

Geographical Indications of Goods (Registration and Protection) Act, 1999

Section 48 - Procedure Where Invalidity of Registration is Pleaded by the Accused

Where the offence charged under section 39 or section 40 or section 41 is in relation to a register geographical indication and the accused pleads that the registration of the geographical indication is invalid, the following procedure shall be followed:

- (a) if the court is satisfied that such defence is prima facie tenable, it shall not proceed with the charge but shall adjourn the proceeding for three months from the date on which the plea of the accused is recorded to enable the accused to file an application before the Appellate Board under this Act, for the rectification of the register on the ground that the registration is invalid;
 - (b) if the accused proves to the court that he has made such application within the time so limited or within such further time as the court may for sufficient cause allow, the further proceedings in the prosecution shall stand stayed till the disposal of such application for rectification;
 - (c) if within a period of three months or within such extended time as may be allowed by the court the accused fails to apply to the Appellate Board for rectification of the register, the court shall proceed with the case as if the registration were invalid.
- (2) Where before the institution of a complaint of an offence referred to in subsection (1), any application for the rectification of the register concerning the geographical indication in question on the ground of invalidity of the registration thereof has already been properly made to and is pending before the tribunal, the court shall stay the further proceedings in the prosecution pending the disposal of the application aforesaid and shall determine the charge against the accused in conformity with the result of the application for rectification in so far as the complainant relies upon the registration of his geographical indication.
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