



# IN THE HIGH COURT OF SIKKIM

## ORDER SHEET


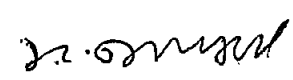
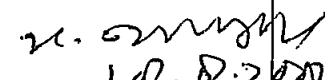
Writ Petition ..... No. 37 of 199 2000  
 Mount Distilleries Ltd.  
 & Another ..... Petitioner/Appellant  
 Versus  
 State of Sikkim & Others ..... Respondent

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	18.7.2000	<p>Present : Mr. Samit Talukdar with Mr. N. Rai and Mr. Sandeep Agrawal, Advocates for the petitioners.</p> <p>Mr. S. P. Wangdi, Advocate General with Mr. Karma Thinlay, Asstt. Govt. Advocate for the respondents.</p> <p style="text-align: center;">-----</p> <p>Heard Mr. Samit Talukdar, learned Advocate for the petitioners and Mr. S. P. Wangdi, learned Advocate General.</p> <p>Mr. R. K. Mittal, petitioner No.2 is present in Court. Mr. Tashi Densapa, Commissioner-cum-Secretary, Department of Industry and Mr. M. G. Kiran, Director of Industries are also present.</p> <p>Mr. S. P. Wangdi, learned Advocate General submits on instructions that without prejudice to the rights and contentions of the petitioners as well as the respondents, if the petitioners submit an application before the Commissioner-cum-Secretary, Department of Industry, Government of Sikkim for incentives which have been enjoyed and since been withdrawn in terms of The Sikkim Industrial Promotion and Incentive Act, 2000, by tomorrow, the Government shall consider the application. In the meantime, the petitioners shall continue to enjoy the incentives</p>	



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2.	7-8-2000	<p>already enjoyed by them before commencement of the Act.</p> <p>Learned Counsel for the petitioners and the Learned Advocate General suggest that the Writ Petition may be listed for orders on 7th August, 2000.</p> <p>List it on 7th August, 2000 for orders.</p> <p>Copy be served upon the petitioners as well as the respondents.</p> <p style="text-align: center;">             (Anup Deb)  <u>Acting Chief Justice.</u> </p> <p><b>Present: Mr. N. Rai, Advocate for the petitioners.</b></p> <p><b>Mr. S.P. Wangdi, Advocate General with Mr. Karma Thinlay, Assistant Govt. Advocate for the respondents.</b></p> <p style="text-align: center;">---</p> <p>The learned Advocate General submits that in compliance of the order dated 18-7-2000, the petitioner has moved an application for consideration of the Government. He requests for time to report about the decision which will be taken by the Government on the application. The petitioners shall continue to enjoy the</p>	<p>Copy served</p> <p style="text-align: center;">   <u>18/7-</u> </p>

Writ Petition No.37/2000.

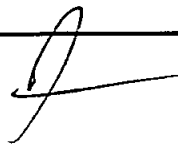
Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
	rs.	<p>incentives in terms of the order dated 18-7-2000.</p> <p>The matter be listed on 14-11-2000 for orders.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">   <b>(Anup Deb)</b>  <b>Judge</b>  <b>7-8-2000.</b> </div> <div style="text-align: center;">   <b>(R. Dayal)</b>  <b>Chief Justice</b>  <b>7-8-2000.</b> </div> </div> <p style="text-align: center; margin-top: 20px;"><i>this matter is assigned to Hon'ble Deb J. sitting singly.</i></p> <div style="text-align: right; margin-top: 10px;">   <b>10.8.2000</b> </div>	
3.	14.11.2000	<p>Present: Mr. N. Rai, Advocate for the petitioner.</p> <p>Mr. R.K. Mittal, Petitioner No. 2 and Managing Director of petitioner No. 1 in person.</p> <p>Mr. S.P. Wangdi, Advocate General with Mr. J.B. Pradhan, Govt. Advocate for the respondents.</p> <p>Mr. Tashi Densapa, Commissioner-cum-Secretary, Department of Industry, Govt. of Sikkim in person.</p> <p>Mr. M. Sharma, Commissioner, Excise Department, Govt. of Sikkim in person.</p> <p>Mr. M. G. Kiran, Director, Department of Industry, Govt. of Sikkim in person.</p> <p>Mr. M. K. Pradhan, Additional Commissioner, Excise Department, Govt. of Sikkim in person.</p> <p style="text-align: center;">.....</p> <p>Mr. N. Rai, learned counsel for the petitioners on instructions from the petitioner No. 2 who is</p>	



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		<p>also Managing director of the petitioner No. 1, present in Court submits that the petitioners are ready and agreeable to compromise the matter, if the application submitted on 19-7-2000, as indicated in the order dated 18-7-2000 passed by this Court, is disposed of.</p> <p>It was indicated in the order dated 18-7-2000 that till the disposal of the aforesaid application, the petitioners shall continue to enjoy the incentives already enjoyed by them before commencement of the Sikkim Industrial Promotion and Incentive Act, 2000.</p> <p>The order dated 7-8-2000 passed by the Division Bench of this Court is as follows:-</p> <p>“The learned Advocate General submits that in compliance of the order dated 18-7-2000, the petitioner has moved an application for consideration of the Government. He requests for time to report about the decision which will be taken by the government on the application. The petitioners shall continue to enjoy the incentives in terms of the order dated 18-7-2000.</p> <p>The matter be listed on 14-11-2000 for orders.”</p> <p>Mr. Wangdi learned Advocate General on instructions from the commissioner-cum-Secretary, Department of Industry, Government of Sikkim and Commissioner, Excise Department submits that the State</p>	


## Writ Petition No. 37/2000

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		<p>Government has already taken decision regarding levy of State Excise Duty and Sales Tax on the products of industrial units manufacturing/bottling liquors and beer which includes all the distilleries and other units and issued Notification bearing No. 6/CGO/90-D/95-96/784 dated 3-10-2000. The application of the petitioners dated 19-7-2000 submitted for consideration of the Government in the Department of Industry has not been disposed of and decision of the state Government has not been reported to the Court. Therefore, Mr. Wangdi submits on instructions that the commissioner-cum-Secretary, department of Industry will dispose of the representation of the petitioner dated 19-7-2000 in course of the day indicating that the petitioners shall continue to enjoy the incentives already enjoyed by them in pursuance of the orders of this Court dated 18-7-2000 and 7-8-2000 and such concessions and/or incentives shall be available to the petitioners till 14-11-2000 and, thereafter, the petitioner will have to pay Excise Duty and Sales Tax from 15-1-2000 in terms of the Notification No. 6/GCO/90-D/95-96/784 dated 3-10-2000.</p> <p>The learned Advocate General on instruction from the Commissioner-cum-Secretary, Department of Industry, Government of Sikkim and Commissioner Excise</p>	



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		<p>Department, Government of Sikkim submits on their behalf and other respondents that amount, if any, realised in excess of the incentives enjoyed by the petitioners in pursuance of the orders of this court dated 18-7-2000 and 7-8-2000 shall be adjusted with future transactions with the petitioners herein. Mr. Wangdi further clarifies that considering the peculiar facts and circumstances of the case, the Govt. is taking the decision as submitted by him and this decision shall not be treated as precedent.</p> <p>Mr. N. Rai appearing for the petitioners accepts the decision of the State Government conveyed through Id. Advocate General as recorded above.</p> <p>The decision of the State Government appears to be reasonable and accepted by the Court, particularly, in view of the order passed on 7-6-2000 in writ petition (C) 8 of 2000 passed by this Court. The decision of the State Government as recorded above shall not be treated as precedent. The writ petition is disposed of accordingly.</p> <p>Copy of this order be served upon Mr. S. P. Wangdi, learned Advocate General, Commissioner-cum-Secretary, Department of Industry, Government of Sikkim</p>	<p>A.C. taken the Order under the appl. dt- 14-11-2000. In Copy 14/11/2000</p>

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		<p>and the Commissioner, Excise Department, Government of Sikkim.</p> <p> ( Anup Deb ) Judge 14-11-2000.</p>	<p>Copy of order dt. 14-11-2000 has been sent to Industry Deptt. &amp; Excise Deptt. dt. 14-11-2000. <i>in copy</i> 14/11/2000</p>