

Uday S. Jagtap

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 3371 OF 2021
IN
CRIMINAL WRIT PETITION NO. 4823 OF 2018**

M/s. Krantiagrani Dr. G.D. Bapu Lad
Sahakari Sakhar Karkhana Ltd. .. Applicants

Vs.

The State of Maharashtra & Ors. .. Respondents

.....
Mr. D.B. Sawant a/w Mr. Vinayak Salokhe, Amrita Singh, Sampada
Khanolkar for the applicants

Mr. P.P. Shide, APP for the respondent - State

.....

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**

DATED : 21st SEPTEMBER, 2022.

P.C.

1. Heard the learned Counsel for the applicants and the learned
APP for the respondent no.1 – State.

2. By this application, the applicants pray for refund of a sum of
Rs.8,19,62,298/- deposited in the Registry of this Court pursuant to

orders dated 8th January, 2020 and 22nd January, 2022, along with interest, if any. The orders dated 8th January, 2020 and 22nd January, 2020 read thus :-

Order dated 8th January, 2020 (Coram : B.P. Dharmadhikari & Nitin.R. Borkar, JJ.)

“ The matter is placed before this Court in furtherance of earlier order of this Court dated 28/11/2019.

2. Learned APP states that respondent could not finalize the auction process, Communication issued by Superintendent of State Excise, Sangli (M.S.) to the office of the Government Pleader dated 8/1/2020 produced by learned APP is taken on record as Exhibit “A”.

3. Learned Counsel for the petitioner without prejudice to their contentions in the matter states that according to respondents market value of stored product is 6,02,47,377/-. He upon instructions states that the petitioner is in great difficulty and therefore would deposit that amount within a period of 2 weeks with the Registry to show their bonafides.

4. We accept the statement of the learned counsel for the petitioner and accordingly permit the petitioner to deposit that amount within a period of two weeks from today.

5. List the matter on 22/1/2020.”

Order dated 22nd January, 2020 (Coram : B.P. Dharmadhikari & N. R. Borkar, JJ.)

“ Heard respective counsel in the backdrop of order dated 28/11/2019 and 08/01/2020. Petitioner has accordingly deposited the amount of Rs.6,02,47,377/- with the registry of this court. Counsel for the petitioner seeks leave to dispose of the rectified spirit (R.S.) or Industrial Alcohol and Extra Natural Alcohol which is in dispute before this court by a public auction.

2. Learned APP however, has invited our attention to the communication sent by the S.P. Sangli where the S.P. claims that as per current market value, the commodity seized is worth Rs.8,58,61,834/-. Counsel for the petitioners invites our attention to the statement in FIR which shows the value to be Rs.6,02,47,377/-. As that amount is deposited with the registry of this court, we permit the petitioners to dispose of the commodity by public auction. The auction shall be conducted in the presence of the representative of respondent nos. 3 and 4.

3. The auction shall be conducted within four weeks from today and the amount received shall be deposited with the registry of this Court.

4. List on 20/02/2020.”

3. Learned Counsel for the applicants submits that in an order dated 3rd September, 2021, it has been observed by the Secretary that

the State is not entitled to recover any excise duty except potable liquor and that there are no allegations against the applicants that they have removed the potable liquor from the distillery and, therefore, there cannot be any objection for refund of the amount of Rs.8,19,62,298/-.

4. Learned APP hands in a communication by the Principal Secretary (State Excise Department) dated 21st September, 2022 addressed to the Public Prosecutor, High Court, Bombay. By virtue of the final order issued by the said Authority on 21st September, 2022, the State has no objection if the amount deposited in the Registry of this Court to the tune of Rs.8,19,62,298/- is refunded to the applicants.

5. As such, the application is allowed in terms of prayer clause (a), which reads thus :-

“(a) This Hon’ble Court be pleased to order the Registrar of this Hon’ble Court to refund a sum of Rs.8,19,62,298/- (Rupees Eight Crores Nineteen Lacs Sixty Two Thousand Two Hundred and Ninety Eight only) deposited by the Applicants in this Hon’ble Court pursuant to orders dated 08.01.2020 and 22.01.2020 along with interest if any.”

6. Registry to refund the amount as above to the applicants with accrued interest, if any, after due verification.
7. Application stands disposed of in the aforesaid terms.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.