

Kerala High Court

Indo Scottish Brand Pvt ... vs State Of Kerala on 1 June, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 11925 of 2008(T)

1. INDO SCOTTISH BRAND PVT LTD.(DISTILLERY)
... Petitioner

Vs

1. STATE OF KERALA, REP.BY ITS SECRETARY,
... Respondent

2. COMMISSIONER, EXCISE DEPARTMENT,

3. DEPUTY COMMISSIONER, CENTRAL ZONE, EXCISE

4. EXCISE INSPECTOR, INDO SCOTTISH BRAND,

For Petitioner :SRI.E.K.NANDAKUMAR

For Respondent : No Appearance

The Hon'ble MR. Justice T.R.RAMACHANDRAN NAIR

Dated :01/06/2010

O R D E R

T.R.RAMACHANDRAN NAIR,J.

W.P.(C)Nos.5999, 9023, 11925,
15093 & 15866/08

DATED THIS THE 1st DAY OF JUNE, 2010

JUDGMENT

These Writ Petitions are filed challenging the import fee on Extra Neutral Alcohol. The challenge is made on various grounds including the source of power to sustain a levy like import fee. Going by Section 1(2) of the Abkari Amendment Ordinance No.26/09, Section 3 is given retrospective effect and is deemed to have come into force on 30/03/1996. The proviso to Section 3 reads as follows:-

"3. Amendment to Section 6:-- In section 6 of the principal Act, after sub-section (1), the following proviso shall be inserted, namely:-

"Provided that notwithstanding anything contained in this Act, no import fee shall be levied on rectified spirit or Extra Neutral Alcohol including absolute alcohol intended to be used for the manufacture of liquor meant for human consumption."

2. It is pointed out by the learned counsel for the petitioners and the learned Government Pleader that in the light of the said proviso, which is applicable in the case of the petitioners, no import fee can be levied on rectified spirit or Extra Neutral Alcohol including absolute alcohol intended to be used for the manufacture of liquor meant for human consumption.

3. Therefore, in the light of the said amended provisions, the petitioners are entitled to succeed in this Writ Petition. Therefore, the writ petitions are allowed. The impugned Demand Notices are quashed. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

dsn