

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**W.P.(C) 5656 of 2007 & CM APPL No. 10500/2007 (for stay)**

Reserved on: March 22, 2010  
Date of decision: May 10, 2010

**RANBAXY LABORATORIES LIMITED** ..... Petitioner  
Through: Mr. S. Ganesh, Senior Advocate with  
Ms. Malini Sood, Mr. Deepak Khurana and  
Mr. Rohan Dhaman, Advocates

versus

**UNION OF INDIA AND ANR** ..... Respondents  
Through: Mr. Neeraj Chaudhari with Mr. Khalid  
Arshad and Mr. Akshay Chandra, Advocate  
for R-1.

**CORAM: JUSTICE S. MURALIDHAR**

1. Whether reporters of local paper may be allowed to see the judgment? No
2. To be referred to the report or not? No
3. Whether the judgment should be referred in the digest? No

**J U D G M E N T**  
**10.05.2010**

1. The Petitioner challenges a demand raised on it by the Department of Chemicals and Petrochemicals, Ministry of Chemicals & Fertilizers, Government of India for a sum of Rs. 2,23,06,073/- [comprising an amount of Rs.60,00,698/- towards liability on account of the Drug Prices Equalisation Account (DPEA) and interest up to 31<sup>st</sup> March 2005 in the sum of Rs.1,66,68,375] in respect of the bulk drug Rifampicin under para 7 (2) (a) of the Drug (Prices Control) Order 1979 [‘DPCO 1979’] read with para 17 (1) (a) (i) thereof.

2. The impugned demand on account of the Drugs Prices Equalization Account ('DPEA') is in respect of period 1<sup>st</sup> April 1979 to 11<sup>th</sup> September 1984. The liability of the petitioner is stated to have been determined on the basis of the quantification made by the Drug Prices Liabilities Review Committee ('DPLRC').

3. Three contentions of the petitioner have been noted by this Court in its order dated 3<sup>rd</sup> August 2007 while restraining the Respondents from taking coercive steps pursuant to the impugned demand. The relevant portions of the order dated 3<sup>rd</sup> August 2007 read as under:

“By way of this writ petition, challenge has been made to the demand raised by virtue of the order dated 31.05.2007 on account of the demand made under paragraph 7(2) (a) of the Drugs (Prices Control) Order, 1979. This demand has been made in respect of the bulk drug Rifampicin. The demand is for the period of 1979-1984. The learned counsel for the petitioner pointed out that the Drugs (Prices Control) Order, 1979 was in operation from 1979 to August 1987 when it was replaced by the Drugs (Prices Control) Order, 1987. Rifampicin is a bulk drug which is used by the petitioner for its various formulations. The price of Rifampicin formulations have been fixed by the Government. While fixing the price of such formulations, a base price of Rifampicin has been adopted by the Government. The issue involved in the present petition is that the petitioner has been able to procure Rifampicin from the market at a price lower than the base price adopted by the Government during the period 1979-1984. Therefore, according to the respondents, the petitioner has gained an undue advantage inasmuch as it had procured the Rifampicin at a price lower than what was contemplated by the Government while fixing the price of Rifampicin formulations.

The learned counsel for the petitioner raised three objections to the demand which is impugned herein. The first objection is with regard to the subsidy in respect of Chloroquin Phosphate. The petitioner had submitted various claims for the said subsidy which were not being decided and which, according to the petitioner, were admitted by the Government in its letter dated 23.08.1979. The quantum of the subsidy amount, according to the counsel for the petitioner, was Rs. 85 lacs whereas the principal amount of the impugned demand is Rs. 60 lacs. So, according to the learned counsel for the petitioner if the demand is set off against the subsidy then nothing is due from the petitioner. That is the first ground taken by the petitioner. The learned counsel for the petitioner also referred to the DPLRC report dated 09.11.1999 wherein it has been recommended that the demand be set off against the subsidy. These submissions are, of course, controverted by Mr. Malhotra, the learned Additional Solicitor General, who appears on behalf of the respondent and submits that the demand has been raised on account of an undue gain that the petitioner has derived and the same has to be deposited in the Drug Prices Equalisation Account whereas the subsidy has to be paid out of a different account.

The second ground taken by the learned counsel for the petitioner is that the DPCO 1979 was in operation from 1979-87 and the demand has been raised only in respect of 1979-1984. He submits that there is a good reason for the respondent to stop short in 1984 and not raise a demand for the entire period. The reason being that the price of Rifampicin was steadily declining during 1979-84 and thereafter the price of Rifampicin rose sharply making it more costly for the petitioner. Therefore, according to the learned counsel for the petitioner, the period which was to the disadvantage of the petitioner was not being considered as per the DPLRC. The counsel for the petitioner drew my attention to the Government

guidelines which is at page 62 of the paper book which indicates that the entire period should be considered and should not be limited only to the period when the manufacturer has gained because of a lower price of the input. It was also submitted that because of the sharp increase in the price of Rifampicin, representations had been made to the Government for increasing the price of the formulations that were fixed earlier. Those representations had not been disposed of. This is the second ground on which the petitioner felt that the demand could not be sustained.

The third ground is based on a legal argument that the demand was time barred. It was submitted that no demand could be raised after 26.8.1987. A demand after the said date could only be raised if it had accrued prior to 26.08.1987. The accrual had to be evidenced by an order and no such order has been passed. Thus, it was submitted that no amount had accrued and the demand was time barred.

Issue notice, returnable on 28.01.2008.

Notice is accepted by Mr Gaurav Duggal on behalf of the respondents. The counter affidavit be filed within four weeks and the rejoinder, if necessary, be filed within four weeks thereafter.

No coercive step be taken in the meanwhile.”

4. In addition to the above grounds it is submitted by Mr. S. Ganesh, learned Senior counsel for the petitioner that 75% of the total impugned demand consists of interest raised under Section 7-A of the Essential Commodities Act (‘ECA’). It is further submitted that Section 7-A authorizes the levy of interest only if a final order or demand has been issued by the Government and the same has not been paid by the manufacturer within the period of time allowed after the raising of the said demand. It is submitted that under

Section 7-A ECA no demand for interest can at all be raised in respect of a period prior to the date of passing of the final order raising the demand on the manufacturer. In the present case since the final order was made on 31<sup>st</sup> May 2007, no interest could be charged in respect of the period prior thereto. Therefore, the impugned demand of Rs.1.66 crores being the interest for the period 1<sup>st</sup> April 1979 to 31<sup>st</sup> March 2005 was illegal as it was without the authority of law.

5. As regards permitting the amount owed to the petitioner by the government in respect of the subsidy for the other bulk drug Chloroquin Phosphate to be set off against the demand raised in respect of Rifampicin, it is pointed out that the government has permitted two other drug manufacturers i.e. M/s. Lupin Laboratories and M/s. Lyka Laboratories to adjust the subsidy amounts owing to them against the demands and therefore the Petitioner should be permitted likewise. It is stated that the set off was recommended even by the DPLRC.

6. On behalf of the Respondent it is submitted by Mr. Neeraj Chaudhari, learned counsel, that the Supreme Court in *Union of India v. Cyanamid India Limited (1987) 2 SCC 760* upheld the validity of the DPCO 1979. After the said judgment the Government was competent to make recoveries from the drug companies in accordance with the DPCO 1979. Consequently, in the DPCO 1987 which was notified subsequently a specific provision was inserted which permitted the Government to call for details from the drug companies for calculating their liabilities, and making recoveries of the over-

charged amount in terms of Para 7 (2) of the DPCO 1979. Since the earlier exercise had been confined to 47 of the 345 bulk drugs, fresh notices were issued to the formulators of the remaining bulk drugs to elicit details relevant for the purpose of determining their liability.

7. For computing the liability of the drug manufacturers under DPCO 1979, the central government by Resolution dated 21<sup>st</sup> March 1994 constituted a three-member expert committee, i.e. the DPLRC. The terms of reference of the DPLRC as modified on 10<sup>th</sup> October 2002 were as under:

“The Committee shall quantify the liability of each of the bulk drug companies arising on account of the implementation of the provisions of the DPCO 1979 read along with the relevant provisions of the subsequent DPCOs and the judgment of the Supreme Court of India in the matter of *Union of India v. Cyanamid India Limited* and the various orders passed by the High Courts requiring furnishing of an undertaking for paying the amounts due to the equalization account. For this purpose, the Committee would also take into account such guidelines, if any, as may be issued by the Government from time to time.”

8. It is submitted that liability of the drug manufacturer to pay amounts into the DPEA accrues as and when the procurement price of the bulk drug concerned falls below the allowed price. It is further submitted that liability is linked with the occurrence of an event and “not with the process of determination of the quantum of the liability and, therefore, it cannot be confused with the date on which notice to discharge the liability for eliciting

details for working out the liability was issued.” In other words, it is claimed that notwithstanding the repeal of DPCO 1979 anything done or action taken, including any notification or order made, directions given, notices issued or exemption granted under the DPCO 1979 was, notwithstanding the repeal of DPCO 1979, deemed to have been issued or granted under DPCO 1987. Likewise under Para 27 of the DPCO 1995, the orders or directions issued under the DPCO 1987 were deemed to have been continued. It is submitted that the Petitioner had provided details only on 12<sup>th</sup> April 1984 as regards the bulk drugs imported by it during the years 1979 to 1983 despite several communications sent by the Respondents from 23<sup>rd</sup> September 1983 onwards. On the basis of the data furnished by the Petitioner, a demand notice was sent in May 1984 determining the liability at Rs.47,77652.40. This was revised to Rs.79.996 lakhs by a demand notice dated 15<sup>th</sup> April 1985 after physical verification of the additional records of receipts/purchases and consumption of Rifampicin during September 1984. On the basis of the representation made by the Petitioner liability was reconsidered and fixed at Rs.36.22 lakhs and the same was communicated by a demand notice dated 6<sup>th</sup> October 1986.

9. It is submitted therefore that the demand was fully justified in accordance with law. The Petitioner’s case was also referred to DPLRC. The DPLRC gave its report on 31<sup>st</sup> October 2003. After the report of the DPLRC was furnished to the petitioner and its representation was considered, the impugned demand was raised. It is submitted that the set off in respect of the claim of subsidy in respect of Chloroquin Phosphate could not be considered since that was from a separate account. The recommendation in this regard

was beyond the scope of the reference to the DPLRC. Although the recommendations of the DPLRC were accepted, its recommendation in this regard was not.

10. In rejoinder it is pointed that demand under the DPCO 1979 was clearly time barred. In terms of Para 14 of the DPCO 1987 what could be enforced was a liability accrued during the period of operation of the DPCO 1979 i.e. 1<sup>st</sup> April 1979 to 26<sup>th</sup> August 1987 by reason of a final order or demand having being passed and issued against the manufacturer prior to that date. The mere issuance of show cause notice dated 26<sup>th</sup> August 1987 could not be construed as raising a final demand against the Petitioner under the DPCO 1979.

11. Three issues arise for consideration. The first is whether the demand raised against the petitioner for a liability under the DPCO 1979 is time barred? The other is whether the Petitioner ought to be permitted to set off the subsidy owing to it in respect of Chloroquin Phosphate against the liability under the DPCO 1979. The third issue concerns the charging of interest under Section 7-A of the ECA.

***Is the demand under the DPCO 1979 time barred?***

12. The relevant clause enabling recovery of dues accrued under the DPCO 1979 even after the expiry of the period it remained in force is Para 14 of the DPCO 1987 which reads as under:

**“Power to recover dues accrued under the Drugs  
(Prices Control) Order 1979 into the Drug Prices  
Equalization Account –**

(1) Notwithstanding anything contained in this order, the Government may, by notice, require the manufacturer, importer or distributor, as the case may be, to deposit the amount which has accrued on account of the actions under the Drugs (Prices Control) Order 1979 on or before the commencement of this order, into the Drugs Price Equalization Account and the manufacturer, importer or distributor, as the case may be, shall deposit the said amount into the said account within such time as the Government may specify in the said notice.

(2) The existing amount if any, in the Drugs Prices Equalization Account on or before the date of commencement of this Order, and the amount deposited under sub-paragraph (1) shall be used for the purpose stipulated in the Drugs (Prices Control) Order 1979.”

13. The submission on behalf of the Petitioner is that the words “the amount which has accrued on account of the actions under the DPCO 1979” necessarily means action having to be taken by way of raising a demand on the Petitioner before 26<sup>th</sup> August 1987. It is sought to be contended that the various show cause notices issued to the Petitioner prior to 26<sup>th</sup> August 1987 were not demands. The final demand was raised only on 31<sup>st</sup> May 2007 by the impugned order.

14. In the letter dated Nil of May 1984 the Government informed the Petitioner that “your company made an unintended profits of Rs.47,77,652.40 on the import of Rifampicin on account of formulations and actual import price during the year 1980-81 to 1983-84.” It was further stated that

“This is without prejudice to any further amounts that may be assessed by the Government under Section 7 (2) of the DPCO 1979. It is proposed to recover the said amount from your company under paragraph 7 of DPCO 1979.”

15. Although the above line uses the words that “it is proposed to recover the said amount” this by no means indicated that what was raised by way of the above letter was not a demand. In a further letter dated 21<sup>st</sup> July 1984 written to the Government of India the Petitioner states as under:

“This is in continuation of our letter of May 23, 1984 and in response to your letter referred to hereinabove, whereby an amount of Rs.47,77,652.80 has been assessed as recoverable from us on the import of Rifampicin on account of difference between the price of Rifampicin allowed in the formulations and the actual import price during the period under revision.”

16. Clearly therefore, the Petitioner also understood that the letter dated Nil of May 1984 is an assessment by the Government of the amount recoverable from that date under DPCO 1979. In its letter dated 21<sup>st</sup> July 1984 the Petitioner protested against the said demand by pointing out that the method of calculation of the amount was erroneous for various reasons. In its letter dated 15<sup>th</sup> April 1985 the Government of India referred to the earlier correspondence and stated as under:

“In your case, it has been noticed that the price of Rifampicin allowed to you in the formulations is higher than your import/procurement price of this drug after the inspection of Drugs (Prices Control) Order 1979. The amount payable by your company into the Drugs Prices Equalisation Account has been calculated based on the data, submitted by you and the details are shown in the

attached statement. The amount comes to Rs.79,996 lakhs, and is without prejudice to the Government's rights to further verify your records under para 25 (3) of the Drugs (Prices Control) Order 1979 and also further recoveries on this drug that might be due from your company from time to time.”

17. The Petitioner was specifically asked to deposit the aforementioned sum into the DPEA by way of a demand draft.

18. It is not possible to accept the submission of learned counsel for the Petitioner that the above letter did not constitute a final demand on the Petitioner. It is, accordingly, held that the requirement of para 14 of the DPCO 1987 is fully met inasmuch as the demand had been raised in terms of the DPCO 1979 even before 26<sup>th</sup> August 1987. Therefore, a demand raised on the Petitioner was not time barred and therefore not unenforceable.

***Set off of the subsidy on Chloroquin Phosphate***

19. The next point concerns the set off of the subsidy owing to the Petitioner on account of the bulk drug Chloroquin Phosphate. It is the Petitioner's case that it was entitled to subsidy of an amount of Rs.85.04 lakhs plus interest in respect of which the Government had given a commitment in writing in its letter dated 23<sup>rd</sup> August 1979. In the counter affidavit the stand taken by the Government of India is that under para 17 (2) of the DPCO 1979 the criterion for determination of any claim of the manufacturer is the shortfall between its retention price and the common selling price or the pooled price as the case may be. Since the case

pertaining to the subsidy claim in respect of Chloroquin Phosphate was based on the petitioner's retention of the bulk drug, pooled price fixed by the Government and the quantity of the bulk drug which had been served **by the Petitioner Chemicals and Pharmaceuticals Corporation's** allocations and had no relationship with the provisions of Para 7 (2) of the DPCO 1979. It is contended that the question of subsidy owing to the Petitioner for Chloroquin Phosphate was that it was "a totally different case from the present DPEA liability case of bulk drug Rifampicin which has been determined strictly as per the provisions of Para 7 (2) of DPCO 1979." It is stated that the DPLRC was totally wrong to link the issue of subsidy with the present case of DPEA liability in respect of bulk drug Rifampicin. It is stated that this anomaly was brought to the notice of the DPLRC and the latter in its proceedings dated 16<sup>th</sup> December 2004, inter alia, recorded that it is for the Government to accept or not to accept the recommendation of the DPLRC.

20. In the rejoinder it is pointed out that letter dated 6<sup>th</sup> December 2004 of the DPLRC was much after the decision of the DPLRC in 2003 and that the petitioner was served with a copy thereof for the first time along with the counter affidavit of the Respondent. According to the petitioner, this was a pointer to the fact that the DPLRC was not an independent body.

21. In order to appreciate the above submission a reference may be made first to 1999 report of the DPLRC specifically in regard to the Petitioner's prayer for setting off the subsidy owing to it towards

Chloroquin Phosphate. The DPLRC in its report dated 9<sup>th</sup> November 1999 observed as under:

**“Regarding the set off on account of price reduction for institutional supplies, we have observed in the case of M/s. Lupin Laboratories Limited (Case No. 11/95) under Issue No.5 that it is an issue which is likely to affect a number of other formulators as well and therefore, different treatment should not be meted out to different formulators. In the case of M/s. Lupin Laboratores Limited a set off of Rs.32.90 lakhs was allowed in a similar situation with the approval of the Hon’ble Minister at that time. Thus, we finally recommended that a decision which is uniformly applicable to all the parties should be taken by the Government and any other view will lead to discrimination and will violate the sound principles of justice, equity and good conscience.**

Regarding the **set off claimed on account of additional trade margin allegedly allowed to the distributors** by the Petitioners, we have already expressed our view in many cases that such trade margin is given by formulators as per their commercial judgment in order to argument/promote the sales of their formulations. The mark up is one hundred per cent in case of category III formulations as in the present case. Such high mark up takes care of trade margin.

Regarding **the set off claimed on account of sales to consumers at prices lower than the leader price**, we have already considered this point in the case of M/s. Lyka Laboratores Limited (Case No. 31/95) at pages 11 and 12 of the report wherein it was found that the department itself had allowed a set off on this ground to that company. In this case also, therefore, we recommend

that if similar circumstances are found upon investigation by the department, similar relief may be made available to this company also or otherwise it may amount to discrimination.”

22. The Government at this stage did not dispute the finding of the DPLRC. The Government felt that “the DPLRC did not determine the amount of liability but gave its views on various issues considered by the Committee.” The Government again referred the case of the Petitioner to the DPLRC on 11<sup>th</sup> October 2002 for quantifying the liability of the Petitioner as per the ‘revised terms of reference’ of the DPLRC notified on 10<sup>th</sup> October 2002. The above revised terms of reference have already been stated hereinbefore.

23. In its report dated 31<sup>st</sup> October 2003 the DPLRC dealt with the case of subsidy on Chloroquin Phosphate as under:

“(g) Claim of subsidy on Chloroquin Phosphate: With reference to the submission of the Petitioners DPLRC in their main report dated 13<sup>th</sup> September 1999 observed that the alleged claim of the Petitioners for subsidy on chloroquin phosphate may also be finalized while finalizing the liability of the Petitioners.”

24. Therefore, as far as the claim of set off of subsidy is concerned, the DPLRC required this to be “finalized” by the government. It appears that the Government did not accept the above finding and issued the Office Memorandum dated 16<sup>th</sup> December 2004 requiring the DPLRC to clarify. What the DPLRC in its proceeding dated 16<sup>th</sup> December 2004 is significant and reads as under:

“M/s. Ranbaxy Laboratories Ltd.

Case No. 45/1996

16.12.2004

We have considered the OM dated 16<sup>th</sup> December 2004 received from Under Secretary to the Government of India. In this respect we would first like to point out that the language of the OM is very derogatory and we expect that due restraint would be observed in the OMs addressed to the Committee. The recommendations regarding finalization of the claim of the company regarding Chloroquine Phosphate was made by taking into consideration the stand of the company and that of Department in OM dated 5<sup>th</sup> January 1999, wherein it categorically stated that the subsidy claim of the company was being looked into separately. The original report may be perused in this respect. It was considered relevant and that is why the recommendation was made. **It is for the Government to accept or not to accept the recommendation of the Committee.** A copy of these proceedings be forwarded to the Joint Secretary (DPEA).” (emphasis supplied)

25. In its counter affidavit in para 4 (k) the government stated that “the Respondent No.1, after due consideration, accepted the report of the DPLRC and communicated the liability to the Petitioner vide letter No. 11(3)/2003-DPEA dated 20<sup>th</sup> June 2005.” On the question of the set off the Government took the stand that the opinion of the DPLRC thereon was “totally wrong.” While it is unfortunate that the Government in making the supplementary reference used language that was perceived by the DPLRC to be derogatory, it does appear that there was no specific recommendation of the DPLRC as regards the set off of the subsidy. A careful reading of the earlier report of the DPLRC shows that it talks of the set off allowed to M/s. Lupin and M/s.

Lyka Laboratories not as regard the subsidy on another bulk drug like Chloroquin Phosphate but “on account of price reduction for institutional supplies”, “on account of additional trade margin allegedly allowed to the distributors” and “on account of sales to consumers at prices lower than the leader price.” It is therefore not clear whether the Petitioner can claim parity of treatment with Lupin or Lyka Laboratories. The petitioner has not provided any details of either of those companies getting a set off of the subsidies owing to them. On its part, the government has consistently denied that any such set off of the subsidy was allowed to those companies. It has maintained that the subsidy claim is based on the petitioner’s retention price of the bulk drug Chloroquin Phosphate, the pooled price fixed by the government and the quantity of the bulk drug which has been “serviced by the petitioner against Chemicals and Pharmaceuticals Corporation’s (CPC) allocations and has no relationship with Para 7 (2) of the DPCO 1979.”

26. In its counter affidavit, the Government has taken the following stand as regarding the computation of the subsidy as claimed by the Petitioner:

“It is denied that the Petitioner company is entitled to a subsidy of amount of Rs.85.91/89.04 lakhs plus interest in respect of Chloroquin Phosphate as claimed by them. It is further submitted that considering the quantity serviced by the Petitioner against Chemicals & Pharmaceuticals Corporation (CPC)’s allocations and that the retention price and the pooled price of the bulk drug Chloroquin Phosphate was fixed for the first time under DPCO 1979 on 18<sup>th</sup> June 1982 which cannot be made applicable retrospectively, the amount of the shortfall which is required to be paid to the company out of the DPEA under para 17 (2) of the DPCO 1979 has since been computed

at Rs.73,035.00 against the alleged claim of Rs.85.04 lakhs by the Petitioner. This amount of shortfall has already been communicated to the Petitioner vide letter No. 11(10)/2005-DPEA dated 29<sup>th</sup> November 2007 (annexed as Annexure R-10). It has been made clear to the Petitioner that the payment of Rs.73,035.00 out of the DPEA under para 17 (2) of the DPCO 1979 will only be made to the Petitioner when the amount of the DPEA liability due from the company amounting to Rs.2,23,06,073.00 communicated to Petitioner vide letter No. 11(3)/2003-DPEA dated 31<sup>st</sup> May 2007 (annexed as Annexure P-39 to the writ petition) in case of bulk drug Rifampicin is deposited by the Petitioner into the DPEA.”

27. In response thereto, in the rejoinder affidavit it is stated by the Petitioner that the Petitioner company is entitled to a payment of the amount of Rs.85.04 lakhs. This is a highly disputed question of fact and this Court is not expected to examine the correctness of the determination by the Government of India of the set off amount owing to the Petitioner in the sum of Rs. 73,035.00. In that view of the matter, this court is not persuaded to hold that the petitioner is entitled to set off of the amount owed to it on account of the subsidy in respect of Chloroquin Phosphate.

***Rise in the cost of bulk drug between 1984 and 1987***

28. As regards the increase in the cost of the bulk drug Rifampicin after 30<sup>th</sup> June 1984 up to 1987, it is the petitioner’s case that its pending price revision applications ought to have been considered before computing its liability to pay onto the DPEA for that period. According to the petitioner, the actual cost of Rifampicin and not merely the lower prevailing prices had to be taken into account. The adoption of the weighted average price by the

DPLRC in its final report is criticised as being a 'notional' price and not based on actual figures of consumption and sales. On the other hand, the case of the Respondents is that it is only the procurement price of the bulk drug used in the formulations of the manufacturer and the price allowed in the formulation that are to be taken into account for determining the DPEA liability. The DPLRC considered the formulation price and the allowed price in seven 'span' periods from 1<sup>st</sup> April 1979 to 25<sup>th</sup> August 1987. The entire basis of the calculations has been explained by the DPLRC with reference to the figures given in the annexures to its report and has also been explained in detail in the counter affidavit of the Respondents. This Court in exercise of its powers under Article 226 is not expected to sit in appeal over the findings of the DPLRC in this regard. There does not appear to be anything perverse in the determination of the petitioner's DPEA liability by the DPLRC warranting interference by this court.

### ***Interest***

29. The last point made was about the interest being charged from the petitioner under Section 7-A ECA. It was submitted that since there was no demand prior to 31<sup>st</sup> May 2007, no interest for any period prior thereto could be charged. Since this Court has not agreed with the submission of the petitioner that no demand was raised earlier to 31<sup>st</sup> May 2007, the above submission must also fail. The Respondents have pointed out that interest has been charged for the period with effect from 15<sup>th</sup> April 1985 (the date of issue of the first demand notice) till 31<sup>st</sup> March 2005. Numerous notices had been served on the petitioner during this period but the liability was contested by the petitioner. In the circumstances, this court is unable to find

any illegality having been committed by the Respondents in demanding the interest on the amounts due from the petitioner

30. There is therefore no merit in any of the submissions. The writ petition is dismissed. The interim order is vacated and the application is dismissed.

**S. MURALIDHAR, J.**

**MAY 10, 2010**  
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