IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) Nos.26231, 18491, 18819, 18833, 18834, 18835, 19505, 19580 & 26217 of 2013
and
W.P.(C) Nos.2332, 2758 & 6662 of 2014
and
W.P.(C) No.898 of 2015

M/s. Umeri Distillery (P) Limited .... ***Petitioners***
(In W.P.(C) No.26231 of 2013)

M/s. MIDAS Bottling Pvt. Ltd.
(In W.P.(C) No.26217 of 2013)
M/s. K. A. Guru and associates, Advocates

M/s. Bacchus Bottling Pvt. Ltd. and another .... ***Petitioners***
(In W.P.(C) No.18491 of 2013)
M/s. S. P. Sarangi and associates, Advocates

M/s. Utkal Distilleries .... ***Petitioners***
(In W.P.(C) No.18819 of 2013 and W.P.(C) No.2758 of 2014)

M/s. Lingaraj Supply Agency
(In W.P.(C) No.18833 of 2013)

M/s. Shree Jagannath Supply Company
(In W.P.(C) No.18834 of 2013)

United Spirits Limited
(In W.P.(C) Nos.18835 &19580 of 2013)
Mr. Durga Prasad Nanda, Senior Advocate
(W.P.(C) No.19580 of 2013) and
M/s. P. R. Patnaik and associates, Advocates

M/s. Pernod Ricard India (P) Ltd. .... ***Petitioners***
(In W.P.(C) No.19505 of 2013, W.P.(C) No.6662 of 2014 &

W.P.(C) No.898 of 2015)

M/s. P. Rath and associates, Advocates

M/s. Oriental Bottling Pvt. Ltd. .... ***Petitioner***
(In W.P.(C) No.2332 of 2014)

M/s. A. K. Patra and associates, Advocates

-versus-

State of Odisha and others .... ***Opposite Parties***

Mr. Debakanta Mohanty, Additional Government Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER

Order No. **24.11.2022**

07. 1. The appearance memo of Mr. Durga Prasad Nanda, learned Senior Counsel appearing for the Petitioner in W.P.(C) No.19580 of 2013 filed today is taken on record.

2. In all these writ petitions, the challenge is raised to the orders passed by the Excise Commissioner requiring each of the Petitioners to pay 'transport fee' in terms of the Odisha Excise Act and Rules thereunder.

3. One of the common grounds on which the challenge has been raised to the impugned orders 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 Petitioners, has already been paid by them.

4. While issuing notice in these petitions, interim orders were passed by this Court staying the impugned orders.

5. In the counter affidavit filed in these petitions, one of the defences raised is that the Petitioners can go before the Board of

Revenue, Odisha questioning the impugned orders of the Excise Commissioner under Rule 62 of the Odisha Excise Rules, 1965 since the impugned orders were passed prior to 2017.

6. In that view of the matter, without examining the merits of the impugned orders at this stage, the Court directs that each of the Petitioners will be permitted to file appeal against the impugned order 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 Petitioners and pass appropriate orders in each of the appeals in accordance with law within a period of six months thereafter. Till such time, the interim orders of this Court will continue. The Court clarifies that it has not expressed any view on merits. It is clarified further that the Petitioners will be permitted to urge all their submissions raised in these petitions before the Board of Revenue.

7. The writ petitions are disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

M. Panda