



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

**THURSDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND TWENTY THREE**

:PRESENT:

**THE HONOURABLE SRI JUSTICE M.GANGA RAO
AND**

THE HONOURABLE SRI JUSTICE DUPPALA VENKATA RAMANA

IA No. 1 OF 2021

IN

WP NO: 5559 OF 2021

Between:

M/s S.P.Y.Agro Industries Limited., New Industrial Estate, Udumalpuram Village,
Nandyal, Kurnool Dist, Andhra Pradesh - 518502 Represented by its Director
Smt. S. Sujala, W/o. Sreedhar Reddy, aged about 42 years.

...Petitioner

(Petitioner in WP 5559 OF 2021
on the file of High Court)

AND

1. The State of Andhra Pradesh, Rep by its Spl. Chief Secretary, Revenue and Excise Department, Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Commissioner of Excise and Prohibition, Government of Andhra Pradesh. Sy No. 88/26, Poultry Farm Road, SER Centre, Prasadampadu Vijayawada -521108.
3. The Commissioner of Distilleries and Breweries, Andhra Pradesh, Amaravathi, Vijayawada.
4. The Principal Secretary to Government of Telangana Revenue (Excise), Department Telangana Secretariat. Hyderabad

...Respondent(s)

(Respondents in-do-)

**Counsel for the Petitioner : SRI N.V.K MURTHY, LEARNED SENIOR COUNSEL
FOR SRI P. ROSI REDDY, ADVOCATE**

Counsel for the Respondent Nos. 1 to 3 :GP FOR PROHIBITION & EXCISE

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents 1 to 3 to pay 50% of the balance amount immediately, Pending disposal of WP No. 5559 of 2021, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER

"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 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."

SD/-B.PRASADA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The Spl. Chief Secretary, Revenue and Excise Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Commissioner of Excise and Prohibition, Government of Andhra Pradesh. Sy No. 88/26, Poultry Farm Road, SER Centre, Prasadampadu Vijayawada -521108.
3. The Commissioner of Distilleries and Breweries, Andhra Pradesh, Amaravathi, Vijayawada.
4. The Principal Secretary to Government of Telangana Revenue (Excise), Department Telangana Secretariat. Hyderabad(1 to 4 By RPAD)
5. One CC to Sri Pareddy Rosi Reddy, Advocate [OPUC]
6. Two CCs to GP FOR PROHIBITION & EXCISE, High Court Of Andhra Pradesh. [OUT]
7. Two spare copies.

RVK

HIGH COURT

MGR,J & DVR, J

DATED:02/03/2023

Post on 13.04.2023

ORDER

IA No. 1 OF 2021
IN
WP NO: 5559 OF 2021

DIRECTION

