

PROCEDURES UNDER MRTP

(I.) Procedure for making application to MRTP Comm. for issuance of temporary injunction u/s 12A

Section 12A of MRTP Act empowers the MRTPC to grant temporary injunction to any person relating to any M.T.P., R.T.P. or U.T.P. untill the conclusion of inquiry or untill further orders.

However, MRTPC can pass the injunction order only after holding an inquiry & after satisfying itself that the trade practice adopted by person or undertaking is likely to cause prejudice to the public interest or the interest of traders(s). In the case of suo-motu inquiry, the DGTR is competent to move an application for temporary injunction..

Regulation 76 of MRTPC Regulations, 1991 requires that an affidavit shall be filed along with application.

(2)

Application shall contain :-

- (i) The facts constituting M.T.P / R.T.P. / U.T.P. .
- (ii) The circumstances whereby it is intended to be proved that the said trade practice is likely to affect the public interest or the interest of any trader(s) or consumer(s) generally.

● The application shall be accompanied by 5 extra copies and one additional copy for each respondent.

● The application shall be filed with the Secretary of MRTPC who shall forthwith place the application before the commission for disposal.

(ii) Procedure for making application for compensation under section 12B

Regulation-77 of MRTPC Regulation 1991 requires that application shall be filed alongwith an affidavit.

Affidavit shall contain the particulars and extent of loss or damage caused as a result of MTR/ RTP/UTP. It shall also state that applicant has not filed any other application either before MRTPC or before any other authority under Consumer Protection Act.

- The application shall be accompanied by 5 extra copies and one additional copy for each respondent.

- The application shall be filed with the Secretary of MRTPC who shall forthwith place the application before the commission for disposal.

— After giving an opportunity of being heard to both parties.....

(iii) Procedure for filing appeal u/s 55 of Act.

Section-55 of MRTP Act provide that any person aggrieved by the order of MRTPC or CGI can prefer an appeal to the supreme court within 60 days from the date of the order of MRTPC. The procedure to be followed is discussed as under :-

(1) Petition of appeal shall state :-

(a) all the relevant facts leading upto the order appealed against;

(b) the objection to the order appealed from;

(c) the grounds relied upon in support of appeal;

(d) the date of order appealed from & the date on which it was received by the appellant.

(4)

The petition shall be accompanied by : —

- (a) An authenticated copy of the order appealed from;
- (b) minimum 7 spare sets of the petition and the papers filed with it.

2.) After the appeal is registered, it shall be put up for ex-parte hearing before the court, which may either reject it summarily ~~or~~ or direct the issue of notice to all the concerned parties, or make such orders as the circumstances may require.

3.) Within 10 days of the receipt of notice, MRTPC or Central Govt. shall transmit to the court, the original records to the order appealed against.

4.) Preparation of Records — After the receipt of original records, the Registrar of Supreme Court shall, in consultation with parties to the appeal, select the relevant documents necessary for the determination of appeal, and cause sufficient number of copies of the said record to be typed and cyclostyled or printed at the expenses of appellant.

(IV.) Procedure for "REGIN" of Agreements falling u/s 33 of MRTP Act.

Rule-12 of MRTPC Rules, 1990 prescribes the procedure for registration of Agreements covered u/s 33.

As per this rule wherever any such agreement is entered, following documents shall be delivered to DGIR within the time specified u/s 35 of MRTP Act:—

(i) 2 Copies of each document specified in relation to that agreement, one copy of each of which is signed or identified by the signature of the person furnishing it.

(ii) A certificate in form XII signed by the person furnishing such copies & certifying that there are compared in those copies, the whole of the terms of that agreement and the name of the person who are parties to them at the date of certificate (Including, in case any party is trade association); all persons who are members of association or are represented thereon by such members.

(6)

However, where a person is party to numerous agreements which are in the same form except for one or more of the following: —

- (a) the identity of other party.
- (b) date or duration thereof
- (c) products which are subject matter of such agreement.
- (d) area or market allotted or the rate or quantum of discount or commission etc.

he may instead of filing the documents separately for each agreement, deliver or send to DGIR the documents, mentioned hereunder: —

- (i) 2 Copies of instruments containing the whole of the terms common to all agreements (or 2 copies of memorandum in writing if agreements are not made in writing); One copy of each of which is signed or identified by the signature of the person furnishing it, &
- (ii) 2 copies of the list indicating, the name and address of each person who is party to all those agreements & the particulars as specified in (a) to (d) above.
- (iii) A certificate in form XII (same as mentioned in procedure IV (ii) on page-5)

ANKUR GARGI (A.C.S.)