

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2242 OF 2018

M/s RADICO NV DISTRILLERIES
MAHARASHTRA LIMITED

Petitioners

Versus

The State of Maharashtra and others

Respondents

Mr. N.S. Shah advocate for the petitioner
Mr. C.S. Kulkarni, AGP for respondent Nos.1 to 3.

CORAM : R.M. BORDE & K.K. SONAWANE, JJ

(Date: April 23 rd, 2018)

PER COURT :-

1 Counsel appearing for the petitioner states that, the issue raised in the instant petition is squarely covered by the decision rendered by the Division Bench of this Court at Mumbai in Writ Petition No.8548 of 2004 in the case of **M/s Arss Biofuel Pvt Ltd., v. State of Maharashtra and others** (2018 (2) ABR 508. The issue that was raised in the aforesaid matter was, as to whether State has power to regulate denatured alcohol i.e. rectified alcohol after its denaturing. While dealing with the issue, the Court has observed in paragraph No.14 of the Judgment that, “ It is thus clear from the decision of the Supreme Court that the industrial alcohol after denaturing falls within the

exclusive control of the Union.” The Court, therefore, was pleased to pass following order:-

“ (a) The Bombay Denatured Spirit Rules, 1959 to the extent that they regulate the possession, use, sale import, export and transport of denatured spirit viz. Rules 23 to 62 are ultra vires and unconstitutional and are struck down.

(b) There shall be no licence required under the Maharashtra Prohibition Act for sale, purchase, transport, possession, storage, dehydration, import and export of denatured spirit.

(c) We hereby clarify that the power of the State Government in the case of rectified spirit supplied for industrial purposes is only to see and ensure that rectified spirit, whether in the course of its manufacture or after its manufacture is not diverted or misused for potable purpose. The State can make necessary regulations requiring the industry to submit periodical statements of raw material and the finished product (rectified spirits) and is entitled to verify their correctness.

(d) The Writ Petitions are made absolute on the above terms with no order as to costs. ”

2 Adopting the same view, the Division Bench at Mumbai has disposed of a group of writ petitions No.1057/2006 and other companion matters on 8.3.2018.

3 The Commissioner - State Excise, Maharashtra State has issued communication to all his subordinates on 19.3.2018, informing that the Rules framed by the State under The Bombay Denatured Spirit Rules No.23 to 62 have been declared to be void by the Bombay High Court while disposing of Writ Petition No.8548/2004 and in that view of the matter, for the purpose of purchase, use, import, export and transport of denatured spirit, the State Government will not have any control and for the aforesaid purpose licence shall not be insisted.

The communication dated 19.3.2018 is taken on record and marked 'X' for identification.

4 The communication dated 19.3.2018 as well as the decision rendered by this Court while disposing of Writ petition No.8548/2004 are equally applicable to the case at hand and as such, it would not be necessary for the authority to insist upon production of licence for aforesaid purpose.

5 In view of above, writ petition is disposed of.

(K.K. SONAWANE, J)

(R.M. BORDE, J)