

IN THE HIGH COURT OF FIJI

AT LABASA

APPELLATE JURISDICTION

Criminal Appeal Case Nos. HAA 23 of 2023 and HAA 38 of 2023
(Labasa Criminal Case No. 346 of 2019)

BETWEEN: **NEW WORLD LIMITED**

APPELLANT

AND: **FIJI COMPETITION AND COMMERCE COMMISSION**

RESPONDENT

Counsel: **Mr A Ram for the Appellant**
 Mr D Sharma for the Respondent

Date of Hearing: **10 July 2025**

Date of Judgment: **5 February 2026**

JUDGMENT

Background

1. On 13 April 2019, the respondent conducted a routine inspection at the appellant's premises in Naiyaca, Labasa. The inspectors found that the maximum prices of 13kg and 4.5kg gas cylinders were not prominently displayed as required. The appellant was issued with a fixed penalty notice for failure to display the authorised maximum retail price of a price-controlled item, contrary to section 54(1) and section 129 (1A) and (3) and section 132 (1) of the Fiji Commerce Commission Act No. 49 of 2010. So began this protracted legal saga that has consumed an inordinate amount of judicial time and resources.

2. The respondent brought a private prosecution and, on 31 March 2023, the appellant was convicted after trial before the learned Resident Magistrate at Labasa (“the magistrate”) of the following offence:

Statement of Offence

Fail to display the authorised maximum retail price of price-controlled item for the information of the public: Breaching sections 54(1), 129(1A) and (3), and 132(1) of the Fijian Competition and Consumer Commission Act 2010.

Particulars of Offence

New World Limited being a trader of Naiyaca Subdivision, Labasa Town, in the Northern Division, did on the 13th day of April 2019, offer for sale by way of retail certain price-controlled items, fail to ensure that authorised maximum retail price for such items are displayed for the information of the public, namely; LPG Gas x 51 Cylinders x 13kg and LPG Gas x 5 Cylinders x 4.5kg.

3. The magistrate gave her reasons for verdict in a written Judgment dated 31 March 2023 (“the impugned Judgment”).
4. On 14 June 2023, for the reasons given by the sentencing magistrate in her written sentencing remarks, the appellant was fined \$15,000 and ordered to pay prosecution costs of \$32.70 (“the impugned Sentence”).
5. Dissatisfied with the impugned Judgment, the appellant filed two appeals. On 27 April 2023, Messrs Gibson & Company (“MGC”), filed a Petition & Grounds of Appeal in HAA 23 of 2023 and, on 27 June 2023, save for the additional grounds of appeal against the impugned Sentence, MGC filed an almost identical Petition & Grounds of Appeal in HAA 38 of 2023.
6. On the face of it, it is an abuse of process to lodge two separate appeals against the same conviction. No satisfactory explanation has been provided to the Court by MGC for this wasteful and confusing duplication.

7. Perhaps realising the error of their unconventional ways, MGC took out a summons to consolidate the appeals, and the appeals were duly consolidated on 1 December 2023 (“the consolidated appeal”).

Respective written submissions

8. On 6 May 2024, MGC filed written submissions in support of no fewer than 20 grounds of appeal against conviction and 5 grounds of appeal against sentence. The submissions are unnecessarily prolix and repetitive. Many of the grounds overlap. A number of the grounds are unintelligible and misconceived. It is not necessary for me to engage with every point made by MGC on the appellant’s behalf in order for me to dispose of the consolidated appeal, but I have considered everything said on the appellant’s behalf.

9. Ground 1 gives the flavour of the appellant’s grievances:

“The Learned Magistrate erred in law and in fact in ruling that there was a case to answer when the prosecution led no evidence whatsoever on the prominence of the display price satisfying the element of “prominent display”.

10. MGC pose the question of what is to be displayed in a prominent position? Answering their own question, MGC assert that it is a list that must be displayed in a prominent position. As I understand their argument, the prosecution evidence touched on the badge prices not being displayed where the gas cylinders were kept, but did not touch on the failure to display a list at that place.

11. Ground 2 complains that the magistrate erred in finding that the appellant had a case to answer because the gas cylinders were not offered for sale at the baggage booth location. There was no requirement for the prices (or a list) to be displayed at that location.

12. A central plank of the appellant’s complaint is that the defence evidence supported that the appellant kept a list inside the shop, which was sufficient to comply with the requirements of section 54 of the FCCC Act.

13. The appellant asserts that the impugned sentence was harsh and excessive:

“Initially the issue was that the price was not displayed. Then by the end of the trial the issue became that the list was not in a prominent position, which even if so, is a minor issue and the minimum sentence would have sufficed. A lenient and nominal sentence would have sufficed given the facts of the case”

14. In her admirably well-structured and succinct written submissions in-house counsel for the FCCC submits that there was evidence adduced at trial that the prices of the gas cylinders were not prominently displayed. This evidence encompassed the failure to display both price tags and general price lists.
15. Ms Shekhar argues that the magistrate was right to find that the availability of the price list of price-controlled items at only one of the cashier counters was not sufficient to be considered as *“prominent display”* within the meaning of section 54(1) of the FCCC Act. The verdict was supported by evidence and the magistrate did not fall into any error of law. The appeal against conviction is without merit.
16. As for the sentence appeal, Ms Shekhar argues that the appellant’s offending was not a minor issue. The FCCC Act provides for heavy penalties to be imposed on corporate offenders. The fine of \$15,000 was not manifestly excessive in all the circumstances of this case.

The Hearing

17. Mr Ram did not develop his written submissions in any meaningful fashion in his repetitive and meandering oral submissions. Mr Sharma essentially relied on Ms Shekhar’s written submissions.

Discussion and resolution

18. In order to succeed in this appeal, the appellant must establish that the conviction was unreasonable, in the sense that it was unsupported by evidence, or that the magistrate fell into a material error of law or fact that has given rise to a miscarriage of justice.
19. It is convenient to deal firstly with the complaint that the magistrate fell into an error of law when she found that the appellant had a case to answer.


20. The magistrate gave a comprehensive written Ruling on the defence application of no case to answer (Copy Record pp. 42 – 46). After carefully analysing the elements of the offence and the prosecution evidence, the magistrate found that there was sufficient evidence to put the appellant to its defence. She was plainly right to do so. The FCCC inspector gave evidence that he conducted an inspection at the appellant's premises on 13 April 2019 and found no prominent notice for the prices of 13kg and 4.5kg gas cylinders, and the maximum prices were not on display. The Inspection Form was tendered in evidence.
21. Having reviewed the court record, I am satisfied that the conviction was reasonable and supported by the evidence adduced at trial. There was no dispute at trial that the price of the gas cylinders, and the maximum price, were not displayed at the baggage booth where the gas cylinders were stored. The defence case was that the price labels at the baggage booth had been removed to be replaced by the revised maximum prices. This tends to support that the appellant was well aware of the requirement to display price labels and maximum prices at the baggage booth. There was unchallenged evidence in the defence case that there was a price list kept at one of the cashier counters. In my view, for the reasons given at paragraph 4.12 of the impugned Judgment (CR p.37), it was properly open to the magistrate to find that the availability of the price list at the cashier was not sufficient to establish the requirement of a *'prominent display'*.
22. There is no arguable merit in the appeal against conviction which is dismissed accordingly.
23. In her careful sentencing remarks, the sentencing magistrate referred to the statutory maximum fine for corporate offenders being five times the maximum for individuals. It was also a relevant aggravating factor that the appellant was a repeat offender. In my view, it is not arguable that the sentencing magistrate erred in principle or that the fine of \$15,000 was manifestly excessive. The appellant's offending cannot be considered minor. In straitened times, it is more important than ever that retailers comply with the statutory obligations

imposed to protect consumers from unscrupulous operators. It follows that the appeal against sentence is dismissed.

Orders:

- (i) Appeal dismissed.
- (ii) Conviction and sentence confirmed.




Hon. Mr Justice Burney

At Labasa

5 February 2026

Solicitors

**Messrs Gibson and Company for the Appellant
Tirath Sharma Lawyers for the Respondent**