

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (C) NO. 2800 OF 2019**

Som Distilleries & Breweries Ltd. (through Authorized Representative/Signatory), Som House, 23, Zone II, Maharana Pratap Nagar, Bhopal – 462011 (M.P.) ... **Petitioner**

versus

1. State of Chhattisgarh (through Additional Chief Secretary, Department of Finance) Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur (CG)
2. State of Chhattisgarh (through Excise Department), GST Bhawan, Sector 19, Atal Nagar, Raipur 492002 (CG)
3. Chhattisgarh State Beverages Corporation Ltd. (through Managing Director), Labhandi, Chokra Nala, Raipur (CG)
4. Sona Beverages Private Limited, 35/75, Punjabi Colony, Katora Talab, Raipur (CG) ... **Respondents**

For Petitioner	:	Mr. Kishore Bhaduri, Mr. Pankaj Singh, Mr. Sabyasachi Bhaduri and Mr. Vivek Shrivastava, Advocates.
For Respondent-State	:	Ms. Sunita Jain, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/08/2019

1. Present is a writ petition which has been filed seeking for the following relief:
 - a.** Direct the Respondent No.3 to act upon the representation dated 27.06.2017 and legal notice dated 31.12.2018 preferred by the Petitioner in earnest and complete the exercise of scrutinizing the cost card of all manufacturers/suppliers expeditiously to reveal malpractices, if any; and
 - b.** Direct the respondent authorities to undertake a detailed and fair inquiry into the malpractices being carried on by various manufacturers/suppliers including that of Respondent No.4, particularly, their act of evasion of CVD by way of manipulating EDP and miscellaneous expenses; and
 - c.** Direct the respondent authorities to take appropriate action against the erring manufacturers/suppliers in terms of recovery; penalty, both financial and punitive, etc; and"
2. During the course of argument, the submission which the counsel for the petitioner have made is that their primary grievance is that the CVD which is being paid by the petitioner is at the actual ex-factory price whereas the CVD which the respondent no.4 and other similar distilleries are paying is at a much deflated price so as to evade the CVD, which they have otherwise to pay at actual ex-factory price, and that price is subsequently adjusted by showing it on the other miscellaneous expenses like transportation etc., etc.

3. Grievance of the petitioner is that the petitioner establishment has raised this issue before the higher authorities under the State Government as well to the officers of the respondent no.3, however, no concrete action has been taken in this regard by the State Government. The petitioner also draws the attention of this Court to Annexure P-8 which is the correspondence made by respondent no.3 to respondent no.4 and submits that the same does not seem to be further proceeded with or at least proceedings have not been concluded by any concrete steps.

4. Be that as it may, the fact that the petitioner is not aggrieved of any action on the part of the respondents qua the petitioner distillery would not permit the petitioner to approach this Court under the writ jurisdiction or judicial review under Article 226 of the Constitution of India questioning the CVD tax which is being paid by other distilleries and which is collected by the State Government. So far as the petitioner distillery is concerned they could have filed a writ petition if they are aggrieved of any of the orders of assessment made by respondent no.3 qua the petitioner. The petitioner cannot file a writ petition questioning the assessment or the tax being paid by respondent no.4. The petitioner may have other remedies for the same, more particularly when there is no specific order which is being questioned or sought to be quashed by this Court. The petitioner has got other forums or any other nature of petition which they may file for agitating the issue or bringing it to the notice of the higher authorities of the department so far as the alleged illegality committed by respondent no.4 is concerned.

5. It is the general rule that it is only the person aggrieved who had approached the Court seeking for relief under writ jurisdiction of the High Court, it is always an individual action which has an adverse consequences on the said individual who can approach the High Court for issuance of a writ seeking quashment of the same. There has to be a clear case of the petitioner of an adverse action or an order which needs to be questioned and which requires judicial interference. It is only the person who is aggrieved of an order passed against him who can challenge or approach the High Court for judicial interference of the same. For a person to seek writ he has to first

establish or crystallize an individual action passed against him which he intends to challenge.

6. It has been in a catena of decisions observed by the Supreme Court that ordinarily only those person is at liberty to approach the High Court who has a genuine infraction of any of his individual or fundamental right guaranteed under the Constitution of India. Normally, a person can approach the High Court alleging inaction on the part of the government where any of the right of such person is prejudicially affected by any action or inaction of the government. It is only a “person aggrieved” who can move to the High Court by way of a writ petition and person aggrieved must be a person who has suffered a legal grievance or who is affected by a decision or action pronounced by it.

7. It was also held by the Supreme Court that normally one is required to establish that one has been denied or deprived of something to which one is legally entitled in order to make him a “person aggrieved” and again a person is aggrieved if a legal burden is imposed upon him. That for invoking the writ jurisdiction the test is whether a person has a genuine grievance because of an order which prejudicially affects his interest. Unless and until there is a direct infringement of any of his right he cannot be treated to be a person aggrieved and writ petition in such circumstances would not be maintainable.

8. The view of this Court stands fortified from the following judgments of the Hon'ble Supreme Court, reported in:

1. 2002 (2) SCC 210 – Narinderjit Singh Sahni & Others Vs. Union of India & Others
2. AIR 1971 SC 385 – Adi Pherozshah Gandhi Vs. H.M. Seervai, Advocate General of Maharashtra, Bombay.
3. 1973 (2) SCC 696 – Dr. Satyanarayana Sinha Vs. M/s S. Lal and Company (P) Ltd.

9. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge