

reasons in the case of this National Tannery Company Limited.

SHRI J. VENGAL RAO: Sir, this is now with the B1FR. Only last month, they have registered the case. We are awaiting their report. Until and unless the report comes, we cannot say any thing.

*329. *The questioner (Shrimati Krishna Kaul) ' was absent. For answer vide col infra]. ..*

Recovery of Unintended profits made on drugs

*330. SHRI PURUSAOTTAM KAKODKAR: SHRI RAJNI RANJAN SAHU:

Will the Minister of INDUSTRY be pleased to state;

(a) whether it is a fact that various courts have directed the Government to re-cover the arrears of unintended profits made on bulk drugs and formulations; and

(b) if so, what is the amount to be recovered on each drug?

THE MINISTER OF STATE IN THE DEPARTMENT OF CHEMICALS AND PETRO-CHEMICALS IN THE MINISTRY OF INDUSTRY (SHRI R. K. JAL CHANDRA SINGH): (a) and (b) A statement is laid on the Table of the House.

Statement

(a) The Supreme Court and some other Courts upheld the Government procedure for fixing the prices while deciding writ petition filed by some companies against prices fixed by the Government for different drugs. The Courts also directed the Government to give a hearing to the parties and to fix the prices thereafter. The Government heard the parties concerned and re-fixed the prices.

(b) Based on the prices re-fixed by the Government which were the same as those prevalent in 1981, approximate amount¹ recoverable upto 31-12-1983 have been worked out and the tentative amounts so recoverable and the names of the leading drug companies together with names of the drugs are given below.

Sl. No.	Name of the Company	Name of the drug	Tantative amount recoverable for the Period ending 31-12-1983 (Rs.)
1	M/s. Hoechst (I) Ltd.	Baralgan, Pyrelidine Methyl Tetracycline Pheniramine. Glybenolamide, Frusemide and formulations.	5,54,12,423
2	M/s. Cynamid(I) Limited	Tetracyclines & formulation*	4,92,00,247
3	M/s. John Wyeth Limited	Benzethine Penicillins and its formulations	1,66,87,232
4	M/s. Pfizer Ltd.	Oxytetracycline & its salts & formulations based thereon.	99,07,731
5	M/s. Geoffrey Manner Ltd.	Benzethij-e Penicillins and its formulations.	29,85,268
6	M/s. Ethnor Ltd.	Tetramesol and its formulations	10,18,543
			13,62,11,444

file question was actually asked on the floor of the House by Shri Purushottam Kakodkar.

SHRI PURUSHOTTAM KAKODKAR: Sir, the amount to be recovered from the producers is huge. It comes to Rs. 13-14 crores. The producers have not paid since the end of 1983. May I know from the hon. Minister whether it is a fact that the Department of Chemicals has referred this case to the Ministry of Law? If so, what is the advice of the Law Ministry?

SHRI R. K. JAICHANDRA SINGH: Sir, it is not true that no company has paid. In fact four companies have paid some amount. Hoechst India limited has so far paid Rs. 2 crores. Cynamis Limited has paid Rs. 20 lakhs. Ethnor has paid Rs. 7,99,135 and Franco-Indian Pharmaceuticals Limited has so far paid Rs. 42,936. About the matter which is being referred to the Law Ministry, I may say that when the Supreme Court decided this case some time in April-May this year, the Supreme Court directed that the review petitions which were pending should be heard within two months of the decision of the Supreme Court. We had given hearing in respect of six cases but there were three other cases in which the review petitions were heard earlier, during the pendency of the case. Now the question was whether we could give retrospective effect and on this point the matter has been referred to the Law Ministry and the decision of the Law Ministry is awaited.

SHRI PURUSHOTTAM KAKODKAR: Sir, as I said, the amount is huge, in crores. Though some of the producers have paid, others are adopting delaying tactics to avoid payment. May I know whether the Government is thinking in terms of taking some action to recover this amount as early as possible, in the interest of the consumers?

SHRI R. K. JAICHANDRA SINGH: Steps have been taken, as I have said on the floor of this House, through the Supreme Court and also *suo motu* by the Government. The Supreme Court has been requested to direct companies to pay the amount and simultaneously the Government has also sent demand notices. So, the process is both through the court and also from the Government side.

The Government has also appointed a Committee to quantify the amount. They have so far quantified the amount up to 31st December, 1983, and in the main answer itself I have said that necessary process is on to collect this money. Some money they have paid but we will see that the companies paid the amount as early as possible. We have also issued demand notices. Only last week we have issued the notice and we expect that the companies would pay the dues as early as possible.

SHRI RAJNI RANJAN SAHU: Sir, the hon. Minister is aware that the Supreme Court in their recent judgment has directed the Ministry to recover the amount over-charged from the consumer by the companies within two weeks' time. It is also known to the Minister that the overcharged amount till the judgment was delivered, was about seven to eight hundred crores of rupees which is gradually being eaten away by the companies by manipulating the accounts. This is due to delay in implementation of the Supreme Court order. I am glad that the hon. Minister has at least admitted of Rs. 13 to 14 crores. Now, Sir, the point arises, the Drug Control Order comes under essential commodities and action could have been taken under the Essential Commodities Act against them. How is it that the Department is not using this power in their case? I would like to know why action has not been taken under the Essential Commodities Act to recover this amount.

SHRI R. K. JAICHANDRA SINGH: Sir, as arrears of tax revenue, yes, we could ask them but that would again be a longer process. We would have to ask the Drug Controller who in turn would ask the State Governments. That is why, we asked the Supreme Court and the Supreme Court said that we must give hearing within two months and within two weeks the revision petition must be decided. But the undertaking that was given before the High Court at the time of the stay order, that undertaking still persists. That is why we had to approach the Supreme Court. The matter was pending with the Supreme Court. But then, as I have said, the Government on its own has issued demand notices. And there is a positive reaction from the companies. This

step against the companies to treat this as a collection of land revenue or arrears, we will take up if the companies do not respond to it. But we see that the companies are responding; some of them are paying up and there is a positive indication that they will be paying up. Since it is a large amount, so we would take all necessary steps to recover this amount as early as possible.

SHRI RAJNI RANJAN SAHU: Sir, my question has not been replied. I have asked the hon. Minister when the Drug Price Control Order is a sub-legislation of the Essential Commodities Act, why the Department has not taken action against these companies under the Essential Commodities Act. This question has not been replied. Sir, you should protect the Members for getting definite replies from the hon. Minister. I want to know why this process is being delayed and again the matter is being delayed by going to the court?

SHRI R. K. JAICHANDRA SINGH: I have already answered that.

SHRI RAJNI RANJAN SAHU: Why Government is not taking action under the Essential Commodities Act?

SHRI J. VENGAL RAO: Sir, the hon. Member is not correct. Under Essential Commodities Act, We have no power. Under the Land Revenue Arrears Act, we have got powers. Ultimately we will use that power at the final stage.

MR. CHAIRMAN: Shri A. G. Kul-karni.

SHRI RAJNI RANJAN SAHU: I would like to know whether they have powers under the Essential Commodities Act or not. He has not replied categorically to this question.

MR. CHAIRMAN: No. Mr. Kulkarni.

SHRI A. G. KULKARNI: Sir, a little light should be thrown on the basic question that the Supreme Court orders about fixing of hearing etc., are of 1983 and the amount so far due from those six companies is about Rs. 13.62 crores upto

1983, how much it will be upto 1987 or 1986 or whatever that date is? I have been listening to the questions put by the hon. Member for the last two or three Sessions. He has been raising the question that it is Rs. 700 crores. So what is actually the fact? Let us know it once and for all People must know whether it is Rs. 700 crores or Rs. 7 crores. That is one point.

Secondly, I want to know from him what procedure they are adopting after collecting this money, whether as land revenue or under any other code. How are you going to give it back to the consumers? Or are you going to put it in your general funds so as to help the drug industry, or whatever it is.

SHRI R. K. JAICHANDRA SINGH:

As I said, Sir, four member team has been appointed and they have gone into the companies' records and on the available records with the Department, the team has come out with the following figures: Upto 31st of December 1983, the amount recoverable from Hoechst is Rs. 5,64,12,423. Likewise they have given in respect of five other companies, totalling to the entire amount of upto Rs. 13,62,11,444 till 31-12-83. From the amount that has been recovered so far, we have put in some amount which was just under two crores of rupees into the working of IDPL, a public sector undertaking, and they have been able to improve their performance. As I said on the floor of the House, IDPL, which was making losses for the last 7 or 8 years, has started making cash profits from June, 1987, and it is improving with every month.

SHRI A. G. KULKARNI: Sir, try to understand me and what the Minister has replied my friend, Mr. Sahu, has been asking this question for the last three sessions. The question I have specifically asked is whether it is Rs. 700 crores or 0 crore or 14 crores, as he has stated. Secondly, I have asked him specifically, if this is upto 1983. what would be the latest figure upto 1986 or 1987?

SHRI JAGESH DESAI: What about interest on that?

SHRI A. G. KULKARNI: Just a moment. The last point that I asked him was whether this is going to be given to the customer from whom the money has been taken or to the Petro-Chemicals Ministry's fund. He says it has been given to IDPL or whatever it is. I want a specific reply. These are unanswered. And, excuse me, he is my friend, but he is not trying to help the House. Whether it is Rs. 700 crores or Rs. 7 crores. . .

MR. CHAIRMAN: You asked the question.

SHRI R. K. JAICHANDRA SINGH: Sir, I have answered the question . . .

SHRI A. G. KULKARNI: What? Seven hundred crores?

SHRI R. K. JAICHANDRA SINGH: Sir, Rs. 700 crores is a figure which an honourable Member has mentioned. There is no basis. I would be very 'nappy' if that honourable Member provides me with the basis of this. The same honourable Member had said one day—you will find it if you look into the proceedings of this House—about this and the figure that was used by the honourable Member was Rs. 700 to 800 crores.

SHRI RAJNI RANJAN SAHU: Minister knows the basis: the balance sheets of all the companies against whom the Government has filed cases can form the part of the basis.

MR. CHAIRMAN: Please let him speak.

SHRI R. K. JAICHANDRA SINGH: Sir, if you look back to the proceedings of this House, the same honourable Member had mentioned the figure as "anything between Rs. 100 and 700 crores." Some of the honourable Members would bear me out, that this had been mentioned.

SHRI RAJNI RANJAN SAHU: I said it is not 100 but hundreds... {Interruptions} . . . Hundreds means 700 also ----- {Interruptions}....

MR. CHAIRMAN: Allow him to answer, please. We cannot waste all the time on drugs... {Interruptions}...

SHRI RAJNI RANJAN SAHU: It is affecting the consumer.

MR. CHAIRMAN: I know it. Please sit down .. . {Interruptions}... Please do not disturb.

SHRI R. K. JAICHANDRA SINGH: Therefore, I would be very happy if the honourable Member could personally come and discuss or provide, on the floor of this House, the basis on which he has worked it out

SHRI A. G. KULKARNI: Up to 1987?

SHRI R. K. JAICHANDRA SINGH: We have not worked out post-1983.

SHRI A. G. KULKARNI: How much does it work out to?

SHRI R. K. JAICHANDRA SINGH: That we have not worked out. That would be very difficult for us.

PROF. C. LAKSHMANNA: Sir, the Supreme Court gives its decision. Subsequently they had meetings with them. What transpired in those meetings? Were not they able to get "okay" or "Yes" from them for the amount that has been fixed? if they had agreed in the meetings as a result of your impressing upon them that the prices fixed now and the prices fixed in 1981 were roughly the same, why is it that they are not able to cope with the repayment? Therefore, what is the necessity at this stage to depend upon the opinion given by the Law Ministry? Why cannot you straightway ask them to pay, pending which you can take such drastic action by which they will have to pay?

SHRI R. K. JAICHANDRA SINGH: Sir, there are two compartments in this case. Six companies are mentioned just now from whom the amount recoverable up to 31st December 1983 has to be worked out. The matter which has been referred to the Law Ministry is in respect of three companies, and those companies are: Messrs. Merind, Messrs. Tamil Nadu-Dad a Pharmaceuticals and Messrs. SG Pharmaceuticals. These are the three companies the review petition of which was heard during the pendency of the case sometime

in 1981. Having heard the review petition in 1981, we have now referred to the Law Ministry whether the review petition which was heard in 1981 would be binding and would have a retrospective effect. On this the legality of the question has to be established. That is why, in respect of these three companies and in respect of the review petition which we had in 1981, that is, during the pendency of the case, we have referred to the Law Ministry and the Law Ministry has yet to enlighten us on this particular point.

PROF. C. LAKSHMANNA: When was that?.... (Interruptions) ■ ■ ■ ■

SHRI R. K. JAICHANDRA SINGH: That was a long time back. They have not referred on this. They have not given us the opinion whether we should have a fresh hearing or whether the bearing which we had in 1981 would be upheld, because the Supreme Court order came only in 1987. So, it is during this period only that the Law Ministry has to take a decision, whether the review petition heard in 1981 would have a retrospective effect or the Government should give them a fresh hearing. So, this matter is still with the Law Ministry,

SHRI H. E. BALARAM: Sir, though the Minister was explaining again and again the same thing. I could not understand what the position now is. He said only three cases of the companies were referred to the Law Ministry. What about the remaining companies? There are re-g five companies. The amount, it has already been found, will come to about more than Rs. 13,000 crores. How much time will you take to complete the whole procedures? This issue has been coming up again and again in this House for the last six months. What immediate procedures are you going to adopt?

SHRI R. K. JAICHANDRA SINGH: There are 12 companies, but there are 13 cases because against one particular company there are two cases. I have provided on the floor of the House the names of the companies already. I will just read out for the benefit of the hon. Member.

Number one, Cyanamid India; Number two also Cyanamid India _____

MR. CHAIRMAN: The House is not interested in the names.

SHRI R. K. JAICHANDRA SINGH: These are six companies against each one of whom I have just read out, up to the 31st December, 1983, the amount recoverable. I have just mentioned three other companies whose cases we have referred to the Law Ministry. That takes care of nine. The remaining are three. We do not feel that any amount is due from some of them because some of these are the companies which, though they went in the Supreme Court against the prices fixed by the Government, were following the Government prices. Therefore, we feel that there would not be any substantial amount recoverable from these companies.

SHRI N. K. P. SALVE: Sir, the real problem is that these companies are crooks, and the Minister is too much of a gentleman.

MR. CHAIRMAN: Have you objection to the second thing also, to his being a gentlemen?

SHRI N. K. P. SALVE: Sir, there is unintended profit. For decades I have practised as an accountant. I have never heard of unintended profit. There is net profit, there is gross profit, there is book profit. But unintended profit, for the first time, I am hearing. May I please know from the Minister. . .

SHRI GHULAM RASOOL MATTO: Windfall is also unintended profit.

SHRI N. K. P. SALVE: They are casual profits. Anyway, Sir, my question to the Minister is: How is that that this kind of unintended profit has come about because that means undue cost to the consumer? And you are not going to repay the cost to the consumers. Are you going to take criminal action? Is there any provision in the law to take criminal action against these companies who would bring about these profits, excessive profits and then merely get involved in litigation in the Supreme Court year after

year? If he can tell us the years to which these profits relate, Sir, it will be perhaps shocking. It may be in '50s or '40s or '30s. Therefore, may I know, apart from recovering this money, what action you are going to take against the recalcitrant and defaulting company officials and whether you are going to put them behind bars?

SHRI R. K. JAICHANDRA SINGH: If necessary, we will case against them for lfoe recovery of the amounts. Criminal cases can al^{so} be filed against them.

Cost of generation Of electricity

*331. SHRI A JIT P. K. JOGI: Will the Minister of ENERGY be pleased to state:

(a) what is the average generation cost of electricity in the country and at what average cost it is being made available to the cultivators;

(b) at what cost it is supplied to the industrial sector; and

(c) whether Government propose to take any steps to ensure that electricity is made available to the cultivators ** still lower rates?

THE MINISTER OF STATE IN THE DEPARTMENT OF POWER IN THE MINISTRY OF ENERGY (SHRIMATI SUSHILA ROHATGI): (a) The cost of generation and supply as well as tariff for electricity varies from State to State. The average cost of generation and supply of power by different State Electricity Boards for the year ending 31-3-1986 has been estimated at 72.07 ps/unit. The average rate of realisation from the agricultural sector in the same year has been estimated at 20.62 ps/unit.

(b) A statement is laid on the Table of the House. (See below).

(c) No such proposal is under the consideration of Government.

Statement

Tariff for Industrial Sector as on 1-4-1986 (inclusive of fuel cost adjustment and Electricity Duty).

(Estimated average Rate in P/Kvh)

Name of the SEB		Small Industries 5 HP10%L.F. Kwh/Month)	Medirm Industries 50KW30%L.F. (10950 Kwh/M--	Large Industries 1000KW50%L.F. (36.5000 Kwh/Month
(272				
1	2	3	4	5
1	Andhra Pradesh	56-84	55-05	69.15
2	Assam	57- 00	57-00	55.19
3	Bihar	112-00	110-00	97.28
4	Gujarat	86-45	98-39	105.09
5	Haryana	65 00	85-50	90.50
6	Himachal Pradesh	44-00	59-00	57 00
7	Jammu & Kashmir	22-70	22-70	20.40
8	Karnataka	86 03	78-67	71.28
9	Kerala	30-77	22-72	34.20
10	Madhya Pradesh (Urban]	1 58.00	72-70	84.12
11	Maharashtra	60.00	80-54	94.10