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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO. 103 OF 2012
IN
WRIT PETITION NO. 1064 OF 2005

Union of India and anr.

.. Petitioners

Vs.

Mohan Rocky Springwater Breweries Ltd.
and anr.

.. Respondents

Mr. M. Dwivedi i/by Sham Walve for Review Petitioners/Org.Respondents.
Mr. Sujay Kantawala i/by Brijesh Pathak for respondent no.1/Org.
Petitioner No.1.

CORAM: NARESH H. PATIL &
K. K. TATED, JJ.

JULY 18, 2017.

P.C.

1. Heard the learned counsel for the contesting parties. We have perused various orders passed by the Central Excise and Customs Authorities, order passed by the Division Bench of this Court in Writ Petition No. 1064 of 2005 dated 7/1//2010, which is under review and the order passed by the Apex Court in Petition (s) for Special Leave to Appeal (Civil) No. 355 of 2011 dated 29/7/2011.

2. Mr. Dwivedi, learned counsel appearing for the review

petitioners has referred to the various orders passed by the Authorities in respect of excise duty applicable to saleability of the WORT. The counsel submits that no instructions were given to the then arguing counsel to give consent for agreeing to the order of remand passed by this court on 7/1/2010.

3. Mr. Kantawala, learned counsel appearing for respondent no.1, submits that the order under review was passed on 7/1/2010 and since last seven years the respondents herein are waiting for final adjudication consequent to the order passed by this court. The respondent/original petitioner in Writ Petition No. 1064 of 2005 is a manufacture of 'Beer'. The entire central excise duty was deposited under protest with the Department and the amount is still lying with the Department. The counsel submits that the original petitioners were and are ready and willing to extend full cooperation to the authorities for final disposal of the issue at the earliest on merits. The counsel submitted that on the similar issue the Customs, Excise and Gold (Control), Appellate Tribunal West Regional Bench at Mumbai had passed order on 22/9/2003 in favour of the respondent no.1 – original petitioner no.1. The counsel prays for appropriate directions in that regard.

4. Without expressing any opinion on the merits of the claim made by the contesting parties in respect of excisable article, in the facts of the case and considering the fact that substantial period had elapsed since passing of the order by this court in the year 2010, we direct the appropriate adjudicatory authority, having jurisdiction of the concerned area, to decide the issue arising out of show cause notice No. F. No.V(11A) Adj/4-31/03/1432/8.4.03 issued to M/s. Mohan Rocky Spring Waters Brewries Ltd., Mohanwadi, Khopoli. It is further directed that the appropriate adjudicatory authority shall decide the said issue after hearing the parties within a period of three months from the date of receipt of this order.

5. With the aforesaid directions, Review Petition stands disposed of.

6. Learned counsel appearing for the parties to communicate this order to the appropriate adjudicatory authority accordingly.

(K. K. TATED, J.)

(NARESH H. PATIL,J.)