

COMPETITION APPELLATE TRIBNAL

RTPE No. 14/2006

CORAM

Hon'ble Dr. Justice Arijit Pasayat,
Chairman

Hon'ble Mr. Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi,
Member

IN THE MATTER OF

Pfizer Ltd.

...Complainant

Vs.

Karnataka Chemists & Druggists
Association & others

...Respondents

Appearances: Mr. Ravinder Narain, advocate for the Complainant
Mr. Anurag Mathur, advocate for the respondent

ORAL ORDER

05-11-2009

At the request of the learned counsel for the Respondent No. 1, the matter shall be taken up on 3rd December, 2009. If any further affidavit is to be filed, let the same be filed within three weeks.

[Dr. Justice Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBNAL

RTPE No. 142/2000

CORAM

Hon'ble Dr. Justice Arijit Pasayat,
Chairman

Hon'ble Mr. Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi,
Member

IN THE MATTER OF

D.G. (I & R)

...Complainant

Vs.

ICI India Ltd., Calcutta

...Respondent

Appearances: Mr. R. D. Makheeja, advocate for the DG(I&R)
Mr. Aditya Narain, advocate for the respondent

ORAL ORDER
05-11-2009

At the request of the learned counsel for the DG (I&R), the
matter is adjourned.

List on 10th December, 2009.

[Dr. Justice Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBNAL

RTPE No. 39/1993

CORAM

Hon'ble Dr. Justice Arijit Pasayat,
Chairman

Hon'ble Mr. Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi,
Member

IN THE MATTER OF

D.G. (I & R)

...Complainant

Vs.

Gangoh Gas Agency

...Respondent

Appearances: Mr. R. D. Makheeja, advocate for the DG(I&R)
Mr. M.L. Qazi, advocate for the respondent

ORAL ORDER

05-11-2009

At the request of the learned counsel for the DG (I&R) the matter is adjourned. List this matter on 1st December, 2009.

[Dr. Justice Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

[Dr. Justice Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBUNAL

MA 30/2007
RTPE 06/2005

CORAM

Hon'ble Dr. Justice Arijit Prasayat
Chairman

Hon'ble Shri Rahul Sarin
Member

Hon'ble Smt. Pravin Tripathi
Member

IN THE MATTER OF :

Suresh Agencies

....Complainant

Vs.

Noverties

....Respondent

Appearances : Shri U.N. Shukla, Advocate for complainant
Shri K.K. Bhat, Advocate for Respondent No. 1

ORAL ORDER

5TH November, 2009

Learned counsel for the parties stated that they will explore the possibility of an out of court settlement.

Adjourned by four weeks.

List on 9th December, 2009.

(Dr. Justice Arijit Prasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL

RTPE 13/2006

CORAM

**Hon'ble Dr. Justice Arijit Prasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Smt. Pravin Tripathi
Member**

IN THE MATTER OF :

DG(I&R)Complainant

Vs.

India Auto Industries Pvt. Ltd.Respondent

**Appearances : Shri RD Makheeja, Advocate for DG
Shri U.P. Mathur, Advocate for R-4**

ORAL ORDER

5TH November, 2009

Copies of the responses filed by the learned counsel for DG (I&R) will be supplied to the learned counsel for Respondent No.4 within two weeks.

The matter shall be listed on 10th December, 2009.

**(Dr. Justice Arijit Prasayat)
Chairman**

**(Rahul Sarin)
Member**

**(Pravin Tripathi)
Member**

COMPETITION APPELLATE TRIBUNAL

IA 47/2009
UTPE 123/2009

CORAM

Hon'ble Dr. Justice Arijit Prasayat
Chairman

Hon'ble Shri Rahul Sarin
Member

Hon'ble Smt. Pravin Tripathi
Member

IN THE MATTER OF :

M/s. Johnson & Johnson Ltd.Complainant

Vs.

M/s. Emami Ltd.Respondent

**Appearances : Mr. Ashok H Desai, Sr. Advocate with
Mr. Ravinder Narain, Mr. Rajan Narain,
Mr. Subrat Deb, Ms. Mallika Joshi,
Ms. Rajeshwari Shukla, Mr. Rajeev
Kumar Dubey, Advocates for complainant**

**Shri Dushyant Dave, Sr. Advocate with
Dr. V.K. Aggarwal with Ms. Vanita Bhargava,
Shri Ajay Bhargava, Shri Abhijeet Swaroop,
advocates for respondent**

ORAL ORDER

5TH November, 2009

We have heard Mr. Ashok H. Desai, the learned counsel for the complainant and Mr. Dushyant Dave for the respondent.

...contd.

According to complainant, some of the advertisements issued by the respondents are misleading and in a way disparaging statements have been made qua the complainant's products. It is highlighted that in the impugned advertisements/displays, there is a reference to mineral oil being harmful to the babies. According to Mr. Desai, the mineral oils used in some of the products of the complainant are within the permissible limits.

Mr. Dave, learned counsel for the Respondent, with reference to the response filed qua the complainant submitted that none of the statements or representations purported to have been made either directly or indirectly referred to the complaint. According to him, the statements or representations only highlight the benefits of the products of the respondent. In para (c) of the response with reference to para 3 of the complaint, it has been stated that no statements or representations have been made to show that harmful ingredients are being used in the complainant's products or that such ingredients are harmful and scary.

...contd.

By way of reply, Mr. Desai submitted that though in the response filed by the respondent, such a statement is made that there is a clear reference to the "*leading manufacturers*" and undisputedly the complainant is the largest manufacturer of baby products.

At this juncture, we are not inclined to go into the question whether in fact the statements/representations made are qua the complainant as that can be effectively adjudicated when the matter is taken up for final adjudication. However, we make it clear on the basis of the statements made by the respondent in the response filed to the complaint that the respondents had categorically accepted that their statements or representations do not in any way refer particularly to the complainant.

List this matter for final hearing on 9th & 10th December, 2009.

This matter shall be listed at the top of the list subject to overnight part-heard.

(Dr. Justice Arijit Prasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL

RTPE 57/2006

CORAM

**Hon'ble Dr. Justice Arijit Prasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Smt. Pravin Tripathi
Member**

IN THE MATTER OF :

Mrs. Shalu Jain & Anr.Complainants

Vs.

Ansal Properties & Infrastructure Ltd.Respondent

Appearances : Shri Anshuj Dhingra, Advocate for complainant.

Shri Gurinder Singh, Advocate for respondent

ORAL ORDER

5TH November, 2009

At the request of learned counsel for the parties, the matter is adjourned to 25th November, 2009.

**(Dr. Justice Arijit Prasayat)
Chairman**

**(Rahul Sarin)
Member**

**(Pravin Tripathi)
Member**

COMPETITION APPELLATE TRIBUNAL

MA _____/2009

IA 32/2009

UTPE 94/2009

CORAM

**Hon'ble Dr. Justice Arijit Prasayat
Chairman**

**Hon'ble Shri Rahul Sarin
Member**

**Hon'ble Smt. Pravin Tripathi
Member**

IN THE MATTER OF :

**Kingfisher Training & Aviation Services Ltd.complainant
Vs.**

Frankfinn Aviation Services P. Ltd. & ors.Respondent

**Appearances : Shri A.N. Haksar, Sr. Advocate with Ms.
Surekha Raman and Shri Udayan Jain,
advocates for complainant
Shri Ajit Nair, advocate for R-1**

ORAL ORDER

5TH November, 2009

An affidavit in response to the additional affidavits filed by the complainant has been filed in the court today. A copy has been supplied to the learned counsel for the complainant. If any further affidavit has to be filed by any of the parties, let it be done within two weeks.

The matter is adjourned to 2nd December, 2009 for disposal.

**(Dr. Justice Arijit Prasayat)
Chairman**

**(Rahul Sarin)
Member**

**(Pravin Tripathi)
Member**

needed to be examined and accordingly, Notice of Enquiry was issued to the respondent. In the reply filed, the respondent categorically stated that the decision regarding purchase of shoes of a particular brand at a discounted rate was done in the greater interest of the students and the Institution. Many reputed manufacturers of shoes were called for discussion and after considering various products, the School authorities were satisfied that looking at the quality and discounted rate offered by the Bata India Ltd., Bata Power shoes were the most suitable and economic and it was, therefore, decided to make the same a part of the school uniform instead of leather shoes as done earlier. The purpose, according to the School, was that only one pair of shoes would be good enough instead of earlier practice of one pair of black leather shoes and a second pair of white P.T. shoes for games and sports activities. The process undertaken, according to the respondent School, was for the uniformity and greater discipline and the comfort of the students.

It was pointed out that the students will not be required to carry a second pair of shoes in their school bags and the weight of their school bags would also be considerably reduced.

Learned counsel for the DG (I&R) submitted that it would be in the interest of the students to have an option without an element of compulsion and that would be in the greater interest of the institution and the students. It is also pointed out that if an

element of leniency is shown and an option is given to the students then there cannot be any difficulty.

We find from the records that the School authorities have, in fact, taken suitable measures to find out suitable shoes and with a view to reduce the weight of the school bag and the requirement of carrying a second pair of shoes, the action was taken. In any event, it has been pointed out that there is no question of any compulsion and for the last few years, the students have been following the policy of one type of shoes as convenient and pocket-friendly. The decision was intended to achieve uniformity, equality and harmony amongst the students. It is pointed out that if the students use different types of shoes and children from the affluent families use costly shoes belonging to different brands, there may cause for heart-burning to the students who do not belong to well-to-do families.

It is stated on affidavit by the respondent school which, in fact, was brought to the notice of the DG (I&R) that the students have been given the option and, therefore, the allegation of restrictive trade practice has not been established. It is the stand of the School that they did not want to benefit any particular manufacturer of shoes and after carefully assessing the quality and the price of the shoes of different manufacturers, the decision was taken *bona fide*.

In Para 10 of the reply on behalf of the respondent to the Notice of Enquiry, it has been stated, inter-alia, as follows :

“10. That it has been alleged in the enquiry that vide a circular dated 18.07.2006 the School has allowed only a period of 30 days from 21.7.2006 to 21.8.2006 to the parents of the student to redeem the coupon for purchase of Bata Power Shoes. It is submitted that in order to make it more convenient the School has decided to be lenient with the implementation of the circular and thus it has been decided by the committee to replace the two sets of shoes by single set of shoes by next academic session. The action of the School in this behalf has been fair and reasonable.”

In view of the statement made that the respondent have decided to be lenient with the implementation of the circular, and that there is no grievance raised about its efficacy, nothing further survives in this matter which is accordingly disposed of. Notice of Enquiry stands discharged.

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

