

Finmin, NPPA lock horns over J&K excise duty waiver

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New Delhi, Apr 24: Serious differences have surfaced between the finance ministry and the drug price watchdog National Pharmaceutical Pricing Authority (NPPA) on who should benefit from the policy of partial excise duty waiver for state of Jammu & Kashmir. While the ministry is of the firm view that the tax relief is meant for the industry, NPPA is equally clear that the consumer should also gain from it.

The dispute will have financial implications for companies like Lupin Laboratories, Cadila Pharmaceuticals and Emcure Pharmaceuticals which have production facilities in the state.

The finance ministry believes the partial excise exemption, as per which it refunds the excise duty paid by the producers, is an incentive for setting up manufacturing units in the state, as per a 2002 notification issued by the Central Board of Excise and Customs. Hence, drugmakers which have manufacturing facilities in the

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state, could keep it. The government refunds about 50%-60% of the total duty or the actual duty paid, whichever is less.

However, the drug price regulator believes that companies cannot be al-

lowed to make unfair gains by keeping the excise duty refunds from the government as they have already recovered the duty from consumers at the time of sale. Keeping the duty refunded by the government amounts to overcharging as per the drug price control order issued under the Essential Commodities Act, 1955, the regulator has decided. It has also decided to ask all companies having production facilities in J&K to deposit with the government the excise duty that has so far been refunded by the authorities if the duty has already been collected from the consumer at the time of sale. Companies will also be asked to pay interest on this liability till they pay back. NPPA will take revenue recovery steps that will also include roping in state revenue and law enforcement agencies in the case of companies that do not comply, said a person privy to the development. In fact, the regulator's initial efforts to recover such 'overcharged amounts' from Lupin Laboratories has already landed in the Delhi High Court, where the matter is pending.

In the 2011-12 union budget, the government marginally raised the excise duty on finished formulations from 4% to 5%, which is levied on 65% of the price of the product. The effective duty now therefore, works out to 3.25%. In excise exempt hill states like Himachal Pradesh, where there is no concept of first paying the duty and

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