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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 13269/2022, CM APPL. 40236/2022(Interim Relief)

AMAZON SELLER SERVICES PVT LTD Petitioner

Through: Mr. Rajiv Nayyar, Mr. Jayant Mehta,
Sr. Advs. with Mr. Sidharth Chopra,
Ms. Sneha Jain, Ms. Swikriti, Mr.
Vivek Ayyagari, Mr. Devvrat Joshi,
Advs.

versus

CENTRAL CONSUMER PROTECTION AUTHORITY

..... Respondent

Through: Mr. Apoorv Kurup, CGSC with Ms.
Aparna Arun, Adv.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

ORDER

% **20.09.2022**

1. Notice. Since the respondents are duly represented, let a counter affidavit be filed within a period of four weeks from today.
2. For the purposes of considering the prayer for interim relief, the Court takes note of the submissions of Mr. Nayar and Mr. Mehta, learned Senior Counsels appearing for the petitioner who contend that prior to the passing of the order impugned, the petitioner was not made aware of the contents of any investigation that may have been undertaken by the Central Consumer Protection Authority [“CCPA”]. Learned Senior Counsels submit that the report of investigation which would have formed the bedrock for action under Section 20 of the Consumer Protection Act, 2019 [“CPA”] was also not provided to the petitioner. Their submission additionally was that the

petitioner here would stand protected and absolved from liabilities in light of the provisions made in Section 79 of the Information Technology Act, 2000. The petitioner also challenges the levy of penalty contending that the CCPA stands conferred with no jurisdiction in law to levy penalty under Section 20 of the CPA.

3. The aforesaid contentions are refuted by Mr. Kurup who argues that an investigation was duly undertaken and it was in view of the material gathered in the course of the said investigation that proceedings were initiated by the CCPA against the petitioner. Mr. Kurup further argues that the petitioner does not place on the record any material which may establish that the sellers in question were offering products which were compliant with the standards prescribed or were duly certified by the Bureau of Indian Standards [BIS]. Mr. Kurup further argues that the petitioner cannot claim the benefit of the safe harbour comprised in Section 79 of the Information Technology Act, 2000 unless they are able to establish that they had discharged the obligations placed under the Consumer Protection (E-Commerce) Rules, 2020. Mr. Kurup would further contend that the petitioner cannot claim a right to onboard sellers without enquiring that their products comply with the legal requirements as applicable.

4. Prima facie, the Court notes that the investigation is stated to have come to the conclusion that the pressure cookers were not BIS certified. However, the petitioner does not appear to have been afforded any opportunity to rebut or meet those findings. The nature of obligations which an e-commerce platform must discharge under the 2020 Rules and whether they were in fact met in the facts of the present case would merit a more detailed examination. Additionally the Court would have to consider the

duties and obligations which an e-commerce entity must be held liable to perform in law before onboarding a seller. These and other issues would warrant further consideration.

5. Consequently and till the next date of listing while the petitioner shall be liable to notify the consumers of the 2265 pressure cookers sold on its platform of the order of the CCPA, further steps with respect to recall of those items and reimbursement shall be placed in abeyance till the next date. The Court also calls upon the petitioner to deposit a sum of Rs. 1 lakh with the Registrar General of the Court within a period of 1 week from today without prejudice to its rights and contentions in the writ petition.

6. List again on 14.11.2022 in the category of “End of Board”.

YASHWANT VARMA, J.

SEPTEMBER 20, 2022/*neha*