IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6757 of 2019

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Molson Coors India Pvt. ltd. (Formely Mount Shivalik Breweries Pvt Ltd) a registered company incorporated under the Companies Act, 1956 having its corporate office at 501, DLF Tower -B District Centre Jasola, New Delhi-110025 through its authorized signatory Sri Santosh Kumar Gupta, Male, aged 44 years, Son of Late Gupteshwar Prasad, resident of 88, Near Lal Chowk, Jai Ram Nagar, P.O. and P.S. Khagaul, Dist- Patna- 801105.

... ... Petitioner

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, Vidyuy Bhawan- II, Jawaharlal Nehru Marg, Patna- 800001.

... ... Respondents

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Appearance :
For the Petitioner/s : Mr. Satyabir Bharti, Adv.
For the Respondent/s : Mr. Lalit Kishore, AG

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 07-05-2019

Heard Mr. Satyabir Bharti, learned counsel for the petitioner, Mr. Lalit Kishore, learned Advocate General assisted by Mr. Bishwa Bibhuti Kumar Singh for the State in its Excise Department and Mr. Vikash Kumar, learned counsel appearing for the respondent Corporation.

Though there has been arguments and counter arguments on behalf of the contesting parties as to the relief claimed but in the nature of the order that we propose to pass more particularly where the claim of refund made by the petitioner yet remains pending at the level of the Excise Commissioner, we do not intend to express ourselves on the inter-party merit at this stage.

The petitioner in the present writ petition seeks refund of the excise duty, distributor’s licence fee, Import fee, label registration fee etc. deposited during the financial year 2016-17 for transacting business of liquor but in view of enforcement of the Bihar Prohibition and Excise Act, 2016 which was preceded by a notification expressing similar intent with effect from 5.4.2016, since the deposits in question remained unutilized, the petitioner seeks refund of these deposits.

The petitioner alongside also prays for refund of the security deposit of the value of Rs.10 lacs furnished in response to the tender notice issued by the respondent Corporation.

The short argument advanced by Mr. Satyabir Bharti, learned counsel for the petitioner, in support of the relief is that since the petitioner was never allowed to operate or draw advantage of these deposits, he is entitled to absolute refund on each count. He submits that this issue came up for consideration in the case of **United Spirits Limited v. the State of Bihar & ors.** arising from C.W.J.C.No. 15316/2017 which was heard analogous with other cases but there are some additional issues which arise in the present writ petition but were not subject matter of the previous litigation.

Mr. Lalit Kishore, learned Advocate General while making a prayer for adjournment for responding to the issue raised does agree that since the matter is pending before the Excise Commissioner on each of the count vide representations placed at Annexure 8 which is dated 13.8.2018 and relates to refund of excise levies discussed above; and the claim for refund of the security made vide Annexure 9 which is pending before the General Manager of the respondent Corporation, it would be proper to direct the authorities to dispose of the matter before it can be taken up for a judicial review of the action complained above.

Having heard learned counsel for the parties and considering that the representations have remained pending since August, 2018 or thereafter before the Excise Commissioner and the General Manager of the Corporation, in so far as the two reliefs listed above are concerned, we direct each of these authorities to consider the claim and dispose of the same in accordance with law with opportunity of hearing to the petitioner within a period of six weeks of receipt/ production of a copy of this judgment.

It goes without saying that should the petitioner be found entitled to the claim, the same be paid within the period stipulated above and such of the claims which are not found admissible be disposed of by a speaking order to be passed within the same period.

With the directions above, we allow this writ petition.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.06.2019
Transmission Date	NA