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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION (L) NO.36 OF 2018

Jaiprakash Bawiskar … Petitioner

V/s.

The State of Maharashtra, through its Principal Secretary, & Anr. … Respondents

Mr. Harshad M. Inamdar for the petitioner.

Mr. Abhay L. Patki, Additional Government Pleader for respondent Nos.1 and 2 – State.

CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
AMIT BORKAR, J.

DATED : DECEMBER 14, 2024

P.C.:

1. Heard learned counsel for the petitioner and learned Additional G.P. appearing for State-respondents.

2. By instituting the proceedings of this public interest litigation, the petitioner has sought a prayer for issuing a direction to the State-respondents to take appropriate measures for recovery of excise duty and interest thereon said to have been illegally collected by the wine manufacturers.

3. Our attention has been drawn to the order dated 11 September 2013 passed by the Hon'ble Supreme Court in Civil Appeal Nos.8232-34 of 2023 whereby certain directions were issued to the State to realize the excise duty said to have been collected by the wine manufacturers.

4. It is to be noticed that Civil Appeal Nos.8232-34 of 2023 were filed against an order passed by the Aurangabad Bench of this Court in which certain directions were issued. The Hon'ble Supreme Court while disposing of the said Civil Appeal by means of order dated 11 September 2013 only clarified that if notices were issued to the manufacturers to deposit the excise duty, it would be for the manufacturers to file appropriate reply thereby bringing it to the notice of the authorities that such manufacturers had not collected excise duty and that the same was reflected in their books of account. The Court observed further that if such a reply is filed by the wine manufacturers, it is for the authorities concerned to consider the same and pass an appropriate reasoned order.

5. Thus, the State is under legal obligation and mandate of the Hon'ble Supreme Court to realize the excise duty said to have been illegally collected by the wine manufacturers and there cannot be any doubt about such a duty cast upon the State.

6. An affidavit-in-reply has been filed by the Joint Commissioner of State Excise (Molasses & Alcohol), State of Maharashtra, wherein it has been inter alia stated that adequate steps have been taken to realize the excise duty. According to the said affidavit, demand notices were issued to 44 wine manufacturers out of whom in respect of 3 wine manufacturers' demand notices have been dropped on scrutiny of their books of account for the reason that it was found on such scrutiny that 3 wine manufacturers had not collected the excise duty from the consumers. A chart has also been annexed as Exhibit-A to the said affidavit, which reveals that show-cause notices/demand notices have been issued to the wine manufacturers.

7. In the aforesaid circumstances, we dispose of this public interest litigation with a direction to the authorities in the excise department to finalize the proceedings initiated on issuance of the show-cause/demand notices to the wine manufacturers in respect of excise duty which is said to have been collected by such manufacturers from the consumers though they, under State Government's policy, were exempted from paying the excise duty. The proceedings of these demand notices shall be finalized within two months from today and recovery pursuant to such determination shall be completed within next one month.

8. We further direct that any deviation from the directions being issued in this order may be viewed very seriously by the Court, and officers of the authorities concerned may be held personally liable for not completing the proceedings initiated by way of issuing demand notices and for non-realization of any amount which is due against the wine manufacturers.

9. We make it clear that this order shall be applicable in respect of only those proceedings which are pending and have not already been concluded.

10. With the aforesaid observations, the public interest litigation stands disposed of. No costs.

(AMIT BORKAR, J.) **(CHIEF JUSTICE)**