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

+ W.P.(C) 8813/2019

NOVARTIS INDIA LTD. AND ANR.

..... Petitioners

Through: Mr Manoj and Ms Aparna Sinha,
Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr Prateek Dhanda and Mr Waize Ali
Noor and Mr Nikhil Bhardwaj, GP,
Advocates for Mr Kirtiman Singh,
CGSC for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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14.08.2019

CM No. 36449/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 8813/2019 & CM No. 36448/2019

2. The petitioner has filed the present petition impugning a demand notice dated 05.10.2018, whereby the petitioner has been called upon to pay a sum of ₹8,44,216/-, which is inclusive of interest of ₹2,24,592/- calculated upto 31.10.2018.

3. The said demand has been raised on the premise that the petitioner has sold its drug 'Voltaflam 50 mg tablet' at a price exceeding the ceiling price. Admittedly, the ceiling price of ₹1.77 per tablet was notified by S.O. No. 1951(E) dated 02.06.2016. It is the petitioner's case that the said

notification was uploaded on NPPA's website on 04.06.2016, which was a Saturday. On the next working day (that is, 06.06.2016), the petitioner carried out the necessary modifications to the billing system and, on 07.06.2016, issued Form No. 5 to various dealers for revision of the price in conformity with the ceiling price notification. Nonetheless, NPPA has held that there was a delay on the part of the petitioner in reducing the price and has accordingly, raised the demand for the quantity sold in the month of June, 2016.

4. The petitioner contends that the entire quantity sold in the month of June 2016 cannot be assumed to have been sold at a price higher than the ceiling price. According to the petitioner it had billed only ₹8300.03/- on account of sale of the formulation in question for the period 02.06.2016 to 06.06.2016.

5. This Court is of the, *prima facie*, view that the contentions advanced by the petitioner are merited and it does not appear that there is any material to support the impugned demand.

6. Issue notice. The learned counsel appearing for the respondents accepts notice and seeks time to file a counter affidavit. Let the same be filed within a period of two weeks, thereafter.

7. In the meanwhile, the impugned demand is stayed till the next date of hearing.

8. List on 30.09.2019.

VIBHU BAKHRU, J

AUGUST 14, 2019
MK