

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of)	
)	
CERTAIN SILDENAFIL OR ANY)	Inv. No. 337-TA-489
PHARMACEUTICALLY ACCEPTABLE)	
SALT THEREOF, SUCH AS SILDENAFIL)	
CITRATE, AND PRODUCTS)	
CONTAINING SAME)	
)	

NOTICE OF COMMISSION DECISION TO AFFIRM THAT PART OF AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION AS TO RESPONDENT EZEE SOULNATURE HEALTHCARE PVT. LTD. ON THE BASIS OF A SETTLEMENT AGREEMENT AND TO REMAND THAT PART OF THE INITIAL DETERMINATION TERMINATING THE INVESTIGATION AS TO RESPONDENT BIOVEA ON THE BASIS OF A CONSENT ORDER

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm that part of the presiding administrative law judge's ("ALJ's") initial determination ("ID")(Order No. 16) terminating the investigation as to respondent Ezee Soulnature Healthcare Pvt. Ltd. ("Ezee") on the basis of a settlement agreement and to remand that part of the ID terminating the investigation as to respondent Biovea on the basis of a consent order.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3090. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 6, 2003, based on a complaint filed by Pfizer, Inc. (“Pfizer”) of New York, New York. 68 *Fed. Reg.* 10749 (March 6, 2003). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and sale within the United States after importation of certain sildenafil or any pharmaceutically acceptable salt thereof, such as sildenafil citrate, and products containing same by reason of infringement of claims 1-5 of Pfizer’s U.S. Patent No. 5,250,534. The Commission’s notice of investigation named Ezee and Biovea among the respondents.

On June 13, 2003, complainant Pfizer filed a single motion pursuant to Commission rules 210.21(b) and (c) to terminate the investigation as to respondent Ezee on the basis of a settlement agreement and as to respondent Biovea on the basis of a consent order.

On June 30, 2003, the ALJ issued the subject ID (Order No. 16) terminating the investigation as to respondent Ezee on the basis of a settlement agreement and as to respondent Biovea on the basis of a consent order, subject to deletion of a term in the consent order.

On July 24, 2003, the Commission issued a notice extending the deadline for determining whether to review the ID to permit respondent Ezee, who could only be served with the public version of the ID, an opportunity to file a petition for review.

No petitions for review of the ID were filed.

On August 13, 2003, the Commission issued notice that it had determined to review the ID in its entirety, specifying certain questions it wished the parties to address.

Having examined the relevant portions of the record in this investigation, including the ALJ’s ID, the written submissions on review, and the response thereto, the Commission determined to:

1. Affirm that part of the ID terminating the investigation as to respondent Ezee on the basis of a settlement agreement.
2. Remand that part of the ID terminating the investigation as to respondent Biovea on the basis of a consent order.
3. Grant the motion of the Commission investigative attorney to file his timely-served initial review submission.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. §1337), and in section 210.45 of the Commission's Rules of Practice and Procedure (19 C.F.R. §210.45).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: September 30, 2003