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(1993) 03 SC CK 0107

In the Supreme Court Of India

Case No : SLP (C) No. 17098 of 1992

State of U.P. and Another — APPELLANT

Vs

Synthetics and Chemicals Ltd. and Another — RESPONDENT

Date of Decision : 15-03-1993

Acts Referred:

Citation : (1993) 2 JT 233 : (1993) 2 SCALE 65 : (1993) 2 SCC 308 : (1993) 2 SCR 291 : (1992) 87 STC 289(1)

Hon'ble Judges : N. Venkatachala, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Final Decision : dismissed

Judgement

1. Heard counsel for the petitioners as well as the counsel for the respondents. We see no reason to entertain this special leave petition. It is established by the decision of this Court in Synthetics and Chemicals Ltd. and Others Vs. State of U.P. and Others, that so far as the industrial alcohol is concerned, the power of licensing vests in the Union of India alone. At the same time it is held that the power of the State Government to legislate with respect to potable liquor referable to Entry 6 of List II remains unaffected. It is also held that the State has the power to make regulations and to take appropriate action to ensure that non-potable alcohol is not diverted and misused as a substitute for potable alcohol. Another principle enunciated in the said decision is that the State can, not only charge excise duty on potable alcohol and sales tax on sales of such potable alcohol, but also entitled, in cases it renders any service, as distinct from its claim of grant of privilege, to charge fees based on quid pro quo. The High Court in this case has merely reiterated the said principles. It has held "that the Central Government has the exclusive power to grant a licence for the manufacture of Industrial Alcohol. It is not necessary for the petitioner to obtain a PD-2 licence from the Excise Commissioner, U.P. Allahabad before starting its distillery for the manufacture of Industrial Alcohol. The provisions in the U.P. Excise Manual relating to taking of PD-2 licence are not applicable to a case

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where a person wants to manufacture industrial alcohol. The other provisions of the Act and Rules of the U.P. Excise Act and Manual are applicable in order to ensure that Industrial alcohol is not converted into potable alcohol." The final order of the High Court is to the following effect:

In view of the above, we allow the writ petition and direct the respondents not to interfere with the petitioner's manufacturing industrial alcohol in the distillery for which licence had been granted. This is, however, subject to the right of the State Government to ensure that industrial alcohol is not converted into potable alcohol.

2. In our opinion the said observations must be understood as reiterating the principles enunciated by this Court in the decision afore-cited. Mr. Salve, learned Counsel for the State of Uttar Pradesh submitted that before manufacturing industrial alcohol, the Respondent-company has to manufacture rectified spirit and that rectified spirit can be converted into potable liquor by merely adding water. May be so. The observations made by the High Court and the law laid down by this Court recognise and safeguard the power of the State Government to guard against such abuse. We affirm it.

3. Shri Salve questioned the direction given by the High Court to the following effect: "We further direct that the respondents shall allot molasses to the petitioner in accordance with the assurance given to the petitioner vide order of the Government dated 23.3.1989." The proceeding dated 23.3.1989 of course pertains to the year 1989. But Mr. F.S. Nariman, learned Counsel for the Respondent-Company says that the said order has been extended from time to time for the subsequent years as well. Mr. Salve points out that in the body of the Judgment of the High Court no reasons are given in support of the aforesaid direction. We are, however, of the opinion that the said direction cannot be construed and shall not be understood, as calling upon or directing the Government to do anything, or to make any supplies, contrary to the provisions of the Molasses control order or any other law governing the supply of molasses. The supply of molasses to the Respondent shall be made in accordance with law.

4. Mr. Salve raised certain other contentions but we did not allow him to do so in view of the fact that those contentions were not urged before the High Court. We need express no opinion thereon.

5. SLP is accordingly dismissed subject to the above observations.

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