

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 4733 of 2012

Ritesh Sahu

....

Petitioner

Mr. Karunakar Jena, Advocate

-versus-

State of Odisha & others

....

Opp. Parties

Mr. L. Samantaray, Addl. Govt. Advocate

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M. S. SAHOO

ORDER (Oral)

09.02.2022

Order No.

- 07.** **1.** This matter is taken up through hybrid mode.
- 2.** The petitioner being an exclusive privilege holder (licensee) for the year 2011-12 of Country Spirit (CS) shop at Berhampura, P.S.-Banki in the district of Cuttack has challenged the demand notice dated 31st March, 2013 issued by the Sub-Inspector of Excise, Salipur Charge, District-Cuttack/O.P. No.5 directing the payment of a sum of Rs. 1,27,072/-, towards duty on short-fall of Minimum Guaranteed Quantity (MGQ) for the year 2011-12 with fine. The claim/plea of the petitioner is founded on the allegation that there was a short supply of the Country Spirit by the Orissa State Beverages Corporation Limited Depot for some months in the excise year 2011-12, which resulted into non-availability of the quota required for lifting, thus no fault can be attributed on part of the petitioner.
- 3.** At the time of hearing, learned counsel for the petitioner as well as learned Addl. Govt. Advocate for the State concede that the issue raised herein is squarely covered by the decision of this Court rendered

in W.P.(C) No.5181 of 2017 dated 19th April, 2018, whereby a bunch of petitions were disposed of with a direction to the competent authority i.e. the Superintendent of Excise concerned to carry out the exercise of re-computing the short-fall of the MGQs in respect of each of the licensee based upon the alleged short-fall in supply by the Orissa State Beverages Corporation Limited and thereafter compute the demand, if any.

4. In view of the aforesaid agreed stand, the present writ petition is disposed of in the same terms as the aforesaid judgment i.e. W.P.(C) No.5181 of 2017 decided on 19th April, 2018.

5. The petitioner is directed to appear before the Superintendent of Excise, Cuttack having competent jurisdiction on any working day in the 1st week of March, 2022; and also permitted to file a fresh representation, if need be and the authority shall thereafter decide the claim of the petitioner within next six months in accordance with law.

(Jaswant Singh)
Judge

(M.S. Sahoo)
Judge

February 9th, 2022
Cuttack