IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(T) No.6295 of 2019
.....

Sukanta Roy --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, East Singhbhum at Jamshedpur.
4. Assistant Commissioner of Excise, Jamshedpur, District East Singhbhum. -- --- Respondents

With

W.P.(T) No.6294 of 2019
.....

Sukanta Roy --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, East Singhbhum at Jamshedpur.
4. Assistant Commissioner of Excise, Jamshedpur, District East Singhbhum. -- --- Respondents

With

W.P.(T) No.6297 of 2019
.....

Sunil Jha --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, East Singhbhum at Jamshedpur.
4. Assistant Commissioner of Excise, Jamshedpur, District East Singhbhum. -- --- Respondents

With

W.P.(T) No.6298 of 2019
.....

Sukanta Roy --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, East Singhbhum at Jamshedpur.
4. Assistant Commissioner of Excise, Jamshedpur, District East Singhbhum. -- --- Respondents

With

W.P.(T) No.6299 of 2019
.....

Sukanta Roy --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary,

Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, East Singhbhum at Jamshedpur.
4. Assistant Commissioner of Excise, Jamshedpur, District East Singhbhum. -- --- Respondents

With

W.P.(T) No.6622 of 2019

.....

Anirudh Kumar Singh --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, Koderma.
4. Assistant Commissioner of Excise, Koderma. -- --- Respondents

With

W.P.(T) No.6648 of 2019

.....

Anirudh Kumar Singh --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, Koderma.
4. Assistant Commissioner of Excise, Koderma. -- --- Respondents

With

W.P.(T) No.6650 of 2019

.....

Anirudh Kumar Singh --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, Koderma.
4. Assistant Commissioner of Excise, Koderma. -- --- Respondents

With

W.P.(T) No.6660 of 2019

.....

Pramod Kumar Sharma --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, Koderma.
4. Assistant Commissioner of Excise, Koderma. -- --- Respondents

With

W.P.(T) No.6693 of 2019

.....

Kamta Prasad Ray --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary,

Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, Koderma.
4. Assistant Commissioner of Excise, Koderma. -- --- Respondents

With

W.P.(T) No.6694 of 2019

.....

Pramod Kumar Sharma --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, Koderma.
4. Assistant Commissioner of Excise, Koderma. -- --- Respondents

With

W.P.(T) No.6695 of 2019

.....

Kamta Prasad Ray --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, Koderma.
4. Assistant Commissioner of Excise, Koderma. -- --- Respondents

With

W.P.(T) No.6696 of 2019

.....

Kamta Prasad Ray --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, Koderma.
4. Assistant Commissioner of Excise, Koderma. -- --- Respondents

With

W.P.(T) No.6774 of 2019

.....

Jitendra Singh --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.
3. Deputy Commissioner-cum-District Magistrate, Dhanbad.
4. Assistant Commissioner of Excise, Dhanbad. -- --- Respondents

With

W.P.(T) No.6776 of 2019

.....

Jitendra Singh --- --- Petitioner

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Excise and Prohibition, Ranchi.
2. Commissioner of Excise and Prohibition, Ranchi.

3. Deputy Commissioner-cum-District Magistrate, Dhanbad.
4. Assistant Commissioner of Excise, Dhanbad. -- --- Respondents

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CORAM: The Hon'ble Mr. Justice Aparesh Kumar Singh
The Hon'ble Mrs. Justice Anubha Rawat Choudhary
Through Video Conferencing

For the Petitioners : Mr. Sumeet Gadodia, Adv. (in all cases)
For the Respondents : Mr. Sachin Kumar, A.A.G.-II
(in W.P.(T) Nos.6295, 6297, 6299, 6622, 6660 and 6694/2019)
Mr. Rohit, A.C. to A.A.G.-I
(in W.P.(T) No.6693/2019)
Mr. Piyush Chitresh, A.C. to A.G.
(in W.P.(T) Nos.6294, 6298, 6648, 6695, 6774 & 6776/2019)
Mr. Ashok Kr. Yadav, G.A.-I
(in W.P.(T) Nos. 6650 & 6696/2019)

07/26.11.2020 Heard learned counsel Mr. Sumeet Gadodia appearing on behalf of the petitioners in all these cases. Heard Mr. Sachin Kumar, learned A.A.G.-II appearing on behalf of the respondents-State.

Learned counsel appearing on behalf of the petitioners, at the outset, submits that so far as W.P.(T) Nos. 6297, 6622, 6648, 6650, 6660, 6693, 6694, 6695 and 6696 of 2019 are concerned, the same have become infructuous as he has received instructions from his clients that they do not have any surviving grievances. He submits that as per the instructions, he does not want to press these writ petitions as he has been instructed that the excess amount has already been refunded to his clients.

Learned counsel appearing on behalf of the State has no objection, if these writ petitions are not pressed by the petitioners.

Considering the submissions of learned counsel for the parties, these writ petitions are dismissed as not pressed having become infructuous.

Learned counsel for the petitioners submits that so far as W.P.(T) Nos. 6295, 6294, 6298 and 6299 of 2019 are concerned, the petitioner in all these cases is same but he has received instructions that in spite of representations having been filed by the petitioner before the concerned authority and in spite of repeated opportunities granted by this Court to the State to take decision in the matter, the excess amount has not been refunded to the petitioner. He submits that petitioner is entitled to the refund of the

excess amount and accordingly appropriate direction, as prayed for in these cases, be passed.

Learned counsel appearing on behalf of the respondents has submitted that a counter affidavit has been filed in W.P.(T) No. 6298/2019 mentioning therein at paragraph-28 that the petitioner's representation is under consideration and after taking final decision the respondent will inform the Court through supplementary counter affidavit. Learned counsel for the respondents has also raised objection by stating that these writ petitions were filed within a couple of days after filing of the representation. Petitioner did not give sufficient time to the respondents to dispose of the representation. Learned counsel also submitted that on merits petitioner does not have case for refund but he has no objection if an appropriate order is passed for disposal of the representation which has been filed seeking refund of the excess amount paid by the petitioner. He submits that it may also be indicated that this Court has not entered into merits or otherwise of the claim of the petitioner.

After hearing learned counsel for the parties and considering the facts and circumstances of the case, this Court finds that in these writ petitions filed by the same petitioner, a direction has been sought seeking a mandamus upon the respondents to refund and/or adjust in subsequent months the proportionate amount of excess Excise Transport Duty (ETD) realized from the petitioner during the period in question and seeking a declaration that the action of the respondents authorities in neither refunding nor adjusting the excess ETD realized from the petitioner for the period in question is arbitrary and illegal. However, it is not in dispute that the petitioner had filed a representation before the Commissioner of Excise and Prohibition, Government of Jharkhand making a prayer for refund. It is also not in dispute that no order has been passed so far on the representation filed by the petitioner and the petitioner had moved this Court within a couple of days after filing of the representation. From perusal of the counter affidavit filed in one of these cases i.e. W.P.(T) No.6298/2019 it appears that the representation is under consideration of the respondents and no order has been passed so far.

Considering the aforesaid factual situation, this Court is of the considered view that the purpose of the petitioner would be served, if the Commissioner of Excise and Prohibition, Government of Jharkhand is

directed to pass an appropriate order on the representation for refund filed by the petitioner after granting an opportunity of hearing to the petitioner and if the petitioner is found entitled for refund, the same may be refunded to the petitioner. Accordingly, this Court directs the Commissioner of Excise and Prohibition, Government of Jharkhand to pass an appropriate order in the representation which has been annexed as Annexure-8 to the present petition and pass an order on the same considering the various provisions of law i.e. Acts, Rules, Statutes and other circulars and also licence and after giving an opportunity of hearing to the petitioner and in case the petitioner is found entitled to any refund, the same be refunded forthwith within a period of 15 days from the date of passing of such order. It is made clear that this Court has not entered into the entitlement of the petitioner or otherwise and it will be open to the authority to pass appropriate order in accordance with law. The petitioner is directed to appear before the Commissioner of Excise and Prohibition, Government of Jharkhand on 5th January 2021 and upon appearance of the petitioner himself or through his authorized representative, the learned Commissioner of Excise and Prohibition shall proceed in accordance with law.

So far as W.P.(T) Nos.6774 and 6776 of 2019 are concerned, learned counsel for the petitioner Mr. Sumeet Gadodia has submitted that he has not received any instruction from his client regarding disposal of his claim. However, it appears from perusal of the writ petitions that no representation as such has been annexed along with the writ petitions but the petitioner has made a statement in the writ petitions that they had orally asked for refund of the excess amount.

Considering the aforesaid facts and circumstances of these cases, this Court disposes of the writ petitions with liberty to the petitioner to file a representation enclosing copy of the writ petitions before the Commissioner of Excise and Prohibition, Government of Jharkhand and if such representation for refund is filed by the petitioner, the same is directed to be considered in accordance with law after giving an opportunity of hearing to the petitioner. The representation should be filed latest by 5th January 2021.

(***Aparesh Kumar Singh, J.***)

Shamim/ (***Anubha Rawat Choudhary, J.***)