

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No. 5345 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5090 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5081 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5174 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5063 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5085 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5083 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5184 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5175 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5261 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5448 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 5080 of 2007

State of Chhattisgarh, Through Assistant Excise Commissioner,
Bilaspur (C.G.)

---- Petitioner

Versus

M/s Kedia Castle Delleon Industries Ltd., Kedia Nagar, Khapri,
Kumhari, District Durg (C.G.)

---- Respondent

Writ Petition (C) No. 442 of 2009

State of Chhattisgarh, Through the Commissioner Excise,
Chhattisgarh, Raipur

---- Petitioner

Versus

1. M/s. Chhattisgarh Distilleries Ltd. (Old Name Kedia Castle
Deliyon Industries Ltd.), Licensee, Khapri, Kumhari, District Durg
(C.G.)

2. The Board of Revenue, Bilaspur Circuit Court, Raipur (C.G.)

---- Respondents

Writ Petition (C) No. 444 of 2009

State of Chhattisgarh, Through the Commissioner Excise,
Chhattisgarh, Raipur

---- Petitioner

Versus

1. M/s. Chhattisgarh Distilleries Ltd. (Old Name Kedia Castle
Deliyon Industries Ltd.), Licensee, Khapri, Kumhari, District Durg
(C.G.)

2. The Board of Revenue, Bilaspur Circuit Court, Raipur (C.G.)

---- Respondents

Writ Petition (227) No. 995 of 2009

State of Chhattisgarh, Through the Secretary, Department of
Commercial Taxes, D.K.S. Bhawan, Raipur (C.G.)

---- Petitioner

Versus

M/s. Kedia Castle Deliyon Ltd., D-1, Licensee & Country liquor

Supplier, Kedia Nagar, Khapri, Kumhari, District Durg (C.G.)

---- Respondent

And

Writ Petition (C) No. 5987 of 2007

State of Chhattisgarh, Through: the Assistant Excise
Commissioner, Janjgir-Champa (C.G.)

---- Petitioner

Versus

1. M/s. Kedia Castle Delleon Industries Ltd., D-1 Licensee, Kedia
Nagar, Kumhari, District Durg (C.G.)

2. The Board of Revenue, Bilaspur Circuit Court, Raipur, through
Registrar, Board of Revenue, Bilaspur (C.G.)

---- Respondents

For Petitioners : Mr. Arun Sao, Dy. Advocate General, Shri Prasun
Bhauri & Shri Dheeraj Wankhede, Govt. Advocate.

For Respondents : Mr. Abhishek Sinha & Mr. Manoj Paranjpe, Adv.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

21/11/2017

(1) Since common question of law and fact is involved in all the writ
petitions, they are being disposed of by this common order

(2) This batch of writ petition is directed against the order dated
07.02.2007 passed by Board of Revenue, by which Board of Revenue
has set aside the order passed by Excise Commissioner dated 10th
August, 2006.

(3) Shri Arun Sao, learned Deputy Advocate General would submit
that the Board of Revenue has committed legal error in granting appeals

preferred by the respondent. He would further submit that the present batch of writ petitions relates to violation of Rule 10-A of the Chhattisgarh Country Spirit Rules, 1995. He submits that the Collector, Bilaspur, having found that the respondent Contractor has exceeded the permissible limit of transit loss of liquor and while exercising the powers conferred under Rule 10-A of the Rules, 1995, has directed for recovery of loss caused during transportation of the country spirit by order dated 19.08.2005, which has been affirmed by Excise Commissioner on 10.08.2006, in appeal preferred by the respondent, and subsequently the Board of Revenue has interfered with the order passed by the Collector; duly affirmed by the Excise Commissioner and the appeal preferred by the respondent relating to Chhattisgarh Distillery Rules, 1996, and allowed the appeal preferred by the respondent without applying its mind to Rule 10-A of the Rules, 1995 and, therefore, impugned order is liable to be and is hereby set aside.

(4) On the other hand, counsel for the respondent would submit that the order passed by the Board of Revenue is strictly in accordance with law and the writ petition deserves to be dismissed.

(5) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(6) A careful perusal of the record would show that learned Board of Revenue while considering the appeal preferred by the respondent against the imposition of penalty under sub-Rule (4) of Rule 8 of the Chhattisgarh Distillery Rules, 1996 had clubbed 13 appeals and decided those appeals, against which these writ petitions have been filed holding

that the facts and grounds are similar and identical questions are involved whereas these 13 appeals relates to Chhattisgarh Country Spirit Rules, 1995, therefore, these 13 appeals ought to have been decided seperately and ought to have been examined in light of the provisions contained in Section 10-A of the Rules, 1995, therefore, the learned Board of Revenue has committed legal error in deciding these appeals without applying its legal mind, as such, the impugned order passed by the Board of Revenue is set aside. All these 13 appeals are restored to the file of Board of Revenue for hearing and disposal in accordance with law in light of provisons contained in Section 10-A of the Rules, 1995 expeditiously preferably within a period of three months from the date of receipt of certified copy of this order.

(7) Parties are directed to appear before the Board of Revenue on 9th January, 2018.

(8) It is made clear that this Court has not expressed any opinion on the merits of the case and the Board of Revenue is directed to decide the petitioners' appeal on its own merit in accordance with law.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

