IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15518 OF 2024

M/s Associates Wines Pvt. Ltd. … Petitioner
V/s.
The State of Maharashtra and ors. ... Respondents

Mr. Vinayak Salokhe with Ms. Megha Jain, Advocates for the Petitioner.

Ms. Sulabha D. Chipade, Advocate for the State.

CORAM : SANDEEP V. MARNE, J.

Dated : 24 February, 2025.

P.C. :

1. The Petition challenges order dated 2nd September, 2024 passed by the Hon'ble Minister (State Excise) dismissing Revision Application filed by the Petitioner and confirming the order dated 23rd February, 2018 passed by Collector, Pune.

2. Petitioner is a wine manufacturer. As per the policy adopted by the State Government vide Government Resolution dated 25th February, 2004, it has been decided to exempt wine from levy of State Excise in order to encourage wine manufacturing as well as grape cultivation in the State.

3. It appears that as per the provisions of Maharashtra Portable Liquor Fixation of Maximum Retail Price Rules, 1996 (**the 1996 Rules**), the

maximum retail price in respect of wine is kept at four times the manufacturing costs. At the time of fixation of the MRP of the wine as per the 1996 Rules, the exemption from State Excise was not available. At that time, out of the total four units for fixation of MRP, one unit was towards manufacturing costs while the fourth unit was towards State Excise Duty. In short, as per the 1996 Rules, the wine manufacturer was not expected to earn profit more than two times the cost of manufacturing. One unit would go towards cost of manufacturing the wine, two units would go towards profit of the manufacturer and one unit would go towards State Excise in the public exchequer. However, after grant of exemption to levy of State Excise as per the policy declared by the State Government, the wine manufacturers were expected to reduce the MRP to three times the costs of manufacturing as the last unit relating to State Excise duty got cancelled on account of policy introduced by the State Government. However, the Petitioner was found to have charged the customers four times the costs of manufacturing of the wine towards MRP. To illustrate, in respect of the brand name of the Petitioner "Vinee Red Wine" of 750 ml, the manufacturing costs is indicated as Rs. 28/-, whereas the MRP is four times the manufacturing costs i.e. Rs. 112/-. Thus, though State Government has granted exemption from levy of State Excise duty on wine manufacturing, the Petitioner have found to have recovered the same from the customers and thereby indulged in unjust enrichment. The above information relating to costs of manufacturing and the MRP is declared by the Petitioner itself through its letter produced by the Respondent at Exhibit-R6 to its reply.

4. In fact it would be apposite to refer to the order passed by the Division Bench of this Court, Bench at Aurangabad in ***Vilas D. Jaiswal Vs.***

State of Maharashtra and ors. Writ Petition No.7033 of 2007 decided on 19th September, 2008, wherein the State Government was directed to recover the amount pocketed by the wine manufacturers from the customers despite grant of exemption from the State Excise Duty. Similar order is recently passed by Division Bench in ***Public Interest Litigation (L) No.36 of 2008 decided on 14th December, 2024 in Jaiprakash Bawiskar Vs. State of Maharashtra,*** in which this Court directed in paragraph No.7 as under :-

> "7. In the aforesaid circumstances, we dispose of this public interest litigation with a direction to the authorities in the excise department to finalize the proceedings initiated on issuance of the show-cause/demand notices to the wine manufacturers in respect of excise duty which is said to have been collected by such manufacturers from the consumers though they, under State Government's policy, were exempted from paying the excise duty. The proceedings of these demand notices shall be finalized within two months from today and recovery pursuant to such determination shall be completed within next one month."

5. In my view, the Collector and the Hon'ble Minister have correctly recorded a finding of fact that the Petitioner has indulged in unjust enrichment by pocketing the amount towards State Excise Duty which is recovered form the customers while enjoying the benefit of exemption from the State Government. The benefit of exemption from the State excise duty is thus misused by the Petitioners by pocketing the amount of exempted excise duty instead of paying it to the State Government. In that view of the matter, I do not find any palpable error in the orders passed by the

Collector and the Hon'ble Minister for recovery of the amount of Excise Duty collected by the Petitioner from the customers.

6. Writ Petition is accordingly rejected.

(SANDEEP V. MARNE, J.)