

02. 30.08.2019

Heard the petitioner-Mr. Pradeep Kumar Singh in person.

2. By way of this writ petition, the petitioner has challenged the fixation of MGQ in respect of his liquor shop as well as the Demand-cum-Show Cause Notice dated 10.05.2019 at Annexure-1 issued by the Superintendent of Excise, Cuttack whereby the petitioner was directed to pay the duty on the short lifted quantity of MGQ for the year 2018-19.

3. The petitioner in person states that fixation of MGQ in respect of the liquor shop in question is in violation of sub-clause (4) of Clause 1.1 of Excise Policy 2018-19 of the Government of Odisha. He further submits that pursuant to the earlier order of this Court passed in W.P.(C) No.5537 of 2019, he submitted the representation before the concerned authority, but without communicating any rejection order to the petitioner, opposite party no.4 has issued the impugned Demand-cum-Show Cause Notice indicating therein rejection of such representation. Hence, he submits that since the authority has fixed the MGQ without taking into account the average lifting of IMFL/BL of last three years, the impugned Demand-cum-Show Cause Notice is liable to be quashed.

4. Sub-clause (4) of Clause 1.1 of Excise Policy 2018-19 of the Government of Odisha reads as under:

“1.1 Salient features of Excise Policy 2018-19.

xxx

xxx

xxx

4. The MGQ structure has been rationalized taking into account average lifting in last 3 years.”

5. Considering the facts and submissions made, this Court is of the opinion that the interpretation made by the authority of fixing quota is not proper. Hence, we direct the petitioner to submit a fresh application before the competent authority in terms of his last three years lifting of IMFL/BL and to pay the difference along with the application, within four weeks hence. In that event, the authority concerned shall consider, examine and dispose of such application in accordance with law by passing a reasoned order within four weeks of receipt of such application.

6. No coercive action shall be taken against the petitioner pursuant to impugned Demand-cum-Show Cause Notice at Annexure-1 for a period of eight weeks from today.

The opposite parties-State is at liberty to revive this petition in case of any difficulty.

With the aforesaid order, this writ petition stands disposed of.

Issue urgent certified copy of this order as per the Rules.

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(K.S. Jhaveri)
Chief Justice

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(K.R. Mohapatra)
Judge