

**Central Consumer Protection Authority**  
**F.No. CCPA-2/11/2023-CCPA-Part (5)**

In the matter: Case against Zoo Bee / Mowak with regard to sale of toys without ISI mark

**CORAM:**

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

**Appearance on behalf of Zoo Bee**

1. Mr. Mohammad Ashik, Proprietor, ZooBee

Date: 11.07.2024

**ORDER**

1. The hearing was held through video conferencing on 28.06.2024.
2. This is a suo-moto case taken up by the Central Authority against Zoo Bee / Mowak ('opposite party') with regard to sale of toys in violation to standards directed for compulsory use by law on Amazon e-commerce platform.
3. Notice to the opposite party was issued on 23.03.2023 (sent by e-mail on 24.03.2023) to furnish its response in the matter within 15 days. The listing identified in the notice was as under –
  - (i) ZooBee 4 Pack Take Apart Truck - Car Toys for Kids, DIY Construction Building Sand Toys Vehicle Set with Disassembly Tool for Toddler Boys Girls, Educational Sandbox Toys Gift for Kids Age 3 4 5 6  
[https://www.amazon.in/Construction-Building-Vehicle-Dissambly-Educational/dp/B09LR6NCQC/ref=sr\\_1\\_194?keywords=toys+for+kids&qid=1673333043&prefix=toys+for+%2Caps%2C222&sr=8-194](https://www.amazon.in/Construction-Building-Vehicle-Dissambly-Educational/dp/B09LR6NCQC/ref=sr_1_194?keywords=toys+for+kids&qid=1673333043&prefix=toys+for+%2Caps%2C222&sr=8-194)
4. No reply was received from the opposite party within the prescribed period. Thereafter, a reminder notice was issued on 05.01.2024, providing a final opportunity to the opposite party to furnish its reply within 7 days.
5. Reply was received on 12.01.2024. wherein the opposite party made the following submissions –

- (i) Being new to business, the company was unaware of BIS certification.
  - (ii) The inventory of toys without BIS certificate has already been destroyed.
  - (iii) Toys without BIS certificate were not sold intentionally and the same happened due to lack of knowledge about BIS certification.
  - (iv) CCPA is requested to excuse this mistake on part of the company.
6. Since the opposite party was observed to be selling toys on Amazon, a response was also sought by CCPA from Amazon on the number of toys sold after the Toys (Quality Control) Order, 2020 ("QCO") came into force i.e., 01.01.2021, the amount of money earned by seller from sale of the toys and amount of fee earned by Amazon from the sale of toys on its platform.
7. As per reply dated 25.11.2023, Amazon submitted the following information :-

<b>Seller Name</b>	<b>Units of the Impugned Product Sold (A)</b>	<b>Seller Revenue (INR) (B)</b>	<b>ASSPL's Fee (INR) (C)</b>
Mowak	513	2,34,733	83,106

8. From the above table, it is clear that the number of units sold is 513 and seller proceeds are ₹2,34,733.
9. The matter was referred by CCPA to the Director General, Investigation Wing for appropriate investigation. The report submitted by the Investigation Wing states the following –

- (i) *It was observed that toys, meant for kids with age less than 14 years but without required BIS Standard Mark as per Toys Quality Control Order, 2020, were available at the premises of the opposite party.*
- (ii) *161 and 26 numbers of non-electric and electric toys respectively, were found available at the premises without carrying the BIS standard mark and the same were seized.*
- (iii) *Out of the above, 3 nos. of non-electric & 1 no. of electric toy were packed in carton box, yellow tagged, wax sealed, coded as CNBO/64173/20230512/ENF/2, signed with permanent marker by BIS Officials and the Proprietor Shri. Mohammed Ashik and the carton box containing 3 nos. of non-electric & 1 no. of electric toy was brought to BIS Chennai Office as material evidence.*
- (iv) *Rest of the toys i.e. 158 nos. of non-electric and 25 nos. of electric toys were packed in carton box, yellow tagged, wax-sealed with BIS Seal no.466, coded as CNBO/64173/202300512/ENF/1, signed with permanent marker by BIS Officials and the Proprietor Shri. Mohammed Ashik and was left with the firm for safe custody. Superdari was issued*

*for the same. These items were sealed in presence of Shri. Mohammed Ashik, Proprietor of M/s Zoo Bee.*

*(v) Also, on the day of the raid, it was verified that the listing of the toys by the firm was available on Amazon.in for sale.*

10. Thereafter, hearing was scheduled with the company on 21.05.2024, wherein Mr. Mohammad Ashik, Proprietor, ZooBee, made the following submissions –

- (i) He was not aware of the mandatory BIS certification.
- (ii) He was very new to the business and had quit his regular job to start the same. He was working at Axis Healthcare, earning a salary of ₹12,000.
- (iii) He is quitting the business and is now working for Pack Logic Solutions company, in the bag industry, where his salary is ₹20,000.
- (iv) He got the idea of e-commerce through YouTube.
- (v) There are storage costs and Amazon Warehouse charges. He has no idea about the profits.
- (vi) He requested the CCPA to excuse the mistake committed by him.

11. Considering the submissions made during the hearing, Order dated 13.06.2024 (sent on 14.06.2024) was passed with the following directions –

*“11. Considering the submissions made above, the Central Authority passes the following directions –*

- (i) The investigation report by Director General (Investigation) shall be sent to the company and the company shall have an opportunity to submit its comments (if any) within 7 days.*
- (ii) The company shall submit an undertaking to the effect that it will not engage in sale of toys in violation of the QCO in future, and may make further submission (if any) along with the undertaking within 7 days.*
- (iii) The next hearing shall be held on 28.06.2024 at 4 P.M.”*

12. The investigation report was sent to the opposite party on 14.06.2024, with an opportunity to submit comments (if any) within 7 days. Neither any comments on the investigation report nor the undertaking as per the directions mentioned in the Order dated 13.06.2024 was received from the opposite party within the prescribed period.

13. The next hearing was held on 28.06.2024 at 4 P.M. Appearing on behalf of Zoo Bee, Mr. Mohammad Ashik, reiterated the submission that he had no knowledge about mandatory BIS certification on toys. It was also submitted that the opposite party is willing to submit the undertaking. The profit was around 10-15% from the total sale.

14. Pursuant to the hearing, e-mail dated 28.06.2024 at 5:57 P.M., enclosing the undertaking was received from the company. The undertaking states the following –

*I, Mohamed Ashik, Proprietor of Zoobee, hear by undertake the following*

- 1. I will not engage in sale of toys in violation of the QCO in future.*
- 2. I will abide by all the rules and regulations of the Central Consumer Protection Authority of India if in case of selling any products in future.*

15. The Central Authority has carefully examined the submissions (written as well as oral) made by the company. As per the report by the investigation wing, the opposite party has been found to be involved in sale of toys in violation to mandatory standards and without standard mark as per the QCO.

16. It may be mentioned that Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry notified the Toys (Quality Control) Order, 2020 ("QCO") on 25.02.2020 (and to come into force from 01.09.2020) which states the application of the QCO as follows -

**2. Application.-***In this order, unless the context otherwise requires-*

- (a) This Quality Control Order shall apply to (Toys) Product or material designed or clearly intended, whether or not exclusively, for use in play by children under 14 years of age or any other product as notified by the Central Government from time to time;*
- (b) This order shall apply to Toys as they are initially received by the children and, in addition, this shall apply after a toy is subjected to reasonably foreseeable conditions of normal use and abuse unless specifically noted otherwise.*

As per the QCO, the mandatory Indian Standard (IS) on toys are as follows –

<b>Goods or articles</b>	<b>Indian Standard</b>	<b>Title of Indian Standard</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
Toys	IS 9873 (Part 1) : 2018	Safety of Toys Part I Safety Aspects Related to Mechanical and Physical Properties.

	IS 9873 (Part 2) : 2017	Safety of Toys Part 2 Flammability
	IS 9873 (Part 3) : 2017	Safety Requirements for Toys Part 3 Migration of Certain Elements.
	IS 9873 (Part 4) : 2017	Safety of Toys Part 4 Swings, Slides and Similar Activity Toys for Indoor and Outdoor Family Domestic Use.
	IS 9873 (Part 7) : 2017	Safety of Toys Part 7 Requirements and Test Methods for Finger Paints.
	IS 9873 (Part 9) : 2017	Safety of Toys Part 9 Certain Phthalates Esters in Toys and Children's Products
	IS 15644: 2006	Safety of Electric Toys.

17. Thereafter, vide Toys (Quality Control) Amendment Order, 2020 notified on 15.09.2020, date of coming into force of the QCO was postponed to 01.01.2021. This offered all manufacturers/sellers reasonable time to sell their old stocks and prepare for conformity to the standards prescribed under QCO.
18. Goods or products, which violate the standard required to be maintained by or under any law for the time being in force, are liable to be termed "defective" under the Consumer Protection Act, 2019.

*"(10) "defect" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or **standard which is required to be maintained by or under any law for the time being in force** or under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods or product and the expression "defective" shall be construed accordingly"*

19. Sale of toys in contravention to the prescribed standards violates the rights of consumers as class. 'Consumer rights' as defined under Section 2(9) includes

*(i) **the right to be protected** against the marketing of goods, products or services which are hazardous to life and property;*

*(ii) **the right to be informed** about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices*

20. The opposite party has admitted in its reply dated 12.01.2024 that it was not aware of the QCO. It requested CCPA to excuse this mistake. Further, in the oral hearing also, Mr. Mohammad Ashik, Proprietor, Zoo Bee submitted that he was new to the business and was unaware of the QCO.



21. **Sale of toys in violation to the mandatory standards notified in the QCO could be a high safety risk for children and could lead to severe harm or injury.** When the QCO for toys came into force on 01.01.2021, the opposite party ought to have ensured that toys which do not conform to the prescribed mandatory standards are not sold to consumers. Any proposition of ignorance or unawareness of law cannot be countenanced.
22. Moreover, it is pertinent to note that the notification of QCOs is not a sudden overnight action by the Central Government. Before finalizing the notification of a compulsory standard for any good or article, extensive stakeholder discussions are undertaken by BIS and the concerned Ministry for effective implementation of the standard in public interest.
23. In view of the above, the opposite party is hereby directed to –
- (i) Recall the 513 units of toys sold by it and reimburse the prices of the recalled toys to the purchasers and submit a compliance report within 30 days.
  - (ii) Pay a penalty of ₹50,000 for selling toys to consumers in violation to mandatory standards prescribed under the QCO.

  
Nidhi Khare  
Chief Commissioner

  
Anupam Mishra  
Commissioner