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

+ LPA 1001/2024 & CM APPL. 58536/2024, CM APPL. 58537/2024,
CM APPL. 58538/2024

ALKEM LABORATORIES LTD & ANR.Appellants

Through: Mr. Amit Sibal, Senior Advocate
alongwith Mr. Anshuman Sharma, Mr.
Ankur Vyas, Mr. Rishabh Sharma,
Mr. Saksham Dhingra and Mr. Azaz
Ahmed, Advocates.

versus

UNION OF INDIA & ANR.Respondents

Through: Mr. Kirtiman Singh, CGSC alongwith
Mr. Waize Ali Noor, Mr. Moulik
KHurana, Ms. Francita Mary, Mr.
Rajeev Khatana and Mr. Varun Pratap,
Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER
04.10.2024

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1. Present letters patent appeal has been filed challenging the order dated 03rd September, 2024 passed by the learned Single Judge of this Court in W.P.(C) 12203/2024 to the extent that the learned Single Judge has stayed the impugned order dated 30th July, 2024 subject to the appellant depositing the penalty amount of Rs.1,59,13,361/- with the Registrar General of this Court.

2. Learned Senior Counsel for the appellants states that the appellants were entitled to get unconditional interim relief. He states that the learned



Single Judge ought to have exercised discretionary relief in line with the previous precedents of this Court, wherein unconditional interim orders were granted. He states that the learned Single Judge denied unconditional interim relief despite observing that prima facie case has been made out in favour of the appellants-petitioners.

3. He contends that the personal hearing order dated 30th July, 2024 is ex-facie bad in law and suffers from non-application of mind as the personal hearing was held with reference to the Demand Notice dated 10th February, 2023 wherein the overall amount demanded as alleged overcharge was Rs.53,48,599/- as the principal amount which has been unduly raised to the corresponding figure of Rs.1,59,13,361/-, without any sufficient reason. He submits that the ground for non-compliance stated by respondent no.2 is contrary to its own office memorandums dated 13th April, 2016 and 29th December, 2022. He contends that there is no provision under the DPCO, 2013 to compulsorily re-sticker or re-label the pre-manufactured stock.

4. A perusal of the paper book reveals that before the learned Single Judge, learned counsel for the respondents had stated that as per the information provided by the petitioner, part of their stock of Almox 250 Capsules had not left the premises of the Petitioner and the same was sold after the date of the impugned price notifications, without any price re-sticker. Further, in Para 3 (c) of the order dated 30th July, 2024 it has been recorded that batch no. AMC/160151 was available in the market for sale to public during inspection on 04th March, 2017 at the higher MRP of Rs.31.05 at a much later date from the applicable notification i.e. 02nd June, 2016. Also the orders relied upon by the learned Senior Counsel for the appellants are the interim orders which do not conclusively decide any issue and



therefore, they per se do not have a precedential value. However, keeping in view the fact that the Demand Notice dated 10th February, 2023 was issued for a sum of Rs.1,16,28,865/-, this Court without prejudice to the rights and contentions of the parties, directs the appellants to deposit a sum of Rs.1,16,28,865/- with the Registry of this Court within four weeks from today, who in turn is directed to keep the same in a Fixed Deposit in an auto renewal mode till further orders to be passed by the learned Single Judge. The impugned order is varied to the aforesaid extent.

5. Accordingly, present appeal stands disposed of. Pending applications also stand disposed of.

CHIEF JUSTICE

TUSHAR RAO GEDELA, J

OCTOBER 4, 2024

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