IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2729 of 2019

==

Goodhost Liquors Private Limited, a registered Company incorporated Under the Provisions of the Companies Act, 1956 and having its registered Office at Binoshiba House, Fraser Road, P.S.Kotwali Patna, Bihar-800001, through its Director Shri Upendra Kumar, aged about 49 years, Male, Son of Shri Brij Bhushan Prasad Sinha, Resident of Shalimpur Ahra, P.S. Kadamkuan Distrit-Patna-800003. ... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
2. The Excise Commissioner, Bihar, Patna
3. The Assistant Commissioner of Excise, Patna
4. The Bihar State Beverage Corporation Limited, a Government of Bihar Enterprises, through its Managing Director, at 1st Floor, Vidyut Bhawan-II, Jawaharlal Nehru Marg, Patna-800001.

... ... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Tej Pratap Singh, Adv.
Mr. Harsh singh, Adv.
Mr. Alok Chandra, Adv.

For the Respondent/s : Mr. Vikash Kumar, Adv.

==

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 01-07-2019

Heard the parties.

The petitioner prays for the following reliefs:-

" (i) Issuance of a writ of mandamus or any other writ, order or direction, directing the Respondents, to refund the (a) Excise Duty, (b) Bottling fee and (c) Distributor's License fee deposited on India Made Foreign Liquor (in short 'IMFL') manufactured and supplied by the petitioner to the Bihar State Beverage Corporation Limited (in short 'BSBCL') which remained unsold and had to be destroyed and drained out by BSBCL, due to prohibition on sale and consumption of liquor being imposed from 5th April, 2016;

(ii) Direct the respondents to pay interest @ 18% per annum from the date of its deposit till the date of actual refund, on the aforesaid refundable amount which has been unlawfully withheld by the respondents;

(iii) Issuance of any other writ(s), order(s), or direction(s) as may be deemed fit and proper by this Hon'ble Court."

It is because according to the petitioner the deposits made under since repealed Bihar Excise Act, 1915 remained unutilized that they are entitled to the refund so claimed. The refund prayed for has been itemized by the petitioner by filing a supplementary affidavit and paragraph 3 of the said affidavit gives the details of the amount claimed, amount refunded and the balance payable which is being claimed by the petitioner and which runs under:

" 3. That for the sake of brevity and clarification, the petitioner by way of a tabular chart, seeks to bring on record, the Excise levies claimed by the petitioner to be refunded, the amount already refunded under the respective head and the balance outstanding of the petitioner against the respondents.

2015-16

Particulars	Amount Claimed (Rs)	Amount Refunded (Rs.)	Balance payable (Rs.)
Excise duty deposited on stocks lying at BSBCL which has been drained	3,93,97,198.84	Nil	3,93,97,198.84

out			
Bottling fee on stocks which has been drained out	12,66,462.00	Nil	12,66,462.00
Distributor's License fee on drained out and returned stocks for exports.	9,49,846.50		9,49,846.50
Total	**Rs. 4,16,13,507.34**	**Nil**	**Rs.4,16,13,507.34**

2016-17

Particulars	Amount Claimed (Rs)	Amount Refunded (Rs.)	Balance Payable (Rs.)
Advance Bottling Fee	30,00,000.00	Nil	30,00,000.00
Advance Distributor's License fee	30,00,000.00	29,38,904.00	61,096.00
Advance Label Registration Fee	15,00,000.00	14,79,452.00	20,548.00
Total	**75,00,000.00**	**44,18,356.00**	**30,81,644.00**

Learned counsel for the parties are in agreement that identical issues came up for consideration in the case of **Salson Liquors Pvt. Ltd. Vs The State of Bihar and Ors.** arising from CWJC No. 3584 of 2019 and this Court bearing note of the order passed in CWJC No. 15316 of 2017 (**United Spirits Limited Vs The State of Bihar)** and analogous cases has disposed of the writ petition with direction to the Excise Commissioner to examine the claim of the petitioner and pass appropriate orders in accordance with law and with opportunity of hearing to the petitioner within a period of three months from the date of receipt/production of a copy of the judgment.

Learned counsel for the parties are in agreement that the present writ petition can also be disposed of in similar terms.

Having heard learned counsel for the parties and considering the nature of the claim put forth in this writ petition which is yet to be adjudicated upon by the Excise Commissioner, Bihar, we deem it proper to allow the writ petitioner to file duly constituted refund claim before the Excise Commissioner giving details of the refund which he seeks and has also been reproduced by us hereinabove for the sake of convenience.

It goes without saying that any such application filed by the petitioner shall be considered and disposed of by the Excise Commissioner, by a speaking order to be passed within a period of three months from the date of receipt/production of a copy of this judgment after giving an opportunity of hearing to the petitioner as well as the Department.

With the directions so issued, we dispose of the writ petition.

(Jyoti Saran, J)

(Partha Sarthy, J)

Anjula/Surendra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.07.2019
Transmission Date	NA