



**BEFORE THE
MONOPOLY CONTROL AUTHORITY
IN THE MATTER OF
M/s. Remington Pharmaceutical Industries (Pvt) Ltd
(File No. 1(71)/AR/AGR/MCA/2005)**

Present:

Mr. Khalid A. Mirza
Chairman

Abdul Ghaffar
Member

Date of hearing:

December 5, 2006

Present for the Respondent:

Mr. Mohammad Ikram,
Advocate and Mr. Saqib
Aziz, Accounts Manager

ORDER

1. M/s. Remington Pharmaceutical Industries (Pvt) Limited, engaged in manufacture and sale of pharmaceutical goods, is an undertaking (hereinafter referred to as the 'undertaking') as defined under Section 2(1)(m) of the Monopolies and Restrictive Trade Practices (Control & Prevention) Ordinance 1970 (hereinafter referred to as the 'Ordinance'). The undertaking was asked by Monopoly Control Authority (hereinafter referred to as the 'Authority'), to apply for registration of its Standard Distributorship Agreement, under Section 16(1)(k)(i) of the Ordinance, due to limiting the area of the distributors, vide letter dated March 4, 2006, but it failed to do so. The undertaking was reminded vide letter dated March 31, 2006 but the letter was received back undelivered with the remarks of the postman on back of the envelop, "refused to receive". The letter was, therefore, dispatched to the undertaking through courier service on April 14, 2006 in response thereof, the undertaking vide its letter dated April 19, 2006 submitted that it is regulated by Ministry of Health and thus falls under Section 25 of the Ordinance.

2. The undertaking was advised vide letter dated May 5, 2006 that Section 25(e) of the Ordinance is not applicable in its case, therefore, it is required to apply for registration of its agreement under Section 16(1)(k)(i) of the Ordinance. In response thereof, the undertaking vide its letter dated May 26, 2006 stressed that the Ordinance is not applicable on it. The undertaking was, therefore, advised vide letter dated June 12,

2006 for registration of the agreement but it once again stressed vide its letter dated July 5, 2006 that Section 25(e) of the Ordinance is not applicable on it. The undertaking was finally advised vide letter dated August 1, 2006 for registration of its agreement under Section 16(1)(k)(i) of the Ordinance but it failed to respond to the Authority's letter or to apply for registration.

3. Show Cause Notice No.01 of 2006-07 dated September 11, 2006 was, therefore, served on the undertaking under section 19 of the Ordinance. In response to the Show Cause Notice the undertaking vide its letter dated September 25, 2006 stated that it will respond to the Show Cause Notice in due course of time. It further stated that it is governed by the Regulatory Authority, which is Federal Government, therefore, the Authority may look into the matter and apply the correct legal position on it.

4. For disposal of the Show Cause Notice the Authority fixed the matter for hearing on December 5, 2006 at Lahore vide hearing notice dated November 17, 2006.

5. On the date of hearing Mr. Mohammad Ikram, Advocate and Mr. Saqib Aziz, Accounts Manager of the undertaking appeared before the Authority as authorized representatives and argued the case. The representatives submitted that the undertaking is governed by Ministry of Health and thus it falls under Section 25(e) of MRTPO 1970. The Authority clarified that for the purposes of clause (e) of Section 25 of the Ordinance the expression "Regulatory Authority" means NEPRA, PTA and OGRA only. No other Regulatory Authority has been notified by the Federal Government under Section 25 of the Ordinance. The representatives advised the Authority that they would arrange registration of distributorship agreement by December 12, 2006.

6. The Authority after considering the facts of the case, submissions of the representatives and the fact that the undertaking could not get registered its distributorship agreement, inspite of repeated clarifications concluded the default of the undertaking as willful and imposed a penalty of Rs 100,000/- on it. The undertaking is required to deposit the penalty under the relevant head of account and to furnish original paid challan to the Authority within fifteen days from the date of receipt of the Order. The undertaking is also required to apply for registration of its Standard Distributorship Agreement by that time frame. In case of failure, action shall be initiated against the undertaking under sub-section (2) of Section 19 of the Ordinance.

-Sd-
(Khalid A. Mirza)
Chairman

-Sd-
(Abdul Ghaffar)
Member

Islamabad the December ,2006