

**CENTRAL CONSUMER PROTECTION AUTHORITY**  
**Room No 365, Krishi Bhawan, New Delhi - 110001**

**Ref: F.No. J-25/97/2022-CCPA [33747]**

In the Suo-moto matter: Case against Suerte Cosmetic Science with regard to misleading advertisement and unfair trade practice.

**CORAM:**

Smt. Nidhi Khare, Chief Commissioner, CCPA  
Shri Anupam Mishra, Commissioner, CCPA

**Appearance on behalf of Suerte Cosmetic Science:**

Shri Bhagyesh Rabadiya, Sale Manager

**Date: 20.02.2025**

**ORDER**

This is a suo-moto case taken up by the Central Consumer Protection Authority (hereinafter referred as CCPA) established under section 10 of the Consumer Protection Act 2019. The issue involves misleading advertisement and unfair trade practice by Suerte Cosmetic Science (opposite party) through sale of impugned products i.e. La'Bangerry on Meesho (Fashnear Technologies Pvt. Ltd.) claiming **La'Bangerry Whitening Body Lotion on Skin Lightening and Brightening Body Lotion Cream, Body of Gora aur Soft karne Waala Cream, Skin Goora Hone Waala Cream, whitening of skin within one minutes.**

2. Accordingly, CCPA took cognizance of the matter and conducted a preliminary inquiry to examine the genuineness of above claims and assertions made in the impugned advertisement by the opposite party. The preliminary inquiry report indicated that the impugned advertisement was available on the website of Meesho by its seller Suerte Cosmetic Science as of 02.03.2023 with the following link: <https://www.meesho.com/body-lotion-sensational-nourshing-lotion-creams/p/1ox05g>.

3. It was further noted in the preliminary inquiry report that with the claim of "whitening of skin within one minute clearly represented through the pictorial representation the "Before" and "After" effect on the transformation of the skin from dark to white on the use of their product". However, it was published without any scientific validation, disclosure of details in the description section regarding ingredients used in the product and proven results for making such superlative claims. This false and misleading representation of product without any substantiation signifies a deliberate and deceptive intent to convey both express and implied representations, designed to entice and mislead consumers by concealing honest and truthful information, thereby constitutes violation u/s 2(28) and u/s 2 (47) of the Consumer Protection Act, 2019 under Misleading advertisement.

4. It is pertinent to mention here that seller offering goods for sale on the platform of a marketplace e-commerce entity is obliged to provide all relevant details as stipulated in the, so that consumers are empowered to make informed decision at pre-purchase stage. Thus, the opposite party had also violated the provisions of the Consumer Protection (E-Commerce) Rules, 2020. Therefore, the preliminary inquiry report found a prima facie case of misleading advertisement and unfair trade practice under the Consumer Protection Act, 2019 to impact the consumers as a class.

5. In light of the findings of the preliminary inquiry report, a Notice dated 02.03.2023 was issued to Suerte Cosmetic Science (Opposite Party), requiring a written response within a period of 15 days. Response was sought on the scientific justification, verifiable comparative data, third-party validation, and information of the ingredients used, in order to substantiate the claim that the product "*La'Bangerry Whitening Body Lotion on Skin Lightening and Brightening Body Lotion Cream, Body of Gora aur Soft Karne Waala Cream, Skin Goora Hone Waala Cream*" (Impugned Product) and is capable of whitening the skin within one minute.

6. In response to the above Notice, a reply dated 10.04.2023 was received from Rich Daddy International (manufacturers & exporters of personal care & beauty products), wherein following submissions were made:-

- i. It is stated that Rich Daddy International is the manufacturer of the Impugned Product and is supplying the same to the Opposite Party for sale on both online and offline platforms.
- ii. The product in question has been developed by the Research and Development team of the manufacturer.
- iii. The key ingredients of the product include Almond Oil and Vitamin E Oil, with additional ingredients such as Titanium Dioxide and Zinc Oxide, which are utilized for the purposes of skin whitening and brightening.
- iv. It was further submitted that the impugned advertisement does not claim that the skin whitening effect is permanent.

7. The reply of the opposite party has been carefully examined by CCPA. It was observed that the opposite party did not submit any scientific justification third-party validation or any other supporting documents for substantiation of their impugned advertisement and evidential documents for their visual representation though use of their product. Therefore, it is clear that a person of ordinary prudence could be easily misled by the Opposite Party's deceptive visual representations and claims. The following factors are worth noting:

- i. Firstly, the name skin whitening cream itself is self-explanatory causing to implied representation for its effect which was not substantiated by the opposite party.
- ii. Secondly, the description section of the impugned advertisement clearly states that La'Bangerry Whitening Body Lotion on Skin Lightening and Brightening Body Lotion Cream, Body of Gora aur Soft Karne Waala Cream, Skin Goora Hone Waala Cream.
- iii. Thirdly, the pictorial representation distinctly highlights the claim of whitening whole body in 1 minute and emphasized the transformation of skin by exaggerating the visual representation. Moreover the impugned advertisement does not clarify that the whitening is not permanent, therefore the reply of the opposite party is itself misleading.

In light of the above, CCPA finds that there exists a prima facie case of misleading advertisement and unfair trade practice and the submissions made by the opposite party cannot be considered a valid defense in this matter.

8. Subsequently, vide letters dated 24.11.2023, the Central Authority directed the DG (Investigation), CCPA and Drug Controller General of India, Central Drugs Standards Control Organization (CDSCO) to conduct detailed investigation into the above matter and submit investigation reports.

9. In the investigation report dated 22.01.2024 received from the DG (Investigation), CCPA the following findings has been submitted:

- i. An opportunity was given to the opposite party to substantiate the veracity of their claim made through the impugned advertisement of "La'Bangerry Whitening Body Lotion on Skin Lightening and Brightening Body Lotion Cream, Body of Gora aur Soft karne Waala Cream, Skin Goora Hone Waala Cream" along with the pictorial representation by providing the transformative before and after effect on the skin.
- ii. The opposite party submitted that it has removed all misleading advertisements and assured not to repeat such type of activities for sale of products in future.
- iii. It failed to provide any supporting documents for their claim of the product as skin lightening and brightening body cream.
- iv. Opposite party did not have any scientific justification and proven result to support their impugned claim.
- v. Thus, the opposite party is in violation of section 2(28) that deals with misleading advertisement under the Consumer Protection Act, 2019.



10. On the other hand, in the investigation report dated 07.08.2024 received from the Drug Controller General of India the findings are as under:

- i. A joint investigation team was constituted comprising of Sr. Drug Inspector Food and Drugs Control Administration and Drug Inspector, Central Drugs Standard Control Organization Ahmedabad Zone in the present matter.
- ii. The Joint Investigation Team, upon inspection of the premises of opposite party, requested the key persons present to provide the requisite information and relevant copies of certificates.
- iii. Shri Bhagyesh Rabadiya, the Sales Manager, produced a self-certified copy of the license, product permission issued by Rich Daddy International, International tax invoices, and a copy of the product labels.
- iv. Shri Rabadiya further stated that he possesses an authority letter from Rich Daddy International to sell the product and confirmed that the impugned product was sold through the e-commerce platform, Meesho. Now they have stopped the sale of impugned cosmetic on the e-commerce platform.
- v. He also stated that the last sale of the product occurred on 06.11.2023, and that all misleading advertisements have been removed.
- vi. The Opposite Party declared that the misleading advertisements and unfair trade practices were solely a result of their lack of legal knowledge, and that there was no involvement of the manufacturer, M/s Rich Daddy International, in this matter.
- vii. The Opposite Party was unable to provide documentation for veracity of claims made in the impugned advertisement, including scientific justification or proven results regarding the product.
- viii. Hence, actions, as deemed fit, be taken.

11. Central Authority (CCPA) vide letter dated 22.05.2024 shared the investigation report to the opposite party to furnish their comments on the investigation report at the earliest and latest by 28.05.2024. An opportunity was also provided by a hearing on 29.05.2024. However, the opposite party neither submitted any comments for substantiation of their alleged misleading claims and representation of the product and nor appeared for a hearing without any intimation before the Central Authority. Therefore, the Central Authority vide email dated 27.06.2024 offered one more opportunity of hearing to the opposite party on 08.07.2024 but the opposite party again failed to appear for a hearing before the Central Authority without any intimation. Thus, vide email dated 10.01.2025 a final opportunity of hearing was given to the opposite party to appear on 16.01.2025 to substantiate their claim and furnish comments of investigation report.

**12.** Vide email dated 10.01.2025, Shri Bhagyesh Rabadiya, Sales Manager submitted the following:

- i. The Opposite Party submits that all misleading advertisements have been removed, and unfair trade practices were ceased on the Meesho platform as of 10.04.2023.
- ii. Furthermore, the Opposite Party has discontinued the sale of the product featured in the impugned advertisement on the Meesho e-commerce platform, with the last sale occurring on 06.11.2023, and the business operations related to the product have been closed.
- iii. The Opposite Party further asserts that the misleading advertisements and unfair trade practices were committed solely due to a lack of knowledge of the applicable laws or as a result of inadvertence or mistake.
- iv. The Opposite Party further assures that no such activities will be repeated in the future in relation to the sale of any product.

**13.** In light of the above facts, the Central Authority, gave final opportunity to the opposite party to appear for hearing on 16.01.2025, wherein Shri Bhagyesh Rabadiya, Sales Manager of Suerte Cosmetic Science made following submissions that:

- i. The product shown in the impugned advertisement was listed for a period of 6 (six) months on the platform of e-commerce entity namely Meesho.
- ii. The visual pictorial representation as showcased in the impugned advertisement was copied from random google search to promote the sale.
- iii. It was submitted that opposite party was not aware about the consumer protection law which includes rights of consumers or provisions of misleading advertisement mentioned under the Consumer Protection Act, 2019.
- iv. It has been further submitted that on receipt of the Notice of CCPA, the sale and advertisement of the impugned product has been discontinued.
- v. The Central Authority asked regarding the number of products sold, the revenue generated from sales of the impugned advertisement, and the details of consumers as recorded in the sales register of the opposing party, it was submitted that approximately 50 to 60 units of the product had been sold. Additionally, stated that no sales register had been maintained.

14. The CCPA carefully considered the findings in the investigation report, the written and oral submissions made by the opposing party. The CCPA notes the following facts and issues in the case:

(a) The pictorial representations employed by the opposing party explicitly suggest that body parts with darker skin tones will whiten within one minute upon using the product. This claim, in the absence of any disclosed ingredients or scientific validation and proven results supporting the advertised effect, is inherently misleading. Such depictions create a false and deceptive impression in the minds of consumers, leading them to believe that the product will cause skin whitening upon use. Thus, the opposite party has attempted to absolve itself of responsibility by merely submitting that it was unaware of the Consumer Protection Laws.

(b) Inter-alia, operating a business i.e. registering name of the firm, application for GSTIN number, enrolling on e-commerce platforms in compliance to e-commerce rules which includes agreeing to various terms and conditions—entail compliance with a range of legal obligations at various levels. Therefore, the opposite party is attempting to shield itself by making claims that it was not aware about the responsibilities towards consumers as required under the Consumer Protection Act, 2019.

(c) The opposite party submitted that the impugned advertisement has been discontinued. It is material to note that had the CCPA not taken cognizance of the misleading advertisement, the opposite party would have continued to gain commercial benefit from its so called ignorance of law. Moreover consumer rights defined under section 2(9)(v) of the Consumer Protection Act 2019 codifies the inherent right of consumer to seek redressal against “*unscrupulous exploitation of consumer*.” This codified right is an enforceable right of consumers. CCPA is mandated to operationalize the right to seek redressal of a class of consumers by exercising its powers under section 20 of the Consumer Protection Act 2019.

15. Section- 2(28) of the Consumer protection Act, 2019 defines “misleading advertisement” in relation to any product or service to mean an advertisement, which-

- a) falsely describes such product or service; or
- b) gives a false guarantee to, or is likely to mislead the consumers as to the nature, substance, quantity or quality of such product or service; or
- c) conveys an express or implied representation which, if made by the manufacturer or seller or service provider thereof, would constitute an unfair trade practice; or
- d) deliberately conceals important information;

16. From a bare reading of the above provisions of the Act, it is clear that any advertisement should:

- i. Contain truthful & honest representation of facts,
- ii. Have assertions, guarantees only when backed by underlying credible and authentic material, study etc.



- iii. Not indulge in unfair trade practice as defined in Section 2(47) of the Act. It should be free from false representation that the goods/services are of particular standard, quality [(section 2(47)(a)] and should not make false or misleading representation concerning the need for or usefulness of any goods or services (section 2(47)(f) of Consumer Protection Act with respect to unfair trade practice.
- iv. Disclose important information in such a manner that they are clear, prominent and extremely hard to miss for viewers and does not conceal material information as has also been stated in the Guidelines for prevention of misleading advertisement and endorsements 2022.

**17.** In light of the above findings CCPA draws the following conclusions:

- (a) The opposing party asserted that it was unaware of the provisions of consumer protection law. It is a established legal principle that ignorance of law is not a valid defence. The visual representations used in the impugned advertisement significantly exaggerated the product's attributes to promote its sale, without any basis. The opposite party specifically did not disclose that "skin whitening" is merely a descriptive term and that the pictorial representations of the product do not guarantee the whitening of skin as depicted.
- (b) Additionally, it has not taken adequate care to understand the potency of the product to deliver the advertised result through any scientific study report. Therefore reply of the opposite party regarding ignorance of law is not acceptable as the party has not acted in good faith and did not carry out the due diligence qua the claims in the advertisement. The action of the opposite party and the visual representation is of aggravated nature as it not just a mere violation of some laws, but violation of consumer trust, which is the key underpinnings of consumer rights. Therefore, the opposite party has clearly violated section 2(28)(a); Section 2(28)(b); 2(28)(c); 2(28)(d) of the Consumer protection Act 2019 and it adversely affects the consumers' right to be informed before purchasing a product.

**18.** The Central Authority (CCPA) is empowered-

- (a) u/s 21 of the Consumer Protection Act, 2019 to issue directions to the manufacturer of false or misleading advertisement to discontinue or modify the advertisement and if necessary, it may, by order, impose a penalty which may extend to ten lakh rupees and for every subsequent contravention may extend to fifty lakh rupees. Further, Section 21 (7) of the above Act, 2019 prescribes that following may be regarded while determining the penalty against false or misleading advertisement:-
  - i. *the population and the area impacted or affected by such offence;*
  - ii. *the frequency and duration of such offence;*
  - iii. *the vulnerability of the class of persons likely to be adversely affected by such offence;*

- (b) u/s Section 20 of Consumer protection Act, 2019- Power to recall goods etc-  
*"Where the central authority is satisfied on the basis of investigation that there is sufficient evidence to show violation of consumer rights or unfair trade practice by a person, it may pass necessary orders, as may be necessary.."*

**19.** In light of the fact as has already been highlighted in the foregoing paras the opposite party has not shared with CCPA the exact quantity of the product being sold and has only mentions during hearing that 50-60 units were sold in last six months of sale without submitting its books of accounts particularly the sales register which are mandated to be maintained by the taxation statutes. The opposite party has attempted to hoodwink the Central Authority by not submitting authenticated sales figure of the product across the years with an objective to escape the consequences prescribed in the statute. The conduct of the opposite party is with malafide intent to prevent the Central Authority to assess and ascertain the extent of the consumers affected by the misleading advertisements. In light of these circumstances CCPA finds it necessary to levy a penalty on the opposite party.

**20.** The Central Authority hereby issues the following directions under section 21 read with section 20 of the Consumer Protection Act 2019.:-

- i. Opposite party shall discontinue the advertisement from all platforms where the opposite party is listed as a seller with immediate effect.
- ii. Suerte Cosmetic Science (opposite party) shall pay a penalty of ₹. 50,000/- (Rupees Fifty Thousand Only) for publishing a misleading advertisement.
- iii. Compliance of the order shall submit the amount of penalty and a compliance report to CCPA on the above directions within 15 days from the date of this Order.

  
(Nidhi Khare)  
Chief Commissioner

  
(Anupam Mishra)  
Commissioner