

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 359/2015**

M/s. Vasco-da-Gama
Distilleries Pvt. Ltd.,
A Private limited Company duly
incorporated under the
Companies Act, 1956, having
its registered Office at
B-15, D.N. Kossambi Building,
Swatantra Path, Vasco-Goa.

..... Petitioner.

V/s.

Commissioner of Excise
For the Government of Goa,
Office of the Commissioner of
Excise, Panaji, Goa.

..... Respondent.

Mr. S. M. Singbal, Advocate for the petitioner.

Mr. Vivek Rodrigues, Additional Govt. Advocate for the respondent.

**CORAM :- F.M. REIS &
K.L. WADANE, JJ.**

Date : - 3rd September, 2015.

ORAL JUDGMENT : (PER F.M. REIS, J.)

Heard Mr. S. M. Singbal, learned Counsel appearing for
the petitioner and Mr. V. Rodrigues, learned Counsel appearing for the
respondent.

2. Rule. Heard forthwith, with the consent of the learned Counsel. Learned Counsel appearing for the respondent waives service

3. We have extensively heard Mr. S.M. Singbal, learned Counsel appearing for the petitioner and Mr. V. Rodrigues, learned Additional Govt. Advocate appearing for the respondent on merits of the grievances raised by the petitioner in the above writ petition. The main concern of the petitioner is that based on the impugned order dated 17/12/2012 passed by the respondent, the activities of the petitioner are being hampered as the respondent has taken a view that as an FIR has been registered before the State Crime Branch, the show cause notice issued by the respondent cannot be finally disposed of. It is also brought to our notice that the learned Chief Secretary, who is the Appellate Authority has, in fact, remanded the matter to decide the show cause notice dated 16/12/2010 afresh, in accordance with law.

4. Mr. V. Rodrigues, learned Additional Govt. Advocate appearing for the respondent, upon instructions of the respondent, has submitted that the respondent shall proceed to decide the show cause

notice, after hearing the petitioner in accordance with law and the registration of the said FIR will not come in the way in taking a decision on such show cause notice. In that view of the matter, the impugned order deserves to be quashed and set aside. All the contentions of both the parties, on merits, are left open. The respondent shall not be influenced by the observations in the impugned order which were tentative, nor the averments in the affidavit filed before this Court while considering the said show cause notice.

5. Considering the rival contentions, we pass the following Order :

(I) The impugned order dated 17/12/2012 is quashed and set aside.

(II) The petitioner, if so advised, is at liberty to file an additional reply to such show cause notice within one week from today.

(III) The respondent is directed to decide the show cause notice dated 16/12/2010 afresh, based on the material on record, and further material which may be produced by the petitioner, preferable within two months from today after hearing the petitioner, in accordance with law without awaiting the outcome of the FIR before the State Crime

Branch.

(IV) Rule is made absolute in the above terms.

K.L. WADANE, J.

F.M. REIS, J.

ssm.