(1999) 02 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

DIRECTOR GENERAL (INVESTIGATION AND REGISTRATION) APPELLANT

Vs

BIG SHOE COMPANIES RESPONDENT

Date of Decision : 25-02-1999

Acts Referred:

Citation : 1999 3 CPJ 16

Hon'ble Judges : A.N.Divecha , R.K.Anand J.

Final Decision : Enquiry disposed of

Judgement

1. K.K. Bhardwaj addressed a complaint to the Union Industry Minister alleging that certain manufacturers of shoes were making high profits resulting in exploitation of the consumers. The complaint was sent to the DG for investigation. DG after investigation has submitted his Preliminary Investigation Report in respect of two manufacturers, namely, Reebok India Company and Bata India Limited stating that these footwear manufacturing Companies are indulging in restrictive trade practices within the meaning of Section 2(o)(ii) of the MRTP Act, 1969 and the same have the effect of imposing unjustified costs on the consumers and therefore, a notice of enquiry may be issued.

2. THE two PIRs were listed for consideration and appropriate orders. Learned Advocate for the DG was heard and the PIRs were perused. In the PIR in respect of Bata India Ltd., the standard cost of manufacturing shoes and their wholesale and maximum retail prices have been indicated. It has been shown therein that the maximum retail prices are much higher than the standard cost of different footwear. However, it has been also indicated on the basis of the reply received from Bata India Ltd., that the high prices are due not only to the margins allowed to dealers, wholesalers and retailers but are also attributable to selling costs, publicity and advertisements and the costs involved in maintaining a chain of retail stores in prime locations in different markets. Unfortunately, neither the total amount nor the break-up of the various overheads including expenditure on advertisements, selling expneses and profits has not been reflected in the PIR. Similarly, prices of different varieties of footwear marketed by Reebok India

Company have also been given and it has been concluded in the PIR that the maximum retail prices are much higher than the landed costs. It has been further stated that there is scope for reduction of prices as even after a discount of 50% on the maximum retail price of certain varieties, the profit margin remains very high. But again the profits in any year have not been indicated in the PIR. It has not been appreciated that footwear market is highly competitive and there are a number of manufacturers of footwear in the country and Bata India Ltd. and Reebok India Company are also marketing their brands of footwear. Admittedly, they are major players but they are not the only players in the footwear market, and it cannot also be disputed or denied that they manufacture and market good quality footwear and consumers have a preference for their products and willingly pay somewhat higher prices charged by them. There is bound to be difference in the manufacturing costs and overheads such as selling expneses of manufacturers in the organised sector and those in the unorganised sector but price difference is also due to the difference in material, colour, workmanship, quality and design and consumers choose a brand on that basis.

Moreover, footwear market is highly competitive and the fact that Reebok India Company is offering discount of 50% on maximum retail price goes to show that Reebok India Company is facing stiff competition and cannot sell the footwear at the maximum retail price. According to the principles of economic theory, prices are determined by an interaction between demand and supply in a competitive market and there is no need for interfering with the market forces of demand and supply. Moreover, it is difficult to determine as to what would be a reasonable price of a particular brand of footwear and what should a reasonable return on investment and reasonable profit for an entrepreneur. In the absence of such an alalysis in the PIRs it is difficult to accept the DC''s conclusion that an enquiry for restrictive trade practices may be instituted against Bata India Ltd., and Reebok India Company.

3. IT has also to be borne in mind that footwear is not a controlled item, the prices of which can be fixed under any statute nor it will be desirable to fix the prices of footwear as individual preferences for design, colour, material and quality will dictate the purchasing decision. Therefore, price determination should be left to the market forces and more particularly in the present liberalised regime. Market forces in conditions of competition exercise the necessary discipline and control over manufacturers, and there is therefore, no case of restrictive trade practices within the meaning of the relevant provisions of MRTP Act, 1969 against Bata India Ltd. and Reebok India Company and no notice of enquiry is required to be issued on the basis of the PIRs. Since there is a common complaint against the above two manufacturers, the two PIRs have been taken up together for consideration and disposal. A copy of the order may be placed on each of the two files, that is, also in RTP No. 27/ 99. Enquiry disposed of.