

(2026) 08 BOM CK 3611
In the Bombay High Court
Case No : WRIT PETITION NO.2022 OF 2023

Project Revolt LLP

APPELLANT

Vs

Bureau of Indian Standards & Ors.

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Bureau of Indian Standards Act, 2016 — Section 16, 2(40), 17, sub-section (1) of Section 16, sub-section (2) of Section 6, 38, 9, sub-section (1) and (2) of Section 16, sub-section (3) of Section 25, 18
Bureau of Indian Standard Rules, 2018 — Rule 24
Helmet for riders of Two Wheeler Motor Vehicles (Quality Control) Order, 2020 — Clause 2, 3
BIS (Conformity Assessment) Regulations, 2018-Scheme-I of Schedule-II
Consumer Protection Act, 2019
Motor Vehicles Act, 1988 — Section 129, 194D
Notification (Amendment) Act, 2019
Central Motor Vehicles Rules, 1989 — Clause (f) of sub-rule (4) of Rule 138
Bureau of Indian Standards Act, 1986

Citation : (2026) 08 BOM CK 3611

Hon'ble Judges : Manjusha Deshpande, J;Bharati Dangre, J

Bench : Division Bench

Advocate : Mr. Akash Menon a/w Ms. Lakshmi Menon and Ms. Nirmohi Bansod, Mr. Saurabh Pakale a/w Ms. Vidhi Bhasin i/b M.V. Kini & Co., Mr. Rajiv Chavan, Senior Advocate a/w Ms. Priyanka Chavan, Ms. Asmi Desai and Ms. Sonam Pandey i/b Priyanka Chavan

Final Decision : Partly Allowed

Judgement

1 The Petitioner, a Partnership Firm is engaged in the business of selling motorcycle riding gears including 'Safety Helmets' which are imported from different countries such as France, USA, Taiwan, Italy, Malaysia, United Kingdom, Germany and China. The Petitioner has a showroom styled as M/s.Lazy Ass Bikers at Andheri, Mumbai and it has approached this Court seeking the following reliefs :-

a Issue a writ of mandamus or any other appropriate writ, order or direction to quash and

set aside the seizure undertaken by the Respondent No.1 and the criminal proceedings initiated by the Respondent No.1 before the Ld. Metropolitan Magistrate's 22 Court at Andheri,

b. Issue a writ of mandamus or any other appropriate writ, order or direction, directing Respondent No.1 to release the Subject Helmets seized by the Respondent No.1,

c. Issue a writ of mandamus or any other appropriate writ, order or direction, permitting the sale of the Subject Helmets.

2 We have heard the learned counsel Mr.Akash Menon for the Petitioner and the learned counsel Mr. Saurabh Pakale for Respondent No.1 whereas Union of India is represented before us through the learned senior Advocate Mr.Rajiv Chavan.

Since the pleadings in the Petition are complete, we have heard the Petition with an understanding of it being finally heard. Hence 'Rule', which is made returnable forthwith by consent.

3 The Petition involves Bureau of Indian Standards Act, 2016 ("BIS Act" for short) which is an enactment to provide for establishment of a National standard body, Bureau of Indian Standards ('BIS' for short) for harmonious development of the activities of standardization, conformity assessment and quality assurance of goods, articles, processes, systems and services.

BIS is thus a body established under the Act which provide for set of national standards for harmonious development of activities of standardization and quality assurances of goods.

Under Section 16 of the BIS Act, 2016 the Central Government is authorized to direct compulsory use of a Standard Mark on any goods/articles, if it is of the opinion that it is necessary or expedient to do so in 'public interest'.

As per Section 2(40) of the BIS Act, the 'Standard Mark' represents conformity to a particular standard prescribed by BIS, indicative of its quality and specification.

Section 17 provides that no person shall manufacture, import, distribute, sell, hire, lease, store or exhibit for sale any such goods, article, process, system or service under sub-section (1) of Section 16, without a standard mark except under a valid licence. As per the said provision, notwithstanding when the licence has been granted, no person shall export, import, sell, etc. any such goods unless they conform to the relevant standard of prescribed essential requirements.

The said provision also prohibit a person from making a public claim through advertisements, sales, promotion leaflets, price lists or the like, that his goods, articles etc. of conforming to the Indian Standard or make such a declaration on the goods or articles without having a valid certificate of conformity or licence from the BIS or any other Authority approved by the Central Government under sub-section (2) of Section 6.

In exercise of the powers conferred by Section 38 of the BIS Act of 2016, the

Central Government has declared Bureau of Indian Standard Rules, 2018 (BIS Rules) and Rule 24 thereof reads thus :-

"24. Indian Standards to be binding in certain cases – (1) Save as otherwise provided in sub-rule (2), the Indian Standards are voluntary and their implementation depends on adoption by concerned parties.

(2) An Indian Standard shall be binding if it is stipulated in a contract or referred to in a legislation or made mandatory by specific orders of the Government."

4 As far as subject matter of the Petition being 'Helmet for riders of Two Wheeler Motor Vehicles', the BIS in terms of Section 9 of the BIS Act has issued Indian Standard Bearing No. 4151:2015 titled as 'Helmet for riders of Two Wheeler Motor Vehicles' with product ID 4151:2015 which is implemented from 15/01/2019. It is premised on the requirements regarding the material, construction, workmanship, finish, mass and performance for safety helmets for everyday two wheeler riders.

A copy of the same is enclosed alongwith the Petition as Exhibit A and it clearly provide as below :

"Helmet is one of the most important items of personal protective equipment used by two wheeler riders for protection against the hazards connected with driving on roads. This standard has been framed to cover provisions of protective helmets for everyday use by the two wheeler riders."

The IS, so published specifically mention that the standard was first issued as an emergency Indian Standard in 1967 and subsequently revised in 1976, 1982 and 1993 and the revisions were made on the basis of the experience gained during the said years and to bring the same in line with latest developments at international level and the standard has been aligned with ECE Regulation No.22, Revision 4 incorporating 05 series of amendments to the maximum extent possible, keeping in view the Indian climatic and road conditions.

5 Our attention is also invited to the Quality Control Order ('QCO' for short) framed in exercise of the powers conferred by sub-section (1) and (2) of Section 16 read with sub-section (3) of Section 25 of the BIS Act, as the Central Government notified it under the caption 'Helmet for riders of Two Wheeler Motor Vehicles' (Quality Control) Order, 2020 and it being published by the Ministry of Road Transport and Highways on 26/11/2020, declared that it shall come into force with effect from 01/06/2021.

Clause 2 thereof clearly specify that goods or articles specified in column (1) of the Table shall conform to the corresponding Indian Standard specified in column (2) of the said table and shall bear the Standard Mark under a license from the BIS as per Scheme-I of Schedule-II of BIS (Conformity Assessment) Regulations, 2018.

For 'Helmet for riders of Two Wheeler Motor Vehicles' the prescribed Indian Standard is IS 4151:2015 and the Petition involves the applicability of the said

QCO as the grievance of the Petitioner is that its goods which were imported prior to the said date, should not suffer from any restriction, as the requirement of being compliant with IS 4151:2015 came into effect from 01/06/2021.

In the wake of the said QCO, only Helmets manufactured in accordance with IS 4151:2015 and bearing Standard Mark issued under BIS (Conformity Assessment) Regulations, 2018 are permitted to be imported in India for sale and it is the case of the Petitioner that on or after 01/06/2021 it has not imported any Helmets into India, but the subject matter of the Petition are those Helmets which are imported prior to 01/06/2021 and the Petition involves 90 Helmets imported from the year 2016 upto June, 2021.

6 The learned counsel Mr. Akash Menon representing the Petitioner would vehemently assert that the Helmets which are imported by the Petitioner have been manufactured in conformity with the European Certification for the minimum safety requirements of a Motorcycle (or Scooter Helmet) and 'E' mark provided by Economic Commission for Europe ('ECE') ECE -2022.05 and/or ECE 22.06 Standard. According to him the comparison of the European Standard is more or less similar to the Indian Standard IS 4151:2015 and rather the standard of compliance under the European Standard is more stringent than the Indian Standard and it is in this background the Petitioner is aggrieved by the action on part of Respondent No.1 taken initially on 03/12/2021 when during an investigation, search and seizure operation was carried out under the BIS Act read with the provisions of Consumer Protection Act, 2019 purportedly on account of violation of the provisions of BIS Act.

During the search and seizure though a serious attempt was made by the Petitioner to point out that the Helmets in the show room are all imported into India prior to 01/06/2021 and they are not at all violative of Quality Control Order, all 90 Helmets without Standard mark being non compliant with the QCO , were seized, which include the following Helmets :-

- i. Safety helmet bearing brand name : Scorpion Exo with identification no. : MUBO-I/MBC/DD/LH/20211203/ENF/06; and
- ii Safety helmet bearing brand name : Nexx with identification no.: MUBO-I/MBC/DD/LH/20211203/ENF/07.

7 According to the Petitioner, it made repeated correspondence to Respondent No.1 in form of representation for release of the subject Helmets by asserting that they were imported prior to the date on which QCO came into effect, but no cognizance was taken.

In the meantime, a criminal complaint was filed on 12/04/2022 against the Petitioner and its Partners before the Metropolitan Magistrate, 22nd Court at Andheri, which was registered as Miscellaneous Case No.1566/2022 and in the said proceedings, Discharge Application has been filed by the concerned.

8 The Petitioner approached this Court, with the aforesaid reliefs, by specifically

asserting that the said Helmets were seized on 03/12/2021 and the subject Helmets have shelf life of 3 to 5 years and they are deteriorating in quality, and as the Petitioner has not imported the Helmets which according to Respondent No.1 are non compliant with the QCO from the date on which it became applicable, they cannot be subject matter of seizure and the Petitioner is entitled to have them returned and it be permitted to sell them in the market.

9 The reliefs in the Petition are strongly opposed by the Bureau in the wake of the pleadings set out in the Affidavit in Reply filed by its Authorized Representative and as far as the criminal proceeding is concerned it is stated that pursuant to filing of the complaint before the Metropolitan Magistrate , process was issued against the Petitioner and its Partners and accused in the said case were released on bail subject to the conditions and the accused even sought exemption from marking their appearance, which is also granted. Discharge Application is filed by the Accused and the same is pending before the Court , is what is stated in the Affidavit as far as the criminal prosecution is concerned.

On merits of the case, the Affidavit proceed to state that there can be no comparison of the Helmets by applying European Standards, as the Indian Standards prescribed which mandate the Standard sizes of Helmets which are not mandated by European Standards. Apart from this, the Affidavit proceed to state that the Indian Standard mandate, that the protective padding of the Helmet shall cover all the areas of the shell and take into account the requirements of the shell (Clause 6.3 of the Indian Standard for helmets). In addition the mass of the complete Helmet according to Indian Standard shall not exceed 1500 grams, whereas, there is no such mandate in European Standard for Helmets, which also lack on the ground of prescribing any audibility test for the Helmets, which is specifically set out in Clause 7.6 of the Indian Standard for Helmets.

Apart from this, in the Affidavit a specific stand is adopted that the scope of QCO, applicable to the Helmets is very clear, as it directed that it shall become applicable from 01/06/2021 and though the order was issued by the Ministry of Road Transport and Highways on 26/11/2020 and 'Helmets for riders of Two Wheeler Motor Vehicles' from the said date shall mandatorily be compliant with IS 4151:2015.

The Affidavit also contain a clear cut comparison of the relevant features of the specifications prescribed by BIS and those prescribed by the EC. It is assertively stated in the Affidavit that the QCO was published on 26/11/2020 and it has come into effect from 01/06/2021, with an intention that the public at large was given reasonable notice and an opportunity to become aware of the QCO and the specifications set out therein.

The public at large was informed about its implementation and, therefore, it is not open for the Petitioner to contend that the QCO shall not apply to those goods, which are manufactured or imported prior to coming into its effect. A

specific stand is adopted that the decision is taken to prescribe the standards for Helmets in larger public interest and though a specific plea is adopted by the Petitioner that the issuance of grandfathering of products clause in the context of Electronics and IT Goods Quality Control Order (2012) , a view is expressed to exempt goods in stock from the applicability of the QCO, 2020 and by relying upon the Electronics and IT Goods Quality Control Order (2012) and the Notification dated 20/03/2013 issued by the Department of Electronics and Information Technology, it is stated that the grandfathering of the products vis-a-vis the products/goods mentioned in the BIS was taken into consideration in the wake of the public interest and since Helmet is used as a safety gear to avoid fatalities, on account of road accidents, it was necessary to determine the standards which the head gear should conform to.

A specific plea is adopted that the Indian Standards are designed and established by expert Doctors from AIIMS and the light weight of the Helmets was found to be more suitable, considering India's climatic conditions and to ensure compliance amongst the citizens who wear such types of Helmets.

10 The Union of India, Respondent No.3 has also filed an Affidavit through the Under Secretary to the Government of India for the Ministry of Road Transport and Highways, where Section 129 of the Motor Vehicles Act, 1988 is reproduced, which is in form of a mandate to wear the Helmet and Section 194D which is also inserted in the Motor Vehicles Act, which has prescribed penalty for not wearing protective headgear, is also set out.

Apart from this, the Affidavit contain following statements :

"8. I also say and submit that the Hon'ble Supreme Court Committee on Road Safety vide letter dated 10.05.2016 has directed for considering lighter helmets in India suiting the country's climate conditions for ensuring compliance amongst citizen to wear helmets. In view of the directions of the Hon'ble Supreme Court Committee on Road Safety, a committee was formulated vide order dated 30.05.2016. I say and submit that the committee had various experts, including expert doctors from AIIMS and also from BIS (Bureau of Indian Standards).

9. I further say and submit that due to the high proportion of road accidents and fatalities involving two wheelers and further low compliance of wearing of helmets and using of low-quality helmets, the Ministry of Road Transport and Highways decided to bring two-wheeler riders helmet under mandatory certification from BIS so that only BIS certified two-wheeler helmets would be manufactured and sold in the Country. I also say and submit that this would help in avoiding sale of low-quality two-wheeler helmets in the Country, which would in turn help in protecting citizens involved in two-wheeler accidents from fatal injuries. Accordingly, to ensure road safety, controlling fatalities involving two-wheeler accidents and to improve compliance to wearing helmets, the Ministry issued "The Helmet for riders of Two Wheelers Motor Vehicles (Quality Control) Order, 2020" vide notification S.O. 4252 (E) dated 26.11.2020 which came into effect from 01.06.2021. It enabled only BIS certified helmets for two-wheelers to be sold in India. I further say and submit that this would improve the quality of two-wheeler helmets and would improve the road safety scenario. It would also help in reducing fatal injuries involving two wheelers."

11 We have considered the rival contentions advanced before us.

The Bureau of Indian Standard Act, 2016 is an enactment which provide for establishment of a National Standard Body for the harmonious development of the activities of standardization, conformity assessment and quality assurance of goods, articles, processes, systems and services and Section 17 thereof imposes a prohibition in manufacture, import, distribution, sell, hire, lease, store or exhibit for sale any such goods, article, process, system or service under sub-section (1) of Section 16, without a Standard Mark, except under a valid licence and notwithstanding that a licence is granted, unless such goods, article, process, system or service conforms to the relevant standard or prescribed essential requirements.

Section 18 is a provision which mandate the licence holder to remain responsible for the conformity of the goods, articles, processes, systems or services carrying the Standard mark and it is the responsibility of the distributor or the seller, to ensure that the goods, articles, processes, systems or services carrying the Standard Mark are purchased from certified body or licence holder.

As far as the protective Helmets for two-wheelers are concerned, the BIS has revised the standard when it formulated the IS 4151:2015 in the backdrop, that this standard was first issued as emergency Indian Standard in 1967 and revised in 1976, 1982 and 1993, revision being based upon the experience gained during the years and to bring it in tune with the latest development at international level.

No doubt, it specify that the standard prescribed has been aligned with ECE Regulation No.22 incorporating 05 series of amendments to the maximum extent possible, however, it was also made adaptable to the Indian climate and road conditions.

The Indian Standard, covered the requirements regarding the material, construction, workmanship, finish, mass and performance of protective Helmet (with or without lower case cover) for its everyday use by two-wheeler riders. It was also clarified that the Helmets covered by the Standard are not intended for high speed competitive events.

12 The IS 4151:2015 set out the specifications and also prescribe the pattern evaluation test. It also contain a provision for marking in Clause 9 which provides for inscribing the following information in a readily accessible places viz. a) manufacturers name or trademark b) batch number , c) month and year of manufacturing, d)size, e) mass of the helmet to the nearest 50g f) name of the country of manufacturing and g) to mark 'does not provide any additional protection to Chin from impacts', if applicable.

The BIS certification marking was made mandatory and the use of the Standard Mark was governed by the provisions of BIS Act and Rules and Regulations made thereunder.

In exercise of the powers conferred by sub-section (1) and (2) of Section 16 read with sub-section (3) of Section 25 of the BIS Act, 2016, the Central Government declared the 'Helmet for riders of Two-wheeler Motor Vehicles' (QCO 2020), which indicated that 'Helmet for riders of Two-wheeler Motor Vehicles' shall be compliant with IS 4151:2015. The said Notification published on 26/11/2020 declared that it shall come into force from 01/06/2021 and from this date goods or articles specified in column (1) of the table contained in clause 3 shall conform to the corresponding Indian Standard Specification in column (2) and shall bear the Standard Mark under a licence from the BIS, as per the BIS (Conformity Assessment) Regulations, 2018.

13 As it is a specific stand adopted by the learned counsel Mr. Pakale as well as learned senior counsel Mr. Rajesh Chavan that the revision of the Standards specified by BIS was warranted in the wake of the directions from the Hon'ble Supreme Court Committee on Road Safety when it was directed that the light weight helmet shall be more suitable to the Indian conditions considering the Indian climatic conditions and so as to encourage the riders in the country to wear helmets. In the wake of this direction, a Committee was formulated by order dated 30/05/2016 and it comprised of various experts including expert Doctors from AIIMS and also officers from BIS.

In the wake of the rise in the number of road accidents and fatalities involving two wheelers and no compliance of wearing of the headgear or using low quality helmets, the Ministry of Road Transport and Highways deemed it appropriate to bring helmets for two wheeler riders under mandatory certification regime from BIS, so that only BIS certified helmets would be manufactured and sold in the country. It served the larger interest to minimize the cases of fatalities despite a motorcycle/ scooter rider meeting with an accident and if the quality of the helmet was ensured, which was duly prescribed by the BIS, by taking into consideration all the safety measures, in consultation with the experts in the field, a person could be saved from suffering a fatality. This being the object of the QCO, 2020, which was to come into effect from 01/06/2021, though it was notified on 26/11/2020 itself, it enabled the BIS certified helmets to be sold and used in India after the said date.

A sufficient window was provided for the helmets to be withdrawn from the market as though the Notification was issued on 26/11/2020, it was to come into effect from 01.06.2021.

14 It is pertinent to note that Section 129 of the Motor Vehicles Act clearly mandate wearing of a helmet and the said provision reads thus :-

"129. Wearing of protective headgear. - Every person, above four years of age, driving or riding or being carried on a motorcycle of any class or description shall, while in a public place, wear protective headgear conforming to such standards as may be prescribed by the Central Government:

Provided that the provisions of this section shall not apply to a person who is a Sikh, if,

while driving or riding on the motorcycle, in a public place, he is wearing a turban:

Provided further that the Central Government may by rules provide for measures for the safety of children below four years of age riding or being carried on a motorcycle.

Explanation. "Protective headgear" means a helmet which,-

(a) by virtue of its shape, material and construction, could reasonably be expected to afford to the person driving or riding on a motorcycle a degree of protection from injury in the event of an accident; and

(b) is securely fastened to the head of the wearer by means of straps or other fastenings provided on the headgear."

Similarly, Section 194D which is inserted by the Notification (Amendment) Act, 2019 prescribe the penalty for not wearing protective headgear and the same reads thus :-

"194D. Penalty for not wearing protective headgear – Whoever drives a motor cycle or causes or allows a motor cycle to be driven in contravention of the provisions of section 129 or the rules or regulations made thereunder shall be punishable with a fine of one thousand rupees and he shall be disqualified for holding licence for a period of three months."

Apart from this clause (f) of sub-rule (4) of Rule 138 of the Central Motor Vehicles Rules, 1989 also specify as below :-

"(f) at the time of purchase of the two wheeler, the manufacturer of the two wheeler shall supply a protective headgear conforming to specification prescribed by the Bureau of Indian Standards under the Bureau of Indian Standards Act, 1986 (63 of 1986)...."

15 It was thus deemed necessary to have an appropriate headgear to be designed and this was the only helmet to be used by the motorcycle riders , which was to be put to use, so that the risk of death even, if at all, the bike rider meet with an accident, is minimized and it would prevent serious damage to the head. With this object, the QCO 2020 is formulated by the Central Government and the specific stand of Respondent Nos.1 and 3 in opposing the Petition before us is that though the goods are imported by the Petitioner prior to 01/06/2021, they are not allowed to be sold and put to use after 01/06/2021 when the QCO, 2020 declared that the helmets only conforming with the BIS 2015 shall be certified, clearly indicating that any helmet which do not conform to the said specification shall not be sold and it is for this reason, the helmets which were not marked with specifications prescribed by QCO were seized and not permitted to be sold in the market, as it would be detrimental to the public interest.

Though the Petitioner has made a serious attempt to submit that the helmets imported by it are complying with European Standards, the Affidavit filed by Respondent No.1 specifically compared the same with the Indian Standard, and as we do not possess an expertise to scrutinize the essential features, which are necessary for making a helmet more effective in a particular situation.

16 The learned senior counsel Mr. Chavan has relied upon the decision of the Apex Court in case of M.C. Mehta vs. Union of India & Others¹, in relation to the

vehicular pollution and with reference to the National Auto Fuel Policy, 2003. A similar issue which arose for consideration, was whether the sale and registration and therefore the commercial interest of manufacturer and dealers of such vehicles which do not meet Bharat Stage-IV (for short BS-IV) emission standards as on 01/04/2017 takes primacy over the health hazard due to increased air pollution threat posed to millions of our country men and women.

This question arose in the background of the fact that according to the manufacturers they were entitled to manufacture such vehicles till 31/03/2017 and having done so, they have not violated any prohibition or any law. They pleaded that the the sale and registration of such vehicle on and from 01/04/2017 ought not to be prohibited as they are not manufacturing any vehicle that do not comply with BS-IV emission standard from and after 01/04/2017 and the only issue was of sale and registration of stock of such vehicles that do not comply with BS-III emission standards and they may be given reasonable time to dispose of the existing stock of such vehicles.

In this context, the Apex Court, observed thus :

"72. It was also contended by the learned counsel for the interveners that the Auto Fuel Policy was announced in 2003. Rather than admit responsibility for a lack of concern of public health issues, some of the interveners have sought to blame EPCA for its failure to approach the Government of India to seek amendments to the notifications issued from time to time and to incorporate a prohibition on the sale and registration of BS-III compliant vehicles on or after 1-4-2017. Unfortunately, finger-pointing and blame games do not lead anyone anywhere and deserve to be discouraged.

73. In any event, the fact is that EPCA had convened a meeting of all stakeholders on 19-10-2016 and had brought to the notice of the representatives of SIAM that there would be no sale and registration of BS-III compliant vehicles from 1-4-2017 and that this should be communicated to all manufacturers. The clear intention of EPCA was to give sufficient notice of almost six months to enable the automobile industry to plan its production and sale and take proactive steps to significantly decrease the production of BS-III compliant vehicles and correspondingly significantly increase the production of BS-IV compliant vehicles. Unfortunately, SIAM did not heed the caution but expressed the view that it would be difficult to ensure compliance. We were also told that EPCA had no jurisdiction or authority to give such a direction. However, that is not an issue of concern at the present moment.

74. EPCA also pointed out in the meeting that BS-IV compliant vehicles reduce pollution by 80% of particulate matter as compared to BS-III compliant vehicles, but even this had no effect.

75. The meeting convened by EPCA was followed up by CPCB when it wrote to SIAM on 10-12-2016 reiterating that BS-IV fuel would be available all over the country from 1-4-2017 and that the automobile industry should ensure that the stock of BS-III compliant vehicles are exhausted before that date for reasons mentioned in the minutes of the meeting held on 19-10-2016. Even this had no effect on SIAM. Therefore, to blame EPCA for their problems is rather unfair of the interveners.

76. However one may look at the issue of air pollution, it is time to realise that a collective effort is needed to clear up the air. In this process, the interveners have a huge

role and they should now wake up to their responsibility for the benefit of all of us.

Conclusion

77. For the reasons given above, we allow IA No.494 of 2017 filed by the learned Amicus and IA No.487 of 2017 by Bajaj Auto Ltd. The intervention applications and submissions made therein by the automobile industry and the dealers' association are rejected."

The aforesaid conclusion was reached, on seeking a stock of the efforts taken by the Government to regulate and reduce regular emissions and in fact it permitted introduction of BS-IV compliant vehicles as per the Government policy, but from the date which was prescribed, there was a complete embargo on sale of BS-III compliant vehicles i.e. on or after 01/04/2017 and it was concluded that the only reasonable construction of the office memorandum would be that subject to the occurrence of some extraordinary or unforeseen event, should it become necessary to sell and register BS-III compliant vehicle on or after 01/04/2017 limited exceptions on a case to case basis could be claimed and considered and in any case this Office Memorandum cannot be reasonably interpreted as a carte blanche to the automobile industry to continue the manufacture of BS-III compliant vehicles till the very last date and then plead the necessity of clearing accumulated stock of such vehicles as it would be the mockery of the efforts of all concerned in regulating vehicular emissions and virtually enabling the interveners to emasculate an important component of the right to life guaranteed by Article 21 of the Constitution of India viz. entitlement of millions of our countrymen and women to breathe less polluted air, and ignore public health issues in conducting their business.

In no uncertain terms it was expressed that the eyes cannot be shut to the phenomenal rise in pollution levels in the country.

17 In the wake of the aforesaid decision which can be applied to the product before us viz. 'Helmets' which require compliance with BIS Standards and when the QCO made it imperative that from 01.06.2021 'Helmet for riders of Two Wheeler Vehicles' must be compliant with IS 4151:2015, we are of the view that the request of the Petitioners to permit the sale of the vehicles in the market, is out of question. However, since we find that the Petitioner was not the manufacturer of helmets, but has imported the same, and assumably before the cut of date i.e. 01/06/2021 as prescribed in QCO, such helmets which do not conform to the Indian Standards cannot be permitted to be sold or used after the effective date.

Though we find that the initiation of prosecution against the Petitioners is all dependent upon the mens rea of those who imported the helmets, when we put it to the learned counsel for BIS, as to whether they are seriously interested in prosecuting the partners of the Petitioner firm, he, on instructions, offered a concession that if the helmets are not permitted to be sold in market, the prosecution can be withdrawn, provided it is permissible to do so.

18 In such circumstances, since there is seizure of helmets by the Respondent,

we direct BIS, Respondent No.1 not to continue the prosecution against the partners/officials of the Petitioner, and we accede to the request of the Petitioner of the helmets being returned to them, subject to the condition that the same shall be destructed/disposed of in such a manner which is permitted in law, but in no case, they shall be permitted to be sold in the market.

By granting the aforesaid relief, the Writ Petition is partly allowed.

FOOTNOTES

1. (2017) 7 SCC 243