

(2000) 08 SC CK 0119

In the Supreme Court Of India

Case No : Special Leave Petition (Civil) No: 12370 of 2000

BT and FC (P) Ltd.

APPELLANT

Vs

Excise Commissioner, Karnataka and Another

RESPONDENT

Date of Decision : 21-08-2000

Acts Referred:

Karnataka Excise (Manufacture And Bottling Of Arrack) Rules, 1987 R 14(3)

Citation : (2000) 3 ACR 2109 : AIR 2000 SC 3578 : (2000) AIRSCW 3740 :
(2000) AIRSCW 3739 : (2001) 1 ALD(Cri) 126 : (2000) CriLJ 4996(1) : (2000) 8
JT 261 : (2001) 10 SCC 225 : (2000) 7 Supreme 77 : (2000) 7 Supreme 76

Hon'ble Judges : D. P. Mohapatra, J;B. N. Kirpal, J

Bench : Division Bench

Advocate : N D B Raju, Javaji Srinivasalu, Bharathi Raju, Guntur Prabhakar

Final Decision : Dismissed

Judgement

B.N. Kirpal and; D.P. Mohapatra, JJ.-The contention of the learned counsel for the petitioner is that sub-rule (3) of Rule 14 of the Karnataka Excise (Manufacturing and Bottling of Arrack) Rules, 1987 requires that the arrack should be matured in such a manner and for such a period as may be specified by the Excise Commissioner. The period specified for maturity of arrack in wooden vats is for a minimum period of 15 days before bottling the same. Circular dated 26-9-1989 was issued which, inter alia, provides that if arrack has been bottled within the period of 15 days and supplied, then 20 paise per bulk litre will be the penalty for supplying the unmatured arrack.

2. The impugned notice dated 14-8-1992 and the demand notice dated 15-1-1994 refers to the supply of unmatured arrack having been made by the petitioner and the demand on the basis of the said circular being raised.

3. The challenge to the said demand has been rejected by the High Court. If the contention of the petitioner is that the law did not permit the supply of unmatured arrack then the petitioner cannot be permitted to take advantage of

its own wrong when, admittedly, unmatured arrack was supplied. If that be so, without going into the question as to whether the circular is valid or not, as for as the petitioner is concerned, it cannot be allowed to take advantage of its own wrong and therefore it is liable to pay the demand which is made by the respondents. We would, however, like to observe that if the health of the people requires that arrack should be matured for at least 15 days before it is bottled and supplied, we are astonished that the State should permit or tolerate the supply of unmatured arrack for the sake of realising some penalty. An act of a responsible Government would be to protect the health of the people and if any unmatured arrack is supplied, the State should come down heavily on the same and possibly even cancel the licence.

4. The special leave petitions is dismissed.