

(2001) 04 NCDRC CK 0056

In the National Consumer Disputes Redressal Commission

DIRECTOR GENERAL (INVESTIGATION AND REGISTRATION)	APPELLANT
Vs	
KNOLL PHARMACEUTICALS LIMITED	RESPONDENT

Date of Decision : 12-04-2001

Acts Referred:

Citation : 2001 3 CPJ 50

Hon'ble Judges : R.K.Anand , R.L.Sudhir J.

Final Decision : NOE discharged

Judgement

1. WE have heard the learned Advocate for the respondent as well as that of the DG. The contention of the learned Advocate for the respondent is that the Government has, by a Resolution dated the 29th August, 1997 established an independent Body called "National Pharmaceutical Pricing Authority", which has been empowered to take final decisions with regard to price-fixation and other related matters such as updating the list of drugs under the price control. It has been further mentioned that the aforesaid Authority has also been empowered to monitor the prices of non-scheduled drugs and formulations and also to oversee the implementation of the provisions of the Drugs (Prices Control) Order, 1995. It has also been mentioned by him that this fact has been highlighted in the reply, filed on behalf of the respondent, and is a part of the pleadings, on the basis of which, the issue with regard to the maintainability of the present proceeding, has been framed and is under consideration before the Commission.

2. A copy of the aforesaid Resolution has also been produced, in the Court, for our perusal. It has also been pointed out, in the course of oral submissions, that the price revision of the Drugs, in question, manufactured by the respondent and mentioned in the Notice of Enquiry (NOE) come within the purview of the National Pharmaceutical Pricing Authority, which is the Competent Authority for fixing or monitoring the prices of these drugs and moreover, these drugs which are antacids and laxatives, are not essential or life saving drugs and the consumer has a wide choice as similar drugs like Gelusil, Mylanta and Tums are freely available in the market. It has also been mentioned that the respondent's

market share of Dygiene Tablets/Gel, which are antacids, is negligible and is, therefore, not likely to have any significant impact on competition. It is pertinent to mention here that the allegation against the respondent is that it increased the prices of its products, namely, Dygiene Tablets (10 tablets), Dygiene Syrup (200 ml.), Cremaffin (200 ml.) and Eption (100 mg.) by 120%, 70%, 45% and 86% respectively and thereby indulged in restrictive and monopolistic trade practices. However, while settling the issues, an issue with regard to adoption of restrictive trade practices within the meaning of Section 2(o)(ii) of the Act only was framed and adoption of monopolistic trade practices does not figure in the issues. It has been contended before us that fixation of prices and monitoring of prices of drugs is the function of the National Pharmaceutical Pricing Authority and does not fall within the ambit of the Act, more particularly, if the essential ingredient of Section 2(o) which is impact of the alleged restrictive trade practice on competition, is missing. On a careful consideration of the oral submissions, made by the two learned Advocates representing the DG and the respondent, and perusal of the PIR, submitted by the DG, and also the above mentioned notification, we do not think that the present complaint attracts the provisions of its Section 2(o)(ii) of the Act. Accordingly, we are of the opinion that the present enquiry is not maintainable and the NOE is, therefore, discharged with no order as to costs. NOE discharged.