



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9099 OF 2009

M/s. Vidarbha Bottlers (P) Ltd., Nagpur

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. D. B. Sawant, Vinayak Salokhe a/w Ms. Megha Jani for the Petitioner.
Ms. Shruti D. Vyas, AGP for Respondent (State).

CORAM : G. S. KULKARNI,
JITENDRA JAIN, J.J.

DATE : 27th OCTOBER, 2023.

P.C.

. This petition under Article 226 of the Constitution of India is
filed praying for the following reliefs:-

1) declare that the levy and recovery of transport fees by the respondents from the petitioner under the provisions of the Bombay Rectified Spirits (Transport in Bond) Rules, 1951, on transport in bond of rectified spirit for manufacture of country liquor, is illegal, without authority of law ultra-vires the provisions of the said rules and violative of Article 13, 14(1) (g) and 265 of the Constitution of India :

as per amended order dated 17th November, 1995

“1A. Declare that the provisions of the Bombay Rectified Spirit (Transport in Bond) Rules, 1951 are ultra-vires the powers of the State Legislature.

OR

1B. declare that the levy of transport fees under the Bombay Rectified Spirit (Transport in Bond) Rules, 1951 is void as there is no quid pro quo for the same.”

2) to direct the respondents to refund to the petitioner a sum of

Rs.1,17,59,750/- with interest @24% p.a. from the date of payment till realisation ;

3) pending the disposal of this petition, the respondents by kindly restrained from levying and recovering transport fees under the provisions of the Bombay Rectified Spirit (Transport in Bond) Rules, 1951, on the Transport in Bond of rectified spirit by the petitioner from the Distillery to its manufactory for the purposes of manufacture of country liquor ;

4) the petition be kindly allowed with costs and any other relief which may be deemed fit and proper in the facts and circumstances of the case may also be kindly granted.

2. Mr. Sawant learned counsel for the petitioner submits that challenge to the present petition stands squarely covered by the decision of the Coordinate Bench of this Court in Sahakar Maharshi Shankarrao Mohite Patil Sakhar Karkhana Ltd. vs. State of Maharashtra & ors reported in 2011 (44) RCR.

3. Additional Government Pleader for the State would also fairly states that the issue stands covered by the aforesaid decision. We accordingly dispose of the petition in terms of the decision in Sahakar Maharshi Shankarrao Mohite Patil Sakhar Karkhana Ltd. vs. State of Maharashtra & ors reported in 2011 (44) RCR.

3. It is open for the petitioner to make an application for refund of the fees and if such an application is made let the same be decided in accordance with law.

4. We, accordingly, dispose of the petition in the aforesaid terms. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]