$~110 to 117

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

\+ **W.P.(C) 208/2026 and CM APPL. 956-957/2026**

CIPLA LIMITED .....Petitioner

Versus

NATIONAL PHARMACEUTICAL PRICING AUTHORITY & ANR.
.....Respondents

\+ **W.P.(C) 209/2026 and CM APPL. 958-959/2026**
\+ **W.P.(C) 211/2026 and CM APPL. 963-964/2026**
\+ **W.P.(C) 212/2026 and CM APPL. 965-966/2026**
\+ **W.P.(C) 213/2026 and CM APPL. 968-969/2026**
\+ **W.P.(C) 214/2026 and CM APPL. 970-971/2026**
\+ **W.P.(C) 215/2026 and CM APPL. 973-974/2026**
\+ **W.P.(C) 227/2026 and CM APPL. 1085-1086/2026**

Memo of appearances:

For petitioners:

Ms. Archana Sahadeva, Advocate.

For respondents:

Mr. Nishant Gautam CGSC with Ms.Kavya Shukl, Mr. Vinay Kaushik Goverment Pleader.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **19.01.2026**

1. This batch of writ petitions involves similar issues and, therefore, is being decided by a common order.

2. The petitioner i.e., Cipla Limited is a company engaged in the manufacture of drugs. Respondent no. 1 i.e., National Pharmaceutical Pricing Authority (Pricing Authority) is a body under the Department of Pharmaceuticals, Ministry of Chemicals and Fertilisers, and the regulatory authority for pricing of drugs under the Drugs (Prices Control) Order, 2013 (Control Order, 2013) issued under the Essential Commodities Act, 1955. Respondent no. 2 is the Department of Pharmaceuticals, Ministry of Chemicals and Fertilisers.

3. The grievance of the petitioner is with respect to various Demand Notices issued by the Pricing Authority, directing the petitioner to deposit certain sums of money, which the petitioner allegedly received by making certain batches of drugs available for sale to the public, at rates higher than are legally permissible.

4. The Pricing Authority had issued various notifications fixing the 'ceiling price' for certain drugs ('Scheduled Formulations') specified in Schedule-I of the Control Order, 2013 in exercise of powers conferred under paragraphs no. 14, 16 and 17 thereof. On the basis of samples allegedly obtained from retailers, it found that some of the 'Scheduled Formulations' manufactured by the petitioner were being sold at a price higher than their 'ceiling price'. The Pricing Authority, thereafter, issued Preliminary Notices directing the petitioner to explain the reasons for non-compliance with the aforesaid notifications. The petitioner replied to the same, stating that the batches of the 'Scheduled Formulations' which were the subject matter of the Preliminary Notices were manufactured and sold to dealers/retailers prior to the notifications of the 'ceiling price' and that it had issued revised price lists along with 'Form V'. It was stated that issuance of price lists

along with ‘Form V’ is sufficient compliance of its obligations as per paragraph no. 24 of the Control Order, 2013.

5. Upon consideration of the reply, the Pricing Authority issued the impugned Demand Notices directing the petitioner to deposit certain sums of money which, according to it, the petitioner had accrued by overcharging, along with interest.

6. On the first date of hearing, i.e., 08.01.2026, Ms. Archana Sachdeva, learned counsel for the petitioner has placed on record a brief note indicating, among other particulars, the dates on which the batches which are the subject matter of the impugned Demand Notices were manufactured, the ‘ceiling price’-notifications were issued by the Pricing Authority, and the revised price lists in ‘Form V’ were issued by the petitioner, to emphasise that the relevant batches of the ‘Scheduled Formulations’ were manufactured and marketed prior to the issuance of the notifications.

7. The chart handed over by Ms. Sachdeva, is extracted as under:-

“BRIEF NOTE ON FACTS”

Item No.	***WP (C) No.***	***Impugned Batch No. & date of manufacturing by the Petitioner***	***Ceiling Price Notification issued by NPPA***	***Form V issued by Petitioner on***	***Date of alleged purchase by the NPPA***	***Product Name***
62	*208/2026*	*SA22815; Oct. 2022*	*SO No. 194(E); dt. 11.01.2023*	*12.01.2023 [PDF 230]*	*25.05.2023*	*Forcan 150mg*
63	*209/2026*	*AFC22029; June 2022*	*SO No. 87(E); dt. 06.01.2023*	*09.01.2023 [PDF 88]*	*20.10.2023*	*Cipmox CV*
64	*211/2026*	*D2031; April 2022*	*SO No. 1579(E); dt. 31.03.2023 (w.e.f.*	*02.04.2023 [PDF 112]*	*21.07.2023*	*Terbicip*

			01.04.2023)			
65	*212/2026*	*KO20300; May 2022*	*SO No. 87(E); dt. 06.01.2023*	*09.01.2023 [PDF 242]*	*25.05.2023*	*Novamox CV 625mg*
66	*213/2026*	*23S2GCA145; Feb. 2023*	*SO No. 1579(E); dt. 31.03.2023 (w.e.f. 01.04.2023)*	*02.04.2023 [PDF 121]*	*19.07.2023*	*Itranox*
67	*214/2026*	*P110458; May 2021*	*SO No. 87(E); dt. 06.01.2023*	*09.01.2023 [PDF 89]*	*22.08.2023*	*Fungicip*
68	*215/2026*	*SA13292; Nov. 2021*	*SO No. 87(E); dt. 06.01.2023*	*09.01.2023 [PDF 84]*	*23.05.2023*	*Forcan 200mg*
69	*227/2026*	*G1832022; Oct. 2022*	*SO No. 194(E); dt. 11.01.2023*	*12.01.2023 [PDF 103]*	*25.07.2023*	*Vitafol 5mg*

8. The Court, thereafter, called upon the respondents to explain as to why the matter should not be remitted back for its fresh consideration.

9. Mr. Nishant Gautam, learned CGSC, who appears on behalf of the respondents, on instructions, initially tried to justify the impugned orders by taking the Court through observations made by the Supreme Court in the case of ***M/s Glaxo Smithkline v. Union of India***.[1] He then contends that this batch of petitions has its own peculiarity and the Court, therefore, may consider to pass an appropriate order.

10. The primary question which requires adjudication is whether the impugned Demand Notices takes into consideration all relevant factors/obligations on the petitioner under paragraph no. 24 of the Control Order, 2013 and the applicable decisions of the Courts.

11. Learned counsel for the petitioner submits that the impugned Demand

[1] 2014 (2) SCC 753

Notices are illegal and arbitrary, and have been made without appreciating the documentary proof of fulfilment of the obligations of the petitioner under paragraph no. 24 of the Control Order, 2013. It is also submitted that the decision passed by the Division Bench of this Court in the case of ***Cipla Ltd v. Union of India***,[2] has not been properly considered by the Pricing Authority.

12. It is submitted that the Division Bench of this Court, in the case of ***Cipla Ltd.,*** has held that re-labelling of stocks manufactured prior to the date on which the notifications of 'ceiling price' were issued is not obligatory on the manufacturer and issuance of revised price lists in 'Form V' would be sufficient for fulfilling its obligations under paragraph no. 24 of the Control Order, 2013. She also submits that when, as per the Pricing Authority, 'Schedule Formulations' manufactured by the petitioner were found to be overpriced on the basis of samples purportedly obtained from retailers, the impugned Demand Notices ought to have disclosed particulars such as, where the samples were collected from, and proof of the same actually being sold at the printed M.R.P. It is also the case of the petitioner that no action seems to have been taken against the retailers who were, allegedly, selling the overpriced 'Scheduled Formulations'.

13. Mr. Gautam, as noted earlier, has made all possible endeavours to justify the impugned Demand Notices including to state that there is no provision for the Pricing Authority to take action against retailers. According to him, the principles laid down by the Supreme Court as well as by this Court, have rightly been considered and the impugned Demand Notices do not warrant any interference.

---

[2] 2015:DHC:9617

14. The Pricing Authority has recorded its reasoning to justify action. In paragraph no. 5 of the impugned Demand Notices, the following reasoning has been recorded:

> *"5. The abovementioned contentions of the company with regard to overcharging have been examined and it is stated that:*
>
> *(i) Subject formulation bearing batch no. KO20304 manufactured in the month o f May-2022 which was available in the market for sale to public on 20.10.2023 at higher MRP of Rs.223.44/- for pack of 10 tablets over and above the applicable notified ceiling price of Rs.18.30/- per tablet (i.e. Rs.183/- for 10 tablets on pro rata basis) exclusive of GST vide 5.0. No.1574(E) dated 31.03.2023 read with 5.0. 4663(E) dated 25.10.2023. This shows that the company had not implemented the applicable notified ceiling price on the stocks available in the market/ trade channel.*
>
> *(ii) It is pertinent to mention that in the judgement of Hon'ble Supreme Court in Mis Glaxo Smithkline Vs UOI reported in (2013) SCC Vol. II 753, wherein it was, inter-alia, held that "once the price is notified, it takes immediate effect from the date of notification and there cannot be two prices at the end point of the distribution chain depending on the consumer. Consumer must get the benefit of the notified price. That is the ultimate objective of DPCO. Mere issuance of Form-V and issuing revised price list does not fulfil the obligations of the company as a manufacturer/marketer of the formulation under reference". Hence, the company has to implement the notified ceiling price on its new manufacturing products as well as to the pre-manufactured stocks available in the market for sale to public from the date of gazette notification.*
>
> *(iii) As per the provisions of DPCO 2013, where any manufacturer sells a scheduled formulation at a price higher than the ceiling price (plus local taxes as applicable) fixed and notified by the Government, such manufacturers shall be liable to deposit the overcharged amount along with interest thereon from the date of such overcharging. Further, the Hon'ble Hight Court of Delhi in its judgement in the matter of Cipla Ltd. Vs UoI held that it would be sufficient compliant on the part of manufacturer if the manufacturer issue price list/ revised price list and follow paragraph 24 of the DPCO,2013. The referred Judgement also held that re-labelling of manufactured stocks prior to the date on which the notifications are issued is not obligatory. What is necessary is that pharmaceuticals be sold at the revised price or labelled price, whichever is lower. However, since, the detected batch was available in the market for sale to public at higher MRP, this shows that the company had not implemented the notified ceiling price on the stocks available in the market/ trade channel.*

In view of above, the company's contentions are found untenable and therefore, overcharging amount has been calculated considering printed MRP on the pack as the sample with higher MRP was available in the market for sale to public."

(Emphasis supplied)

15. On careful reading of the same, it appears that the action is solely based on the decision of the Supreme Court in the case of ***M/s Glaxo Smithkline*** and the Pricing Authority has quoted a purported extract from the said decision which has been underlined for reference.

16. It is seen that the liability saddled on the petitioner stems from the expression, "*Mere issuance of Form-V and issuing revised price list does not fulfil the obligations of the company as a manufacturer/marketer of the formulation under reference"* which is attributed to the Supreme Court. However, upon careful perusal of the decision, it is seen that the said expression is conspicuously missing.

17. It is clear that the Pricing Authority has wrongly construed the Supreme Court's decision to the extent of drawing a conclusion that mere issuance of Form-V and the revised price lists does not fulfil the obligations of the company as a manufacturer/marketer of the formulation under reference. If the Pricing Authority intended to convey its own opinion, it ought to have unequivocally been identified as such. Instead, the Pricing Authority has projected its own opinion as observations of the Supreme Court, which is impermissible.

18. The case of the petitioner is that under paragraph no. 24 of the Control Order, 2013 manufacturers are only required to issue 'Form V' and revised price lists for pre-manufactured stocks, once the 'ceiling price' is notified.

19. A reading of paragraph no. 24 of the Control Order, 2013 also nowhere discloses any other obligation to be discharged by manufacturers. It

is thus seen that the Pricing Authority has grossly misunderstood the Supreme Court's decision in the case of ***M/s Glaxo Smithkline.*** The findings recorded in paragraph no.5 (ii) of the Demand Notices are wholly perverse.

20. Furthermore, the decision of the Division Bench of this Court in the case of ***Cipla Ltd.*** has also been considered in the impugned Demand Notices. The stand taken by the respondents in the said case, that, issuance of price lists in 'Form V' would be sufficient compliance of the petitioner's obligations under paragraph no. 24 of the Control Order, 2013 for stocks manufactured prior to the notifications, and the recall/reprinting of the same is only optional, was recorded in paragraphs no. 2 and 3 of the said decision. Though, reference is made to the said decision, however, the Pricing Authority has not delineated as to how the same would apply to support the stand of the Pricing Authority.

21. The Pricing Authority ought to have dealt with the aspect as to how the petitioner will have to implement the 'ceiling price' notifications. There also does not seem to be any material in the impugned Demand Notices as to on what basis, it has been concluded that the 'Scheduled Formulations' were actually being sold at excessive price. The Pricing Authority may have been in actual proof of the same, but it must reflect in the impugned Demand Notices. If the decision, so taken, does not make reference to such material, the same may not be relied on to supplement the decision in a Court of law. Furthermore, the Court in exercise of its power of judicial review of the decision, may not be able to properly appreciate the circumstances under which it was made.

22. Ms. Sachdeva, learned counsel for the petitioner also points out order

dated 16.05.2019 passed by this Court in a similar batch of writ petitions, where, under almost similar circumstances, the matter was remitted back to the Pricing Authority for its consideration afresh.

23. Having considered the overall facts and circumstances of the instant cases, the Court finds that the impugned decision suffers from arbitrariness and, seems to be based on extraneous considerations. Therefore, the impugned Demand Notices are set aside.

24. The Pricing Authority shall be at liberty to treat the instant batch of writ petitions as representations submitted by the petitioner and adjudicate the same afresh, with due expedition, after considering the entire material in view of the issues raised in the instant writ petitions.

25. If the petitioner, so desires, it may make a request of personal hearing before the Pricing Authority. If such a request is made, let the same be considered.

26. With the aforesaid observations, the instant writ petitions stand disposed of along with all pending applications.

PURUSHAINDRA KUMAR KAURAV, J

JANUARY 19, 2026
Nc/ amg