

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2705 of 2017**

Mohammad Ibrahim S/o Mohammad Rashid Aged About 46 Years R/o House No. 65 Bhilai District Durg Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary Government Of Chhattisgarh Department Of Finance Mahanadi Bhavan Mantralaya Naya Raipur District Raipur Chhattisgarh.
2. The Excise Commissioner , Raipur District Raipur Chhattisgarh.
3. District Excise Officer, District Durg Chhattisgarh.
4. Officer On Special Duty , Department Of Excise, Raipur District, Raipur Chhattisgarh.
5. Central Bank Of India , Through The Branch Manager Central Bank Of India Civic Centre Bhilai District Durg Chhattisgarh.

---- Respondents**WPC No. 2725 Of 2017**

Pradeep Premchandani S/o Shri Ved Prakash Premchandani, Aged About 44 Years R/o LIG - 2 / 232, M P H B, Chhaoni, Bhilai, District Durg Chhattisgarh.

---- Petitioner**Vs**

1. State Of Chhattisgarh Through Secretary, Government Of Chhattisgarh, Department Of Finance, Mahanadi Bhawan, Mantralaya, Naya Raipur District Raipur Chhattisgarh.
2. The Excise Commissioner, Raipur District Raipur Chhattisgarh.
3. District Excise Officer, District Durg Chhattisgarh.
4. Officer On Special Duty, Department Of Excise Raipur, District Raipur Chhattisgarh.
5. Central Bank Of India, Through The Branch Manager, Central Bank Of India, Civic Centre, Bhilai, District Durg Chhattisgarh.

---- Respondents

And

WPC No. 2706 of 2017

N. Ravi Kumar, Aged about 45 years, S/o Shri NavgopaRamlu, R/o House No.96, Shanti Para, Bhilai, District Durg (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Government Of Chhattisgarh Department Of Finance Mahanadi Bhavan Mantralaya Naya Raipur District Raipur (C.G.)
2. The Excise Commissioner , Raipur District Raipur (C.G.)
3. District Excise Officer, District Durg (C.G.)
4. Officer On Special Duty, Department Of Excise, Raipur District, Raipur (C.G.)
5. Central Bank Of India, Through The Branch Manager Central Bank Of India Civic Centre, Bhilai District Durg (C.G.)

---- Respondents

For Petitioners : Shri Ranbir Singh Marhas, Advocate.
 For State : Shri Shashank Thakur, Govt. Advocate.
 For Respondent No. 5/Bank : Shri Anand Shukla, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

20/11/2017

(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 petitions is directed against the letter dated 10.08.2017 by which bank guarantee furnished by the petitioners in favour of Assistant Commissioner Excise has been invoked by the State Government and its authorities.

(3) Learned counsel appearing for the petitioner would submit that the excise contract was granted to the petitioners for the financial year of 2016-2017, which expired with effect from 31.03.2017 and the bank guarantee was valid for a period ending on 28.07.2017. He would further submit that the bank guarantee could not have been invoked at the instance of the Respondent-Excise

Department in view of the fact that no dues were leviable and recoverable from the petitioner coupled with the fact that the respondent-Excise Department lost its right to get guarantee invoked in its favour beyond the period of its validity and, therefore, the impugned letter is bad and unsustainable in law, which is liable to be set aside. He would also submit that the petitioners are entitled for refund of the said amount in light of decision of this Court rendered in the matter of **Amit Kumar Jaiswal Vs. State of Chhattisgarh & others and other connected matter** in WPC No. 2069/2017 decided on 22nd August, 2017.

(4) On the other hand, counsel for the respondents would support the impugned letter.

(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) In view of above factual position, the matter is remitted back to the Excise Commissioner, Raipur, who will consider and decide the matter afresh in light of decision rendered by this Court in the matter of **Amit Kumar Jaiswal (supra)** expeditiously preferably within a period of 30 days from the date of receipt of certified copy of this order after affording due opportunity of hearing to both the parties and pass reasoned and speaking order in accordance with law.

(7) The writ petitions are allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-