

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.1272 of 2020

Sunil Kumar Dhanjuka, Petitioner
Proprietor of M/s.
Makhanlal Dhanuka & Co.
Bargarh

Mr. Sitikant Mishra, Advocate
-versus-

Sunil Kumar Lohanti, IAS, Opp. Parties
Principal Secretary, Excise
Department, Bhubaneswar
and Others

Mr. Lalatendu Samantaray, AGA

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. SAHOO

ORDER (Oral)
08.02.2022

Order No.

- 01.** **1.** This matter is taken up by virtual/physical mode.
- 2.** The petitioner in the present case was one of the parties to the Writ Petition OJC No. 3110 of 2002 whereby the amended provision of Section 2 of the Bihar and Orissa Excise Act, 1915 was challenged.
- 3.** It is relevant to note that in the above case, a division bench of this Court vide order dated 16.07.2019 observed that “molasses” if used other than for distillery purpose is not subjected to Excise Duty. Hence, the Petitioners were exempted from paying Excise Duty. Further, the Petitioners were also allowed

to seek refund of Excise duty already paid from the date of filing of the Petition.

4. The Court also directed that if an application were to be made along with relevant documents supporting the claim for refund within six weeks with the justification that the Molasses were used for carrying on business other than distillery purpose, the State Government would consider the same within three month from the date of such application and refund the amount immediately. Further, if the refund was not made within a period of three months of such application, the petitioner was made entitled to interest @ 8% from the date of the filing of Writ petition no. OJC No. 3110 of 2002. Moreover, the interest amount accrued resulting from the delay in refund was to be collected from the salary of the responsible officer causing the delay.

5. The Petitioner in the present case had communicated all the relevant documents to the Opposing Party to avail the benefit of refund on 04.10.2019. It was contended by the Petitioner that six months have elapsed from the date of application yet the Opposing Party has not provided the refund to the Petitioners, and hence the present contempt.

6. At the time of Argument, counsel for the Petitioner requested to withdraw the contempt petition as the

State has preferred a SLP before the Hon'ble Supreme Court against the order dated 16-07-2019.

7. In view of the above request, the CONTC stands disposed of as withdrawn.

(Jaswant Singh)
Judge

(M. S. Sahoo)
Judge

February 8th 2022
Cuttack

AKPradhan

