

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HON'BLE MR. JUSTICE BABU MATHEW P.JOSEPH

SATURDAY, THE 1ST DAY OF DECEMBER 2012/10TH AGRAHAYANA 1934

WP(C).No. 26174 of 2005 (N)

PETITIONER(S):

K.S.DISTILLERY
REGISTERED OFFICE, THALIKKAVU, KANNUR-670 001
REPRESENTED BY ITS MANAGING DIRECTOR, K.SREEDHARAN.

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
EXCISE DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.
2. THE EXCISE COMMISSIONER,
THIRUVANANTHAPURAM.
3. THE EXCISE INSPECTOR,
K.S. DISTILLERY, VARAM, KANNUR.

R1-R3 BY ADV. GOVERNMENT PLEADER (SMT.BINDU GOPINATH)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
01-12-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This Writ Petition has been filed challenging Exts.P3 and P4. None appears for the petitioner. This Writ Petition has been filed as early as in 2005. In view of these facts, this Writ Petition is closed without going into the merits of the contentions raised.

Sd/-

Babu Mthew P. Joseph, Judge.

1.12.2012

krs.

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P.S. to Judge.

K. VINOD CHANDRAN, J.

W.P.(C) No. 26174 of 2005 (N)

Dated this the 8th day of October, 2015

J U D G M E N T

The petitioner challenges Ext.P3 order No.XE1-614/2005 dated 23.5.2005 which directed that the contributions under Rule 14 of Kerala Distillery and Warehouse Rules, 1968 would be computed as under Rule 146 of Part I of KSR @ 25% of the maximum of the scale of pay of the post of Excise Officers who are detained in Distillers, Breweries, Pharmaceuticals, Kerala State Beverages Corporation etc with effect from 1.3.97.

2. The issue is no longer res integra as the same is covered by a judgment of this Court wherein the Kerala Rectified Spirit Rules, 1972, was applicable. The only difference with respect to the above case is that herein what is applicable to the petitioner is the Kerala Distillery and Warehouse Rules, 1968. Considering the issue, this Court held so:

“Exts.P1 and P2 in W.P.(C) No.23356/05 and Exts.P1 to P3 in W.P.(C) No.5990/07 are quashed. It is declared that the petitioner is liable to pay as cost of establishment under Rule 16(4) only the actual amount paid by the State to the officers deputed to the petitioner's establishment, by way of pay and leave salary contribution and no other amount. The petitioner is not liable to pay cost of establishment at the rate of 25% on the maximum of the scale of pay applicable to the officers so deputed. The petitioner is also not liable to pay the amount as contemplated in Rule 146 of Part I of KSR except the actual amount paid by the State to the officers, who have been deputed to the petitioner's establishment. Accordingly, there would be a direction to the respondents to recalculate the amounts due from the petitioner to the respondents in accordance with my above findings for the periods in question. If the petitioner has paid amounts in excess of the amounts

calculated as directed above for the periods in question, the same shall be suitably adjusted towards amounts payable by the petitioner presently or in future. Orders in implementation of the above directions shall be passed by the competent among the respondents within two months from the date of receipt of a copy of this judgment.”

The said judgment has been affirmed by the Division Bench in W.A. No.63/2012.

3. Hence, respectfully following the aforesaid decisions, Ext.P3 would stand set aside. The demand made in accordance with Ext.P3 would also stand set aside. However, the State would be entitled to recover the amounts as per the provisions of Rule 14 of the Kerala Distillery and Warehouse Rules, 1968. Any excess money due or refundable; either of it, shall be a necessary consequence of the aforesaid declaration, on the basis of a

valid computation made during the period the interim stay was in force.

Writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE