

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

CWP No.6644 of 2017

Date of Decision.03.07.2017

M/s Jubilant Life Sciences Ltd.

.....Petitioner

Vs

State of Haryana and others

.....Respondents

Present: Mr. Dhruv Agrawal, Senior Advocate with
Mr. Nishit Agrawal, Advocate and
Mr. Karanveer Jindal, Advocate
for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana
for respondent Nos.1 & 2.

Mr. Saurabh Goel, Advocate
for respondent No.3.

Mr. Ashish Kapoor, Advocate
for respondent No.4.

Mr. Raman Sharma, Advocate
for respondent No.5.

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

-:-

AJAY KUMAR MITTAL J.(ORAL)

The petitioner has approached this Court under Article 226 of the Constitution of India, *inter alia*, challenging the vires of Sections 16, 17, 18, 32, 34, 61 of the Punjab Excise Act, 1914 (as applicable to the State of Haryana) Rules, 2, 4, 7, 8, 22(D), 24 of the Punjab Liquor Permit and Pass Rules, 1932 (as applicable to the State of Haryana) and Clause 10 and 14 of the Punjab Liquor Import, Export, Transport & Possession Order 1932 and Import Duty prescribed under the Excise Policy of Haryana. A further

prayer has also been made to stay the operation of the aforementioned

provisions during the pendency of the writ petition and also to issue a mandamus directing respondent Nos.1 and 2 to refund the sum of ₹ 7 lacs paid by the petitioner towards the import duty and permit fee along with interest at the rate of 18% till the date of realization.

2. Upon notice of motion having been issued, replies on behalf of respondent Nos.1, 2 and 4 have been filed.

3. In paragraph 4 of the short reply filed on behalf of respondent Nos.1 and 2, it has been specifically pleaded that there is no recovery which the answering respondents are making from the petitioner nor the answering respondents intend to make any recovery from the petitioner. It has further been submitted in paragraph 6 thereof that respondent Nos.4 and 5 (IOCL and HPCL) are not aggrieved and therefore, have not challenged the conditions of import duty and permit fee.

4. Learned Senior Counsel for the petitioner submitted that the petitioner in pursuance of the notice issued to it, has deposited the import fee and permit fee with the respondents as depicted in Annexure P-17 and subsequently thereafter, to which the petitioner is entitled for refund. He further prayed that at this stage, the petition be disposed of with liberty to the petitioner to approach respondent Nos.1 and 2 for refund of the amount which it had paid towards the import duty and permit fee to safeguard its interest.

5. In view of above, without expressing any opinion on merits of the controversy and in view of the reply filed by respondent Nos.1 & 2, we dispose of the writ petition by permitting the petitioner to move an appropriate application before respondent Nos.1 and 2 for refund of the amount paid towards the import duty and permit fee. In case such an

application is moved by the petitioner, the same shall be decided by respondent Nos.1 and 2 expeditiously after affording an opportunity of hearing to the petitioner by passing speaking order in accordance with law

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

July 03, 2017
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No