

**(2008) 03 GUJ CK 0010**  
**In the Gujarat High Court**

**Case No :** Criminal Miscellaneous Application No. 3776 of 2008

Hindustan Unilever Ltd.

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

**Date of Decision :** 26-03-2008

**Acts Referred:**

Prevention of Food Adulteration Act, 1954 — Section 13(2), 13(2), 17(2)

**Citation :** (2008) 28 CriminalCC 27

**Hon'ble Judges :** Harsha Devani, J

**Bench :** Single Bench

**Advocate :** Thakkar Assoc, for the Appellant; Public Prosecutor for Respondent No. 1 and None, for the Respondent

## **Judgement**

H.N. Devani , J.—Heard Mr. P.M. Thakkar, learned senior advocate with Mr. H.S. Joshi, learned advocate for the petitioner.

2. It is submitted that the sample in question was packed in the month of December, 2004 and there was a specific mention "Best before 12 months from the month of manufacturing", whereas the complaint in question was lodged in February, 2008. Thus, the shelf life of the product had already expired when the complaint in question was lodged. It is submitted that in the circumstances, the petitioner is deprived of its valuable statutory rights u/s 13(2) of Food Adulteration Act, 1954 (the Act). It is also pointed out that the company had specifically nominated one Mr. Anshul Asawa under the provisions of section 17(2) of the Act. However, without properly examining as to whether there was a nominated person, the Chairman, Vice Chairman and the Directors of the company have been arraigned as accused in the complaint.

3. It is also submitted that a perusal of the allegations made in the complaint show that there are no specific averments to the effect that the offence was committed with the consent/connivance/negligence of the accused. It is contended that in the circumstances, the complaint is not maintainable. In support of the said contention, reliance is placed upon a decision of this Court in

the case of Yogesh Babubhai Trivedi & Ors. v. K.B. Dabhi, Food Inspector, 2006 (1) GLH 83 as well as an unreported decision of this Court in the case of Rasikbhai Manilal Patel v. State of Gujarat, Criminal Miscellaneous Application No. 8885 of 2002 and other matters rendered on 9th May, 2003.

4. Having considered the submissions advanced by the learned senior advocate as well as having perused the decisions relied upon, Rule returnable on 23rd April, 2008. Interim relief is granted in terms of paragraph 6(B).

5. Mr. L.B. Dabhi, learned Additional Public Prosecutor waives service of notice on behalf of respondent No. 1, State of Gujarat.

Direct service is permitted qua respondent No. 2.