IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

219 **Date of decision: 11.01.2023**

1. CWP-944-2009

AMAR KUMAR AND OTHERS …. Petitioners

Versus

STATE OF HARYANA AND OTHERS …. Respondents

2. CWP-3975-2009

TARUN MEHTA AND OTHER ……Petitioners

Versus

STATE OF HARYANA AND OTHERS ……..Respondents

3. CWP-4112-2009

PURAN CHAND …. Petitioner

Versus

STATE OF HARYANA AND OTHERS …. Respondents

4. CWP-6656-2009

ANIL KUMAR …. Petitioner

Versus

STATE OF HARYANA AND OTHERS …. Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present : None for the petitioner(s).

Ms. Mamta Singla Talwar, DAG, Haryana.

Mr. Sapan Dhir, Advocate for respondents No.6, 7 and 9.

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<u>RITU BAHRI, J. (oral)</u>

1. This order shall dispose of a bunch of 4 cases bearing CWP Nos. 944, 3975, 4112 and 6656 of 2009 as the issues involved in all the writ

petitions are identical in nature. However, for the sake of brevity, the facts are being extracted from CWP No.944 of 2009.

2. The petitioners are seeking writ of mandamus directing the respondents to enforce, implement and regularize the ex-distillery issue price fixed vide order dated 11.01.2008 (Annexure P-3) passed by the Excise and Taxation Commissioner in compliance of the order dated 11.12.2007 (Annexure P-2).

3. The grievance of the petitioners is that the ex-distillery issue price of 146.50 per case was applicable for all supplies made by the distilleries to the petitioners during the period April, 2007 to March, 2008 and any amount collected and charged over and above, is refundable.

4. On notice of this petition, a written statement had been filed by the Deputy Excise and Taxation Commissioner (Excise), Ambala on behalf of respondents No.1 to 5. In the written statement they had reproduced the order dated 29.01.2009 passed by this Court where the petitioners were given liberty to file a complaint before the Commissioner, Excise and Taxation, Haryana pointing out violation of notification issued under Section 57A of the Punjab Excise Act, 1914 for fixing the minimum sale price of country liquor by the respondents-distilleries.

5. Pursuant to this order, a complaint was received by the respondents and was decided by the Excise and Taxation Commissioner, Haryana, Chandigarh vide order dated 25.03.2009 (Annexure R-1). A perusal of the said order shows that after considering the complaint an explanation was obtained from the distilleries and the Deputy Excise and Taxation Commissioner (Excise), Ambala stating that the amount charged was come to Rs.155.60 and in view of the fact that the distilleries had taken task to deliver

the country liquor at the doorstep of the complainants and Rs.9 was taken for loading, unloading, insurance and transportation cost in addition to what was chargeable in terms of rate fixed under Section 57A of the Act ibid.

6. Keeping in view the above fact, that complaint was dismissed it was further observed in the order that the complaint has been made after 7-8 years had already been over and the petitioners had accepted the delivery on FOR basis and paying the amount of Rs.146.60 and Rs.9 for loading, unloading, insurance and transportation charges.

7. Since the petitioners had accepted the delivery and the price is not being charged more than Rs.146.60, these petitions are dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
11.01.2023 **JUDGE**
Jyoti-IV

Whether speaking/reasoned: Yes/No.
Whether reportable : Yes/No