



Reserved on: 14.09.2026
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2026:AHC:201165

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 213 of 2023

M/s Lords Distillery Limited

.....Petitioner(s)

Versus

State of U.P. and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	: Gaurav Gautam, Mohd Atif
Counsel for Respondent(s)	: C.s.c

With

WRIT TAX No. - 1295 of 2022

M/S Radico Khaitan Limited

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Mohd Atif
Counsel for Respondent(s)	: C.S.C.

And

WRIT TAX No. - 1317 of 2022

M/S India Glycols Limited And Another

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Gaurav Gautam, Mohd Atif
Counsel for Respondent(s)	: C.S.C.

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Sri Shashi Nandan, learned Senior Advocate assisted by Sri Mohd Atif, learned counsel for the petitioner(s) and Sri Amit Saxena, learned Additional Advocate General assisted by Sri Ravi Shankar Pandey, learned counsel for the opposite parties.

2. Since learned counsel for the parties submit that the issues involved in these writ petitions are similar, therefore, the same are being decided by the common order. With the consent of the parties, Writ Tax No.213 of 2023 is taken as a leading case for deciding the controversy involved in these writ petitions.

3. The present writ petition has been filed challenging the order dated 22.03.2022 passed by Respondent No. 1/Principal Secretary, Excise (Adjudicating Officer), Aabkari Anubhag-2, Government of U.P. in Revision Case No. 20/2021 (M/s. Lords Distillery Limited & Another vs. Excise Commissioner, Uttar Pradesh & Others); and the order dated 25.02.2021 passed by Respondent No. 2/ Excise Commissioner, U.P directing the petitioner to deposit an amount of Rs. 54,52,731/- towards the cost of QR Bar Code @ 0.15 paisa per bottle.

4. The counsel for the petitioner submits that the petitioner is a licensee, manufacturer and vendor of country liquor within the State of U.P., and the demand of Rs. 54,52,731/- has been raised without issuance of any show cause notice and without affording any opportunity of hearing to the petitioner, in gross violation of the principles of natural justice.

5. He further submits that the Excise Policy for the year 2018-19 for the first time introduced the requirement of Track and Trace System through QR Bar Code/Bar Code.

6. The petitioner, on account of practical and technical difficulties including non-readiness of the U.P. Excise Portal, sought extension of time through

repeated representations dated 02.04.2018, 12.04.2018, 18.04.2018, 20.04.2018, 03.05.2018 and 14.06.2018, and the Excise Commissioner itself, vide order dated 21.04.2018, permitted the distilleries to continue affixing Bar Code on the outer master carton only till 15.06.2018, pending 100% implementation.

7. He further submits that the petitioner had already incurred huge capital expenditure towards procurement of the requisite equipment, printers and software, having placed purchase orders as early as 23.03.2018/30.03.2018, and that there is no allegation of fraud, concealment or misrepresentation against the petitioner.

8. He further submits that the cost of 0.15 paisa per bottle was an average costing fixed in the Excise Policy 2018-19 for the entire excisable year, based on the aggregate operational expenditure including plant, machinery, software and other allied costs, and could not be mechanically applied on a per-bottle basis for three months in isolation.

9. He also submits that the demand, having been raised in the year 2021 for the period April-June 2018, i.e., after a lapse of almost three years, is hopelessly barred by delay and laches, more so when the Excise Policy 2018-19 itself stood terminated on 31.03.2019 without any saving clause permitting recovery proceedings thereafter.

10. Lastly, he submits that neither the demand order dated 25.02.2021 nor the revisional order dated 22.03.2022 records any independent reasons and thus, both are non-speaking, mechanical orders passed without adverting to the pleadings and material placed on record by the petitioner, including the exemption order dated 21.04.2018. Hence, the present petition.

11. In support of his submissions, learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court in ***Keasar Enterprises Limited Vs. State of U.P., Civil Appeal No. 6896 of 2002***, decided on 06.07.2011; and ***Kranti Associates (P) Ltd. & Another Vs. Masood Ahmed Khan & Others***, (2010) 9 SCC 496.

12. *Per Contra*, learned counsel for the respondent has supported the impugned orders and submits that the demand was raised pursuant to an audit objection of the Principal Accountant General (A&E), U.P. dated 01.08.2019 (reiterated 15.01.2020), which found that the petitioner had issued 3,63,51,540 bottles of country liquor during 01.04.2018 to 15.06.2018 without affixing the

QR Code, in violation of Condition No. 7(b) of its P.D.-2 License, a mutually agreed contractual term binding on the petitioner under Sections 17(2), 18 and 34 of the U.P. Excise Act, 1910 and Rule 27 of the U.P. Excise (Establishment of Distillery) Rules, 1910.

13. He submits that the cost of the QR Code @ Rs. 0.15 per bottle was already built into the Ex-Distillery Price and recovered by the petitioner from consumers, having collected this cost without incurring the corresponding expenditure, the petitioner stands unjustly enriched, and the demand is merely to restitute this amount to the public exchequer.

14. He further submits that the demand notice dated 25.02.2021, being issued in terms of a license condition, is purely administrative and contractual, not quasi-judicial and therefore did not attract principles of natural justice or a formal show cause notice, rendering *Keasar Enterprises Limited* (supra) inapplicable.

15. Lastly, he submits that since the petitioner passed on the cost to consumers and suffered no loss itself, the claim is not barred under Section 72 of the Indian Contract Act, 1872, and in any case is not maintainable in writ jurisdiction. On these grounds, the petition is stated to be devoid of merit and liable to be dismissed.

16. Further, the counsel for the petitioner in reply to counter argument submits that mere reliance on an audit objection cannot, by itself, form the basis for raising or sustaining a demand against the petitioner, nor can it substitute the independent application of mind required of the competent quasi-judicial authority. In support of his submission, the counsel for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court in *Indian and Eastern Newspaper Society, New Delhi Vs. Commissioner of Income Tax, New Delhi* (2017) 13 SCC 780.

17. After hearing learned counsel for the parties, the court has perused the record.

18. The record shows that admittedly no show cause notice was issued to the petitioner nor was any opportunity of hearing afforded prior to passing of the order dated 25.02.2021 raising the demand of Rs. 54,52,731/-.

19. The stand of the respondents that the said notice, having been issued in terms of Condition No. 7(b) of the P.D.-2 License, is purely administrative in character and does not require compliance of natural justice, cannot be

accepted, inasmuch as the demand entails civil consequences and monetary liability upon the petitioner, and the authority, in determining and quantifying such liability upon disputed questions of fact (including the petitioner's contention regarding averaging of costs and the exemption order dated 21.04.2018), was in substance required to act quasi-judicially.

20. The Hon'ble Supreme Court in ***Keasar Enterprises Limited (supra)***, dealing with an analogous provision of the U.P. Excise Act, 1910, has categorically held that before raising any demand or initiating recovery, an adjudication must take place on the basis of a show cause notice and opportunity of hearing, and that failure to do so renders the action violative of Article 14 of the Constitution of India. Applying the said ratio, the demand order dated 25.02.2021 having been passed without notice or hearing, is *ex facie* vitiated on the ground of breach of natural justice.

21. It is also borne out from the counter affidavit itself that the demand came to be raised by Respondent No. 2 pursuant to, and consequent upon, the audit objection of the Principal Accountant General (A&E), U.P. dated 01.08.2019, reiterated on 15.01.2020. Nothing on the record of the impugned order dated 25.02.2021 or the revisional order dated 22.03.2022 indicates that the competent authority independently examined the petitioner's case, including its explanation regarding the averaged costing methodology and the exemption order dated 21.04.2018, before mechanically proceeding to quantify and raise the demand.

22. The Hon'ble Supreme Court in ***Indian and Eastern Newspaper Society (supra)***, has held that an audit objection is merely an opinion on a question of fact or law and cannot by itself substitute the independent application of mind and satisfaction of the competent authority. The impugned orders, having proceeded substantially on the basis of the audit objection without recording independent reasons or dealing with the petitioner's specific pleas, suffer from this additional infirmity.

23. Further, the revisional order dated 22.03.2022 passed by Respondent No. 1 is equally unsustainable. A bare perusal of the said order shows that it proceeds on the singular premise that non-affixation of QR Bar Code resulted in undue gain/benefit of 0.15 paisa per bottle to the petitioner, without discussing or dealing with the specific pleas raised by the petitioner that the

said costing of 0.15 paisa was an average annual costing for the entire excisable year 2018-19 and not a per-bottle, per-month recoverable charge.

24. The petitioner had, in fact, incurred substantial capital expenditure in procuring the requisite equipment as early as March 2018 and the Excise Commissioner had itself, by order dated 21.04.2018, granted exemption/extension permitting affixation of Bar Code on the master carton alone till 15.06.2018.

25. None of these contentions as stated above finds any discussion or reasoned rejection in the impugned order dated 22.03.2022, which is thus rendered a non-speaking order. As held by the Hon'ble Supreme Court in *Kranti Associates (P) Ltd. (supra)*, a quasi-judicial authority is bound to record reasons in support of its conclusions; recording of reasons is not a mere formality but serves the wider principle that justice must not only be done but must also appear to have been done, operates as a check against arbitrary exercise of power, and facilitates meaningful judicial review.

26. A "pretence of reasons" cannot be equated with a valid decision-making process. Tested on this touchstone, the impugned order dated 22.03.2022, being conclusory and unreasoned, cannot be sustained.

27. Accordingly, all the impugned orders passed by Respondent No. 1/Principal Secretary, Excise (Adjudicating Officer), Aabkari Anubhag-2, Government of U.P. as well as impugned orders passed by Respondent No. 2/Excise Commissioner, U.P are hereby **set aside**.

28. The matters are remanded to respondent no.2/Excise Commissioner, U.P. for fresh consideration. Respondent No. 2 shall issue a proper show cause notice to the petitioners, specifically setting out the basis of the proposed demand, and shall thereafter afford an opportunity of hearing to the petitioners, including consideration of the petitioner's submissions

29. The writ petitions succeed and are **allowed**.

(Piyush Agrawal,J.)

September 14, 2026

A.N. Mishra