

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MAIN CASE No.: W.P No. 5559 of 2021

PROCEEDING SHEET

Sl. No	DATE	ORDER	
4	02.03.2023	<u>MGR, J & DVR, J</u> <u>I.A No. 1 of 2021</u> This Writ petition is of the year 2021, Having taken time to file counter thrice, but no counter is filed. The impugned order dated 15.11.2016 was addressed to the State of Telangana by the 1st respondent for repayment of its share of special fee paid during the period from 2008 to 2012 before bifurcation of Andhra Pradesh State. And adjust the refundable special fee paid towards Excise Duty for the year 2016-17. Thereafter, the respondents have not pursued the matter and now the petitioner seeks for the refund of the special license fee paid. Sri N.V.K Murthy, learned Senior Counsel appearing for Sri P. Rosi Reddy, Advocate on record states that the petitioner's industry was issued letter of intent letter No. 46885 dated 20.10.2008 for establishment of IMFL (Indian Made Foreign Liquor) for Manufacture of IMFL Utilising from both Molasses and Grain based ENA. For which, the petitioner paid special fees of Rs.6,00,00,000/- (Rupees Six crores only), which is refundable during the period from 25.08.2008 to 30.03.2012	

		in the existing state of Andhra Pradesh i.e., before bifurcation of State of Andhra Pradesh on 02.06.2014. The petitioner submitted representation to the 1st respondent on 28.09.2016 requesting to adjust the amount of special fees of Rs.6,00,00,000/- paid towards excise duty for the year 2016-17. The 1st respondent through letter No. 31024/93/2016-EXC.II-2 dated 15.11.2016, accorded permission to the 2nd respondent for adjustment of special fee paid by the petitioner to the extent of 58.32% i.e., $\text{Rs.6,00,00,000} \times 58.32\% = 3,49,92,000/-$ (Rupees Three Crores Forty Nine lakhs and Ninety two thousands only) under Rule 5 (2) (b) (iii) of A.P Distillery (Manufacture of IMFL other than Beer and Wine), Rules 2006. If the remaining amount is not adjusted, from the state of Telangana, the petitioner will suffer financially. As per the provisions of Section 56 of Andhra Pradesh Reorganization Act, 2014 the liability to refund any tax or duty shall be the liability of successor State and the State discharging the liability shall be entitled to receive from the other state its share of the liability. The petitioner's industry is entitled for the refund of entire special fees of Rs.6,00,00,000/- paid and got refund of special fees of its share of State of Andhra Pradesh Rs.3,49,92,000/- ($\text{Rs.6,00,00,000} \times 58.32 = 3,49,92,000/-$) by way of adjustment. Subsequently, 1st respondent addressed impugned letter to the State of Telangana and kept silent which is illegal and contrary to the provision of	
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		section 56 of Andhra Pradesh Reorganization Act, 2014. Learned Government Pleader seeks time to file counter and states that the Writ petition is not maintainable as the impugned order is only office correspondence between both the States. Whereas, the Writ petition is already admitted. Hence, the contention of the counsel for the petitioner is unsustainable. We have considered the facts and circumstances of the case and submissions of the counsel and perused the record. The petitioner has shown sufficient cause for grant of interim order. Accordingly, there shall be an interim direction to the respondents to adjust remaining special fees amount of Rs. 2,50,08,000/- (Rupees Two Crores fifty lakhs and eight thousand only) towards Excise duty payable by the petitioner under Rule 5 (2) (b) (iii) of A.P Distillery (Manufacture of IMFL other than Beer and Wine), Rules 2006, pending writ petition, which is subject to outcome of W.P. Post on 13.04.2023. _____ MGR, J _____ DVR, J LSP	
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