

**By Speed Post**

F. No. 19(8)/2014/Div. IV/NPPA  
Government of India  
Ministry of Chemicals & Fertilizers  
Department of Pharmaceuticals  
National Pharmaceutical Pricing Authority

5<sup>th</sup> / 3<sup>rd</sup> Floor,  
YMCA Cultural Centre Building,  
1, Jai Singh Road, N. Delhi – 110001.  
Date: 08.01.2014

To,  
The President,  
All Associations as per list enclosed,

**Sub: Clarification of Hon'ble Supreme Court on implementation of the provisions of paragraph 14(1) of DPCO, 1995 - reg.**

Sir,

As per paragraph 14(1) of DPCO, 1995, every manufacturer or importer is required to carry into effect the price of a bulk drug or formulation, as the case may be, as fixed by the Government from time to time, within 15 days from the date of notification in the Official Gazette or receipt of the order of the Government in this behalf by such manufacturer or importer.

2. There was a dispute between the industry and the Government / NPPA regarding implication of the said provision and the matter was pending in the Supreme Court for final adjudication. The Hon'ble Supreme Court in its order dated 09.12.2013 has clarified the position and dismissed the appeals preferred by the manufacturer / distributors.

3. The observation made by the Hon'ble Supreme Court while dismissing the appeals of the manufacturers / distributors and allowing the appeals of the Union of India is reproduced below.

"The true import of paragraph 14(1) is that once the price notification is gazetted, it takes effect immediately though its enforcement is postponed by fifteen days to enable the manufacturers and other to make suitable arrangement with regard to unsold stocks. We agree with learned Additional Solicitor General that the period of 15 days is simply a grace period or cooling period allowed to manufacturers to adjust their business in a manner where appropriate arrangement are made with regard to the unsold stocks in the distribution chain. The argument of the manufacturer or distributor, if accepted, that the stocks cleared by the manufacturer before the fifteen day can be sold to the consumer at the higher unrevised price then, in our view, that may result in same formulation being offered for sale to a consumer at two different prices. This must

be avoided and, therefore, we do not think that the interpretation put forth by Mr. S. Ganesh is reasonable. It does not deserve acceptance".....

4. The Hon'ble Supreme Court has finally concluded in its judgment as follows.

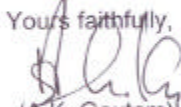
" We, accordingly, dismiss the appeals preferred by the manufacturer / distributor and allow the appeals of the Union of India. The parties shall bear their own costs".

5. The above judgment of the Hon'ble Supreme Court has upheld NPPA's stand that the companies would be required to implement the notified revised price in respect of the old batches which were manufactured before issue of the said notification but sold to the consumer after expiry of 15 days from the date of issue of the notification.

6. It is apprehended that there may be the large number of cases where the companies may not have implemented the revised price in respect of the quantity manufactured prior to the issue of the price notification order and continued to sell at pre-revised price even after expiry of 15 days from the date of notification.

7. As a part of self regulatory exercise, you are therefore, requested to advise your member units to suo-moto work out the overcharged amount by themselves in respect of quantities manufactured before issue of the price notification order but sold to the consumer / public at higher price without implementing the new revised price even after expiry of the 15 days as specified in paragraph 14(1) of DPCO, 1995 duly certified by Chartered / Cost Accountant and deposit the same with the Government along with interest @ 15% p.a. due thereon.

Yours faithfully,

  
(A.K. Gautam)  
Advisor (Cost)

o/c

Issued  
9/1/14

1. Indian Drug Manufacturers Association  
102-B, Poonam Chambers, A-Wing,  
Dr. A. B. Road, Worli Mumbai-400018  
Tel : 22-4974308/4944624  
Fax : 22-4950723
  
2. Organisation of Pharmaceutical Producers of India  
Cook's Building, 324,  
Dr. Dadabhay Naroji Road,  
Mumbai-400001  
Tel : 2045509, 2044518  
Fax : 022-2044705
  
3. Bulk Drug Manufacturers Association  
A-24, 2nd floor, View Towers,  
Lakadi Ka Pul,  
Hyderabad-500004  
Tel : 3322142/3316328
  
4. All India Small Scale Pharmaceutical Manufacturers Association  
26, Bhargav Lane, Vivil Line,  
Nityanand Marg, Delhi -54  
Tel : 2919140, 2918567  
Fax : 2524302, 2937857
  
5. Federation of Indian Chambers of Commerce and Industry  
Federation House, Tansen Marg,  
New Delhi-110001  
Tel : 3738760-70  
Fax: 91-11-3320714, 3721504
  
6. Confederation of Indian Industry  
23, Industrial Area,  
Lodi Estate, New Delhi - 110 003  
Tel : 4621874, 4629994-7  
Fax: 4633168, 4626149

