

Kerala High Court

Southern Union Pharmaceuticals vs State Of Kerala on 17 November, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 32234 of 2009(Y)

1. SOUTHERN UNION PHARMACEUTICALS
... Petitioner

Vs

1. STATE OF KERALA
... Respondent

2. THE DEPUTY COMMISSIONER OF EXCISE

3. THE SUB INSPECTOR OF POLICE

4. THE EXCISE INSPECTOR

For Petitioner :SRI.S.RAMESH BABU

For Respondent : No Appearance

The Hon'ble MR. Justice THOTTATHIL B.RADHAKRISHNAN

Dated :17/11/2009

O R D E R

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.32234 OF 2009

Dated this the 17th day of November, 2009

J U D G M E N T

~~~~~ The petitioner a pharmaceutical manufacturer with due licences under the Drugs and Cosmetics Act, 1940, Medicinal and Toilet preparations (Excise Duties) Act, 1955 etc. imported rectified spirit in terms of permit and NOC granted by excise authorities. The permit was granted to import 20,000/- bulk litres of absolute alcohol from Solapur, Maharashtra. The petitioner entrusted an agent for transit of goods.

2. Even going by the submissions on behalf of the respondents, the driver and certain other persons connived an attempt of siphoning 280 litres from the vehicle into eight cisterns. Under such premise, the 2nd respondent vitiated the proceedings for confiscation under Section 67B of the Abkari Act. W.P.(C) No.32234/2009

3. Taking the aforesaid facts into consideration, it is ordered that the petitioner would be permitted to move the rectified spirit in the vehicle to the bonded warehouse of the petitioner and that the petitioner shall be permitted to utilise the said spirit, in accordance with law. The rectified spirit will be released on the petitioner executes a simple bond without sureties to satisfy any demand that may ultimately raise beyond the petitioner. All issues left open to be dealt with in the confiscation proceedings.

The Writ Petition is ordered accordingly.

THOTTATHIL B.RADHAKRISHNAN, Judge ps