IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.18502 of 2013

M/s. FORTUNE SPIRIT LIMITED	....	***Petitioner***
		Mr. A.K. Patra, Advocate
-versus-		
State of Odisha and others	....	***Opposite Parties***
		Mr. D.K. Mohanty, AGA

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAIK

ORDER
08.08.2022

Order No.

04.

1. The challenge in the present petition is to the demand notice dated 7th August, 2013 issued by the District Excise Officer, Berhampur, Ganjam requiring the Petitioner to deposit transport fee on the import of Extra Neutral Alcohol (ENA) received from outside the State imported from M/s. Dalmia Chini Mills, District-Sitapur, Uttar Pradesh.

2. While directing notice to issue in the present petition on 26th August, 2013, this Court directed stay of demand notice dated 17.7.2013 and dated 7.8.2013 till disposal of the writ application.

3. Learned counsel for the Petitioner has drawn attention to the Court to a letter dated 20th January, 2009 issued by the Excise Commissioner as instructions to the Accountant General (CW & RA), Orissa, Bhubaneswar where, inter alia, it is stated as under:

> "In this connection it is to mention here that in the Excise policy it is stipulated that the levy of import fee to be collected only for import of RS/ENA from import of RS/ENA from the

> outside the State of Orissa to the bottling units in the State. And also as per definition import fee is applicable only for import of consignment into the State from outside the State and transport fee is applicable in case of transport of consignment from one place to another within the State. Hence the demand raised by the Audit towards "Non-levy of Transport fee on ENA-36.57 lakh may not be charged simultaneously for import of ENA from outside the State."

4. In view of the clarification issued to the Accountant General by the Excise Commissioner himself, it is plain that no transport fee is applicable where the consignment comes from outside the State. It is applicable only where the consignment goes from one place to another within the State.

5. In view the above clarification, the demand dated 7th August, 2013 (Annexure-16) raised against the Petitioner is hereby quashed. The amount already deposited by the Petitioner, if only will be refunded to it in accordance with law within a period of eight weeks from today.

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

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

TUDU