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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) CWP-6266-2016 (O&M)

M/S PURSHOTAM DASS, L-13, FARIDABAD … Petitioner(s)

Vs.

STATE OF HARYANA AND ORS. ... Respondent(s)

(2) CWP-25880-2016 (O&M)

M/S ARUN TOMAR, L-13, FARIDABAD … Petitioner(s)

Vs.

STATE OF HARYANA AND ORS. ... Respondent(s)

(3) CWP-25916-2016 (O&M)

M/S SATISH KUMAR, L-13, FARIDABAD … Petitioner(s)

Vs.

STATE OF HARYANA AND ORS. ... Respondent(s)

DATE OF DECISION: 09.05.2017

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Rajiv Agnihotri, Advocate
for the petitioner(s).

Mrs. Mamta Singla Talwar, Deputy Advocate General, Haryana.

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S.J. VAZIFDAR, C.J. (ORAL)

These three writ petitions are being decided by a common order as they raise similar questions of law.

2. The petitioner(s) have challenged an order passed by the Excise and Taxation Commissioner dismissing the petitioners' appeal against the order passed by the Additional Excise and Taxation Commissioner imposing a penalty of ₹ 7 lacs on each of the three petitioners. The petitioners were issued an L-13 licence which entitled them to carry on business as retailers in country liquor. A show cause notice dated 06.01.2012 was issued alleging that the petitioners had charged an amount of ₹ 10/- per case in excess of the permissible amount for the Excise Year 2011-12 and that the petitioners had not ensured the supply of adequate quantities of liquor. Ultimately, the impugned orders were passed only in respect of the first allegation.

3. The Collector-cum-Additional Excise and Taxation Commissioner imposed the penalty on each of the petitioners on the ground that the petitioners had admitted the charge. The order noted the petitioners' explanation that their Munim had done so inadvertently and that when they came to know about the same, they ceased to do so and in fact refunded the amount charged in excess of the permissible limit. The explanation was not accepted.

4. The appellate authority vide order impugned in this writ petition merely recorded the submissions of the parties and concluded that the arguments on behalf of the petitioners were not satisfactory. There are no reasons whatsoever. We may have considered the matter ourselves. However, we refrain from doing so as in our view, it would be necessary for the appellate authority to consider the defence raised by the petitioners themselves in the first instance. One of the contentions before the appellate authority which was recorded in the impugned order itself was that the order in original was passed merely relying upon a report of an officer. It is contended that the

report was not made available to the petitioners. The submission was not considered.

5. In the circumstances, the impugned order is set aside and the matter is remanded to the appellate authority to pass a fresh order with reasons and after affording the petitioners an opportunity of being heard.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

09.05.2017
SwarnjitS

Whether speaking/reasoned	Yes /No
Whether reportable	Yes /No