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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3155 of 2017**

Vigan Prasad S/o Shri Jamuna Prasad Sao, Aged About 45 Years R/o Village & Post- Bamhanidih, Police Station- Bamhanidih, Civil And Revenue District Janjgir- Champa, Chhattisgarh. At Present R/o Village Buchchulami, Post Lamipatara, Police Station Padawa, Civil And Revenue District Palamu Jharkhand, through Ganga Prasad S/o Shri Jugut Ram, Aged About 35 Years R/o Village Nakatidih, Post Taldevvari, Police Station- Bamhanidih, Civil And Revenue District Janjgir- Champa, Chhattisgarh. (Power Of Attorney Holder)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Excise, Mahanadi Bhawan, New Raipur, Civil And Revenue District Raipur, Chhattisgarh.
2. The Commissioner, Department Of Excise, Mahanadi Bhawan, New Raipur, Civil And Revenue District Raipur, Chhattisgarh.
3. The Assistant Commissioner, Department Of Excise, Janjgir, Civil And Revenue District Janjgir- Champa, Chhattisgarh.
4. The District Excise Officer, Janjgir, Civil And Revenue District Janjgir- Champa, Chhattisgarh.
5. The Officer On Special Duty, Department Of Excise, Raipur, Civil And Revenue District Raipur, Chhattisgarh.
6. The Corporation Bank, Through The Branch Manager, Champa, Civil And Revenue District Janjgir- Champa, Chhattisgarh.

---- Respondents

For Petitioner	: Shri P.M. Shriwas, Advocate.
For State	: Shri Arun Sao, Dy. Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****24/12/2017**

(1) This writ petition is directed against the letter dated 30.06.2017 by which bank guarantee furnished by the petitioner in favour of Assistant Commissioner Excise has been invoked by the State Government and its authorities.

(2) 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 30.06.2007. 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.

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

(4) 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.

(5) 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.

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

Sd/-

(Sanjay K. Agrawal)
Judge

