

(2023) 08 UK CK 0018
In the Uttarakhand High Court
Case No : Special Appeal No. 282 Of 2023

Sarita Chauhan

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 04-08-2023

Acts Referred:

Citation : (2023) 08 UK CK 0018

Hon'ble Judges : Vipin Sanghi, CJ; Rakesh Thapliyal, J

Bench : Division Bench

Advocate : Rahul Consul, S.S. Chaudhary

Final Decision : Dismissed

Judgement

Vipin Sanghi, CJ

1) The present special appeal is directed against the judgment dated 19.07.2023, passed by the learned Single Judge, dismissing the writ petition preferred by the petitioner, assailing the order bearing Sl. No. 350 (c)/XXIII-1/2023, dated 16.05.2023, issued by the respondent No. 2, i.e., the Chief Secretary of the committee constituted in the office of the Hon'ble Chief Minister, District Dehradun, Uttarakhand. The petitioner had also sought refund of the amount of which stocks were not lifted, deposited as Minimum Monthly Guarantee Duty (MMGD) in respect of the two Indian Made Foreign Liquor shops allotted to the petitioner / appellant at Chamiyala and Hindolakhali in District Tehri Garhwal.

2) The petitioner had sought refund of the amount of the Minimum Monthly Guarantee Duty on the ground of lockdown imposed during the COVID-19 pandemic. The impugned order dated 16.05.2023 shows that the Committee, while passing the order dated 16.05.2023, took into consideration the fact that the Government had issued an order No. 891/XXIII-1/2021-04(01)/2021, granting exemption in respect of the minimum monthly guarantee duty for a period of 44 days. Thus, the appellant had been granted exemption in respect of

an amount of Rs.1,36,59,960/- (for the liquor shop at Hindolakhali, the exemption was for Rs.53,45,202/-; and for the liquor shop at Chamiyala, the exemption was for the amount of Rs.83,14,758/-).

3) The further submission of learned counsel for the appellant is that the Appellate Authority - in respect of the order impugned in the writ petition, was also the Secretary, who was part of the committee which had passed the impugned order dated 16.05.2023.

4) The learned Single Judge has dealt with the submission by observing that it shall be open to the appellant to raise the said issue, while filing his appeal and request that the appeal be decided by another competent officer, who was not part of the committee which rejected the appellant's representation.

5) In our view, the said observation made by the learned Single Judge sufficiently protects the appellant's rights and interests.

6) For the aforesaid reason, we find no merit in the present appeal. The special appeal is, accordingly, dismissed.