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Delhi HC spikes Teva plea in relief for Natco Pharma

fe Bureau

New Delhi, March 2: In what will bring temporary relief for Hyderabad-based Natco Pharma, the Delhi High Court on Friday dismissed a complaint filed by Israel-based Teva Pharma seeking an injunction against Natco's "manufacturing, selling, offering for sale, export or registering" of Copaxone (glatiramer acetate). The drug is used for treating multiple sclerosis.

Copaxone's global sales exceed $4 billion and account for a fifth of Teva's overall revenues.

The Delhi HC dismissed Teva's complaint on the ground that it had failed to make out a case that the HC had the jurisdiction to entertain. However, the court gave Teva the liberty to file its complaint before an "appropriate court".

In November 2012, Teva had approached the court citing newspaper reports on Natco's plans to work with Mylan for launching glatiramer acetate in India. The Israeli company had also cited Natco's annual report, as per which the local company had tied up for manufacturing and supply of glatiramer acetate.

During the proceedings, Teva argued that Mylan's earlier June 2009 application to the USFDA, seeking approval to manufacture and sell glatiramer acetate, was challenged by Teva in a US district court.

Teva's counsel had sought to impress upon the court that there was "a real and reasonable apprehension" that Natco intended to launch the product in India through the Mylan process. He added that under the Indian Patents Act a patent holder has not only the exclusive right to prevent third parties from infringing the patented process, but also to stop them from selling or offering for sale any product obtained directly by the patented process.

Natco, on the other hand, pointed out that the product patent was refused by the Controller of Patents in India and, therefore, Teva has no enforceable rights in respect of the resultant product. The local company presented a March 3, 2009 order of the Controller of Patents rejecting product patent for glatiramer acetate, after per-grant opposition was filed by Natco.

Regulatory.