

**HIGH COURT OF MADHYA PRADESH**

**PRINCIPAL SEAT AT JABALPUR**

**W.P. No.6655/2015**

M/s United Spirits Limited

Vs.

State of M.P. & Others

**W.P. No.19220/2015**

M/s Som Distilleries Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.19221/2015**

M/s Som Distilleries Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.19441/2015**

M/s United Spirits Limited

Vs.

State of M.P. & Others

**W.P. No.21332/2015**

M/s United Spirits Limited

Vs.

State of M.P. & Others

**W.P. No.2380/2016**

M/s Pernod Ricard India Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2381/2016**

M/s Tripti Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2385/2016**

M/s Pernod Ricard India Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2389/2016**

M/s Pernod Pichard India Pvt. Limited

Vs.

State of M.P. & Others

**W.P. No.2395/2016**

M/s Pernod Pichard India Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2400/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2404/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2420/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2421/2015**

M/s Pernod Pichard India Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.7556/2016**

M/s M.P. Beer Products Ltd.

Vs.

State of M.P. & Others

**W.P. No.7561/2016**

M/s Mount Everest Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.8559/2016**

M/s Mount Everest Breweries Ltd.

Vs.

Commercial Taxes Department & Others

**W.P. No.8560/2016**

M/s Mount Everest Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.9783/2016**

M/s Som Distilleries And Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.9788/2016**

M/s Som Distilleries Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2367/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2370/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2373/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2394/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2406/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2427/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.7555/2016**

M/s Associated Alcohols & Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.7558/2016**

M/s Associated Alcohols & Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.7560/2016**

M/s Associated Alcohols & Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.7562/2016**

M/s Associated Alcohols & Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.7563/2016**

M/s Associated Alcohols & Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.7564/2016**

M/s Associated Alcohols & Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.7565/2016**

M/s Associated Alcohols & Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.8561/2015**

M/s Associated Alcohols and Breweries Ltd.

Vs.

State of M.P. & Others

**W.P. No.2371/2016**

M/s SAB Miller India Ltd.

Vs.

State of M.P. & Others

**W.P. No.2374/2016**

M/s Sab Miller India Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2378/2016**

M/s Sab Miller India Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2379/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.



State of M.P. & Others

**W.P. No.2399/2016**

M/s Sab Miller India Ltd.

Vs.

State of M.P. & Others

**W.P. No.2408/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.2416/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.3625/2016**

M/s Gwalior Alcobrew Pvt. Ltd.

Vs.

State of M.P. & Others

**W.P. No.10256/2016**

M/s Great Galleon Ltd.

Vs.

State of M.P. & Others

**W.P. No.10258/2016**

M/s Great Galleon Ltd.

Vs.

State of M.P. & Others

**W.P. No.10260/2016**

M/s Great Galleon Ltd.

Vs.

State of M.P. & Others

**W.P. No.10261/2016**

M/s Great Galleon Ltd.

Vs.

State of M.P. & Others

**Present:**

**Hon'ble Shri Rajendra Menon,  
The Acting Chief Justice &**

**Hon'ble Shri Anurag Shrivastava, J.**

---

Shri R. K. Khanna, learned Senior Counsel with Shri Puneet Agrawal, Shri Sameer Kumar Shrivastava and Shri Parvez Bapuna; Shri Kavın Gulati, Senior Counsel with

Shri Avi Tandon; Shri Sumit Nema, Shri Mukesh Agrawal, Shri D. C. Singhal and Shri Pawan Kumar Dwivedi, Advocates for the petitioner.

Shri Purushendra Kaurav, learned Additional Advocate General with Shri Swapnil Ganguly and Shri Pushpendra Yadav, for the State Government

---

**ORDER**

**(.....8.2016)**

**Per: Rajendra Menon, Acting CJ:**

Challenge in all these petitions filed under Article 226 and 227 of the Constitution are made either to orders passed by the Assessing Officer, Appellate Authority or Revisional Authority in the matter of imposing duty/ tax on the petitioner under the M.P. VAT Act, 2002 or the M.P. Commercial Tax Act, 1994. In some cases challenge has been made to show cause notices issued for reopening of assessment and in some cases show cause notice have been issued or action taken for imposing the liability.

2. In all the cases the petitioners are either manufacturer of IMFL or Rectified Spirit and the question involved in the writ petitions are as to whether by virtue of Entry No.18 to Schedule-I of the M.P. Commercial Tax Act, 1994 or Entry No.47 to Schedule-I of the M.P. VAT Act, 2002, the manufactured product i.e. IMFL or Rectified Spirit being an excisable article is liable to be taxed under the Commercial Tax

Act, 1994 or the VAT Act, 2002 as the case may be. According to the petitioners the product in question i.e. Indian Made Foreign Liquor and Rectified Spirit being an excisable article under the M.P. Excise Act, it is exempted from payment of duty or tax under the Commercial Tax Act and VAT Act. This question has been answered against the Revenue and in favour of petitioners by us in a detailed judgment rendered today in **W.P. No.2366/2016 - Gwalior Alcobrew Pvt. Ltd. Vs. State of M.P. & Others** and we have held in the aforesaid case after detailed analysis of various judgments that foreign liquor manufactured in the State of M.P. and exported to other State is an excisable article and even though it is exempted from payment of excise duty but being an excisable good on which the State Government may levy excise duty under the Excise Act, recovery of Commercial tax or VAT tax is not permissible. We find that in all these petitions be it IMFL or Rectified Spirit till amendment brought about in Entry No.47 to Schedule-I of the VAT Act vide notification issued on 1.4.2013, the principles laid down by us in the case of **Gwalior Alcobrew Pvt. Ltd.** (supra) will apply. After 1.4.2013 the question of imposition of duty/ tax with regard to Rectified Spirit may be different. But in all these cases as the assessment year is prior to 1.4.2013, the principles laid down in the case of **Gwalior Alcobrew Pvt. Ltd.** (supra) will squarely apply and therefore, on this ground alone, all these petitions are required to be allowed and the impugned orders be it the orders of assessment, order passed by the Revisional Authority or proceeding initiated on show cause notices are

liable to be quashed and we have no hesitation in doing so. However, apart from these questions, various other questions have been raised in the matters particularly with reference to Rectified Spirit. However, for the period in question as the goods are found to be not taxable in view of the law laid down in the case of **Gwalior Alcobrew Pvt. Ltd.**(supra), we are not inclined to go into all other questions canvassed in the writ petition. They are left open to be considered, if required on a future date in an appropriate case. As all these petitions are liable to be allowed in view of issues decided by us in the case of **Gwalior Alcobrew Pvt. Ltd.** (supra), we allow all these petitions. The impugned action in the form of assessment order, order passed by the Revisional Authority, Appellate Authority or the Show cause notices and proceeding initiated thereto are quashed.

3. All the petition stands allowed and disposed of.

**(Rajendra Menon)**  
**Acting Chief Justice**

**(Anurag Shrivastava)**  
**Judge**