

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 17052 of 2013 (F)

PETITIONER:

M/S. DEVICOLAM DISTILLERIES LTD.,
PADAMUGAL, KUSUMAGIRI, KAKKANAD,
REPRESENTED BY ITS CHIEF OPERATING OFFICER,
SRI.J.R.ANANTHARAMAN.

BY ADVS.SRI.ANIL D. NAIR
SMT. NIVEDITHA A.KAMATH
SRI.SREEJITH R.NAIR

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
EXCISE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAMPIN-695 001.
2. THE EXICISE COMMISSIONER,
THIRUVANANTHAPURAM-695 001.
3. THE EXCISE INSPECTOR,
DEVIKOLAM DISTILLERIES LTD, KAKKAND, KOCHI-682 030.

R1-R3 BY ADV. SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 17052 of 2013 (F)

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT-P1 TRUE COPY OF THE ORDER NO.XE1-1614/2055 DATED 23.5.2005.

EXHIBIT-P2 TRUE COPY OF THE DEMAND NOTICE NO.DE.2/05 DATED 11.8.2005
FROM THE 2ND RESPONDENT.

EXHIBIT-P3 TRUE COPY OF THE JUDGMENT DATED 18.11.2011 IN WP(C)26384
OF 2005.

EXHIBIT-P4 TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER.

EXHIBIT-P5 TRUE COPY OF THE ORDER DATED 13.6.2013 ISSUED BY THE 1ST
RESPONDENT.

EXHIBIT-P6 TRUE COPY OF THE JUDGMENT DATED 11.6.2012 IN WP(C)23356
OF 2005.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

rv

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 17052 of 2013 (F)

Dated this the 20th day of November, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader, apart from perusing the record.

2. The petitioner, a manufacturer of IMFL, is required to pay the establishment cost to the State following Rule 146 of Part I of KSR. Initially, ventilating its grievance that exorbitant amounts had been demanded by the Government, the petitioner approached this Court, which, in turn, remanded the matter to the authorities to consider it afresh.

3. While the matter was pending with the authorities, this Court in some other identical issue rendered Ext.P6 judgment upholding the contention as has been raised by the petitioner herein. Nevertheless, though the said judgment has been brought to the notice of the authorities, contends the learned counsel, they passed Ext.P5 order re-affirming the earlier demand. Aggrieved, the petitioner has filed the present writ petition.

4. Both the learned counsel on either side are in unison in

representing that Ext.P6 judgment squarely covers the issue.

In the facts and circumstances, in the light of the ratio laid down in Ext.P6 judgment, this Court allows the writ petition. Consequently, Ext.P5 is set aside.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv

