CGHC010046832021 2026:CGHC:43102

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1216 of 2021

Judgment Reserved On :01.09.2026.

Judgment Delivered On : 06.10.2026.

1 - Legend Distilleries Pvt. Ltd. Through Authorized Representative Signatory 97-C, Sector-A, Industrial Area Sirgitti, Bilaspur Chhattisgarh.

--- Petitioner(s)

versus

1 - State Of Chhattisgarh (Through Excise Department), GST Bhawan, Sector 19, Atal Nagar, Raipur -492002, Chhattisgarh.

2 - Collector (Excise) Bilaspur District Bilaspur Chhattisgarh.

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director), Labhandi, Chokra Nala, Raipur Chhattisgarh.

--- Respondent(s)

WPC No. 1407 of 2023

1 - Legend Distilleries Pvt. Ltd. (Through Authorized Representative/ Signatory) 97-C, Sector-A, Industrial Area, Sirgitti, Bilsapur, Chhattisgarh

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Excise Department Gst Bhawan, Sector 19, Atal Nagar, Raipur -492002, Chhattisgarh

2 - Collector (Excise), Bilaspur, District Bilsapur, Chhattisgarh

3 - Chhattisgarh State Beverages Corporation Ltd. Through Managing Director Labhandi, Chokra Nala, Raipur Chhattisgarh

--- Respondent(s)

WPC No. 2218 of 2021

1 - Legend Distilleris Pvt. Ltd. (Through Authorized Representative / Signatory) 97-C, Sector-A, Industrial Area, Sirgitti, Bilaspur, Chhattisgarh.

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department) GST Bhawan, Sector 19, Atal Nagar, Raipur 492002 Chhattisgarh.

2 - Collector (Excise) Raipur, District Raipur, Chhattisgarh.

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director) Labhandi, Chokra Nala, Raipur (Chhattisgarh)

--- **Respondent(s)**

WPC No. 3190 of 2021

1 - Legend Distilleries Pvt. Ltd (Through Authorized Representative/ Signatory) 97-C, Sector-A, Industrial Area, Sirgitti, Bilaspur, Chhattisgarh.

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department), Gst Bhawan, Sector- 19, Atal Nagar, Raipur- 492002, Chhattisgarh

2 - Collector (Excise) Raipur, District- Raipur, Chhattisgarh.

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director), Labhandi, Chokra Nala, Raipur, Chhattisgarh.

--- **Respondent(s)**

WPC No. 1577 of 2023

1 - Legend Distilleries Pvt Ltd (Through Authorized Representative/signatory) 97-C, Sector-A, Industrial Area, Sirgitti Bilaspur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department) G.S.T. Bhawan, Sector-19, Atal Nagar, Raipur - 492002, Chhattisgarh.

2 - Collector (Excise) Raipur, District : Raipur, Chhattisgarh

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director) Labhandi, Chokra Nala, Raipur, Chhattisgarh

--- **Respondent(s)**

WPC No. 5397 of 2021

1 - Som Distilleries And Breweries Odisha Pvt. Ltd. (Through Authorized Representative/signatory), Barpada, P. O. Garudagaon, P. S. Tangi, Tahsil Tangi, Choudwar, District Cuttack Odisha

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Excise Department, Gst Bhawan, Sector-19, Atal Nagar, Raipur, 492002 Chhattisgarh

2 - Collector (Excise) Bilaspur District Bilaspur Chhattisgarh.

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director,) Labhandi, Chokra Nala, Raipur Chhattisgar.

--- **Respondent(s)**

WPC No. 199 of 2022

1 - Som Distilleries And Beverages Ltd. (Through Authorized Representative / Signatory), Village Rojara Chaak, Raisen, Madhya Pradesh.

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department) Gst Bhawan, Sector 19, Atal Nagar, Raipur, 492002, Chhattisgarh.

2 - Collector (Excise) Bilaspur District Bilaspur Chhattisgarh.

3 - Chhattisgarh State Beverages Corporation Ltd. Through Managing Director, Labhandi, Chokra Nala, Raipur Chhattisgarh.

--- **Respondent(s)**

WPC No. 1849 of 2023

1 - Legend Distilieries Pvt Ltd. Through Authorized Representative / Signatory Mr. A.K. Sharma) 97 - C, Sector - A, Industrial Area, Sirgitti, Bilaspur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department) G S T, Bhawan, Sector 19, Atal Nagar, Raipur - 492002, Chhattisgarh

2 - Collector (Excise) Raipur, District Raipur, Chhattisgarh

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director) Labhandi, Chokra Nala, Raipur (Chhattisgarh)

--- **Respondent(s)**

WPC No. 1860 of 2023

1 - Legend Distilleries Pvt Ltd (Through Authorized Representative / Signatory) 97-C, Sector-A, Industrial Area, Sirgitti, Bilaspur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department) G S T Bhawan, Sector 19, Atal Nagar, Raipur- 492002, Chhattisgarh.

2 - Collector (Excise) Raipur, District : Raipur, Chhattisgarh

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director) Labhandi, Chokra Nala, Raipur (Chhattisgarh).

--- **Respondent(s)**

WPC No. 1857 of 2023

1 - Scottment Alco Bev Fillers Pvt Ltd (Through Authorized Representative/ Signatory) 448/2/5, Village Khapri Tehsil Dhamdha, District Durg Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department) G S T Bhawan, Sector 19, Atal Nagar Raipur Chhattisgarh 492002 Chhattisgarh.

2 - Collector (Excise) Bilaspur District Bilaspur Chhattisgarh

3 - Chhattisgarh State Beverages Corporation Ltd (Through Managing Director) Labhandi, Chokra Nala, Raipur Chhattisgarh

--- **Respondent(s)**

WPC No. 1855 of 2023

1 - Scottmen Alco Bev Fillers Pvt Ltd (Through Authorized Representative/ Signatory) 448/2/5. Village Khapri Tehsil Dhamdha, District Durg Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department) GST Bhawan, Sector 19 Atal Nagar, Raipur 492002 Chhattisgarh

2 - Collector, (Excise) Raipur, District Raipur Chhattisgarh

3 - Chhattisgarh State Beverages Corporation Limited. (Through Managing Director) Labhandi, Chokra Nala, Raipur Chhattisgarh

--- **Respondent(s)**

WPC No. 1002 of 2022

1 - Legend Distilleries Pvt. Ltd. (Through Authorized Representative/ Signatory) 97-C, Sector- A, Industrial Area, Sirgitti, Bilaspur Chhattisgarh.

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department) Gst Bhawan, Sector 19, Atal Nagar, Raipur 492002 Chhattisgarh.

2 - Collector (Excise), Bilaspur, District Bilaspur Chhattisgarh.

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director), Labhandi, Chokra Nala, Raipur, Chhattisgarh

--- **Respondent(s)**

WPC No. 1583 of 2023

1 - Legend Distilleries Pvt Ltd (Through Authorized Representative/signatory) 97-C, Sector-A, Industrial Area, Sirgitti, Bilaspur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department) G.S.T. Bhawan, Sector-19, Atal Nagar, Raipur - 492002, Chhattisgarh.

2 - Collector (Excise) Raipur, District : Raipur, Chhattisgarh

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director) Labhandi, Chokra Nala, Raipur, Chhattisgarh

--- **Respondent(s)**

WPC No. 1832 of 2023

1 - Scottmen Alco Bev Fillers Pvt Ltd (Through Authorized Representative/signatory)448/2/5, Village Khapri Tehsil Dhamdha, District : Durg, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Excise Department Gst Bhawan, Sector 19, Atal Nagar, Raipur 492002, Chhattisgarh.

2 - Collector (Excise), Raipur District Raipur Chhattisgarh.

3 - Chhattisgarh State Beverages Corporation Ltd, Through Managing Director Labhandi, Chokra Nala, Raipur Chhattisgarh.

--- **Respondent(s)**

WPC No. 1833 of 2023

1 - Scottmen Alco Bev Fillers Pvt. Ltd. (Through Authorized Representative/signatory) 448/2/5, Village Khapri Tehsil Dhamdha, District : Durg, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh (Through Excise Department) Gst Bhawan, Sector-19, Atal Nagar, Raipur - 492002, Chhattisgarh.

2 - Collector (Excise) Bilaspur, District : Bilaspur, Chhattisgarh.

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director) Labhandi Chokra Nala, Raipur (Chhattisgarh)

--- **Respondent(s)**

WPC No. 2933 of 2023

1 - Legend Distilleries Pvt. Ltd. (Through Authorized Representative/signatory) 97-C, Sector-A, Industrial Area, Sirgitti, Bilaspur, Chhattisgarh.

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Excise Department Gst Bhawan, Sector 19, Atal Nagar, Raipur, 492002, Chhattisgarh.

2 - Collector (Excise) Raipur, District Raipur, Chhattisgarh.

3 - Chhattisgarh State Beverages Corporation Ltd. (Through Managing Director) Labhandi, Chokra Nala, Raipur (Chhattisgarh)

--- **Respondent(s)**

For Petitioner(s)	:	Shri Kishore Bhaduri, Senior Advocate along with Shri Harsh Dave, Advocate.
For State/Respondent	:	Shri Anand Dadariya, Deputy Advocate General.
For Respondent- Chhattisgarh State Beverages Corporation Limited, in respective cases	:	Shri Syed Majid Ali, Advocate.
For Respondent- Chhattisgarh State Beverages Corporation Limited, in respective cases	:	Ms. Kajal Chandra appears on behalf of Shri Malay Shrivastava, Advocates.

Hon'ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. Since in all these writ petitions, grievance of the petitioners/Companies is one and the same, they have been clubbed together and are being disposed of by this common order and the result would govern all the writ petitions.
2. In all these writ petitions, the petitioners have challenged the legality and propriety of recovery order (Annexure P/1 collectively), in all the writ petitions, passed against them by invoking powers conferred under Rules 17 (2) of the Chhattisgarh Foreign Liquour Rules, 1996 by the Collector imposing penalty of Rs.6,24,785/- for alleged loss/ breakage of different

quantities of foreign liquor during the course of its transmission to retail shops from the concerned depot of Chhattisgarh State Beverage Corporation Limited.

3. For the purposes of disposal, facts pleaded in WPC No.1216 of 2021 are being referred to. The Petitioner is a leading integrated Alco Bev player and is duly registered with Respondent No. 3/Beverages Corporation for supply of foreign liquor. The Petitioner has entered into a valid rate contract with Respondent No. 3/Beverages Corporation and has at all material times complied with the terms, conditions and mandates prescribed by the said Respondent. Pursuant to and in terms of the agreement/rate contract entered into with Respondent No. 3/Beverages Corporation, the Petitioner was required to supply foreign liquor to the depot of Respondent No. 3/Beverages Corporation situated at Village Lingiyadih, Bilaspur. Under the terms and conditions governing the aforesaid supply arrangement, the Petitioner is liable for any loss or breakage of stock supplied to Respondent No. 3/Beverages Corporation only where such loss or breakage is attributable to old, defective or improper packing or to a manufacturing defect. The contractual liability of the Petitioner does not extend to loss or damage occurring in circumstances other than those specifically contemplated under the agreement. The Petitioner is further mandated under the contractual arrangement to undertake the supply by following the prescribed “Track & Trace System”, which is a mechanism intended to ensure proper verification and maintenance of the quality and quantity of the stock at the stage of packaging and loading. Compliance with the Track & Trace System is mandatory and is a prerequisite for generation of the

requisite transport permit in favour of the Petitioner. Thus, the stock supplied by the Petitioner is subject to a prescribed system of checks and verification even before its transportation to the concerned depot. Upon the stock reaching the concerned depot of Respondent No. 3/Beverages Corporation, the same is subjected to inspection by the officials of Respondent No. 3/Beverages Corporation. Any loss or damage occasioned to the stock during the course of transportation, prior to its acceptance at the depot, is borne by the Petitioner in accordance with the applicable contractual terms. However, once the stock is duly received and enters the depot of Respondent No. 3/Beverages Corporation, the same comes under the exclusive handling, custody and management of the officials of Respondent No. 3/Beverages Corporation. Further, the subsequent transportation of the stock from the depot to the respective retail shops is also undertaken by Respondent No. 3/Beverages Corporation and its agencies/officials. Consequently, any loss, shortage or damage occurring after the stock has entered the depot and during its subsequent handling or transportation cannot be attributed to the Petitioner, unless it is specifically established that such loss or damage was occasioned on account of defective/improper packing or a manufacturing defect attributable to the Petitioner. Despite the aforesaid contractual position, Respondent No. 2/Collector has proceeded to fasten the entire liability in respect of the alleged loss/damage upon the Petitioner and has imposed a penalty upon the Petitioner. Significantly, neither has Respondent No. 2 established nor has any cogent material been demonstrated to show that the alleged loss or damage was occasioned on account of any defective or improper packing or manufacturing defect

attributable to the Petitioner. The impugned action of Respondent No. 2/Collector is therefore contrary to the express terms and conditions governing the contractual relationship between the parties. The Respondent authorities have failed to appreciate the distinction between the period during which the stock remained the responsibility of the Petitioner and the period subsequent to its receipt at the depot, when the stock came under the custody, control and management of Respondent No. 3/Beverages Corporation. The Petitioner has discharged its contractual obligations by complying with the prescribed Track & Trace System, supplying the stock in accordance with the stipulated requirements and delivering the same to the designated depot. In the absence of any finding or material establishing that the alleged loss was attributable to defective/improper packing or manufacturing defect, fastening liability upon the Petitioner is wholly arbitrary, unreasonable and contrary to the governing contractual terms. The action of Respondent No. 2/Collector in imposing the penalty upon the Petitioner, without establishing the contractual conditions necessary for fastening such liability, is manifestly arbitrary, illegal and unsustainable in law. The Petitioner is consequently constrained to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India and seek appropriate relief against the arbitrary and illegal action of the Respondent authorities.

4. Learned Senior counsel submits that the common question arising in the batch is not whether some quantity of bottled liquor was physically broken. The controversy is much narrower and essentially legal, whether breakage occurring after the stock had reached the CSBCL godown and while the

stock was thereafter being handled/moved by or within the CSBCL establishment can automatically be fastened upon the manufacturer/seller without any allegation or finding that the breakage was caused by defective or improper packing or by a manufacturing defect attributable to the Petitioner. The facts of the lead petition demonstrate the issue clearly. The Petitioner manufactured sealed bottled foreign liquor at its unit at Sirgitti, Bilaspur and transported the same to the CSBCL Lingiyadih Godown, Bilaspur. The impugned order itself records that the stock had already been transported from the Petitioner's unit to the CSBCL godown. It thereafter records that between 01.04.2019 and 31.03.2020 and during May 2020, breakage equivalent to 1724.02 proof litres occurred while the liquor was being taken out and moved from one place to another. Thus, the Department's own factual case is that the goods had already reached the CSBCL godown and the breakage occurred thereafter, not during manufacture and not before delivery, but during subsequent handling/movement of the stock. The order also records that the Panchanamas regarding such breakage were prepared by the officer in-charge of the CSBCL godown. The show-cause notice dated 04.12.2020 is particularly significant and is equally specific. It states that the officer in-charge of the CSBCL Lingiyadih godown reported that breakage of 1724.02 proof litres occurred. The notice therefore itself fixes the stage and location of the alleged loss after receipt in the CSBCL godown and during handling therein. What is equally important is what the show-cause notice does not allege. It does not allege that the bottles were found broken when delivered by the Petitioner. It does not allege that the consignment was delivered in

defective condition. It does not allege that the cartons or packing were defective or improper. It does not identify a single manufacturing defect. It does not allege that any inspection at the stage of receipt disclosed defective packaging. It does not allege that the breakage occurring during subsequent handling was causally attributable to any act, omission or defect on the part of the Petitioner. Nevertheless, the show-cause notice invokes Rule 17(2) of the Chhattisgarh Foreign Liquor Rules, 1996, reproduces Clauses 2.3 and 3.10 of the CSBCL Terms and Conditions and straightaway proposes recovery of 16,24,785/-. Further, the show-cause notice therefore suffers from a fundamental disconnect between the factual allegation and the contractual provision relied upon. The factual allegation is handling breakage after the goods had reached the CSBCL godown. However, the contractual provision relied upon to shift liability to the seller, namely Clause 3.10, applies to a materially different circumstance, namely breakage caused "on account of defective and improper packing" or "on account of any manufacturing defect." Not one of these foundational facts is alleged in the show-cause notice. Clause 2.3 expressly records that, till resale by the purchaser to third parties, "the risk and property in the stock lies with the purchaser", subject to godown breakages occurring on account of the provisions specified in Clause 3.10. The purchaser is CSBCL and the Petitioner is the seller. Therefore, the plain contractual position is that risk and property in the stock lie with CSBCL as purchaser, while a limited and specific category of breakage contemplated by Clause 3.10 is placed upon the seller. Curiously, both the show-cause notice and the impugned order reproduce the substance of Clause 2.3 recognising that risk and property lie

with the purchaser, but immediately thereafter proceed upon the contrary premise that the entire risk continues to remain with the seller till resale. These two propositions are mutually inconsistent. The latter proposition reverses the contractual allocation contained in Clause 2.3. This is not a factual dispute requiring evidence. It is an error visible from the face of the documents themselves. Clause 2.3 can simply be compared with the interpretation adopted in the show-cause notice and in the impugned order. Clause 3.10 makes the position still clearer. It provides that damages and breakages to the stock supplied to the purchaser shall be to the seller's account where they arise on account of defective and improper packing account of manufacturing defect. Thus, Clause 3.10 does not create absolute liability upon the seller for every bottle which may break in a CSBCL godown. The liability is expressly causation based. In other words, the mere fact of breakage is not sufficient. It must be established that the breakage occurred because of defective/improper packing or because of a manufacturing defect. Unless the contractual cause specified in Clause 3.10 is alleged and found, the exception contemplated therein does not operate. The show-cause notice, as stated above, alleges neither of these circumstances. The final order also records neither of them. There is therefore a complete absence, both at the stage of initiation and at the stage of adjudication, of the foundational fact necessary to shift liability under Clause 3.10 from CSBCL as purchaser to the Petitioner as seller. 18. Instead of examining this question, the Collector has proceeded entirely on the Petitioner's failure to file a reply to the show-cause notice. The impugned order demonstrates the basic infirmity in the adjudication. The Collector does

not record that the packing was defective. He does not find that it was improper. He does not identify any manufacturing defect. He does not find that the Petitioner or its employees were handling the stock when the breakage occurred. He does not determine_whose custody and control the bottles were in when moved from one place to another. He does not determine what caused the breakage. Instead, the Collector reasons that because the Petitioner did not file a reply, it must be deemed to have "agreed with the offence. Non-filing of a reply could at the highest entitle the authority to proceed ex parte. It could not create facts which had never been alleged in the show-cause notice and could not dispense with the authority's obligation to establish the ingredients necessary to impose liability. Silence on the part of the noticee cannot establish defective packing. It cannot establish a manufacturing defect. It cannot establish causation. Nor can it convert every handling breakage occurring after delivery into a breakage attributable to the manufacturer. The Collector has, moreover, placed the burden on the wrong party and has framed the wrong inquiry. The order repeatedly states that the Petitioner failed to produce material demonstrating that the breakage did not occur during handling or failed to offer a satisfactory explanation for such handling breakage. But the occurrence of breakage is not the Petitioner's case. The question is whether that admitted handling breakage is legally attributable to the Petitioner. The proper inquiry ought therefore to have been whether the Department's material established defective or improper packing, whether it established a manufacturing defect, and whether such defect caused the breakage. Instead, the authority has proceeded on the reverse proposition that the Petitioner must disprove

liability merely because bottles admittedly broke during subsequent handling. The scheme of the Rules also requires the authority to undertake a proper determination. Rule 17(2) of the Chhattisgarh Foreign Liquor Rules, 1996 provides, inter alia, that no wastage allowance is permissible in respect of bottled foreign liquor stored with the specified licensees, including an FL-10 licensee, and that where deficiency is found during verification, the prescribed duty and bottle fee are recoverable, apart from any other penalty imposable under Rule 19. The Petitioners' contention is that Rule 17(2) cannot be applied in abstraction without determining the nature and legal attribution of the alleged deficiency. The statutory provision cannot automatically convert every bottle broken after manufacture into a deficiency attributable to the manufacturer regardless of delivery, custody, subsequent handling and the contractual allocation of risk. This is especially so because the Excise Authority itself has relied upon Clauses 2.3 and 3.10 to determine who must bear the financial consequence of the breakage. Once those clauses are relied upon, they must be applied according to their actual terms. Clause 2.3 places risk and property with the purchaser. Clause 3.10 provides a specific exception where the breakage is causally attributable to defective/improper packing or manufacturing defect. The authority cannot rely upon the agreement while simultaneously ignoring the essential limitation contained in it. Rule 19, to the extent invoked/read with Rule 17 in the connected proceedings, provides the penal consequence in respect of deficiencies falling within the statutory scheme. A penalty or consequential recovery necessarily presupposes establishment of the facts which attract the provision. The authority cannot commence from the conclusion that a

penalty is recoverable and_then call upon the Petitioner to disprove it. The defects in the show-cause notice are therefore substantive and not cosmetic. The notice discloses only one factual allegation post-delivery handling breakage at the CSBCL godown. It does not allege the very factual predicates upon which Clause 3.10 operates. Yet it reproduces Clause 3.10. misreads Clause 2.3, fixes the amount proposed to be recovered and calls upon the Petitioner to explain why recovery should not follow. The final order merely carries the same assumption forward. The proceedings, viewed from the show-cause notice through the final order, therefore, suffer from four connected errors. First, an admitted post-delivery handling loss has been treated as though liability necessarily remains with the manufacturer. Secondly, Clause 2.3 has been read in reverse by treating the seller as bearing the general risk when the clause expressly places risk and property with the purchaser. Thirdly, the conditions expressly contained in Clause 3.10 defective/improper packing or manufacturing defect-are neither alleged in the notice nor found in the final order. Fourthly, the failure to submit a reply has been treated as a substitute for proof of the missing ingredients. Article 226 of the Constitution of India confers plenary jurisdiction upon this Court. Availability of an alternative statutory remedy does not take away that jurisdiction; it is a consideration governing exercise of judicial discretion.

5. Learned counsel for the petitioner places reliance in the matter of **M/s Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority & Others, 2023 SCC OnLine SC 95,** the Hon'ble Supreme Court has clearly distinguished between the maintainability of a writ petition and the question whether the High Court should entertain it. The Supreme Court

held that the availability of an alternative remedy does not render the writ petition non-maintainable. More importantly, in paragraph 8, while dealing with a statutory fiscal dispute, the Supreme Court held that where the controversy is purely legal and factual investigation is unnecessary, the High Court ought to decide the matter instead of requiring the litigant to travel through the entire "mill of statutory appeals in the hierarchy."

6. Paragraph 8 of **M/s Godrej Sara Lee Ltd. (supra)** reads as under:-

> *"**8**. That apart, we may also usefully refer to the decisions of this Court reported in (1977) 2 SCC 724 (State of U. P. v. Indian Hume Pipe Co. Ltd.) and (2000) 10 SCC 482 (Union of India v. State of Haryana). What appears on a plain reading of the former decision is that whether a certain item falls within an entry in a sales tax statute, raises a pure question of law and if investigation into facts is unnecessary, the High Court could entertain a writ petition in its discretion even though the alternative remedy was not availed of; and, unless exercise of discretion is shown to be unreasonable or perverse, this Court would not interfere. In the latter decision, this court found the issue raised by the appellant to be pristinely legal requiring determination by the High Court without putting the appellant through the mill of statutory appeals in the hierarchy. What follows from the said decisions is that where the controversy is a purely legal one and it does not involve disputed questions of fact but only questions of law, then it should be decided by the High Court instead of dismissing the writ petition on the ground of an alternative remedy being available."*

7. Learned counsel for the petitioner submits that that the principle of **Godrej Sara Lee (supra)** applies directly to the present batch. The principal questions are whether the plain expression "risk and property... lies with the

purchaser" can be construed as placing the general risk upon the seller; whether the seller can be made liable under Clause 3.10 without allegation or finding of defective/improper packing or manufacturing defect; and whether failure to file a reply can supply those missing foundational facts. These are questions capable of determination on the admitted record without any elaborate factual investigation.

8. Learned counsel for the petitioner now relies in the matter of **State of Uttar Pradesh & Another v. Ehsan & Another, 2023 INSC 906**, the Hon'ble Supreme Court in paragraph 28 reiterated that existence of an alternative remedy is not an absolute bar to the exercise of writ jurisdiction. The Court further held that where a writ petition has already been entertained, parties have exchanged pleadings/affidavits and the proceeding has remained pending, there must be a sincere effort to decide the matter on merits rather than relegate the writ petitioner to an alternative remedy, unless compelling reasons exist for doing so. Paragraph 28 reads as under:-

> *"**28.** We are conscious of the law that existence of an alternative remedy is not an absolute bar on exercise of writ jurisdiction. More so, when a writ petition has been entertained, parties have exchanged their pleadings/ affidavits and the matter has remained pending for long. In such a situation there must be a sincere effort to decide the matter on merits and not relegate the writ petitioner to the alternative remedy, unless there are compelling reasons for doing so. One such compelling reason may arise where there is a serious dispute between the parties on a materials/evidence(s) question of fact available on record and are insufficient/inconclusive to enable the Court to come to a definite conclusion. "*

9. Learned counsel for the petitioner submits that the objection of alternative remedy must also be viewed in the practical context of this case. The Respondents' approach has resulted in 16 separate proceedings and 16 separate writ petitions involving the same recurring interpretation of Rule 17(2), Rule 19 and Clauses 2.3 and 3.10. The controversy is therefore not merely an isolated dispute regarding calculation of a particular demand. A decision by this Court on the common issue would settle the controversy consistently and avoid multiplicity of parallel appellate proceedings raising the same point. On merits, the Petitioner respectfully submits that the recoveries cannot be sustained on the reasoning adopted by the authorities. The Department cannot simultaneously accept in Clause 2.3 that risk and property lie with CSBCL as purchaser and thereafter hold that the entire risk remains with the seller. Nor can the Department invoke the limited exception contained in Clause 3.10 without even alleging or finding the factual conditions upon which that exception operates. The Department's own description of the occurrence is crucial, the stock was in the CSBCL. godown and breakage occurred while it was being moved during "handling". That circumstance by itself does not prove anything regarding defective packing or manufacturing defect. Handling breakage may result from numerous causes. Unless the authority establishes that the handling breakage resulted from a defect_contemplated in Clause 3.10, contractual liability cannot automatically be transferred to the manufacturer. The show-cause notice is therefore incapable of supporting the final conclusion for an additional reason. A person called upon to answer a statutory proceeding must at least be informed of the factual case which he is required to meet. Here, the

Petitioner was never put to notice that any particular packaging was defective or improper or that any identified manufacturing defect caused the breakage. Having never alleged these foundational facts, the authority could not assume their existence merely because no reply was submitted. Even then, the final order does not purport to find such facts. It takes a shorter impermissible route, no reply was filed; therefore the Petitioner accepts the offence. Such a presumption cannot replace statutory adjudication. The authority was entitled to proceed ex parte, but it remained obliged to satisfy itself from its own record that the facts necessary to impose liability were established. Significantly, even the Panchanamas referred to in the proceedings are described merely as Panchanamas of breakage prepared at the CSBCL godown. The impugned order does not state that any Panchanama contains a finding of defective packing, improper packing or manufacturing defect. If the Department's own contemporaneous material did not record the contractual cause necessary under Clause 3.10, the subsequent recovery cannot be sustained simply by shifting the burden upon the Petitioner. The Petitioner therefore submits that the error is not merely that another view on the facts was possible. The authorities have proceeded on a legally erroneous premise regarding the allocation of risk, omitted the very causal finding necessary under the contractual provision relied upon by them, and treated absence of reply as proof of liability. The defect is apparent from the proceedings themselves. In the circumstances, the present batch is appropriately decided by this Court under Article 226 of the Constitution of India. The objection of alternative remedy ought to be rejected in view of the principles laid down in **Godrej Sara Lee and State of**

U.P. v. Ehsan, and the common legal issue ought to be adjudicated on merits. It is accordingly submitted that the impugned orders, insofar as they impose recoveries/penal consequences upon the Petitioner under Rule 17(2) read with Rule 19 of the Chhattisgarh Foreign Liquor Rules, 1996 merely on account of breakage occurring during post-delivery handling at CSBCL godowns and without any allegation or finding satisfying the conditions of Clauses 2.3 and 3.10, deserve to be quashed along with all consequential recovery proceedings. In the alternative, and without prejudice, even if this Court considers that any factual determination remains necessary in an individual case, the impugned orders cannot survive in their present form because the adjudicating authorities have not determined the cause of breakage or the applicability of Clause 3.10. Any such determination would necessarily have to be made afresh on the correct interpretation of the contractual provisions and upon material establishing the statutory and contractual ingredients of liability, rather than upon an adverse presumption arising merely from non-filing of a reply. The Petitioner therefore respectfully prays that this Court may be pleased to reject the preliminary objection regarding alternative remedy; decide the common legal issue arising in the batch; quash the impugned orders and consequential demands in the connected writ petitions; and grant such further relief as may be deemed just and proper in the facts and circumstances of the case.

10. Learned State counsel submits that the impugned order dated 11/01/2021 (Annexure P/1) passed by the District Collector, Bilaspur is an appealable order under the provisions of the appeal and revision rules framed under Section 62 of the Chhattisgarh Excise Act, 1915 before the Commissioner

Excise, Raipur and the petitioner, without availing the said efficacious, statutory and alternative remedy, has directly approached this Court by way of filing the instant petition and therefore, the instant petition is not maintainable and accordingly is liable to be dismissed on the ground of availability of efficacious, statutory and alternative remedy.

11. Learned State counsel would further submits that in exercise of the powers conferred by sub-section (1) and clauses (d), (e), (0), (g) and (h) of sub-section (2) of Section 62 of the Chhattisgarh Act, 1915 (No. II of 1915), the State Government has framed the Chhattisgarh Foreign Liquor Rules, 1996. Rule 17 of Rules, 1996 deals with the storage, racking, reduction losses which reads as under :-

> *"**17. Storage, racking, reduction losses.** (1) Maximum permissible limit of losses of spirit due to racking, storage, evaporation, reduction, blending etc., for FL 9 or FL 9-A licensee shall be the same as given in sub-rule (2) of Rule 6 of the Distillery Rules, 1995.*
>
> *(2) No wastage allowance on storage of bottled foreign liquor stocked with [FL 6, FL 10 or FL 10-A] licensee is permitted. If during verification any deficiency is discovered, duty and bottle fee at the prescribed rate on the quantity found deficit shall be recoverable from the licensee in addition to any other penalty which may be imposed under Rule 19."*

12. Learned State counsel submits that from the aforesaid provisions it is very much apparent that during the course of verification, if any deficiency is found, then duty and bottle fee at the prescribed rate on the quantity found deficit shall be recoverable from the licensee in addition to any other penalty as per Rule 19. Further, Rule 19 of the Rules, 1996 deals with the penalties

which reads as under :-

> *"**19. Penalties.** (1) Without prejudice to the provisions of the Act, or condition No. 4 of licence in Form FL 1, condition No. 7 of licence in Form FL 2, condition No. 4 of licence in Form FL 3, the Excise Commissioner or the Collector may impose a penalty not exceeding Rs. 50,000 for contravention of any of these rules or the provisions of the Act or any other rules made under the Act or the order issued by the Excise Commissioner.*
>
> *(2) On all deficiencies in excess of the limits allowed under sub-rule (2) of Rule 16 and sub-rule (1) of Rule 17, the FL 9 or FL 9-A licensee shall be liable to pay penalty at a rate not exceeding Rs. 25 per proof litre in case of spirit and Rs. 65 in case of foreign liquor excluding beer as may be imposed by the Excise Commissioner or any officer authorised by him:*
>
> *Provided that if it be proved to the satisfaction of the Excise Commissioner or the authorised officer that such excess deficiency or loss was due to some unavoidable cause, he may waive the penalty impossible under this sub-rule.*
>
> *(3) The Excise Commissioner or the Collector may suspend or cancel the licence under Section 31 of the Act upon a contravention of any of these rules or provisions of the Act, or any other rules made under the Act, or the orders issued by the Excise Commissioner."*

13. From the aforesaid provisions it is very much apparent that the Collector is duly empowered to impose penalty in case, during the course of verification of the quantity, any deficiency is found.

14. Learned State counsel further submits that on 26/02/2019 a rate contract /agreement was executed between the petitioner and the respondent no.

3/Beverages Corporation for supply of foreign liquor to the retail shops of the respondent no. 3/Beverages Corporation on certain terms and conditions. and copy of which is already filed by the petitioner as Annexure P/2. It is respectfully submitted that the petitioner itself, by accepting all the terms and conditions mentioned in the said rate contract (Annexure P/2) with open eyes, agreed to supply the foreign liquor to the retail shops of the respondent no. 3/Beverages Corporation. Thus, the petitioner was under obligation to strictly and mandatorily adhere to and follow the terms and conditions of the said rate contract executed between the petitioner and the respondent no. 3/Beverages Corporation. Annexure -E appended to the said rate contract executed deals with the agreement for sale of foreign liquor. Clause 2 of the contract deals with the point of sale among parties to the contract and clause 2.3 specifically provides that -

> *"2.3. The Parties further agree that till the re-sale is made by the purchase to the third parties in terms of the provisions of this agreement, though the risk and property in the stock lies with the purchaser, any go-down breakages on account of provisions specified in Clause 3.10, shall vest with the seller."*

15. Further, clause 3.10 provides that :-

> *"3.10. All damages and breakage of the stock supplied to the purchaser on account of defective and improper packing or on account of any manufacturing defect in the contents shall be to the account of the Seller."*

16. From the aforesaid provisions contained in the said rate contract executed, it would be evident that on account of defective and improper packing, the loss / damage /breakage of the stock supplied shall be recovered from the seller which in the instant case is the petitioner.

17. Learned State counsel also submits that as per the rate contract /agreement executed, the petitioner supplied the foreign liquor to the retail shop of the respondent no. 3/Beverages Corporation during the period from 01/04/2019 to 31/03/2020. It is submitted that after supply of the foreign liquor to the go-down/depot of village Lingiyadih, Bilaspur, the In-charge of the depot/go-down, after verification of the stock supplied, recorded the loss / damage / breakage of the bottles in a prescribed panchanama in presence of the witnesses, go-down keeper and representative of the petitioner in which the representative of the petitioner has duly put his signature which clearly establishes the fact that the loss / damage / breakage was caused when the foreign liquor was supplied by the petitioner to the depot/ go-down and in support of the above, copies of the panchnamas are collectively filed herewith as Annexure R/1. A bare perusal of the aforesaid panchnamas would make it very much apparent that the loss of 1724.02 proof litres of foreign liquor, was caused while transmitting the foreign liquor to the depot/go-down of the respondent no. 3/Beverages Corporation which was assessed to the tune of Rs.6,24,785/- . It is submitted that taking the aforesaid loss /breakage into consideration on the part of the petitioner while handling of liquors, the show cause notice dated 04/12/2020 was issued by the Collector, District Bilaspur to the petitioner asking the reason as to why a penalty of Rs. 6,24,785/- may not be recovered for loss / damage of 1724.02 proof litre of foreign liquor, within a period of 7 days, failing which ex-parte order will be passed. It is submitted that no explanation / reply to the aforesaid show cause notice was ever submitted by the petitioner which clearly establishes the acceptance of loss / damage /breakage of 1724.02

proof litre of foreign liquor by the petitioner itself and therefore, in exercise of the powers 17(2) of the Rules, 1996, the Collector, District Bilaspur has rightly imposed the penalty of Rs. 6,24,785/- upon the petitioner which is just, proper and legal and does not suffer from any illegality or infirmity.

18. Ms Kajal Chandra, counsel for State Beverages Corporation in respective cases submits that the petitioner has right of alternative remedy provided under the Chhattisgarh Foreign Rules, 1996, which has not been availed by the petitioner and the petitioner has directly approached this Court. Therefore, the instant Writ Petition is not maintainable on account of the presence of an efficacious alternative remedy. Moreover, the question of the liability for the breakage under Clause 2.3 and Clause 3.10 of the agreement is a question of fact which can be resolved only under the statutory remedy of appeal. The contractual provisions specifically provide the circumstances in which the liability for godown breakages shall vest with the seller and further provide that all damages and breakage of the stock supplied to the purchaser on account of defective and improper packing or on account of any manufacturing defect in the contents shall be to the account of the seller. She submits that the question whether Respondent No.2 has the jurisdiction to impose the penalty or not shall also be decided by the appellate authority. She further submits that the Petitioner, despite receiving the Show Cause Notice dated 04.12.2020, did not file any explanation. Consequently, the proceedings were proceeded with ex-parte and the impugned order dated 11.01.2021 was passed. The Petitioner, having failed to file its explanation before the competent authority, has directly approached this Court instead of availing the statutory remedy provided

under the Chhattisgarh Foreign Rules, 1996. Therefore, the issues raised by the Petitioner regarding the liability for the breakage under Clauses 2.3 and 3.10 of the agreement and the jurisdiction of Respondent No.2 to impose the penalty are required to be decided by the appellate authority and cannot be decided in summary proceedings under Article 226 of the Constitution of India. The maintainability of writ petition under Article 226 in disputes relating to terms of contract with a statutory body fell for consideration in the case of **Kerala State Electricity Board and other** Vs. **Kurien E. Kalathil and others** reported in **(2000) 6 SCC 293** and it was held by the Hon'ble Supreme Court that the writ court would not ordinarily be the proper forum for resolution of disputes relating to terms of contract with a statutory body and disputes arising from contractual or commercial activities must be settled according to ordinary principles of law of contract. The question of maintainability of the writ petition under Article 226 for enforcement of a contractual right again came up again in the case of **Life Insurance Corporation of India and others vs. Asha Goel (Smt.) and another** reported in **(2001) 2 SCC 160,** and it was held that pros and cons of fact-situation should be carefully weighed and the determination of the question as to when a claim can be enforced in writ jurisdiction would depend on consideration of several factors like, whether the writ petitioner is merely attempting to enforce his contractual rights or the case raises important questions of law and constitutional issues, the nature of dispute raised; the nature of enquiry necessary for determination of the dispute etc. It was held that the matter would be required to be considered in the facts and circumstances of each case. She further submits that the petitioners till date have failed to provide any satisfactory explanation as to

why the reply to the show cause notice has not been submitted by them. The petitioner cannot take advantage of his own wrongdoing. Even if the reply to the show cause notice were to be submitted by the Petitioners, the case of the Respondent No. 3 would still remain the same, as the penalty amount has been assessed on the basis of the Panchnama prepared, and the Petitioner has not denied or disputed the said Panchnama till date. Thus, the entire petition preferred by the Petitioner is devoid of any merit on its face value. Thus, in view of the facts and circumstances stated hereinabove, it is prayed that the writ petitions are not maintainable as the Petitioners have an efficacious alternative statutory remedy of appeal under the Chhattisgarh Foreign Rules, 1996. The Petitioners have directly approached this Court without availing the said statutory remedy. The question of liability for the breakage under Clauses 2.3 and 3.10 of the agreement is a question of fact which can be resolved under the statutory remedy of appeal. Likewise, the question whether Respondent No.2 has the jurisdiction to impose the penalty or not shall also be decided by the appellate authority and the same is not the subject matter of summary proceedings under Article 226 of the Constitution of India. It is, therefore, prayed that this Court may be pleased to dismiss the present Writ Petitions on account of the efficacious alternative statutory remedy available to the Petitioners and may further be pleased to pass such other order as this Court may deem fit and proper in the facts and circumstances of the case.

19. Shri Syed Majid Ali, counsel for respondent Chhattisgarh State Beverages while supporting the contention of Ms. Chandra that petitioner ought to have exhausted alternative remedy, would alternatively submit that the petitioner

in some petitions has assailed 5 different orders passed by office of Collector, Raipur, Distt - Raipur on various dates. In this regard, it is submitted that, as the each case has different 'cause of action' therefore petitioner is required to challenge each and every order in separate Writ Petition. As such, petition is not maintainable and the same is liable to be dismissed on this count itself. It is submitted that, as per the rate contract executed between the petitioner company and the Respondent, the petitioner company supplied the foreign liquor to the retail shop through the Respondent and during the period 2022-23 on verification by the godown in-charge, the stock recorded loss/damages/breakage of bottle and for which Panchanama was also prepared. The said Panchanama was prepared in presence of the representative of the petitioner company, the representative of the company duly signed the said Panchanama which clearly establishes the fact that the loss/damage/breakages was caused when the Goods were supplied to the godown/depot of the Respondent by the petitioner company. At the cost of repetition, Panchanama proceedings were conducted in the presence of representative of the company who duly singed the said Panchanama. The Collector before deciding the application, order of which has been impugned by the present petitioner duly issued a 'Notice' to the petitioner company informing and calling an explanation that the loss/damage/breakages has been caused during the handling of liquor between the said period and on account of the same sum of Rs. 34,560/-, 12,840/-, 24,720/-, 20,160/- and 23,040/- are to be recovered from the petitioner company and if they wish to file any explanation/ submission/ counter, they may do so, otherwise an ex-parte proceedings will be initiated

against the petitioner company. Despite receiving the notice the petitioner company willfully chose not to appear in the matter and even they did not filed any reply to the notice. Therefore, the Collector proceeded ex-parte in the matter and after completing the proceeding passed the order which has been impugned by the petitioner's company.

20. I have heard learned counsel for the parties and perused the documents annexed with the petitions carefully.

21. The preliminary objection regarding availability of an alternative statutory remedy is required to be considered first. It is no doubt true that ordinarily the High Court would be slow to entertain a writ petition where an efficacious alternative statutory remedy is available. However, the rule requiring exhaustion of an alternative remedy is a rule of discretion and not one of absolute compulsion.

22. In the matter of **Harbanslal Sahnia And Another vs. Indian Oil Corporation Ltd. And Others** {**(2003) 2 SCC 107**}, the Hon'ble Supreme Court held in paragraph 7, which reads as under:-

> ***"7.*** *So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed is concerned, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii)*

where there is failure of principles of natural justice; or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. (See Whirlpool Corpn. v. Registrar of Trade Marks (1998) 8 SCC 1). The present case attracts applicability of the first two contingencies. Moreover, as noted, the petitioners' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings."

23. The Hon'ble Supreme Court in **Harbanslal Sahnia and another v. Indian Oil Corporation Ltd. and others, (2003) 2 SCC 107**, has held that notwithstanding the availability of an alternative remedy, the High Court may exercise its writ jurisdiction where, inter alia, there is violation of the principles of natural justice or where the proceedings are wholly without jurisdiction or the action impugned is otherwise liable to interference in the exercise of writ jurisdiction.

24. Similarly, in ***State of Uttar Pradesh & Another v. Ehsan & Another*** **(supra),** the Supreme Court observed that where a writ petition has already been entertained, pleadings have been exchanged and the matter has remained pending, there should ordinarily be an effort to decide the matter on merits unless compelling reasons exist for relegating the petitioner to the alternative remedy.

25. In the present case, the controversy is not merely confined to the quantification of loss. The principal issue is whether, having regard to the contractual terms governing the parties, the petitioners could at all be

saddled with liability for the alleged breakage without a finding that such breakage was occasioned by defective or improper packing or by a manufacturing defect attributable to the petitioners.

26. Clause 2.3 of the agreement makes a specific distinction between the risk and property in the stock and the circumstances in which godown breakage would remain the responsibility of the seller. Clause 3.10 specifically limits the seller's liability to damage or breakage arising from defective or improper packing or from a manufacturing defect in the contents.

27. Thus, merely because breakage or shortage was noticed at the depot, the same would not, by itself, establish the petitioners' contractual liability. The competent authority was required to examine and determine whether the loss was attributable to either defective/improper packing or a manufacturing defect.

28. From a perusal of the impugned orders, it appears that the alleged breakage/loss was attributed to mishandling of the liquor while it was being transported from the concerned godown/depot of the Beverages Corporation. There is no clear and categorical finding in the impugned orders that the loss was caused by defective or improper packing or by any manufacturing defect in the contents.

29. The distinction between loss occurring on account of a defect attributable to the seller and loss arising due to subsequent handling, custody or transportation is material in view of the express contractual terms. Once the goods were received and accepted at the depot, the subsequent custody and transportation were undertaken by the Beverages Corporation and its

agencies. Therefore, the liability could not have been mechanically fastened upon the petitioners without first determining the cause of the breakage.

30. The mere preparation and signing of the panchnama by the representative of the petitioner may establish that the breakage was noticed and recorded; however, such acknowledgment by itself does not establish that the cause of the breakage was defective or improper packing or a manufacturing defect. The authority was required to determine the cause of the loss in accordance with the contractual terms.

31. The respondents have also relied upon the statutory power contained in Rules 17 and 19 of the Rules of 1996. There can be no dispute that the competent authority possesses statutory power to recover duty and bottle fee and, in appropriate circumstances, impose penalty where deficiency is established. However, the exercise of such statutory power must be based upon proper consideration of the relevant facts and the applicable contractual terms, particularly when the liability sought to be imposed arises out of a contractual arrangement entered into between the parties.

32. The impugned orders do not disclose any meaningful consideration of the aforesaid contractual stipulations. The orders proceed substantially on the basis of the existence of shortage/breakage, without determining whether the conditions stipulated in Clauses 2.3 and 3.10 for fastening liability upon the seller were satisfied.

33. An order having civil and financial consequences is required to reflect due consideration of the material facts and the applicable legal and contractual provisions. The authority cannot impose liability merely on the basis of the

existence of a deficiency without determining the legal basis on which such liability is sought to be fastened.

34. In the facts of the present case, therefore, the objection regarding availability of an alternative remedy cannot operate as an absolute bar to the exercise of writ jurisdiction. The impugned orders suffer from failure to consider the relevant contractual provisions and the basis on which liability could legally be attributed to the petitioners.

35. So far as the objection regarding clubbing of multiple orders in a single writ petition is concerned, since the grievance, contractual framework and legal issue involved in all the matters are substantially common and the petitions have already been heard together, this Court does not consider it appropriate to non-suit the petitioners on such a technical ground. The objection is accordingly rejected.

36. For the reasons discussed hereinabove, this Court is of the considered opinion that the impugned orders fastening liability upon the petitioners towards the alleged loss/breakage of foreign liquor cannot be sustained. The respondents have failed to establish that the loss in question was occasioned on account of defective or improper packing or any manufacturing defect attributable to the petitioners, as contemplated under Clauses 2.3 and 3.10 of the agreement.

37. Consequently, all the writ petitions are **allowed**. The respective impugned orders passed by the concerned Collector imposing/recovering penalty from the petitioners towards the alleged loss/breakage of foreign liquor are hereby quashed and set aside in all the writ petitions. The petitioners shall stand

absolved of the liability imposed under the impugned orders. Any consequential recovery proceedings initiated pursuant thereto shall also stand quashed.

38. It is, however, made clear that this order shall not preclude the competent authority from taking action in accordance with law in respect of any future deficiency, provided the same is adjudicated strictly in accordance with the statutory provisions and the applicable contractual terms.

Sd/-
(Amitendra Kishore Prasad)
Judge

Avinash

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
01.09.2026	06.10.2026	------	06.10.2026