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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (227) No. 726 of 2009

State of Chhattisgarh, through the Commissioner Excise, Chhattisgarh, Raipur (C.G.)

---- Petitioner

Versus

M/s Chhattisgarth Distilleries Ltd. (Old Name Kedia Castle Deliyon Industries Ltd.), C.S. 1-B Licensee, Khapri, Kumhari, District Raipur C.G.)

---- Respondent

Writ Petition (227) No. 727 of 2009

State of Chhattisgarh, through the Commissioner Excise, Chhattisgarh, Raipur (C.G.)

---- Petitioner

Versus

M/s Chhattisgarth Distilleries Ltd. (Old Name Kedia Castle Deliyon Industries Ltd.), C.S. 1-B Licensee, Khapri, Kumhari, District Raipur C.G.)

---- Respondent

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

For Respondents : Mr. Manoj Paranjpe, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

21/11/2017

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

(2) This batch of writ petition is directed against the order dated 7.4.2008 passed by the Board of Revenue by which, the amount of penalty imposed by the Commissioner (Excise) to the extent of 50,000/- upon the respondent, has been reduced to Rs.5,000/- in exercise of power conferred under Rule 4 of the

Chhattisgarh Country Spirit Rules, 1995 (henceforth "Rules, 1995").

(3) Learned counsel for the petitioner would submit that impugned order is bad and unsustainable in law, which is liable to be set aside.

(4) On the other hand, counsel for the respondents would oppose the writ petition.

(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) The Commissioner (Excise), in exercise of power conferred under Rule 4(1) and (12) Part-A read with Rule 5(1) part-I of the Rules, 1995 imposed penalty of Rs.50,000/- for violation of norms set by the State Government. The respondent preferre appeal before the Board of Revenue thereagainst. The Board of Revenue, by its impugned order dated 07th April, 2008, interefered with the amount of penalty by reducing it to the extent of Rs.5,000/- upon the respondent.

(7) The Board of Revenue has given elaborate reasons for interfering with the amount of penalty, which cannot be said to be not based on the material available on record, and the discretion exercised in interfering with the quantum of penalty cannot be said to be without jurisdiction and without authority of law.

(8) Accordingly, the writ petition being devoid of substances is liable to be and is hereby dismissed. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-