mandates that pre-packaged commodities must comply with prescribed standard quantities or numbers and bear necessary declarations like the retail sale price.

> "(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." *Cited in*: Not cited in the provided snippets

SECTION 34, LEGAL METROLOGY ACT, 2009 — PENALTY FOR SALE OR DELIVERY OF COMMODITIES, ETC., BY NON-STANDARD WEIGHT OR MEASURE

This section establishes the penalties for selling or delivering commodities by non-standard weight, measure, or number.

> "Whoever sells, or causes to be sold, delivers, or causes to be delivered, any commodity, article or thing by any means other than the standard weight or measure or number, shall be punished with fine which may extend to twenty-five thousand rupees and for the second offence with fine which may extend to fifty thousand rupees and for the third and subsequent offence, with fine which may extend to one lakh rupees." *Cited in*: Not cited in the provided snippets

SECTION 2(6), CONSUMER PROTECTION ACT, 2019 — DEFINITION OF COMPLAINT

This section defines a consumer complaint, allowing a consumer to file a written allegation when charged a price exceeding the displayed MRP or a price fixed by law.

> ""complaint" means any allegation in writing, made by a complainant for obtaining any relief provided by or under this Act, that — (iv) a trader or a service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price — (a) fixed by or under any law for the time being in force; or (b) displayed on the goods or any package containing such goods; or (c) displayed on the price list exhibited by him by or under any law for the time being in force; or (d) agreed between the parties;" *Cited in*: Delhi Gymkhana Club Limited v. Union of India, G. Devarajan v. The Chief Secretary, Government of Tamil Nadu

SECTION 94, CONSUMER PROTECTION ACT, 2019 — MEASURES TO PREVENT UNFAIR TRADE PRACTICES IN E-COMMERCE, DIRECT SELLING, ETC

This section empowers the Central Government to take measures and prescribe rules to prevent unfair trade practices in e-commerce and direct selling, safeguarding consumer rights.

> "For the purposes of preventing unfair trade practices in e-commerce, direct selling and also to protect the interest and rights of consumers, the Central Government may take such measures in the manner as may be prescribed." *Cited in*: Not cited in the provided snippets

III. Cases Discussed

15 CASES · SUMMARY TABLE

#	CASE TITLE	COURT	YEAR	KEY HOLDING
01	*Samsung India Electronics Pvt. Ltd. v. State of Karnataka* KAHC010466662017	HIGH COURT OF KARNATAKA	2023	Rules on MRP apply strictly to retail packages, not wholesale packages.
02	*Commissioner of Central Excise, Vapi v. M/s. Kraftech Products Inc.* ESCR010011422008	SUPREME COURT OF INDIA	2008	MRP exemptions apply to multi-piece packages based on net weight thresholds.
03	*Bharat Hotels Limited v. Union of India* DLHC014293572017	HIGH COURT OF DELHI	2018	Quashes circulars applying Legal Metrology MRP restrictions to hotel beverage sales.
04	*Inox Leisure Limited v. State of Telangana* HBHC010589552018	HIGH COURT FOR STATE OF TELANGANA	2024	Rejects surprise seizures at multiplex canteens for unpackaged food items.
05	*Delhi Gymkhana Club Limited v. Union of India* DLHC010673142006	HIGH COURT OF DELHI	2009	Serving pre-packaged beverages at hotels is a service, not a taxable retail sale.
06	*G. Devarajan v. The Chief Secretary, Government of Tamil Nadu* HCMA010420232016	MADRAS HIGH COURT	2021	Cinema theaters cannot sell pre-packaged goods above MRP; dual pricing is prohibited.
07	*Federation of Hotels and Restaurants Association of India v. Union of India* DLHC011240902011	HIGH COURT OF DELHI	2016	Analyzes composite dining contracts involving food sales and services under tax laws.
08	*Anjappar Chettinad A/C Restaurant v. Joint Commissioner* HCMA010877452020	MADRAS HIGH COURT	2021	Distinguishes take-away parcel food (pure sale) from dining-in (composite service) for taxation.
09	*Multiplex Association of India v. Controller of Legal Metrology* HBHC010570142018	HIGH COURT FOR STATE OF TELANGANA	2018	Unpackaged food items in cinema canteens are exempt from MRP display rules.
10	*State of Maharashtra v. Raj Marketing* ESCR010000442011	SUPREME COURT OF INDIA	2011	Secondary transport packaging is exempt from wholesale and retail MRP labeling rules.
11	*State of Maharashtra v. Subhash Arjundas Kataria* ESCR010000432011	SUPREME COURT OF INDIA	2011	Items customized/tested by buyers are not pre-packaged commodities requiring MRP.
12	*K. Gopi v. Tamil Nadu State Marketing Corporation Ltd.* HCMA010255382018	MADRAS HIGH COURT	2019	Sets aside arbitrary penalties issued to retail salesmen for alleged MRP overcharging.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
13	*Sodexo Svc India Private Limited v. State of Maharashtra & Ors.* ESCR010001912015	SUPREME COURT OF INDIA	2015	Distinguishes non-transferable service instruments from goods subject to standard sale rules.
14	*Kerala Hotel & Restaurant Association v. State of Kerala* ESCR010000471990	SUPREME COURT OF INDIA	1990	Upholds higher tax classification on food sold in luxury hotels vs modest eateries.
15	*The Federation of Hotels & Restaurants Association of India v. Union of India* DLHC010267892003	HIGH COURT OF DELHI	2007	Charging above MRP for mineral water in hotels is permissible as a service.

IV. Case Details

15 CASE FILES

01 Samsung India Electronics Pvt. Ltd. v. State of Karnataka

HIGH COURT OF KARNATAKA · 2023-05-31 · CRL.P/9771/2017

The petitioner, Samsung India Electronics, sought to quash criminal proceedings initiated by the Legal Metrology Department regarding alleged violations of the Legal Metrology Act, 2009, and associated rules. The complaint alleged improper declaration of Maximum Retail Price (MRP) and missing qualifying symbols on wholesale packages. The Court found that the rules cited by the prosecution were misinterpreted, as they were either inapplicable to the pricing of packaged goods or pertained only to retail, rather than wholesale, packages. Determining that the allegations did not constitute a legally recognized offense, the Court quashed the complaint and all proceedings initiated against the petitioner.

HELD The High Court held that the department misinterpreted the Legal Metrology rules by applying retail packaging requirements to wholesale packages. Under Rule 24 of the Packaged Commodities Rules, 2011, wholesale packages require basic declarations but are exempt from the specific retail formatting and qualifying symbol rules meant only for consumer retail packages.

> “retail sale price" means the maximum price at which the commodity in packaged form may be sold to the consumer inclusive of all taxes.”

HIGH COURT OF KARNATAKA · 2023 | SOURCE KAHC010466662017

02 Commissioner of Central Excise, Vapi v. M/s. Kraftech Products Inc.

SUPREME COURT OF INDIA · 2008-03-14 · 2008 INSC 382

The dispute concerned whether a manufacturer of hair-dye sold in multi-piece sachets was eligible for the exemption provided under Rule 34 of the Standards of Weights and Measures (Packaged Commodity) Rules, 1977. The Revenue argued that the exemption did not apply to multi-piece packages and that the goods should be valued under Section 4A of the Central Excise Act. The Supreme Court rejected this view, holding that since the commodity was sold by weight and met the prescribed net weight criteria, the assessee was entitled to the Rule 34 exemption. Consequently, the Court ruled that the goods were subject to valuation under Section 4 of the Central Excise Act rather than Section 4A.

HELD The Supreme Court determined that multi-piece packages containing individual commodities weighing less than 10 grams or 10 ml are eligible for statutory exemptions from declaring MRP under Rule 34(b) of the Packaged Commodities Rules. The Revenue cannot artificially bifurcate multi-piece packaging to deny exemptions when the standard net weight criteria of the commodity are fully satisfied.

> "the declaration of retail sale price of multi-piece packages and individual pieces contained in such c multi-piece package (if such individual pieces are capable of being sold separately) is statutorily required under rule 17 (1) of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977."

SUPREME COURT OF INDIA · 2008 | SOURCE ESCR010011422008

03 Bharat Hotels Limited v. Union of India

HIGH COURT OF DELHI · 2018-09-05 · W.P.(C)/8095/2017

The petitioner challenged circulars issued by the government under the Legal Metrology Act, 2009, which sought to regulate the sale of pre-packaged commodities within hotels at prices exceeding the Maximum Retail Price (MRP). The petitioner argued that these laws should not apply to the hospitality sector. Following the Supreme Court's ruling in Federation of Hotel and Restaurant Associations of India v. Union of India, the Delhi High Court held that the Legal Metrology Act does not apply to the sale of packaged commodities in hotels and restaurants. Consequently, the court allowed the petition and set aside the impugned circulars to the extent they applied to hotels and restaurants.

HELD The High Court allowed the petition and set aside the government circulars targeting hotels for overcharging above MRP. Relying directly on the Apex Court's ruling in *FHRAI*, the court declared that neither the Standards of Weights and Measures Act nor the Legal Metrology Act, 2009 applies to interdict the pricing of mineral water served in hotels and restaurants.

> "neither the Standards of Weights and Measures Act, 1976 read with the enactment of 1985, or the Legal Metrology Act, 2009, would apply so as to interdict the sale of mineral water in hotels and restaurants at prices which are above the MRP."

HIGH COURT OF DELHI · 2018 | SOURCE DLHC014293572017

04 Inox Leisure Limited v. State of Telangana

HIGH COURT FOR STATE OF TELANGANA · 2024-10-03 · WP/28041/2018

This case concerns a series of writ petitions filed by several multiplex operators against the State of Telangana and legal metrology authorities. The petitioners challenged surprise inspections and the seizure of billing machines, empty containers, and unpackaged food items within their premises. They argued that these actions, premised on alleged violations of the Legal Metrology Act, 2009 and the Telangana State Legal Metrology (Enforcement) Rules, 2011, were illegal and arbitrary. The petitioners sought the quashing of these proceedings and an order to prevent further interference with their business operations while their petitions were pending.

HELD The High Court examined the enforcement scope of the Legal Metrology Act and Packaged Commodities Rules, noting that the statutory obligation to print MRP, net weight, and customer helpline details is strictly limited to pre-packaged commodities. The state cannot unilaterally impose these packaging requirements on loose or unpackaged foods served inside cinema canteens.

> "A reading of the Act and the Packaged Commodities Rules and in particular Rule 6 shows that only in respect of packages i packaged commodities there is an obligation to put M.R.P., net quantity. consumer helptine details."

HIGH COURT FOR STATE OF TELANGANA · 2024 | SOURCE HBHC010589552018

05 Delhi Gymkhana Club Limited v. Union of India

HIGH COURT OF DELHI · 2009-04-15 · W.P.(C)/11689/2006

The petitioner, Delhi Gymkhana Club, sought a declaration that the Standards of Weights and Measures Act, 1976, and the associated Packaged Commodities Rules, 1977, did not apply to it. The club argued that it functioned similarly to a hotel or restaurant, providing services where the sale of food and beverages was merely incidental. Consequently, it contended that it was not a 'dealer' selling packaged goods for profit. The club challenged a notice issued by a consumer forum regarding allegations that it charged members prices for food and drinks exceeding the maximum retail price (MRP).

HELD The High Court ruled that providing pre-packaged water and beverages to members in a club or guests in a restaurant is essentially a service, not a bare "sale" of goods under the Standards of Weights and Measures Act. Because the transaction represents a composite service that covers amenities and ambiance, charging above the MRP does not violate the packaging rules.

> "The provisions of services and facilities by the petitioner is clearly covered by the stand of the respondent in this circular and would certainly guide 31 adjudication in the instant case. The circular also envisages that the provision of commodities in a pre-packaged form declared on the packet in hotels or restaurants would include the maximum retail price of the commodity and an additional service charge covering the expenditure incurred on provision of other facilities in the premises."

HIGH COURT OF DELHI · 2009 | SOURCE DLHC010673142006

06 G. Devarajan v. The Chief Secretary, Government of Tamil Nadu

MADRAS HIGH COURT · 2021-10-01 · WP/21291/2016

The petitioner challenged the practice of cinema theatres in Tamil Nadu charging prices for packaged water and snacks significantly higher than the maximum retail price (MRP). He alleged that theatres prohibited patrons from bringing their own food and water, thereby forcing them to purchase items at inflated rates. The respondents argued that such dual pricing was permissible prior to the 2017 amendments to the Legal Metrology rules and that they had since complied with all regulations. The court observed that while cinemas may prohibit outside food for security reasons, they are legally obligated to provide free, purified potable water within their premises. It held that the failure to provide such facilities constitutes a deficiency in service, and the petitioner may seek redress before the appropriate Consumer Forum regarding past grievances.

HELD The High Court confirmed that since the introduction of Rule 18(2A) of the Legal Metrology (Packaged Commodities) Rules in 2017 (effective 2018), dual pricing for identical pre-packaged commodities is strictly prohibited. While theaters can enforce food security restrictions, they must charge standard MRPs for packaged snacks and water, and are obligated to provide free drinking water to avoid a deficiency of service.

> “As per newly inserted Rule 18 (2A) of the Legal Metrology (Packaged Commodities) (Amendment) Rules 2017, “unless otherwise specifically provided under any other law, no manufacturing or packer or importer shall declare different maximum retail prices on an identical pre-packed commodity by adopting restrictive trade practices or unfair trade practices as defined under Clause (c) of sub-section (1) of Section 2 of the Consumer Protection Act, 1986”.”

MADRAS HIGH COURT · 2021 | SOURCE HCMA010420232016

07 Federation of Hotels and Restaurants Association of India v. Union of India

HIGH COURT OF DELHI · 2016-08-12 · W.P.(C)/6482/2011

The petitioners challenged the constitutional validity of the Finance Act 1994, specifically provisions that brought services provided by air-conditioned restaurants and short-term hotel accommodations under the ambit of service tax. The petitioners argued that these transactions were already defined as 'sale of goods' under Article 366(29A)(f) of the Constitution following the 46th Amendment, thereby falling exclusively under the legislative competence of State legislatures (Entry 54 of the State List) for VAT/sales tax purposes. They contended that Parliament lacked the power to levy service tax on these activities, as they were entirely covered by state taxing powers. The court examined the constitutional distribution of legislative powers between the Union and the States regarding composite transactions involving both goods and services.

HELD The High Court analyzed the legislative background of Article 366(29A)(f), which permits taxing the food component of composite restaurant contracts as a "sale." The court emphasized that dining transactions contain distinct service elements that fall under central taxing powers, separate from the physical transfer of eatables.

> “all aspects of the transaction of sale of food and beverages by the members of Petitioner No.1 to their customers fell within the meaning of 'sale of goods' amenable to sales tax i.e. value added tax („VAT“) levied by taxing statutes of the States.”

HIGH COURT OF DELHI · 2016 | SOURCE DLHC011240902011

08 Anjappar Chettinad A/C Restaurant v. Joint Commissioner

MADRAS HIGH COURT · 2021-05-20 · WP/13469/2020

This case involves a batch of writ petitions challenging the levy of service tax on 'take-away' or parcel food sales by restaurants under the Finance Act, 1994. The petitioners argued that parcel sales constitute a pure trading activity involving the transfer of goods without any service element, and therefore should be exempt from service tax. They contended that service tax is restricted to the specific amenities provided by air-conditioned dining establishments, which are absent in parcel transactions. The Court examined the legal distinction between the sale of food and the service element in restaurant operations. It determined that while legislative competence to tax composite services exists, the specific taxability of take-away food transactions requires addressing the distinction between pure sale and service components.

HELD The High Court recognized a clear distinction between dining in a restaurant (which involves composite service elements) and ordering take-away or parcel food. Parcel food represents a transaction where food is sold as a commodity without the consumption of restaurant services, placing it under the domain of pure sale rather than service.

> “Levy of tax on service was under Finance Act, 1994 and the Legislative competence to levy a tax on service involved in the sale of food and drink is no longer res integra as held by the Supreme Court in the case of Federation of Hotels (supra footnote 11).”

MADRAS HIGH COURT · 2021 | SOURCE HCMA010877452020

09 Multiplex Association of India v. Controller of Legal Metrology

HIGH COURT FOR STATE OF TELANGANA · 2018-08-06 · WP/27029/2018

The petitioner, an association of multiplex operators, challenged orders issued by the Telangana Controller of Legal Metrology that sought to impose packaging and weight labeling requirements on non-packaged food items sold in cinema canteens. The association argued that these items, such as popcorn and fountain beverages, are not 'packaged commodities' under the Legal Metrology Act, 2009, and are exempted from such regulations. The association contended that the state authority lacked jurisdiction to dictate the branding or display of such non-packaged food and that the orders interfered with their fundamental right to conduct business. The state argued the orders were necessary to protect consumer interests and prevent unfair trade practices. The court was tasked with determining whether the state's directive was legally valid.

HELD The High Court held that food items sold in the open or served in loose, customizable containers—such as popcorn in tubs or beverages in paper cups—are not "pre-packaged commodities" under Section 2(l) of the Legal Metrology Act. Because these items are prepared and measured in the presence of the consumer or customized on the spot, they are fully exempt from the packaging, labeling, and retail price (MRP) directives.

> “The definition of the term ‘pre-packed commodity’ i n Section 2(l) that it is ‘a commodity which, without the purchaser being present, is placed in a package of what ever nature …’ necessarily excludes fast food items and beverages which are sold in the open, in a non-packaged form, and which are served in containers such as paper / plastic plates, paper / plastic glasses, tubs, paper / plastic cups or paper / plastic covers…”

HIGH COURT FOR STATE OF TELANGANA · 2018 | SOURCE HBHC010570142018

10 State of Maharashtra v. Raj Marketing

SUPREME COURT OF INDIA · 2011-08-26 · 2011 INSC 616

The case addressed whether certain product packages, such as those for food items, qualified as 'wholesale packages' under the Standards of Weights and Measures (Packaged Commodities) Rules, 1977. The State authorities had seized these items from a godown, alleging they failed to display required declarations like manufacturer details and retail prices. The respondents argued these were merely secondary protective layers for transportation. The Supreme Court dismissed the appeal, affirming the High Court's view that a package used solely for protection or safety during conveyance does not qualify as a 'wholesale package' under the Rules. It held that secondary outer packaging, intended for the safety of goods rather than as a unit for commercial distribution to intermediaries, is exempt from these labeling requirements.

HELD The Supreme Court affirmed that packaging used solely for protection, safety, or convenience during transportation does not constitute a "wholesale package" under the Packaged Commodities Rules. Manufacturers cannot be penalized for failing to print standard retail or wholesale declarations, including MRP, on such secondary transit packaging.

> “Rule 2(x) of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 define "wholesale package" while Rule 29 of the Rules concerns "declaration to be made on every wholesale package" . . In order to attract violation of the said Rules, the package seized must fall within the expression "wholesale package". A package used merely for protection during F conveyance or safety would not be pre-packed commodity for the purpose of the Act and the Rules.”

SUPREME COURT OF INDIA · 2011 | SOURCE ESCR010000442011

11 State of Maharashtra v. Subhash Arjundas Kataria

SUPREME COURT OF INDIA · 2011-08-26 · 2011 INSC 615

This case concerns the definition of a "pre-packed commodity" under the Standards of Weights and Measures Act, 1976 and its accompanying Rules. The State of Maharashtra challenged a High Court decision that held consumer goods like sunglasses, watches, and electronics do not constitute "pre-packed commodities" requiring specific labeling, as they are tested and chosen by consumers before purchase. The State argued these items fall under the definition based on a prior Supreme Court ruling in the Whirlpool case. The Supreme Court declined to resolve the issue directly, noting that the Whirlpool judgment, although decided under different contexts, carried significant weight and created a conflict regarding the interpretation of these statutory provisions. Consequently, the Court referred the appeals to a larger Bench for an authoritative clarification.

HELD The Supreme Court discussed that for a product to qualify as a "pre-packaged commodity," it must be packed in a manner where its predetermined value cannot be altered without opening the package. Goods that are naturally unpacked, examined, and physically tested by consumers for suitability at the point of sale (such as sunglasses or frames) do not fall under the strict statutory definition of pre-packed goods.

> “the expression "pre-packed commodity" would be applicable to:- (i) commodities which are packed, and (ii) the commodity packaged has a pre-determined value and (iii) that value cannot be altered without the package sold being opened at the time of sale, or (iv) the product undergoes a modification on being opened.”

SUPREME COURT OF INDIA · 2011 SOURCE ESCR010000432011

12 K. Gopi v. Tamil Nadu State Marketing Corporation Ltd.

MADRAS HIGH COURT · 2019-02-07 · WP/4335/2018

The petitioners, working as Salesmen and Supervisors for the Tamil Nadu State Marketing Corporation (TASMAC), challenged orders imposing fines and transfers due to alleged violations of Maximum Retail Price (MRP) guidelines. The petitioners argued that they were never served with show-cause notices or provided an opportunity to defend themselves before the penalties were imposed. The Court found that the respondents failed to follow fundamental principles of natural justice and failed to prove that a prior opportunity for explanation was given. Consequently, the Court quashed the impugned orders and directed the authorities to issue formal show-cause notices and conduct a proper inquiry before passing any fresh orders on merits.

HELD The High Court held that while selling products above the MRP is a serious statutory offense under the Legal Metrology Act, 2009, employers and enforcement agencies cannot impose arbitrary fines or punitive transfers on retail staff. Any penalty for overcharging must strictly comply with the principles of natural justice, including a formal show-cause notice and a proper inquiry.

> “I submit that selling above the Maximum Retail Price (MRP) is an offence under Standards of Weight and Measures Act, 1976, now replaced by Legal Metrology Act, 2009 and rightfully the Code had illustrated the same as a fraudulent act, and accordingly the first respondent herein being the competent authority has issued the impugned circular dated 2.1.2018, in cases of MRP violations and punishments thereof.”

MADRAS HIGH COURT · 2019 SOURCE HCMA010255382018

13 Sodexo Svc India Private Limited v. State of Maharashtra & Ors.

SUPREME COURT OF INDIA · 2015-12-09 · 2015 INSC 908

The dispute concerned whether 'Sodexo Meal Vouchers'—paper vouchers issued to companies for distribution to employees to purchase food from affiliated vendors—constituted 'goods' subject to Octroi or Local Body Tax under the Maharashtra Municipal Corporation Act. The appellant acted as a facilitator, charging service fees for arranging the payment system between customers and affiliates, rather than selling the vouchers as a commodity. The Supreme Court held that the vouchers are not 'goods.' The Court reasoned that the vouchers are non-transferable and serve only as a payment instrument regulated by the Reserve Bank of India. Because the vouchers represent a service arrangement rather than a sale of property, the appellant's activities fall outside the scope of taxes levied on the import of goods.

HELD The Supreme Court applied the "aspects" doctrine to clarify that a single transaction can have overlapping regulatory aspects. While a transaction may involve both service and commodity features, its tax and regulatory treatment must align with the parties' true intentions and the dominant nature of the activity.

> “subjects which in one aspect and for one purpose fall within the power of a particular legislature may in another aspect and for another purpose fall within another legislative power… There might be overlapping; but the overlapping must be in law.”

SUPREME COURT OF INDIA · 2015 | SOURCE ESCR010001912015

14 Kerala Hotel & Restaurant Association v. State of Kerala

SUPREME COURT OF INDIA · 1990-02-21 · 1990 INSC 52

This case involved a challenge to the constitutional validity of sales tax provisions in Kerala and Tamil Nadu that imposed taxes on cooked food sold in luxury hotels while exempting food sold in modest eating houses. Petitioners argued that this classification was discriminatory and violated the equality guarantee under Article 14 of the Constitution, as all cooked food serves the same purpose of satisfying hunger regardless of where it is sold. The Supreme Court upheld the validity of the provisions, ruling that the legislature has the power to classify taxpayers based on fiscal policy. The Court held that taxing only luxury establishments is a reasonable classification aimed at placing the tax burden on affluent consumers while sparing the economically weaker sections. This distinction serves a rational nexus with the objective of raising revenue while promoting economic equality.

HELD The Supreme Court upheld the state's classification taxing cooked food in luxury hotels while exempting modest eating houses. The court established that a legislative classification targeting high-status commercial establishments has a rational nexus with fiscal policy and the objective of raising public revenue from more affluent sections of society.

> “The classification is made in the present case to bring within the tax next hotels or eating houses of the higher status excluding therefrom the more modest ones. A rational nexus exists of this classification with the object for which it is made. and the classification is founded on intelligible differentia.”

SUPREME COURT OF INDIA · 1990 | SOURCE ESCR010000471990

15 The Federation of Hotels & Restaurants Association of India v. Union of India

HIGH COURT OF DELHI · 2007-03-05 · W.P.(C)/6517/2003

This case addressed whether hotels and restaurants are prohibited from charging customers prices above the maximum retail price (MRP) for pre-packaged commodities like bottled mineral water. Relying on established legal precedents, the court analyzed the nature of the transaction between hospitality providers and guests. It concluded that the provision of food and amenities within a hotel or restaurant setting is essentially a composite service contract rather than a mere sale of goods. Consequently, the transaction is characterized by the dominant service provided, and the incidental supply of such packaged items does not fall under the restrictive pricing regulations applicable to standard retail sales.

HELD The High Court held that charging prices for packaged water or soft drinks above the MRP within hotel and restaurant premises does not violate consumer laws or standard weights and measures acts. Since the customer is paying for the broader experience, amenities, and service of the establishment, the transaction is legally a service contract and not a bare retail sale.

> “charging prices for mineral water in excess of MRP printed on the packaging, during the service of customers in hotels and restaurants does not violate any of the provisions of the SWM Act as this does not constitute a sale or transfer of these commodities by the hotelier or Restaurateur to its customers.”

HIGH COURT OF DELHI · 2007 | SOURCE DLHC010267892003

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