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DECEPTIVE MARKETING PRACTICE

Complainant: M/s SIBA Testing Services (SABA)

Respondent: M/s Sukkur Testing Services (SMC-Pvt) Limited (STS)

Decision: Deceptive Marketing Practices - Penalty Imposed

The Complainant filed a complaint against Respondent alleging that Respondent was disseminating false, misleading information to consumers through advertisements in various newspapers, claiming to be the Testing Service using the name and style of "Sukkur Testing Service (STS)", which graphically resembled the Complainant's name, "SABA Testing Service (STS)", consequently damaging the Complainant's reputation, which was also harming the business interest of the Complainant. The Commission served a show cause notice (SCN) to the Respondent which was returned undelivered. Consequently, the office of Registrar contacted the Respondent telephonically and directed to receive the SCN personally. The Respondent received the SCN and filed a written reply.

In the hearing before the Bench, the counsel for the Complainant appraised the illegal acts of the Respondent regarding use of the name of Sukkur Testing Services (STS) claiming to be the testing service of Sukkur Institute of Business Management (SIBA), damaging the reputation of the Complainant and that the conduct of Respondent was in violation of section 10 of the competition Act. The Complainant prayed for imposing penalty on the Respondent for deceptive marketing practices and also stated that the Complainant had filed an application for registration of its trade mark after filing of the complaint.

The owner of the Respondent's company admitted having started the testing services in the name of his company i.e., Sukkur Testing Services (SMC-Pvt.) Limited and used STS as an abbreviation and that since 2018 he had not under taken any work in the name of Respondent. He denied resemblance of the trade mark with the Complainant as well as completion of any project. The Respondent however, admitted to having received fee for entry test for the advertisement of jobs published in the newspaper. Eventually the Respondent stated to have removed his website but admitted having received an amount of Rs.500,000 in his bank account, which was reimbursed to the said public sector organization on their direction. He also appraised the Bench that he did not complete his first project and the Respondent was blacklisted and requested he be given a lenient treatment.

The Bench observed that the conduct of the Respondent vis-à-vis the impugned advertisement was in violation of section 10(1) read with section 10(2)(b) of the Act. The Bench was of the conclusive opinion that the impugned advertisement of the Respondent was capable of harming the business interest of the Complainant as well as other competing undertakings operating in the relevant market. Furthermore, the dissemination of misleading information was likely to cause eventual dilution of the brand identity and goodwill of the Complainant as well as other competing undertakings, which might have been built over the years. Moreover, these descriptive claims were capable of influencing consumer purchasing decisions. Therefore, the claims were capable of harming the business interest of other competitors, being in violation of section 10(2) (a) of the Act. Accordingly, the Respondent was found to have also violated the provision of section 10(1) of the Act.





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The Bench keeping in view all the facts and circumstances of the case held that there was no doubt regarding violation of the provisions of the Act, however the Respondent's representative cooperated throughout the proceedings and discontinued the violation during enquiry and never repeated that violation, apologized and assured future compliance of the Act. The Bench therefore imposed a token penalty of Rs.250,000 and directed it to deposit the same with The Commission within ninety days, in two equal installments, from the date of order.

