

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).19901/2005

(From the judgement and order dated 09/08/2005 in WP No. 28148/2003
of The HIGH COURT OF KERALA AT ERNAKULAM)

M/S MC DOWELL AND CO. LTD.

Petitio ner(s)

VERSUS

STATE OF KERALA AND ORS.

R espondent(s)

(With prayer for interim relief and office report)

WITH

SLP(C) NO. 25177 of 2005(With prayer for interim relief and office report)

SLP(C) NO. 26001 of 2005(With prayer for interim relief and office report)

SLP(C) NO. 26026 of 2005(With prayer for interim relief and office report)

SLP(C) NO. 26033 of 2005(With prayer for interim relief and office report)

SLP(C) NO. 26065 of 2005(With prayer for interim relief and office report)

SLP(C) NO. 26552 of 2005

(With prayer for c/delay in filing SLP and with interim relief and office report)

SLP(C) NO. 26553 of 2005

(With prayer for c/delay in filing SLP and with interim relief and office report)

SLP(C) NO. 26452 of 2005(With prayer for interim relief and office report)

SLP(C) Nos. 1670-1671/2006(With prayer for interim relief and office report)

Date: 28/04/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Petitioner(s)

Mr. Ashok H.Desai, Sr. Adv.

Mr. V. Giri, Adv.

Ms.Liz Mathew, Adv.

Ms. Indu Malhotra, Adv.

Mr. F.S. Nariman, SR. Adv.

Mr. V. Giri, Adv.

Mr. Ajay K. Jain, Adv.

Mr. Sajith P., Adv.

Mr. M.P. Vinod, Adv.

Mr. L. Nageswara Rao, Sr. Adv.

Mr. Ajay K. Jain, Adv.

Mr. M.P. Vinod, Adv.

For Respondent(s)

Mr. E.M.S. Anam, Adv.

Mr. T.L.V. Iyer, Sr. Adv.

Mr. Ashish Verma, adv.

Mr. K.R. Sasiprabhu, Adv.

...2/-

- 2 -

UPON hearing counsel the Court made the following

O R D E R

We have heard counsel for the parties.

It is brought to our notice by Mr. Nariman, learned senior counsel appearing on behalf of

the petitioners that the amendment to the Indian Made Foreign Liquor Rules which is said to have

come into effect from 5.1.1999 has not yet been challenged before the High Court but it has become

necessary for the petitioners to challenge that specifically by amending the writ petition pending

before the High Court. There can be no objection to the petitioners doing so. However, we vacate the

order of stay granted in favour of the petitioners by our dated 28.10.2005 in this case, and in similar

terms in other petitions, and clarify that with effect from 5.1.1999 the excise duty, even if paid by the

Beverages Corporation on account of the petitioners manufacturers/distillers shall be included in the

turnover of the petitioners manufacturers/distillers, and tur

turnover tax thereon shall be paid

accordingly.

Counsel for the parties jointly pray before us that we should request the High Court to

dispose of the pending writ petition as expeditiously as possible. Counsel for the petitioners state that

such amendment as may be necessary will be made subject to orders of the High Court within six

weeks from today.

We request the High Court to take up the writ petition for expeditious disposal since large

amounts are involved which adversely affect the interest of the parties.

In view of the order passed by us today vacating the stay, these special leave petitions

have become infructuous and are dismissed as such.

The petitioners shall pay the balance turnover tax within a period of three months from

today and till then no coercive steps shall be taken against them for recovery of the turnover tax. This

is without prejudice to the right of the respondents to demand penalty, interest, or any other charge

leviable under law, subject to the rights of the petitioners to oppose.

(Ajay Kr. Jain)

(Vijay Dhawan)

Court Master

Court Master