Registrar/SLA-II/HOD media Prof
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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Tel No: 051-9320208, Fax No: 051-9320203

11/7

No. 509(iii) /Reg./CAT/2025
Dated: 08-07-2025

Office of the Registrar
Diary No: 489
Date: 10/7/25

M/s Haier Pakistan (Pvt) Ltd
Vs.
Competition Commission of Pakistan etc

NOTICE

Appeal No.11/2022

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

(MUSTAJAB ALAM)
Registrar

REGISTRAR
Competition Appellate Tribunal
Government of Pakistan
Islamabad

1. **Haier Pakistan (Pvt) Limited,**
   4-B, Q Block, Old College Road,
   M.M. Alam Road Extension, Gulberg-II,
   Lahore.

2. **Malik Qamar Afzal**
   Advocate Supreme Court of Pakistan
   Afzal & Afzal Law Offices
   Suite No. 903, 9th Floor, Silver Oaks, 10th Avenue,
   F-10, **Islamabad.**

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

Chairman Secretariat
Diary No. 1376 Ext
Date Received 09-7-25
Date Forwarded 10-7-25

IN THE COMPETITION APPELLATE TRIBUNAL, ISLAMABAD

(Appeal No. 11 of 2022)

M/s Haier Pakistan (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. Qamar Afzal, 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 a penalty in the sum of Rs. 1 Billion i.e. not exceeding 3 percent of annual turnover for Financial Year 2020/2021 under Section 38(2)(a) (second 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 parties, afore stated 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. 1 Billion was too exorbitant and that there was no material available before the Commission reflecting the turnover of the appellant and therefore the penalty imposed under Section 38 (2)(a) second portion on the basis of turnover could not be sustained. 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 charge the price of their choice. It was further contended that the approach of the appellant was always compliant and after the Commission took the cognizance the appellant has withdrawn Price Controlling Policy. 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 of penalties has been deposited with the Commission. Learned Counsel after taking telephonic instruction from the appellant showed willingness to pay upto maximum penalty under first portion of Section 38(2)(a) in order to show compliant behavior and repentance.

4. On the other hand learned Counsel for the Commission submit that he did not know as to whether at relevant time any material was

available with the Commission while imposing penalty on the basis of the turnover. He disputed the compliant oriented approach of the appellant before the Commission but admitted that at present such contravening practice is not in existence.

5. 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 imposition/conversion of penalty from second portion of Section 38(2)(a) to first portion. The examination of the impugned order para 99 (ii) would reflect that there was no material available before the Commission while imposing the penalty on the basis of turn over. 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 or without procuring the turnover has imposed penalty skipping the first portion of Section 38(2)(a).

6. In these circumstances where the appellant has returned the penalties imposed on its dealers on account of violating their price fixing policy by paying a sum of Rs. 9,407,300/- to its 75 dealers through cross cheques and deposited a sum of Rs. 17,373,200/- with the Commission which was recovered from the dealers as penalties who are not traceable and has further ensured to strictly comply with the directions of the Commission and provision of Act 2010. Keeping in view the Compliant oriented approach of the appellant before this Tribunal

and also the fact that the Commission without procuring turnover has imposed penalty we convert the penalty imposed by the Commission from Section 38 (2)(a) second portion to first portion. Since the appellant unlike dell did not maintain complaint approach before the Commission as evident from para 76 of the impugned order and therefore conceded before us for full penalty under first portion of Section 38(2)(a), we would convert penalty and reduce to Rs. 75 million as envisaged under Section 38(2)(a) first portion which shall be deposited with the Commission within 30 days hereof.

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

S/d

Chairman

S/d

Member Technical-I

S/d.

Member Technical-II

Announced in open court:

CERTIFIED TO BE A TRUE COPY
REGISTRAR
Competition Appellate Tribunal
Islamabad
Dated: ....