

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17010 of 2016

M/s. Umeri Distillery (P) Limited. ***Petitioner***
Mr. Amar Kumar Mohanty, Advocate

-versus-

State of Odisha & Others ***Opposite Parties***
Mr. Debakanta Mohanty, AGA

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
28.11.2022

Order No.

11. 1. The challenge in the writ petition is to an order passed by the Excise Commissioner requiring the Petitioner to pay 'transport fee' in terms of the Odisha Excise Act and Rules thereunder.
2. The ground on which the challenge has been raised to the impugned order/letter is that they are without jurisdiction and considering that the transactions were all 'imports' no 'transport fee' can be asked to be collected along with import fee, which according to the Petitioner, has already been paid by him.
3. In the counter affidavit filed in the petition, one of the defences raised is that the Petitioner can go before the Board of Revenue, Odisha questioning the impugned order/letter of the Excise Commissioner under Rule 62 of the Odisha Excise Rules, 1965 since the impugned orders were passed prior to 2017.

4. In that view of the matter, without examining the merits of the impugned order/letter at this stage, the Court directs that the Petitioner will be permitted to file appeal against the impugned order/letter of the Excise Commissioner before the Board of Revenue on or before 2nd January, 2023 and the delay in filing such appeal will stand condoned by virtue of this order. The Board of Revenue will then hear the Petitioner and pass appropriate order in the appeal in accordance with law within a period of six months thereafter. The Court clarifies that it has not expressed any view on merits. It is clarified further that the Petitioner will be permitted to urge all submissions raised in this petition before the Board of Revenue.

5. The writ petition is disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

MRS/Laxmikant