Registrar / SLA-II / HoD Media
10-7-25

Through Registered Post/AD

IN THE COMPETITION APPELLATE TRIBUNAL

2ND Floor, Federal Courts Complex, G-11/1, Islamabad
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11/7

JR

DA

Asst

No. 510 (iii) /Reg./CAT/2025
Dated: **08-07-2025**

M/s Del Electronics (Pvt) Limited

Vs.

Competition Commission of Pakistan

NOTICE

Appeal No.92/2022

Take notice that under rule 51 of the Competition Appellate Tribunal Rules, 2015, attested copies of the Judgment dated **02-07-2025** is enclosed for information and record.

2. Given under my hand and stamp of the Tribunal, this 8th day of July, 2025.

Competition Appellate Tribunal Islamabad

Office of the Registrar
Diary No. 490
Date 10/7/25

(MUSTAJAB ALAM)
Registrar

REGISTRAR
Competition Appellate Tribunal
Government of Pakistan
Islamabad

1. **M/s Del Electronics (Pvt) Limited,**
   Dawlance Centre, 7/4, Civil Line 9,
   Dr. Ziauddin Ahmed Road
   Karachi.

2. **Mr. Jhanzeb Awan**
   Advocate Supreme Court of Pakistan
   Haidermota & Co, plot No.101-C, Al-Murtaza Lane 1,
   DHA Phase 8, **Karachi**.

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

Chairman Secretariat
Diary No. 1375 Ext
Date Received 09-7-25
Date Forwarded 10-7-25

IN THE COMPETITION APPELLATE TRIBUNAL, ISLAMABAD

(Appeal No. 92 of 2022)

M/s Dell Electronics (Pvt.) Limited

.........**Appellant**

Versus

Competition Commission of Pakistan

.........**Respondent**

Present: Mr. Justice Sajad Ali Shah, Chairperson.
Dr. Faiz Illahi Memon, Member Technical-I.
Mr. Asim Akram Member Technical-II.

For the Appellant: Mr. Jahanzeb Awan, Advocate, for the appellant.

For the Respondent: M/s. Hafiz Naeem and Haider Afzal, Senior Legal Advisor along with Hassan Raza, Law Officer, for CCP/respondent No.1

Date of hearing: 02.07.2025

Date of Announcing Judgment: 02.07.2025

JUDGMENT

Justice Sajjad Ali Shah, Chairman.

The appellant through instant appeal has impugned the order of the Commission whereby maximum penalty in the sum of Rs. 75 Million under Section 38(2)(a) (first portion) of the Act, 2010 for violating the provision of Section 4 was imposed. The appellant was further directed to refund the amounts of penalties imposed on the dealers for selling the products of the appellant below the Price Control Policy.

2. Briefly the Commission during General Market Survey found some Price Control Circulars issued by the appellant including the circulars whereby imposition of penalties was prescribed on dealers who failed to adhere to the fixed price policy. Accordingly, enquiry was conducted wherein the appellant was found contravening the provision

of Section 4 of the Act 2010, consequently a show cause notice was issued and after hearing the aforesaid penalty was imposed.

3. The learned Counsel for the appellant without contesting the contravention of Section 4 of the Act 2010 contended that the penalty of Rs. 75 million was too exorbitant which has been imposed despite the fact that the Commission has found that the appellant has become complaint. It was further contended that the Price Fixing Circular were issue in good faith in order to provide equal opportunity to the small entrepreneurs to compete with the big enterprises who could afford giving heavy discount in order to eliminate small entrepreneur and then to change the price of their choice. It was further contended that the approach of the appellant was always compliant even before the Commission took the cognizance which transpires from para 95 of the impugned order which read as follows:-

> We note that Respondent No.1 has not only discontinued such practice since 2017 but has voluntarily committed before the Bench to refund all penalty amounts back to its respective dealers. We are also cognizant of the fact that there has been a change of management in 2016, as per Arcelik's 2016 Annual Report. Moreover, the representatives of Respondent No.1 have consistently, since the beginning of the enquiry, showcased a compliance-oriented approach, where they not only cooperated with the Enquiry Committee and with the team during the Search and Inspection but have also duly complied with the directions of the Bench in providing the ledgers, the list of dealers and verification of the penalty amount.

4. It was further submitted that the penalties imposed by the appellant on its dealers for violating the price fixing policy in compliance with the directions of the Commission were returned to the dealers who could be traced out and the remaining amount has been deposited with the Commission. Learned Counsel after taking instruction from the

appellant has filed a statement showing its willingness to pay penalty as proposed by the Tribunal under first portion of Section 38(2)(a) in order to further show compliant behavior and repentance.

5. On the other hand learned Counsel for the Commission did not dispute the compliant oriented approach of the appellant before the Commission.

6. In this background in our opinion the learned Counsel for the appellant has very fairly without contesting the violation of Section 4 has urged for reduction of penalty. In our opinion no doubt the purpose of imposing penalties is to promote a competitive market environment, benefiting consumers and the economy as a whole and also incentivize the undertaking to comply with competition law and discourage anti-competitive practice. However, when the undertaking has taken a corrective measures the penalty should accordingly be imposed. The Commission has without reasoning out despite recording compliant oriented approach has imposed maximum penalty of Rs. 75 million. In these circumstances keeping in view that the appellant has returned the penalties imposed on its dealers on account of violating their price fixing policy by paying a sum of Rs. 8,134,000/- to 143 dealers and deposited a sum of Rs. 16,105,500/- with the Commission which was recovered from the dealers as penalties who were not traceable and has further ensured to strictly comply with the directions of the Commission and provision of Act 2010. we reduce the penalty imposed by the Commission from Rs. 75 million to Rs. 15 million under first portion of Section 38(2)(a) which shall be deposited with the Commission within 30 days hereof.

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Competition Appellate Tribunal
Islamabad
Dated: ....

7. The appeal after modifying/reducing the penalty stand dismissed.

Sd/-

Chairman

Sd/-

Member Technical-I

Sd/-

Member Technical-II

Announced in open court:

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REGISTRAR

Competition Appellate Tribunal

Islamabad

Dated: ....