

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 8232-34 OF 2013
(Arising out of SLP(C)NOS. 29843-29845 OF 2010)

JAINA WINES PVT. LTD. & ORS.

APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA & ORS.

RESPONDENT(S)

O R D E R

1. Permission to file Special Leave Petition is granted.
2. Delay in filing the Special Leave Petitions is condoned.
3. Application for restoration of Order dated 19.11.2012 is rejected.
4. Leave granted.
5. These appeals are directed against the judgment and order passed by the High Court of Judicature at Bombay, Bench at Aurangabad in Writ Petition No.7033 of 2007 dated 19.9.2008 and in Civil Application No.10160 of 2009 in Writ Petition No.7033 of 2007 and in Civil Application No.10161 of 2009, dated 25.03.2010.
6. The appellants before us are the wine manufacturers who have obtained license for manufacturing wine in Sangli District in the State of Maharashtra. The Government of Maharashtra has introduced a policy for the grape growing producers in all areas of Maharashtra majorly for the highest grape producing districts of

Sangli and Nashik. The policy so framed by State Government was introduced so as to protect the grape growing farmers from sudden financial losses and to encourage the production of grapes within the state.

7. The Government of Maharashtra, therefore, for the aforesaid reasons issued a notification thereby exempting the levy of excise duty to wine manufacturers partly for the year 2001 and remitted the whole of the excise duty with effect from 18.06.2004.

8. The respondent herein-Shri Vilas, Son of Dongarlal Jaiswal, retailer of country liquor, thereafter had approached the Writ Court, *inter alia*, contending that though the State Government had exempted the manufacturers from payment of excise duty, the manufacturers in the garb of collecting M.R.P have included the excise duty in the Maximum Retail Prices of such country/foreign liquor manufactured by them and, therefore, had requested the Court to direct the manufacturers to remit/deposit the excise duty so collected by the manufacturers to the retailers who are by the notification of the government exempted from the payment of excise duty.

9. The High Court, after hearing the parties to the *lis*, has passed an omnibus order. In the said order, it has stated that if for any reason the manufacturers have collected excise duty then they would be liable to deposit the said amount with the State Government since the State Government had exempted the manufacturers from the payment of excise duty. The High Court has therefore

concluded that if such an excise duty is collected by the manufacturers by making it a part of the maximum retail price, allowing them to retain it further without allowing it to flow back to the state coffers would amount to unjust-enrichment as noticed by this Court in the case of *Mafatlal Industries Ltd. vs. Union of India & Ors.*, reported in (1997) 5 SCC 536.

10. Aggrieved by the said order passed by the High Court, some of the respondents and also the intervenors had filed Review Petitions before the High Court, *inter alia*, contending that they have not collected excise duty and, therefore, the High Court ought not to have directed the wine manufacturers to deposit the excise duty. The High Court while dismissing the Review Petitions had specifically observed that if for any reason notice has been issued by the Department asking them to deposit the excise duty, it is always open to the manufacturers to make a representation before the competent authority concerned by filing their reply to the effect that they have not collected excise duty and, therefore, the payment/deposit of the excise duty would not arise.

11. Aggrieved by the main order as well as the order passed in the Review Petitions, some of the wine manufacturers are before us in these appeals.

12. We have heard learned senior counsel appearing for the parties to the *lis* and also the learned counsel for the State of Maharashtra. We have also perused the impugned judgment and order passed by the High Court.

13. In our considered view, the High Court has not committed any error whatsoever which would call for our interference under Article 136 of the Constitution of India. Accordingly, the Civil Appeals are dismissed.

14. However, we clarify that if for any reason the respondents/other authorities had issued notice(s), *inter alia*, directing the appellants and other wine manufacturers to deposit the excise duty which according to the respondents is collected by the manufacturers, it is for the manufacturers to file appropriate reply thereby bringing it to their notice that they have not collected such excise duty and the same is also reflected in their books of account. If such a reply is filed by the wine manufacturers, it is for the authority to consider the same and pass an appropriate reasoned order. If for any reason the appellants are aggrieved by the order that may be passed by the authority considered, they would be at liberty to ventilate their grievances before an appropriate forum.

Ordered accordingly.

.....J.
(H.L. DATTU)

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

NEW DELHI;
SEPTEMBER 11, 2013.