**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 6446 of 2017
Date of Decision : 30.03.2017**

M/s Liquor World Venture Pvt. Ltd.

...Petitioner(s)

Versus

Chandigarh Administration and others

...Respondents

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

HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Mahir Sood, Advocate for the petitioner(s).

Mr. Vikas Bali, Advocate for the respondents.

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

The petitioners have challenged an order dated 14.03.2017 (Annexure P-15) passed by the Excise & Taxation Commissioner, U.T., Chandigarh, (in short 'the ETC') rejecting their application for review of an order dated 03.06.2016.

2. The petitioners had sought a refund of the proportionate licence fee for the period from 01.04.2016 to 15.05.2016, *inter alia*, on the ground that the respondents had not made available adequate stock of liquor during that period.

3. The petitioners had obtained L-14/A and L-2 licences entitling them to deal in I.M.F.L./Country Liquor on a retail basis. Several petitions

making similar claims have also been filed one of which was CWP No. 102 of 2017, titled ***M/s Somrass Traders through its partner S. Gurinder Singh Gill, Ludhiana Vs. State of Punjab and others.*** Those petitions were dismissed by our order and judgment dated 27.02.2017. We dismissed the petitions with liberty to the petitioners to avail of any alternate remedy including resorting to clause 3.19 of the Punjab Excise Manual for the year 2016-17 and by recording the statement of the learned Advocate General that if applications were made under clause 3.19 of the Punjab Excise Manual, the same would be decided after affording the petitioners an opportunity of being heard and producing evidence.

4. The petitioners filed CWP No. 9656 of 2016 in respect of the claim for refund, which was disposed of by an order and judgment dated 17.05.2016 by directing the respondents to take a decision on the petitioners' legal notices dated 15.04.2016 in accordance with law and by passing a speaking order after affording the petitioners an opportunity of being heard. Pursuant thereto the ETC passed the said order dated 03.06.2016. The ETC noted the petitioners' contention that no I.M.F.L. quota has been issued by the Excise Department till date. After referring to the submission of the parties, the licences and the Punjab Liquor Licence Rules 1956, the ETC merely concluded that this submission was incorrect. The order was not supported by reasons. The petitioners, therefore, challenged this order by filing a review petition, which was disposed of by the impugned order dated 14.03.2017.

5. During the pendency of the writ petition, the petitioners had filed CWP No. 1775 of 2017, which we disposed of by our order and

judgment dated 01.02.2017 by recording the statement on behalf of the respondents that the review would be decided by 15.03.2017.

6. We appreciate that the respondents were rightly anxious to comply with the order dated 01.02.2017. To that end they undoubtedly made efforts. They issued a notice dated 06.03.2017 fixing the matter for 10.03.2017 at 1.30 P.M.. Unfortunately, the officer concerned was unable to hear the matter till 3.00 P.M. as he was busy with some other work. The petitioners' advocate after having waited for over an hour left the venue. It would be unfair to blame either the petitioners' lawyer or the respondents' officer. Both had constraints of time and work. The respondents fix another date for the hearing. The petitioners' claim that the notice already sent on 10.03.2017 was not received by it. Unfortunately, when the notice was sought to be served on the petitioners on 10.03.2017, the petitioners' director was out of station. The respondents served the notice by e-mail on 14.03.2017 but by then it was too late as the meeting was fixed on 14.03.2017. In view of our order dated 01.02.2017, the Officer concerned passed the impugned order dated 14.03.2017.

7. In effect, therefore, the review petition has not been heard on merits. In the facts and circumstances of this case, we are of the view that ends of justice require that the petitioners must be given an opportunity of having the matter heard on merits. It is possible that similar issues also arise as in the other cases we referred to.

8. It is, however, clarified that the issue regarding the penalty imposed by the respondents on the petitioners for not lifting the stock for the last quarter is not pressed on behalf of the petitioners at this stage. They

are at liberty to do so by any appropriate proceedings.

9. The petition is, therefore, disposed of by setting-aside the order dated 14.03.2017 and requesting the officer concerned to hear the matter afresh after affording the petitioner an opportunity of being heard. The petitioners shall attend the office of the ETC at 11.00 a.m. on 17.04.2017 without further notice and thereafter as directed by the ETC.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

30.03.2017
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Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No