

IN THE COMPETITION APPELLATE TRIBUNAL2ND Floor, Federal Courts Complex, G-11/1, Islamabademail: registrartribunal@gmail.com

Tel No: 051-9320208, Fax No: 051-9320203

No. 1462 /Reg./CAT/2024Dated: 11-07-2024**M/S Dabur Pakistan (Pvt) Ltd**

Vs.

Competition Commission of Pakistan**NOTICE****Appeal No.12/2022**

Take notice that under rule 51 of the Competition Appellate Tribunal Rules, 2015, attested copies of the Judgment dated **11-07-2024** is enclosed for information and record.

2. Given under my hand and stamp of the Tribunal, this 11th day of July, 2024.

**(SAEED AFZAL)**

Registrar

REGISTRARCompetition Appellate Tribunal
Government of Pakistan
Islamabad

M/S Dabur Pakistan (Pvt) Ltd, (Through its Authorized Representative),
Mr. Muhammad Zakir Ullah Khan,
Having its registered office at D-25, Block-5, KDA Scheme No.5,
Clifton Karachi.

Asfandyar Khan Tareen,
Tareen Chambers,
38-B Mason Road, **Lahore.** (042-36367899)

Hilal Foods (Pvt) Limited, (Through its Chief Executive officer),
Having its registered office at 507-508,
Clifton Centre, Block-5, Kehkashan,
Karachi.

Abdul Basit, (Advocate High Court),
ZABAR, Counsel & consulting, 109- 1st Floor, Progressive Centre,
30-A, Block-6, P.E.C.H.S,
Karachi.

Competition Commission of Pakistan,
7th Floor, ISE Towers, 55-B, Jinnah Avenue,
Islamabad.

Chairman Secretariat
Diary No. 712 Ext. 12-7-24
Date Received 12-7-24
Date Forwarded 12-7-24

SLA-II
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Before the Hon'ble Competition Appellate Tribunal, Islamabad

Appeal No. _____ of 2021

(In the matter of show cause notice issued to Hilal Foods (Pvt.) Limited
F. No: 349/Dabur/OFT/CCP/2019)

in re:

1. Dabur India Limited
Acting through its authorised representative, Mr. Muhammad Zakir Ullah Khan
Having its registered office at 8/3, Asaf Ali Road, New Delhi – 110002, India
2. Dabur Pakistan (Pvt.) Limited
Acting through its authorised representative, Mr. Muhammad Zakir Ullah Khan
Having its registered office at D-25, Block-5, KDA Scheme No 5, Clifton, Karachi

... Appellants

VERSUS

1. Competition Commission of Pakistan
Through its Chairperson, 7th Floor South, ISE Towers 55-B, Jinnah Avenue, Islamabad
2. Hilal Foods (Pvt.) Limited
Through its Chief Executive Officer
Having its registered office at 507-508, Clifton Centre, Block 5, Kehkashan, Karachi

... Respondents

Appeal under section 42 of the Competition Act, 2010 and all other enabling provisions of
the law against the order dated 26.08.2021, passed by the Competition Commission of
Pakistan

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S. U.
REGISTRAR
Competition Appellate Tribunal
Islamabad
Dated: ...11.7.24.....

**IN THE COMPETITION APPELLATE TRIBUNAL,
ISLAMABAD**

(Appeal No. 12 of 2022)

Dabur India Limited and another

.....**Appellant**

Versus

Competition Commission of Pakistan and another

.....**Respondents**

Present: Justice Mazhar Alam Khan Miankhel, Chairperson.
Muhammad Asghar Ch. Member Technical-I.
Raja Saad Sultan, Member Technical-II.

For the Appellants: Mr. Asfandyar Khan Tareen, Advocate.

For Respondent No.1: Mr. Hassan Raza, Advocate.

For Respondent No.2: Mr. Khurram Gul Ghori, Advocate

Date of hearing: 22.05.2024.

JUDGEMENT

Justice Mazhar Alam Khan Miankhel, Chairperson

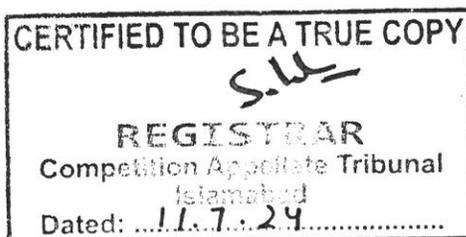
This is an Appeal against the order dated 26.08.2021 of the Competition Commission of Pakistan (the Commission) whereby the Complaint filed by the appellant was

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Islamabad
Dated: 11.7.24

dismissed and the show cause notice (SCN) was withdrawn and the inquiry report was set aside.

2. The Appellant No. 01 claims to be a public limited Company, whereas Appellant No 02 is a Private Limited Company and a licensee of appellant No.01 and the Respondent No. 02 is also a Limited Company claiming to be the sole proprietor of the Trade Mark "HAJMOLA". After filling of the complaint, the same was sent to the inquiry committee for further probe in the matter and on the conclusion of the inquiry, the Commission initiated the proceedings under the Competition Commission Act, 2010 (the Act). The Commission while concluding its proceedings dismissed the complaint, withdrew the show cause notice and set aside the inquiry report vide impugned order dated 26.08.2021.

3. We have heard the learned Counsel for the parties at length and have gone through the available record. The record of the case confirms the fact that apparently the appellant is the proprietor of Dabur "HAJMOLA", whereas the Respondent No.02 is also claiming to be the proprietor of trademark with the name of 'Hilal HAJMOLA'. The other material fact which cannot be ignored, is the fact that there is a litigation on the question of Trade mark between the two, pending adjudication before the Sindh High Court. This very fact has also been admitted by the both the parties and also established on the record. It is also an admitted and established fact that Sindh High Court has issued an interim order in the said matter, copy of which is also available on the file which reflects that till decision of the matter pending before Sindh High Court, both the parties have been allowed to use the brand name of "HAJMOLA".



4. Instant complaint was filed by the appellants against respondent 02 for contravention of the provisions of Section 10 of the Act and specifically Section 10(2)(d). For the ready reference Section 10(2)(d) is reproduced below.

10. Deceptive Marketing practices. (1) No undertaking shall enter into deceptive practices.

2. The deceptive marketing practices shall be deemed to have been resorted to or continued of an Undertaking resorts to-

- (a)
- (b)
- (c)
- (d) Fraudulent use of another's trademark, firm name or product labeling or packaging.

A look at the above provision of Law would show that the Commission is empowered to protect the fraudulent use of another's trademark, firm name, or product labeling or packaging. This provision of Law is very much clear that fraudulent use of trademark, etc. can be protected by the Commission but the Commission under the Act has no authority whatsoever to determine the disputed question of fact regarding the proprietorship of a Trademark. The Commission in its order has very aptly held so.

5. In view of the above discussion and going through the above quoted provision of law, we are clear in our mind that the issue of Trademark between the two is subjudice before an appropriate forum and unless that issue is decided by the

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Dated: 11.7.24

competent forum, the Commission cannot give its verdict regarding contravention of the provisions of the Act, 2010. This exercise before the Commission and then through the instant Appeal appears to be a pre-mature one.

We, in view of the above discussion, see no merits in the Appeal, hence the same is dismissed as such with no orders as to costs.

- sct -

Chairperson

- sct -

Member Technical-I

- sct -

Member Technical-II

- sct -

Announced in open court

11.07.2024.

