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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 369 OF 2023

1) Viiking Beverages Pvt. Ltd., a company registered under the provisions of the Companies Act, having its registered office at 604-605, 6th Floor, Gateway Plaza, Hiranandani Gardens, Central Avenue, Powai, Mumbai, Maharashtra - 400 076.
Represented by its authorised representative, Mr. Ajinkya Shetye, 36 years of age, married, Indian National, Residing at F-l, Shivam Building, near Ganesh Temple, Sasmollem Baina, Vasco Da Gama, Goa.
Having office at Ramesh Hotels and Resorts Pvt. Ltd. 30/3, Ascona Waddo, Utorda Beach, Salcete, Goa.

2) AS Enterprise, A partnership firm, having office at H. no. 1756A, Saipem, Candolim, Bardez, Goa. Represented through its authorised partner, Hyacinth Sylvester Mascarenhas, 57 years of age, married, Indian National, having residence at H. no. 1756B, Saipem, Candolim, Bardez, Goa. … Petitioners

Versus

1) State of Goa, Through the Chief Secretary having office at the Secretariat, Porvorim, Goa.

2) The Commissioner of Excise, Office of the Commissioner of Excise, Altinho, Panaji, Goa.

3) Vijay Montecruz, r/o Gold Road, Pajifond, Margao, Goa. … Respondents

Mr Shivan Desai with Mr Varun Bhandanker, Advocates for the Petitioners.

Mr Prashil Arolkar, Additional Government Advocate for Respondent Nos. 1 and 2.

Mr Byron Rodrigues, Advocate for Respondent No. 3.

CORAM: M. S. SONAK & BHARAT P. DESHPANDE, JJ.

DATED: 24th JULY 2023

ORAL JUDGMENT: (per M.S. Sonak, J.)

1. Heard Mr Shivan Desai, who appears along with Mr Varun Bhandanker for the Petitioners, Mr Arolkar, learned Additional Government Advocate for Respondent Nos. 1 and 2 and Mr Byron Rodrigues, learned Counsel for Respondent No. 3.

2. Rule. Rule is made returnable immediately at the request and with the consent of the learned Counsel for the parties.

3. The Petitioners challenge the order dated 06.06.2023, by which, the Commissioner of Excise has refused to renew the label approved in terms of Rule 16(2)(i) of the Goa Excise Duty Rules.

4. Mr Desai points out that for about the last four years, the Excise Authorities have approved this very label on the Application made by the Petitioners on this behalf. Mr Desai, therefore, submits that before denying the renewal on this occasion, there should have been compliance with the principles of natural justice and fair play. He points out that even in administrative actions, an opportunity must be provided where the order results in civil consequences to any person or entity. In the context of refusal to renew, he points out that civil consequences ensue, and therefore, principles of natural justice must be complied with.

5. He relied on the following decisions in support of his contentions:

> (i) **State Bank of India & Others Vs. Rajesh Agarwal & Others[1];**
>
> (ii) **Aramex India Private Limited Vs. Union of India & Others[2] and**
>
> (iii) **A.S. Vasan & Sons (Bombay) Vs. Union of India, Through Central Government Advocates & Others[3].**

6. Mr Arolkar and Mr Rodrigues submit that the impugned order is self-explanatory. They point out that civil disputes are pending between the parties; therefore, there was nothing wrong with the impugned order made by the Commissioner of Excise. They point out that in such circumstances, principles of natural justice are not required to be followed.

7. The record bears out that at least, for the last 3 to 4 years, the Excise Authorities have approved and renewed the label claimed by the Petitioners. Therefore, before denying the renewal, an opportunity for a hearing should have been granted to the Petitioners. The Commissioner of Excise could have also heard

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1 **(2023) 6 SCC 1**

2 **2023 SCC OnLine Bom 369**

3 **(2009) SCC OnLine Bom 653**

Respondent No. 3 since Respondent No. 3 objected to the renewal grant.

8. In **State Bank of India** (supra), the Hon'ble Supreme Court has held that the rule of audi alteram partem applies to administrative actions and that opportunity to be heard must be provided when executive orders result in civil consequences to any person or entity.

9. In **Aramex India Private Limited** (supra), this Court has held that non-renewal of registration in respect of authorisation under the Courier Imports and Exports (Clearance) Regulations, 1998 entails civil consequences and severe implication on the Petitioner and opportunity of hearing before taking the impugned decision should have been granted.

10. In **A.S. Vasan & Sons** (supra) concerning the renewal of customs license, it was held that where an order, whether it be administrative or quasi-judicial, visits the party with civil consequences, then in the absence of any statutory exclusion under the Regulations, there would be a right of hearing.

11. In this case, disputes are indeed pending between the Petitioners and Respondent No. 3. Mr Desai points out that on a previous occasion, the Excise Authorities made an order on 27.01.2023 by hearing the Petitioners and Respondent No. 3. By this order, the very objections, which now appear to have been put forth, were rejected by the Excise Authorities and an import licence was granted to the Petitioners.

12. At this stage, we do not wish to enter into the merits of the rival contentions. However, we are satisfied that the order of this nature should not have been made without hearing the Petitioners and Respondent No. 3. On this short ground, we set aside the impugned order and direct the Excise Authorities to consider the Petitioners' Application for renewal of label afresh and decide the same after hearing the Petitioners and Respondent No. 3. The Commissioner of Excise must complete this exercise within two months from today. This means that within two months, the hearing should be concluded, and the decision should be communicated to both parties. As noted above, the rival contentions on merits are kept open to be decided by the Commissioner of Excise.

13. The representative of the Petitioners and Respondent No. 3 is to appear before the Excise Commissioner on **28th July 2023** at **11:00 a.m.** without insisting on any separate notice.

14. The rule is made absolute in the above terms without any order for costs. All concerned to act on an authenticated copy of this Order.

BHARAT P. DESHPANDE, J. **M. S. SONAK, J.**

VAIGANKAR ESHA SAINATH
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