

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 233 OF 2012

The State of Haryana & Ors. ...Appellant(s)

Vs.

Oasis Distillers Ltd. ...Respondent(s)

WITH

CIVIL APPEAL NO(S). 236 OF 2012

O R D E R

CIVIL APPEAL NO(S). 233 OF 2012

1. This appeal arises out of judgment and order of the High Court of Punjab and Haryana in CWP No. 3034 of 2005 (O&M) dated 11.03.2010 wherein the respondent challenged the order of the penalty dated 29.07.2004 and 09.11.2004 passed under Section 61(1) (aaa) of the Punjab Excise Act, 1914 (the "Act").

2. The short facts necessary for the disposal of these appeals are that the Excise Department intercepted a truck carrying Indian manufactured foreign liquor/Rum. While checking the documents, the Excise staff found that the driver did not have the requisite Liquor Transit Slip Tax-I and the route taken for carrying the liquor was not the requisite route. As such, the checking staff detained the vehicle for further inquiry and investigation.

3. On 29.07.2004, Collector-cum-Dy. Excise & Taxation Commissioner (Excise), Jagadhri while holding that the driver had taken the unauthorized route, held the respondent(s) guilty for

commission of offence under Section 61(1)(aaa) of the Act and imposed the penalty of Rs 45,00,000/-. This order was challenged in appeal which came to be dismissed by the Commissioner of Excise and Taxation on 09.11.2004 holding that the driver had willfully failed to get the liquor transit slip issued from the entry point in the State and the driver adopted an unauthorized route without any cogent reason(s).

4. Questioning the said order of the Commissioner, the respondent(s) had preferred a writ petition before the High Court. The High Court found that respondent(s) were in actual possession of all the necessary documents, except one Liquor Transit Slip Tax-1. In the facts and circumstances of the Case, the High Court reduced the penalty from Rs 45,00,000/- to Rs. 10,000/-, as provided under Section 68 of the Act.

5. Insofar as the penalty is concerned, it is relegated by Section 68 of the Act which is as under:

"68. Penalty for offences not otherwise provided for. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act; or of any rule, notification or order made, issued or given there under and not otherwise provided for in this Act, shall be punishable for every such act or omission with a fine may extend to ten thousand rupees."

6. Section 68 does not provide for minimum penalty. The High Court has exercised its discretion having considered the facts and circumstances of the case, and came to the conclusion that an amount of Rs. 10,000/- as penalty would suffice. We are of the opinion that the decision rendered by the High Court does not call

for any interference.

7. In view of the above, this Civil Appeal preferred against the judgment of the High Court in CWP No. 3034 of 2005 (O&M) stands dismissed.

8. There shall be no order as to costs.

9. Pending application(s), if any, stand disposed of.

CIVIL APPEAL NO(S). 236 OF 2012

10. This appeal arises out of the judgment and order of the High Court of Punjab and Haryana in CWP No. 7307 of 2007 (O&M) dated 11.03.2010 wherein respondent challenged the order with regard to the confiscation of the vehicle involved in the commission of offence. The High Court allowed the writ petition in light of judgment rendered in CWP No. 3034 of 2005, which was impugned before us in the adjoining Civil Appeal No. 233 of 2012.

11. In view of our observations while dismissing the Civil Appeal No. 233 of 2012, this appeal also stands dismissed.

12. There shall be no order as to costs.

13. Pending application(s), if any, stand disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ARAVIND KUMAR]

NEW DELHI;
MAY 15, 2024.

ITEM NO.106

COURT NO.13

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 233/2012

STATE OF HARYANA & ORS.

Appellant(s)

VERSUS

OASIS DISTILLERS LTD.

Respondent(s)

IA No. 2/2010 - MODIFICATION OF COURT ORDER

WITH

C.A. No. 236/2012 (IV)

Date : 15-05-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) Mrs. Naresh Bakshi, AOR

Dr. Monika Gusain, AOR

For Respondent(s) Mr. Yash Pal Dhingra, AOR

Mr. Vishal Arun Mishra, Adv.

Ms. Shalu Sharma, AOR

Mr. Saurabh Sharma, Adv.

Ms. Rupali Panwar, Adv.

Mr. Umang Mangal, Adv.

Mr. Khushhal Aggarwal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The Civil Appeals are dismissed in terms of the Signed Order.
2. Pending application(s), if any, stand disposed of.

(KAPIL TANDON)
COURT MASTER (SH)

(NIDHI WASON)
COURT MASTER (NSH)

(Signed Order is placed on the file.)