

(1982) 04 RAJ CK 0016
In the Rajasthan High Court
Case No : Civil Writ Petition No. 651 of 1981

Kamra Bottling Company	Vs	APPELLANT
Asstt. Collector Central Excise and Another		RESPONDENT

Date of Decision : 20-04-1982

Acts Referred:

Citation : (1987) 27 ELT 240

Hon'ble Judges : K.D. Sharma, C.J.;Kanta Bhatnagar, J

Bench : Division Bench

Advocate : L.R. Mehta, for the Appellant; J.P. Joshi, for the Respondent

Judgement

K.D. Sharma, C.J.—Heard Mr. L.R. Mehta, learned counsel for M/s. Kamra Bottling Company and Mr. J.P. Joshi, appearing on behalf of the respondent Nos. 1 and 2.

2. In view of the following authorities cited before us by the learned counsel for the petitioner:-

Parle Beverage (P) Ltd. v. Union of India 1982 ELT 142 (Bombay) . Poona Bottling Co. Ltd. v. Union of India 1982 ELT 389 (Delhi) . In re. Punjab Beverages Ltd. Chandigarh 1980 ELT 475 (G.O.I.) . We are of the view that the registered letter marked (Annexure 7) dated April 8, 1981 sent by the Assistant Collector Customs and Central Excise, Bikaner to M/s. Kamra Bottling Company is liable to be quashed, because prior to February 28, 1982 the Petitioner Company cannot be considered as manufacturing Aerated Water for and on behalf of M/s. Campa Beverages (P) Ltd., merely because the petitioner Company had to abide by some of the basic conditions stipulated by M/s. Campa Beverages (P) Ltd., New Delhi which was the owner of the trade mark "Campa" it cannot be held that the petitioner Company was not working as an independent manufacturing concern and the stipulations laid down by the owner of the trade mark in order to safeguard the standard and quality of the product had the effect of lowering the status of the petitioner Company as a manufacturing concern for and on behalf

of M/s. Campa Beverages (P) Ltd. In our opinion, the exemption provided under the notification No. 80/80 CE, dated June, 19, 1980 as amended- by/ 50/81-CE, dated March 1, 1981 -can be availed of by the petitioner Company as they were independent manufacturer of aerated water, of course, under a franchise agreement with M/s. Campa Beverages (P) Ltd. Hence, the registered letter marked Annexure 7 dated April 8, 1981, is quashed and the petitioner company is held entitled to exemption contained in the aforesaid notification. However, we may add that on and from February, 28, 1982, the Government of India has deleted item No. ID from notification No. 80/80 dated" June 19, 1980 as amended by notification No. 50/81 dated March 1, 1981 with the result that on and from the aforesaid date, the petitioner company has become disentitled to any exemption.

3. The writ petition is decided accordingly. There will be no order as to costs.