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

+ W.P.(C) 7966/2019 & CM Nos. 33055/2019 & 33056/2019

CORONA REMEDIES PVT. LTD.

..... Petitioner

Through: Mr Vikas Khera, Mr Visahl K.
Sharan, Ms Stuti Mishra and Ms
Surabhi, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr Kirtiman Singh, CGSC with Ms
Rupali Kapoor, GP for R-1 and R-2.
Mr Mohit Agarwal, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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24.07.2019

1. Issue notice. The learned counsel appearing for the respondents accepts notice.
2. The petitioner has filed the present petition, *inter alia*, impugning a demand notice dated 18.01.2018 calling upon the petitioner to deposit a sum of ₹22,25,163/- as an amount allegedly overcharged by the petitioner alongwith interest thereon under the provisions of the Drugs (Price Control) Order, 2013 (DPCO). The said order has been passed on an allegation that the petitioner has charged a price in excess or what is permissible under the DPCO for the formulation "Metoprolol 50 mg tablets."
3. The petitioner also impugns the recovery notice dated 05.07.2019 issued by the office of the Collector, Subhash Bridge Circle, Ahmedabad

(respondent no.4) initiating proceedings for recovery of the amount demanded by the impugned notice dated 18.01.2018.

4. The National Pharmaceutical Authority (NPPA) had issued a show cause notice dated 27.02.2017 calling upon the petitioner to show cause why an amount of ₹15,71,254/- is not to be recovered from the petitioner. It was alleged that the petitioner had charged a price for the drug in question, which was in excess of what was permissible. This was because the revision of the Maximum Retail Price (MRP) was disproportionate to the increase in the Wholesale Price Index (WPI).

5. The petitioner had contested the levy of the aforesaid demand on several grounds. First of all, the petitioner had contended that the formulation marketed by the petitioner was not a scheduled formulation. The petitioner had contended that the petitioner was not marketing the conventional Metoprolol 50 mg tablets but was marketing an innovative version of the medicine – Metoprolol XL 50 mg tablets. It was contended that the said version is an extended release version and, therefore, not covered under Schedule I of the DPCO.

6. Second, the petitioner had submitted that it was not charging a price in excess of that which was permissible. The petitioner had explained that it had not revised its price for two years and, therefore, was entitled to revise the same, keeping in view the increase in WPI during that period.

7. Next, it was contended on behalf of the petitioner that the amount demanded was calculated on incorrect data as the data available in Pharmatrac was erroneous.

8. It is seen that none of the aforesaid grounds have been considered by NPPA while issuing the impugned demand notice dated 18.01.2018. In

view of the above, the present petition is allowed and the impugned demand notice dated 18.01.2018 is set aside. The matter is remanded to the NPPA to consider it afresh. NPPA shall pass a fresh order after affording the petitioner an opportunity to be heard. The consequential order dated 25.07.2019 passed by respondent no.4 is also set aside.

9. The petition is allowed in the aforesaid terms. The pending applications are disposed of.

VIBHU BAKHRU, J

JULY 24, 2019
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