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

+ W.P.(C) 4442/2016 & CM APPLs. 18568-18569/2016

RECKITT BENCKISER (INDIA) PRIVATE
LIMITED & ANR

..... Petitioners

Through Mr. Nidhesh Gupta, Senior Advocate
with Mr. R. Jawahar Lal, Mr. Siddharth
Bawa and Mr. Shyamal Anand,
Advocates

versus

UNION OF INDIA & ORS

..... Respondents

Through Mr. Ravi Prakash, CGSC with
Mr. Aditya Dewan, Ms. Pallavi Shali
and Mr. Rishikant, Advocates

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Date of Decision: 23rd May, 2016**CORAM:
HON'BLE MR. JUSTICE MANMOHAN****J U D G M E N T****MANMOHAN, J: (Oral)**

1. Present writ petition has been filed challenging the order dated 12th January, 2016 whereby respondent no. 2 directed the respondent no. 3 to cancel the petitioner's licence for manufacturing of "condoms containing 4.5% of Benzocaine". Petitioner further challenges the order dated 19th February, 2016 whereby respondent no. 3 has instructed the petitioner to submit the product list with original licence for cancellation.

2. Learned senior counsel for the petitioner states that Benzocaine condoms do not fall within the definition of new product as the same has been produced in India since long. He refers to para 3(f) of the writ petition to contend that first manufacturing licence to manufacture condoms containing Benzocaine was issued on 11th September, 2001.
3. He also states that petitioner had been granted licence to import Benzocaine products by respondent no. 2 on 23rd February, 2015 and at that time respondent no. 2 did not consider it as a new product.
4. He further states that the condoms containing Benzocaine are still being sold worldwide.
5. On the other hand, learned counsel for respondent states that import licence in question does not mention Benzocaine and the 2001 licence to manufacture was issued by respondent no. 3 without any permission from respondent no. 2.
6. However, it is an admitted position that no show cause notice was issued to the petitioner prior to the passing of impugned orders.
7. Keeping in view the petitioner's averments that petitioner had been manufacturing the aforesaid product since 2001 and had imported the same in February 2015, this Court is of the opinion that respondent should have given a prior hearing to the petitioner before passing the impugned order.
8. Consequently, petitioner is permitted to file a representation with respondent no. 2 within two weeks. In the event, the representation is filed within the stipulated period, the respondent No.2 is directed to decide the same within a period of eight weeks after giving an opportunity of hearing to the petitioner.

9. In the meantime, the impugned orders dated 12th January, 2016 and 9th February, 2016 shall not be given effect to. However, petitioner is directed to maintain proper accounts of manufacturing, selling and distribution of condoms containing Benzocaine.

10. With the aforesaid directions, present writ petition and applications stand disposed of.

MAY 23, 2016
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MANMOHAN, J