IN THE COMPETITION APPELLATE TRIBUNAL, ISLAMABAD

(Appeal No. 45 of 2025)

United Distributors Limited..............................Appellant

Versus

Competition Commission of Pakistan & another..Respondent

(Appeal No. 46 of 2025)

International Brands Limited...........................Appellant

Versus

Competition Commission of Pakistan & another..Respondent

Present:	Justice (R) Muhammad Junaid Ghaffar, Chairperson. Dr. Faiz illahi Memon, Member Technical-I Mr. Asim Akram Member Technical-II.
For the Appellant:	Mr. Abdul Ahad Nadeem, Advocate.
For the Respondent:	Mr. Hasan Raza Legal Advisor, CCP, Along with Mr. Haider Afzal Advocate
Date of hearing:	12.02.2026
Date of Judgment:	12.02.2026

JUDGMENT

Justice (R) Muhammad Junaid Ghaffar, (Chairperson): Through this Appeal, the Appellants have impugned a common order dated 02.07.2025, passed by two Members of the Competition Commission of Pakistan ("**Commission**"), through which the Appellants have been penalized in the following terms;

> 56. Upon due consideration of the facts, submissions, and applicable law, the Bench hereby orders as follows:
>
> (a) in accordance with Section 38(1) and 38(2) of the Act, a penalty of PKR 20,000,000/- (Rupees Twenty Million only) is hereby imposed on each of the Respondents for being engaged in activities prohibited under the Act by not only entering into but also giving effect to the NCCs prohibited under Section 4(1) read with Section 4(2)(b), of the Act;
>
> (b) in addition to the above, a penalty of PKR 1,000,000 (Rupees One Million only) is imposed on UDPL under Section 38(1)(d) read with Section 38(2) for making the disclosure to the PSC and its members without any approval in place pursuant to Section 5 of the Act; and
>
> (c) the Respondents shall submit a comprehensive compliance report detailing the implementation of the aforementioned directions to the Office of the Registrar of the Commission within 30 days of this Order.
>
> 57. In the event of non-compliance with any part of this Order within the stipulated timeframe, or continued violation of the Act, each Respondent shall be held further liable under Section 38(3) of the Act. Accordingly, a penalty of PKR 1,000,000/- (Rupees One Million only) shall be payable by each Respondent, in addition to a daily penalty of PKR 50,000/- (Rupees Fifty Thousand only) effective from the date of this order, until such time as full compliance is achieved to the satisfaction of the Commission.

2. Record reflects that Appellants were alleged to have been involved in anti-competitive act by way of some disclosure to the Pakistan Stock Exchange vide letters dated 15.05.2023 and 28.09.2023, to the effect that they were entering into some non-compete agreement in respect of production and distribution of pharmaceuticals, medical devices, nutraceutical and veterinary products and further letters which disclosed that Appellant No.1 has received Rs.1.131 billion from Appellant No.2 as part of consideration for the non-compete agreement. Based on this information a show cause notice dated 12.06.2024 was issued by the Commission for violation of Section 4 of the Competition Act, 2010 ("**Act**"). The Appellants contested the said show cause notice and filed an

exemption application as well under Section 5 of the Act. During pendency of any final decision on such exemption application, after an opportunity of hearing to both the Appellants, through impugned order, the Commission has imposed the above penalties and has also given certain directions.

3. Today while making his submissions, learned counsel for the Appellants has under instructions not contested the impugned order on merits, since the exemption Application filed in terms of Section 5 of the Act also stands rejected, whereas the Appellants have not sought any further remedy against such rejection; however, he has argued that since the Appellants have all along co-operated in the entire exercise carried out by the Commission and furnished all relevant documents, whereas the show cause notice was based on information gathered from self-disclosure of the Appellants before the Pakistan Stock Exchange; hence, the penalty imposed in respect of violation of Section 4 read with Section 38 in para 56(a) of the impugned order, must be in proportionality to the gravity of the offence; therefore, must be reduced. As to the penalty levied under para 56(b) of the impugned order he has contended that the same cannot be sustained as the Appellants have not furnished any false information to the Commission, whereas the information furnished to Pakistan Stock Exchange was also correct; but notwithstanding this, the Commission has no jurisdiction to impose any penalty in terms of Section 38 of the Act if an undertaking furnishes any false information to any third party instead of the Commission. He has prayed accordingly.

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Islamabad
Dated: 17.02.2026

4. On the other hand, the Commission's counsel has supported the impugned order and has contended that since the exemption Application filed under Section 5 of the Act stands rejected, no case for any leniency or of indulgence regarding reduction of penalty is made out. When confronted as to how any penalty can be imposed by the Commission in respect of any false information submitted to Pakistan Stock Exchange, he submits that the Commission is fully empowered to levy penalty under Section 38 of the Act.

5. Heard learned counsel for the Appellant as well as the Commission and perused the record. Insofar as the penalty imposed under Section 38 (1) & (2) of the Act vide Para 56(a) for violating the provisions of Section 4(1) read with Section 4(2)(b) of the Act is concerned, admittedly, the Appellants Application for grant of an Exemption in terms of Section 5 of the Act stands regretted and such order has attained finality as no further Appeal has been preferred by the Appellants. Record further reflects that the Agreement in question was executed on 19.10.2023 and Pakistan Stock Exchange was informed prior to this on 15.05.2023, whereas the amount of Rs.1.131 billion was transferred and Pakistan Stock Exchange was informed of this transfer on 15.05.2024. Now when the conduct of the Appellants is looked into as a whole, they by their own conduct admit that the agreement was a non-compete agreement and was in violation of Section 4 of the Act for which later they approached the Commission with an exemption application under Section 5 ibid. After dismissal of such application, they have chosen not to pursue any further remedy

and impliedly have accepted the guilt; hence, there does not appear to be any case of indulgence or exercise of discretion in their favor for reduction of penalty as argued by the Appellants Counsel. It is a matter of record that the Appellants only approached the Commission once a show cause notice was issued to them and never voluntarily filed any exemption application in terms of section 5 of the Act. Moreover, and quite surprisingly, the Commission has already levied a penalty on the lower side, as compared to what they have been imposing on other undertakings in like cases. Therefore, this Tribunal is of the view that the penalty of Rs. 20.00 million so levied under Section 38 (1) & (2) of the Act vide Para 56(a) for violating the provisions of Section 4(1) read with Section 4(2)(b) of the Act was fully justified; hence, maintained.

6. Insofar as the penalty of Rs. 1.0 million upon Appellant No.1 levied vide Para 56(b) under section 38(1)(d) read with section 38 (2) of the Act for making a disclosure to the Pakistan Stock Exchange without any formal exemption or approval under Section 5 ibid is concerned, the same does not appear to be correct or in accordance with law inasmuch as for violation of section 38 of the Act the Commission has already levied a separate penalty. Secondly, the Appellants have not furnished any information or made any statement to the Commission which has been found to be false or inaccurate. Moreover, it is not Commissions business to examine what information furnished to Pakistan Stock Exchange is correct or not as it is for the Exchange to examine and decide under their own law / rules. Therefore, the penalty of Rs. 1.0 million upon Appellant No.1 levied

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Islamabad
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vide Para 56(b) under section 38(1)(d) read with section 38 (2) of the Act is hereby annulled / set aside.

7. Insofar as further penalty of Rs. 1.0 million under Section 38(3) of the Act read with daily penalty of Rs. 50,000/- upon both the Appellants is concerned, since the Appellants had immediately approached the learned Islamabad High Court within the limitation period when this Tribunal was non-functional and an interim order was in field, whereas this Tribunal had also passed certain conditional interim orders, in the facts and circumstances of this case and our above observations, the same are also hereby annulled / set aside.

8. In view of the above, while maintaining the merits of the order, the Appeals in respect of levy of penalty are <u>*partly allowed*</u> in the above terms. The Appellants shall approach the Commission for payment / encashment of its Bank guarantee (furnished pursuant to interim order dated 16.12.2025) for the adjudged / modified penalties within 15 days from today.

S.d
Chairperson

S.d
Member Technical-I

S.d
Member Technical-II

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