

(2016) 07 SC CK 0150
In the Supreme Court Of India
Case No : Civil Appeal No.329 of 2005

Union of India & Others

APPELLANT

Vs

M/s. Cipla Ltd. & Another

RESPONDENT

Date of Decision : 20-07-2016

Acts Referred:

Citation : (2016) 07 SC CK 0150

Hon'ble Judges : Madan B. Lokur and R.K. Agrawal, JJ.

Bench : Division Bench

Advocate : Ranjit Kumar, SG, P.S. Narasimha, ASG, Rana Mukherjee, Sr. Adv., Ms. Sunita Gautam, Ms. Movita Prateek, G.S. Makkar, Prateek Jalan, Aman Ahluwalia, Shreekant N. Terdal, Rahul Kripalani, Ankit Yadav, Kapil Sibal, Sr. Adv., P. Chidambaram, Sr. Adv., Soli Cooper, Sr. Adv., R.N. Karanjawala, Ms. Ruby Singh Ahuja, Ms. Suman Yadav, Karan Dev Chopra, Mrs Manik Karanjawala, (M/s. Karanjawala & Co.), Iqbal M. Chagla, Sr. Adv., C.A. Sundaram, Sr. Adv., K. Datta, Ashish Verma, Puneet Jain, Rahul Malhotra, Manu Maheshwari, Birendra Kumar Mishra, B. Krishna Prasad, B. V. Balaram Das, Dr. Kailash Chand, Rajeev Maheshwaranand Roy, Abhay Anand Jona, Ranjit B. Raut, Ms. Bina Gupta, Ms. Surbhi Kapoor, Puneet Jain, Abhinav Gupta, Manu Maheshwari, Kunal Chatterji, Shyam Divan, Sr. Adv., Mahesh Agarwal, Ankur Saigal, Rishabh Parikh, E. C. Agrawala, Parag P. Tripathi, Sr. Adv., Ms. Neelima Tripathi, Shikhar Khare, Dr. Kailash Chand, K. V. Mohan, D.D. Majumdar, Mrs. Vanita Bhargava, Ajay Bhargava, Abhisar Bairagi, Ms. Shreya Agarwal, (for M/s. Khaitan & Co.), U.A. Rana, Mrs. Mrinal Elkar Mazumdar, Himanshu Mehta, (for M/s Gagrut & Co.), Advocates, for the Appellant; Kapil Sibal, Sr. Adv., P. Chidambaram, Sr. Adv., Soli Cooper, Sr. Adv., R.N. Karanjawala, Ms. Ruby Singh Ahuja, Ms. Suman Yadav, Karan Dev Chopra, Mrs Manik Karanjawala, (M/s. Karanjawala & Co.), Ms. Asha Jain Madan, Ashok K. Mahajan, V.K. Verma, B. Krishna Prasad, Shreekant N. Terdal, Shyam Divan, Sr. Adv., Mahesh Agarwal, Ankur Saigal, Rishabh Parikh, E. C. Agrawala, Advocates, for the Respondent

Final Decision : Disposed Of

Judgement

T.C.(C) Nos. 109/2013, 110/2013, 111/2013, 153/2013, 154/2013, 155/2013, 156/2013, 157/2013, 158/2013, 159/2013, 160/2013, 161/2013, 162/2013,

163/2013, 164/2013

1. We have heard learned counsel for the parties in the Transferred Cases.
2. It appears that these cases were transferred at the instance of the Union of India and there was no objection to the transfer raised by the respondents.
3. After hearing learned counsel for the parties, we are of the view that there is no real necessity in transferring these cases to this Court. The High Court concerned could very well have disposed of these matters particularly since the facts in each case are different as the drug involved is different.
4. Under the circumstances, we recall the order transferring these cases to this Court and send them back to the concerned High Court for disposal.
5. We are also told that in pursuance of the directions given by this Court in Secretary, Ministry of Chemicals & Fertilizers, Government of India v. CIPLA Ltd. and Others [(2003) 7 SCC 1], a demand notice was sent by the Union of India in terms of paragraphs 10 and 11 of the said decision. Paragraphs 10 and 11 read as follows:

"10. In the result, the judgment of the High Court is set aside and the writ petitions out of which these appeals arise shall stand restored to the file of the High Court and the High Court will have to consider afresh the relevant aspects concerning the criteria laid down in para 22.7.2 of the Drug Policy, 1994 in relation to each drug, having due regard to the observations made in the judgment. The High Court may endeavour to expedite hearing of the writ petitions.

11. The appeals are accordingly allowed without costs. We also consider it just and proper to give liberty to the appellant and the statutory authorities concerned to recover 50% of the "overcharged" amounts pending fresh determination by the High Court. Accordingly, we direct stay of recovery of 50% of the "overcharged" amount subject to the payment of remaining 50% within the period of four weeks from the date of communication of the amount payable by each of the writ petitioners."
6. We have been informed that some of the parties have complied with this order and have deposited 50% of the "overcharged" amount. If that is so, the High Court may hear and decide their case in accordance with the decision of this Court. Where the demand notice has not been complied with and 50% of the "overcharged" amount has not been deposited, we grant six weeks from today to make the deposit. If the amount is not deposited within this period, then the Union of India may take coercive steps to recover the full demanded amount.
7. There is already a request in the aforesaid judgment to the High Courts to dispose of the matter expeditiously. We reiterate that request.

The transferred cases are disposed of.

8. The Registry is directed to transmit the records of these cases to the concerned High Court forthwith.

W.P.(C) Nos. 696/2013, 983/2013, 123/2014, 135/2014, 346/2014

9. We grant liberty to learned counsel for the petitioners to withdraw these petitions and approach the appropriate High Court for relief.

10. We may mention that before entertaining the writ petition, the High Court will take into consideration the contents of paragraphs 10 and 11 of Secretary, Ministry of Chemicals & Fertilizers, Government of India v. CIPLA Ltd. and Others [(2003) 7 SCC 1] in terms whereof a demand notice was sent to the petitioners by the Union of India.

11. We have been informed that some of petitioners have deposited 50% of the "overcharged" amount. If that is so, the High Court may hear and decide their petition in accordance with the decision of this Court.

12. If any petitioner has not deposited 50% of the "overcharged" amount as per the demand notice issued by the Union of India pursuant to the decision of this Court, we direct the petitioners to deposit that amount within six weeks from today. If the amount is not deposited, then the Union of India may take coercive steps to recover the full demanded amount. The writ petitions of the recalcitrant petitioners will be taken up for consideration only after compliance of this order is reported to the concerned High Court.

13. There is already a request in the aforesaid judgment to the High Courts to dispose of the matter expeditiously. We reiterate that request.

14. Accordingly, the writ petitions are disposed of as withdrawn.

15. CIVIL APPEAL NOs.329 OF 2005, 4005/2004, SLP(C) Nos . 15583-15584/2005, 15606-15607/200 5 , 15831/2013, 22788/2013, 34893/2013, 19174-19197/2014

16. Arguments heard in part.

17. List these matters tomorrow (21.07.2016) as part-heard matters.