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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5303/2024**

MICRO LABS LIMITED

..... Petitioner

Through: Mr. Anshuman Sharma, Mr. Azaz
Ahmed, Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Vijay Joshi, Mr. Mohit Joshi,
Advocates for R-1 & R-2

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **10.04.2024**

CM APPL. 21756/2024 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 5303/2024 & CM APPL. 21755/2024

1. The Petitioner has approached this Court challenging the demand notice dated 09.08.2017, issued by the Respondents, directing the Petitioner to deposit a balance of Rs.81,75,031/- as principal along with an interest of Rs.53,68,852/- against a total demand of Rs1,91,15,123/-.
2. The facts, in brief, leading to the present Writ Petition are that the Petitioner is engaged in the business of manufacturing and marketing several pharmaceutical products including the manufacturing and marketing of Glimepride Tablets 2 mg (*hereinafter referred to as the "subject formulation"*). It is stated that the subject formulation was a non-scheduled



formulation within the definition para 2 (v) of the Drugs (Prices Control) Order, 2013 (*hereinafter referred to as "DPCO, 2013"*). It is pertinent to mention that Vide Notification No. S.O. 1731(E) dated 10.07.2014, Respondent No. 2 has fixed the maximum retail price (inclusive excise duty and local taxes) of the subject formulation at Rs. 6.54 per tablet. It is stated that against the abovementioned notification, a Writ Petition being W.P.(C) 2700/2014 was filed by the Indian Pharmaceutical Alliance before the Bombay High Court. The said Writ Petition was dismissed by the Bombay High Court vide Order dated 26.09.2016. It is stated that an SLP, being SLP No. 30089/2016, was filed against the Judgment of the Bombay High Court. It is pertinent to mention that Respondent No.2 issued another notification bearing S.O. No. 1254 (E) dated 29.03.2016, revising the ceiling price of the subject formulation to Rs.5.29 per tablet. Show Cause Notices dated 10.08.2016 & 29.12.2016 were issued to the Petitioner to show cause as to why the subject formulation was being sold by the Petitioner at a price of Rs.8.6 per tablet against the notified price of Rs.6.54 per tablet as per S.O. No.1731(E) and it was also informed that after inclusion of the formulation in the Schedule I of National List of Essential Medicine, 2015, the price of the tablet has further been fixed at Rs.5.29 per tablet. The Petitioner was directed to furnish a batch wise production and sale details from 10.07.2014 to 29.12.2016. Details as sought for by the Respondent No.2 were provided by the Petitioner. Demand notice dated 09.08.2017 was issued by the Respondent No.2 demanding Rs.1,91,15,123/- from the Petitioner as overcharging amount. It is stated that the Petitioner has paid a sum of Rs.50,00,000/- and Rs.59,40,092/- on 13.04.2017 and, therefore, the Petitioner was directed to deposit the balance of Rs.81,75,031/- as principal



along with an interest of Rs.53,68,852/-, i.e. Rs.1,35,43,883/- in total to the Respondent No.2.

3. It is stated by the learned Counsel for the Respondent that the present Writ Petition is belated inasmuch as there is delay of six years in filing the present Writ Petition.

4. At this juncture, this Court is not inclined to interfere in the matter on the merits of the case.

5. It is stated by the learned Counsel for the Petitioner that there is a miscalculation on the part of the Respondent No.2 in calculating the overcharging amount. Learned Counsel for the Petitioner seeks liberty to file a representation with the Respondents showing the correct amount.

6. Liberty, as sought for, is granted.

7. The Petitioner is directed to file a representation within three weeks from today.

8. The Respondents are directed to decide the representation of the Petitioner within four weeks from the date of receipt of the representation by affording a personal hearing to the Petitioner in accordance with law.

9. It is made clear that till representation of the Petitioner is not decided, no coercive action shall be taken against the Petitioner.

10. With these observations, the Writ Petition is disposed of along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

APRIL 10, 2024

Rahul