

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

Date of Decision: 05.12.2019

CWP-33557-2019 (O&M)

1.

Ashoka Distillers and Chemicals Pvt Ltd

... Petitioner

vs.

State of Haryana & Others

.. Respondents

2.

CWP-33476-2019 (O&M)

M/s Ads Spirits Pvt. Ltd.

... Petitioner

vs.

State of Haryana & Others

.. Respondents

3.

CWP-33477-2019 (O&M)

Associated Distilleries

... Petitioner

vs.

State of Haryana & Others

.. Respondents

4.

CWP-33502-2019 (O&M)

M/s Oasis Overseas Exports Pvt. Ltd.

... Petitioner

vs.

State of Haryana & Others

.. Respondents

5.

CWP-33505-2019 (O&M)

M/s Frost Falcon Distilleries Ltd.

... Petitioner

vs.

State of Haryana & Others

.. Respondents

6.

CWP-33507-2019 (O&M)

Haryana Organics

... Petitioner

vs.

State of Haryana & Others

.. Respondents

7.

CWP-33512-2019 (O&M)

Haryana Distillery Ltd

... Petitioner

vs.

State of Haryana & Others

.. Respondents

8.

CWP-33515-2019 (O&M)

M/s N. V. International Pvt Ltd

... Petitioner

vs.

State of Haryana & Others

.. Respondents

9.

CWP-33519-2019 (O&M)

M/s Piccadily Agro Industries Ltd.

... Petitioner

vs.

State of Haryana & Others

.. Respondents

10.

CWP-33522-2019 (O&M)

M/s N. V. Distilleries Ltd

... Petitioner

vs.

State of Haryana & Others

.. Respondents

11.

CWP-33588-2019 (O&M)

M/s Oasis Commercial Pvt. Ltd.

... Petitioner

vs.

State of Haryana & Others

.. Respondents

12.

CWP-33636-2019 (O&M)

M/s Global Bottlers Pvt. Ltd.

... Petitioner

vs.

State of Haryana & Others

.. Respondents

13.

CWP-33668-2019 (O&M)

M/s Flyover Distillers and Bottlers Pvt. Ltd

... Petitioner

vs.

State of Haryana & Others

.. Respondents

14.

CWP-33685-2019 (O&M)

M/s Haryana Liquors Pvt Ltd

... Petitioner

vs.

State of Haryana & Others

.. Respondents

15.

CWP-33755-2019 (O&M)

M/s Piccadily Sugar and Allied Industries Ltd

... Petitioner

vs.

State of Haryana & Others

.. Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE VIVEK PURI**

Present : Mr. Puneet Bali, Senior Advocate with
Mr. Sandeep Goyal, Advocate and
Mr. Nikhil Singh, Advocate
for the petitioner(s).

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Chetan Mittal, Senior Advocate with
Mr. Vivek Singla, Advocate
for respondent No.4 in CWP-33557-2019.

Mr. Mohan Jain, Senior Advocate with
Mr. Vikram Jain, Advocate and
Mr. Kunal Kapoor Advocate
for respondent No.4 in CWP-33476-2019.

AJAY TEWARI, J.(ORAL)

This order shall dispose of above mentioned fifteen petitions. Since common questions of law and facts are involved therein, they are being decided by this common order. For the sake of convenience, the facts are being taken from CWP-33557-2019.

Main grouse in these petitions is against the order dated 30.09.2019 (which has been annexed as Annexure P-16 in CWP-33557-2019).

Short reply by way of an affidavit of Yogesh Kumar, Collector (Excise)-cum-Additional Excise and Taxation Commissioner, Haryana, on behalf of respondents No. 1 to 3 has been filed in Court today and the same is taken on record. Copy supplied. In the reply, it has been stated that the issue, which has arisen in this petition, has been decided to be referred to the Government under Clause 12.21 of the Excise Policy for the Government's clarification.

In view of the reply filed by the State of Haryana, the present petitions become infructuous and disposed of as such. However, the Government is directed to decide the issue within a period of four weeks

from the date of receipt of certified copy of this order.

Learned counsel for the petitioners prays that till such time as the Government decides the issue, there should be a complete stay on any recovery (past or future) which is being sought to be made from them.

On the other hand, learned Deputy Advocate General, Haryana and learned counsel appearing for L-13 and L-14-Licensees have argued that granting of stay would not be fair since for the past two months, petitioners have voluntarily stopped charging the amount of Rs.8.81. The petitioners stoutly denied the same. As mentioned above, the reply of the State is devoid of any particulars.

As regards the recovery to be made from the amount which may have been charged by the petitioners, it is the stand of the petitioners that under Rule 6 of the Distillery Rules, 1932, they have pledged their entire premises, stock and their equipment with the Excise Department. The learned Deputy Advocate General, Haryana as assisted by Mr. Yogesh Kumar, who is present in the Court, have stated though that she is not aware of whether the bonds have actually been executed yet under Rule 6, *ibid* it is mandatory to do so.

Counsel for the petitioners state that they have, in fact, executed such bonds.

By way of finding middle ground; as regard past recovery the same shall remain stayed till the time the Government decides this issue and as regards future recovery, petitioners are permitted to charge the disputed amount of Rs.8.81 per case but that amount would be deposited in an escrow account with the Excise Department to be handed over to the parties who may be successful.

In the circumstances, it is further clarified that if due to some oversight, any distiller has not executed such a bond, the Excise Department would be at liberty to require them to furnish the requisite bonds within a period of one week from the date of receipt of certified copy of this order.

It is further clarified that a similar bond be executed by those of the petitioners who are running bottling plants within the same period.

In the circumstances, all the petitions stand disposed of as having been rendered infructuous, at this stage.

Since the main case has been disposed of as infructuous, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(VIVEK PURI)
JUDGE

05.12.2019.
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Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No