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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C)-IPD 17/2021, CM 139/2022 & CM 59/2023

ASOCIACION DE PRODUCTORES DE PISCO A.G. .....Petitioner

Through: Ms. Shwetasree Majumder, Mr. Aditya Verma, Mr. Rohan Krishna Seth, Mr. Rigved Prasad, Mr. Ritwik Marwaha, Advocates
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versus

UNION OF INDIA & ORS. .....Respondents

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CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGMENT

% 07.07.2025

MINI PUSHKARNA, J:

1. The present writ petition has been filed challenging the Order dated 29th November, 2018 ("impugned order") passed by the Intellectual Property Appellate Board ("IPAB"), by which the respondent no. 4's Geographical Indication ("GI") application bearing no. 43 for 'PISCO', was allowed.

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Further, by the impugned order, order dated 3rd July, 2009 passed by respondent no. 2, i.e., Assistant Registrar of Trade Marks & GI, granting GI to respondent no. 4 as 'Peruvian PISCO', was set aside.

2. The petitioner is also claiming similar rights over the name/GI PISCO for certain alcoholic beverages manufactured in Chile, in the same manner as claimed by respondent no. 4 for its alcoholic beverage manufactured in Peru. Therefore, the petitioner has filed a GI application for 'Chilean PISCO' on 3rd June, 2020, which has been allotted application no. 689. It is the case of the petitioner that the GI of respondent no. 4 ought to be 'Peruvian PISCO', while the petitioner ought to be granted GI for 'Chilean PISCO', as both the petitioner and respondent no. 4 are claiming rights/GI PISCO for certain alcoholic beverages manufactured in Chile and Peru, respectively.

3. The respondent no. 4 had earlier filed an application before the Registrar of Trade Marks & GI for grant of GI 'PISCO' on 29th September, 2005 in respect of alcohol beverages in Class 33. *Per contra*, the petitioner herein had filed a notice of opposition dated 17th January, 2007, towards the same. By way of order dated 3rd July, 2009, the Registrar of Trade Marks & GI held that the documents established that both the countries, i.e., Peru and Chile, were using 'PISCO', and in some countries they have parallel agreements for use of PISCO. Thus, the application no. 43 for registration of GI PISCO, filed by respondent no. 4 was allowed with a caveat by registering the same as "Peruvian PISCO", to avoid any deception or confusion amongst the consumers.

4. Against the aforesaid order dated 3rd July, 2009, passed by the Registrar of Trade Marks & GI, respondent no. 4 filed an appeal before the

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IPAB, which came to be allowed *vide* the impugned order dated 29th November, 2018, thereby, holding that the mark of the respondent no. 4 was entitled for registration of GI as 'PISCO', without the prefix 'Peruvian'. Thus, the present writ petition has been filed challenging the impugned order passed by the IPAB.

5. It is to be noted that *vide* order dated 16th June, 2020, this Court had passed an interim order, thereby, directing the Registrar of Trade Marks & GI not to pass any final orders with respect to petitioner's GI application bearing no. 689 for the GI, 'Chilean PISCO'. The said order was confirmed by this Court *vide* order dated 22nd March, 2022, with an additional observation that the GI granted to respondent no. 4 for 'PISCO', shall be subject to the outcome of the present writ petition.

Factual Matrix

6. Facts, as canvassed in the writ petition, are as follows:

6.1 Petitioner is an association of producers of the alcoholic beverage Chilean PISCO in III and IV regions of Chile, which is located in the river valley of Elqui, Limari, Huasco, Copiapo and Choapa. The producers of the petitioner's association have been producing and marketing Chilean PISCO for well over a century.

6.2 The production of Chilean PISCO has been carried out openly, extensively and continuously. The historical geographic link between PISCO and Chile has been recognized not only in the Encyclopedia Britannica, but has also been acknowledged globally in atleast 18 International Free Trade Agreements between Chile and other countries across the world.

6.3 Respondent no. 4 applied for the GI, 'PISCO' bearing application no.

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43 in Class 33. The said application was advertised in the Geographical Indication Journal No. 13 dated 18th September, 2006. Accordingly, the petitioner filed a Notice of Opposition dated 17th January, 2007, registered as application no. 43.

6.4 Subsequently, respondent no. 4 filed its counter statement dated 16th March, 2007. Thereafter, the petitioner filed its evidence in support of the opposition and respondent no. 4 filed its evidence in support of its GI application.

6.5 The respondent no. 2, i.e., Registrar of Trade Marks & GI, after hearing detailed arguments, passed an order dated 3rd July, 2009, thereby registering GI 'Peruvian PISCO' in favour of respondent no.4, instead of 'PISCO' as prayed by respondent no. 4.

6.6 Respondent no. 4, thereafter, filed an appeal before IPAB, challenging the order dated 3rd July, 2009. By way of order dated 29th November, 2018, the IPAB set aside the order passed by the Registrar of Trade Marks & GI, and held that respondent no. 4 is entitled to the GI registration of 'PISCO'.

6.7 Petitioner filed the GI application bearing no. 689 for the GI 'Chilean PISCO' on 3rd June, 2020. Thereafter, the present writ petition came to be filed.

Petitioner's Submissions

7. On behalf of the petitioner, the following submissions have been made:

7.1 Peru and Chile have a shared history in the manufacture of beverage PISCO in the Ica region of Peru, and Copiapo and Coquimbo regions of the Republic of Chile. There are seven kinds of PISCO which are manufactured across the regions, which are part of both Chile and Peru. PISCO has been

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manufactured for centuries in regions, which were part of present-day Chile and Peru. Definitive political boundaries came to be established only between 1880 and 1940. However, the production of PISCO continued between both countries.

7.2 The first document that proves the production of PISCO in Chile was found in 1733, in a public inventory of Latorre Ranch located in the region of Coquimbo, in which there were listed barrels of PISCO produced in that farm. This is the oldest genuine document that proves the existence of PISCO in Chile.

7.3 Costa Rica has recognized and granted GI Right in PISCO to the petitioner, which is an equal co-claimant to the said right.

7.4 Multiple Free Trade Agreements between Republic of Chile and other countries all over the world have recognized PISCO as a GI/Appellation of Origin.

7.5 Chilean PISCO has received multiple accolades and awards by various organizations.

7.6 For over a century, Chile has enacted legislation with respect to PISCO.

7.7 It is apparent from the record that Chilean PISCO and Peruvian PISCO, are two different types of alcohol beverages, which fact has not been taken into account in granting blanket protection to respondent no. 4 for PISCO as a whole.

7.8 The impugned order failed to consider that the GI application for PISCO was filed by the Embassy of Peru, which has no *locus standi* to file such an application under the Geographical Indications of Goods (Registration and Protection) Act, 1999 ("GI Act"). The GI Act under

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Section 11, does not recognize a State/Nation or Country as an applicant, or authorized user of GI. Therefore, respondent no. 4's application for PISCO ought to be rejected at the outset, as the Embassy of Peru in India, is acting on behalf of the nation of Peru, and not as an association of persons or as a legal person.

7.9 The impugned order failed to consider that the respondent no. 4 has made patently false and erroneous statements that their GI application/petition before the World Intellectual Property Organization ("WIPO") was accepted by Czech Republic, France, Italy, Portugal, Hungry, Slovakia and Bulgaria.

7.10 The application for registration of the said GI is in bad faith, as the region which produces PISCO is shared between Republic of Chile and Republic of Peru. Certain regions of Peruvian coastline and certain regions of Chile, i.e., Region of Atacama and Coquimbo, both produce a spirit made by the distillation of unadulterated grape wine stored in clay pitchers called 'Piscos', 'Puchuchu' or 'Pisquillos' in the Quechua language, which is the root of the word PISCO.

7.11 The impugned order is contrary to and violates the legal right of the petitioner under Sections 9 and 14 of the GI Act.

7.12 The impugned order has not provided any valid reasons to set aside the clear finding of respondent no. 2 and the same is erroneously based on principles of Trademark Law, such as date of use, dishonest adoption and prior user, instead of principles that are required to be applied under the GI Act. Therefore, the registration of GI PISCO in favour of respondent no. 4 by way of the impugned order, is bound to cause deception and confusion amongst consumers.

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7.13 The GI that has been granted to respondent no. 4 by virtue of the impugned order is also contrary to the definition of 'Geographical Indication' in Section 2 (e) of the GI Act.

7.14 Chilean and Peruvian PISCO are different products which are admitted by both parties. Therefore, the present is not a case of 'Transnational GIs' but that of 'Homonymous GIs'. Further, when products of both countries are known by 'PISCO', in such a case, addition of a prefix is necessary to avoid confusion.

7.15 In view of Article 22.3 read with Article 22.4 of the Trade-Related Aspects of Intellectual Property Rights ("TRIPS") agreement, the GIs of both the countries can co-exist with each other.

7.16 The impugned order failed to consider that Chilean PISCO has a much higher production and marketing reach than Peruvian PISCO. Therefore, granting exclusive rights to respondent no. 4, to use PISCO would in all likelihood lead to confusion among consumers between the Peruvian and Chilean variety.

7.17 There is no delay in filing the present writ petition as the filing of the GI registration application for Chilean Pisco provides a valid cause of action for the writ petition.

Respondent no. 4's Submissions

8. On behalf of respondent no. 4, the following submissions have been made:

8.1 The petitioner has filed the present writ petition after an inordinate delay of 18 months since the passing of the impugned order, and after around one year from the issuance of the registration certificate in favour of respondent no. 1. The petitioner has not offered any explanation for such a

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delay. Pertinently, the petitioner has filed its GI application before the Registrar of Trade Marks & GI seeking GI registration for 'Chilean PISCO' on 3rd June, 2020, just a week before filing the present writ petition. The present writ petition has been filed after an inexplicable delay, with an oblique motive to secure registration of its own GI application, which cannot be permitted.

8.2 The petitioner has categorically admitted that respondent no. 4 has a right over the GI PISCO. The claim of the petitioner all along has been that it has an *'equal or shared right in GI PISCO'*.

8.3 The petitioner does not dispute that Peru has a right over the GI PISCO. Rather, its sole objection has been that Chile has a shared right in the GI PISCO. It is undisputed that there is no region called as PISCO region in Chile. There is no geographical contiguity between the PISCO production region in Peru, which is the southern part of Peru, and the alleged PISCO production region in Chile, which is supposed to be in the central part of Chile. Between the PISCO producing region in Peru and the alleged PISCO region in Chile, lies a huge desert running into several hundred of miles, called Atacama Desert. Therefore, the soil, climatic, and other geographical conditions of Southern Peru and Central Chile, cannot have the same features, geographical and climatic conditions. Thus, the petitioner's entire claim of having any right whatsoever over the GI PISCO, is fictitious and patently illegal.

8.4 Petitioner has consistently taken a stand before all forums that PISCO is a GI. However, the petitioner has taken a frivolous plea that PISCO does not fulfill the requirements of a GI under Section 2 (1)(e) of the GI Act. Such an assertion is contradictory to the petitioner's own pleading, where it

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has repeatedly admitted that PISCO is a GI and the petitioner is, therefore, estopped from challenging the very essence of the GI and stating that PISCO does not qualify as a GI under Section 2 (1)(e) of the GI Act.

8.5 The Registrar of Trade Marks & GI in its order dated 3rd July, 2009, has clearly stated that it is undisputed that PISCO is an established GI in the country of Peru. The petitioner has not challenged the said order passed by the Registrar of Trade Marks & GI, therefore, the said finding has attained finality.

8.6 The petitioner has categorically admitted before this Court that the PISCO produced in Peru is different from the Chilean alcoholic beverage, falsely claimed to be PISCO. The hallmark of a product branded as a GI is its consistent quality. If the petitioner's claim of 'common PISCO region' is to be believed, then the final product in the alleged 'shared PISCO region' would be identical. Instead, the petitioner itself admits that the two products are different, and that even the production process of the two products, are different.

8.7 The petitioner has miserably failed to evidence that there exists any likelihood of confusion by the registration of PISCO as a GI in favour of respondent no. 4. In fact, the GI 'PISCO' is registered in the name of respondent no. 4, in several parts of the world. Spirits from Peru are being sold as PISCO in several countries worldwide, without any confusion or deception whatsoever.

8.8 Petitioner has not even alleged that the Indian consumers and trade identify two kinds of PISCO – one from Peru and another from Chile, and that these are known as Peruvian PISCO and Chilean PISCO. The petitioner had first opposed the registration of GI PISCO in favour of respondent no. 4,

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in the year 2007, when it had neither applied for the registration of PISCO, nor its products were sold, or had any reputation within the territory of India. Thus, the petitioner's claim of any likelihood of confusion under Section 9(a) of the GI Act, is therefore, completely misplaced and devoid of any merits.

8.9 A prefix cannot be added to a GI, unlike a trademark. It is an admitted case that PISCO is a GI. The Registrar of Trade Marks & GI by its order dated 3rd July, 2009 fell in grave error by adding a prefix, i.e., Peruvian to PISCO. The IPAB has rightly set aside the order of the Registrar, which has erroneously granted a registration of Peruvian PISCO to respondent no. 4, instead of granting GI PISCO, as applied for by respondent no. 4.

8.10 Addition of any prefix, especially, a geographical name, as a source identifier, is contrary to the basic tenets of GI jurisprudence and leads to dilution of the GI.

8.11 Petitioner's shared claim over the GI PISCO is nothing, but an imaginary, fanciful and illegitimate misappropriation of the Peruvian drink, PISCO. Chile's illegitimate claims to PISCO find its beginnings in the late 1800's during the war between the Chile and Peru from 1879 – 1883. It was during this period that the Chilean troops which had invaded Peru, became aware of the famous drink PISCO. At the conclusion of the war, the department of Tacna, located in Peru, was kept by Chile as a captive province till 1929, when it returned to Peru. During this period, the production of PISCO in Tacna was stopped, only to resume in 1929. To make an assumption that because of 'de-facto' possession of a Peruvian province by Chile between 1883 to 1929, the PISCO region can be extended geographically from Peru to Chile, would be preposterous.

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8.12 It was thereafter in the 1930's, when Peru sought to regain its exports of PISCO to United States of America ("USA"), which had been hampered due to the war, that Peru came to know that there were products entering the USA market which were not the original PISCO. The Chilean producers were sending their spirit from Chile to PISCO, the port town in Peru, in order for it to be exported from said port to USA. However, Chile's said efforts were outrightly rejected. In 1935, the US authorities approved a specific regulation named, 'Regulations Relating to False Advertising and Misbranding of Distilled Spirits', which stated that geographical names shall not be applied to distilled spirits produced in any other place, than the particular place or region indicated in the name.

8.13 With a view to circumvent the aforementioned regulation passed by the USA, a Chilean congressman from the Elqui region, by the name of Gonzalez Videla, who later served as the president of the Republic of Chile, promoted a law in the Chilean Congress, in order to change the name of a city from 'La Union' to 'PISCO Elqui', in 1936. The said law simply reads as, '*The town of La Union in the Department of Elqui will be called from now on PISCO Elqui*'.

8.14 The petitioner's claim over the GI PISCO has been tainted with dishonesty since inception. The Republic of Chile has resorted to despicable measures to illegally benefit from the tremendous repute of PISCO, an exclusively Peruvian drink, including, artificially renaming a Chilean city by the name of 'La Union' to 'PISCO Elqui'. Chile has sought to misappropriate and usurp the GI PISCO, as it cannot have any claim whatsoever in the GI PISCO, as there is no cultural, geographical or historical link between the word PISCO and Chile.

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8.15 It is possible that the region of a GI extends to more than one country, as is the case with trans-national GI's. Subject to both the countries producing identical product with consistent quality, both the countries could be permitted to use the same GI name. However, in the present case, the petitioner itself has admitted the two products to be different.

8.16 The petitioner has sought to set up a case of trans-national GI's, i.e., those GI's which are shared by more than one country. However, the petitioner has failed to establish a case of trans-national GI. The respondent no. 4 has relied upon various maps of Chile and Peru, in furtherance of the submission that there is no shared region between the Republic of Chile and Republic of Peru, which produces the alcoholic beverage PISCO.

8.17 Having failed to establish a case of trans-national GI, the petitioner has now for the first time in the rejoinder, set up a case of homonymous GI. Section 10 of the GI Act, which deals with homonymous GI's, is a provision based in equity, which enables two countries to use identical GI names in certain circumstances. The premise of the said Section is based on honesty. However, Chile's conduct with regard to the GI PISCO has been far from honest or incidental. Thus, the petitioner is not entitled to allege at this belated stage, that the GI PISCO is homonymous.

8.18 As is evident from the evidence filed by respondent no. 4, the petitioner is trying to usurp the name of PISCO. Moreover, since inception of the present dispute, the petitioner's claim has been that of a shared region known as 'PISCO region'. Thus, the claim of homonymous GI now set up by the petitioner, is merely an afterthought.

8.19 Respondent no. 4 has relied upon maps to show that total distance between Tacna in Peru and Copiapo in Chile, is 1,031.07 Kilometers, to

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submit that the climatic conditions, temperature etc. in the said regions in the two countries, are completely different. Thus, there is no shared region or trans-national GI, as claimed by the petitioner.

8.20 The name PISCO cannot be identified as Chilean or Peruvian, as admittedly the alcoholic beverage produced by both the countries, are totally different in its elaboration, techniques and quality. Hence, PISCO prepared in Peru cannot be compared under any circumstances to the Chilean alcoholic beverage, which has been misappropriated as PISCO by Chile.

8.21 PISCO is a GI of Peruvian origin. Presently, PISCO is registered as an Appellation of Origin from Peru in 20 countries across the world. On 16th February, 2005, Peru adhered to the Lisbon Agreement relating to the Protection of Appellations of Origin and its International Registration, and at present, 18 countries fully recognize PISCO as an Appellation of Origin from Peru under the Lisbon Agreement.

8.22 By virtue of numerous trade agreements entered into by Republic of Peru, PISCO is recognized as a GI Peruvian's spirit in upto 17 countries. On 14th July, 2005, WIPO formally notified to the Government of Peru that since 19th May, 2005, the Appellation of Origin PISCO, has been registered in favour of Peru in the International Registry for Appellation of Origin, with the certificate of International Registration no. 865.

Analysis and Findings

9. I have heard learned counsels for the parties and have perused the record.

10. In the present case, respondent no. 4 had filed an application bearing no. 43 for registration of PISCO as a GI before the Registrar of Trade Marks & GI in the year 2005. The said application was advertised in the GI Journal

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in August, 2006. The petitioner filed an opposition against the said GI application in 2007, wherein, it claimed shared rights over the GI PISCO. The Registrar of Trade Marks & GI by its order dated 3rd July, 2009 granted registration to respondent no. 4 for the GI 'Peruvian PISCO', instead of 'PISCO', for which the GI application had been filed.

11. Aggrieved by the said order, respondent no. 4 filed an appeal before the IPAB, which allowed the appeal *vide* its order dated 29th November, 2018, and directed the respondent no. 2 herein, to issue certificate of registration for the GI 'PISCO' in favour of respondent no. 4. The name 'PISCO' was subsequently entered in the Register of the Geographical Indications in favour of respondent no. 4, under registration no. 43 on 17th June, 2019.

12. While the respondent no. 4 claims exclusive right over GI PISCO, the petitioner claims an equal right over the said GI PISCO. In this regard, it would be apposite to refer to the various provisions of the GI Act.

Concept of Geographical Indication

13. The preamble of the GI Act defines it as *"An Act to provide for the registration and better protection of geographical indications relating to goods"*.

14. The Office of Controller General of Patents, Designs and Trade Marks & Registrar of Geographical Indications published the Manual Of Geographical Indications Practice and Procedure, which states the objective of the GI Act, in the following manner:

> *"xxx xxx xxx*
>
> *The Object of the Geographical Indications of Goods (Registration and Protection) Act, 1999 is three fold, firstly by specific law governing the geographical indications of goods in the country which could adequately*

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protect the interest of producers of such goods, secondly, to exclude unauthorized persons from misusing geographical indications and to protect consumers from deception and thirdly, to promote goods bearing Indian geographical indications in the export market.

xxx xxx xxx"

15. The GI Act seeks to protect and promote goods with a specific geographical origin. The Act was enacted to prevent unauthorized persons from misusing GIs and in order to protect consumers from deceptive trade practices, and to promote economic prosperity and protection to the producers of unique goods attached to a region. Furthermore, the legislative regime brought forth regarding GI by way of this Act, was in compliance to the TRIPS Agreement, which in effect would provide for reciprocal protection to the GIs which are recognized in India as well. Thus, the GI Act, while ensuring protection to producers, also envisages curtailing any manner of confusion or deception to the consumer, with regards to goods under the different GIs.

16. The expression 'indication' has been defined in Section 2(1)(g) of the GI Act, to include any name, geographical or figurative representation, or any combination of them, conveying or suggesting the geographical origins of goods to which it applies. 'Indication' suggests or conveys the origin or source of the goods. GIs are used to indicate the regional origin of particular goods, provided those goods derive their particular characteristics from their geographic origin.

17. The GIs identify agricultural, natural or manufactured goods, which originate from a particular geographical territory, where the given quality, reputation, or other characteristics are linked to that particular geographical origin. In the context of India, Darjeeling Tea was granted the first GI tag, awarded in the year 2004-2005, bearing no. 001 & 002 in the Registry of GI.

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18. Section 2(1)(e) of the GI Act defines 'Geographical Indication' as follows:

> *"***2. Definitions and interpretation.** – (1)……..
>
> *(e)"geographical indication", in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.*
>
> *Explanation.--For the purposes of this clause, any name which is not the name of a country, region or locality of that country shall also be considered as the geographical indication if it relates to a specific geographical area and is used upon or in relation to particular goods originating from that country, region or locality, as the case may be;"*

19. Thus, the definition of geographical indication clearly stipulates that GI tag is an indication to recognize the origin of a product, which is manufactured in that territory, for which the GI is issued. GI, thus, promotes identification of goods with a geographical attribute. By its very definition, GI indicates that particular goods are manufactured or originate from a particular territory, country, region or locality and possess some special quality, reputation or characteristics, which are essentially attributable to its geographical origin. The same is corroborated even by Article 22.1 under the TRIPS agreement, which is reproduced as under:

> "*Indications which identify a good as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristics of the good is essentially attributable to its geographical origin*"

20. India is a signatory of the TRIPS agreement, which is the most noteworthy of international documents, which necessitates the member

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nations/states to abide to the basic standards in relation to GIs and bring forth *sui generis* legislative mechanisms towards the same. Thus, the Madhya Pradesh High Court in the case of ***Scotch Whisky Association Versus J.K. Enterprises and Others, 2023 SCC OnLine MP 5352***, observed as follows:

> *"xxx xxx xxx*
>
> ***24.*** *Article 24 titled as* ***'International Negotiations; Exceptions****' further envisaged all the member nations to come forward with full fledged legislative mechanisms for implementation of the commitments made under TRIPS.*
>
> ***25.*** *In pursuance thereof, the Parliament thereafter enacted the GI Act in 1999. The aims and objectives stated the Act to be meant for the exclusion of unauthorised persons from misusing geographical indications; to protect consumers from deception; adding to the economic prosperity of the* ***producers of such goods*** *and also promoting goods bearing Indian GI in the export market'.* ***Unless a GI is protected in the country of its origin, no obligation under TRIPS follows for other countries to extend reciprocal protection.***
>
> ***26.*** *In the above legislative background, especially the commitments made at the international level, the interpretation of any provision of the GI Act must be in tune with the aforementioned objectives and commitments made under TRIPS by India at the International Fora.*
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

Distinction of Rights under GI Act and Trade Marks Act

21. The rights conferred by GI Act are distinct from the rights conferred under the Trade Marks Act, 1999 ("Trade Marks Act"). While the trademark is a private right of an individual or an entity, GI is collective right of producers in a region. The Trade Marks Act distinguishes the goods and services of one trader from others. On the other hand, GI indicates a product's origin from a specific geographical origin. While a trademark can

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be assigned, transferred or licensed, a GI cannot be assigned or transferred. The trademark belongs to one person or entity, however, GI belongs to the community/region. Thus, any person claiming to be the producer of the goods in respect of which a GI has been registered, can make an application under Section 17 of the GI Act for registration as authorized user. The primary distinction noticeable between a trademark and GI is that while a trademark connotes the recognition of the manufacturer of certain goods or services, in contrast, a GI connotes the recognition of the origin of the goods, whose basis lies in a geographical region.

22. Under the Trade Marks Act, priority of adoption and use of a mark are key concepts for determination of ownership of a trademark. However, priority plays no role in ownership under the GI Act, which is concerned with identification of particular goods as originating or manufactured in a specific country, territory, region or locality, with given quality, reputation or other characteristics, as essentially attributable to its geographical origin. Thus, the only relevant consideration is whether the goods in question are actually, and in fact, identified by that geographical origin in the relevant markets, trade channels, consumers etc.

23. The Calcutta High Court in the case of ***Tea Board, India Versus ITC Limited, 2011 SCC OnLine Cal 1083***, in this regard made observations as to the distinguishing aspect of principles under the Trade Marks Act and the GI Act. Thus, it was observed as follows:

> *"xxx xxx xxx*
>
> *The objection as to the tenability of a cross-category complaint has to be dealt with differently for the two species of rights that the plaintiff canvasses. In respect of certification trademarks, registration may be obtained both in respect of goods and services. Just as there could be products which are certified on the basis of their origin, material,*

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> *mode of manufacture or other characteristics, types of services may also be certified on the basis of the quality, accuracy or other special features. It would then defy reason that an unauthorised use of a certification mark relating to any goods is used by a service provider without the registered proprietor of the certification mark having any right to complain. Say, cooks from Lucknow are permitted to use the "Lucknavi" certification mark as indicative of their services. If then, a packet of biriyani claims to be "Lucknavi", it cannot be said that the proprietor or authorised user of the certification service mark would have no cause of action against the impugned mark in respect of the goods complained of.*
>
> *In the case of geographical indication, however, the matter may be slightly different. The focus of the GI Act is on goods; so much so, that in the chapter relating to offences, there does not appear to be a direct recourse against any service wrongfully appropriating a registered geographical indication. Yet, both in the deeming provision of Section 22(1)(b) of the GI Act and in recognising other forms of passing-off in Section 20(2) thereof, the GI Act may not altogether preclude a cross-category complaint.*
>
> *xxx xxx xxx"*

24. In the aforesaid background, applying the facts of the present case, it is to be considered as to whether the product of the petitioner, as originating from Chile, is indeed identified as PISCO.

Identification of Petitioner's PISCO:

25. This Court notes the submissions of the petitioner, wherein, it has been stated in categorical terms that Peru and Chile have a shared history in the manufacture of the alcoholic beverage PISCO. *Para 15* of the writ petition in this regard, is reproduced as under:

> *"xxx xxx xxx*
>
> *15.* ***Peru and Chile have a shared history in the manufacture of the beverage PISCO in the lea region of Peru and Copiapo and Coquimbo regions of the Republic of Chile****. There are 7 kinds of PISCO which are manufactured across the regions which are part of both Chile and Peru. The seven kinds of PISCO which are produced are Pure, Aromatic, Green Must, Acholado, Special, Reserve and Great.* ***PISCO was manufactured for centuries in regions which were part of present day Chile and Peru. Definitive political boundaries came to be established only between 1880***

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and 1940, however, the production of PISCO continued in both the countries.

xxx xxx xxx"

(Emphasis Supplied)

26. The petitioner has relied upon Encyclopedia Britannica, which under the head 'Chile', contains the following passage:

> *"**The main cities, somewhat smaller than those of central Chile, are located in the valleys**: they include Copiapo, in the valley of that name, the most important mining centre of the country during the 19th century; Vallenar, Ovalle, and Vicuna. Agriculture, goat raising, and iron and copper mining are the main economic activities. **From this region come the famous pisco (a white brandy distilled from sun-dried grapes), fine wines, and high-quality fruits for export**."*
>
> *(Emphasis Supplied)*

27. As regards the vintage of the period since PISCO is associated with Chile, the petitioner has pleaded in the writ petition, as follows:

> *"xxx xxx xxx*
>
> *17. **It is submitted that the first document that proves the production of Pisco in Chile was found in 1733, in a public inventory of Latorre Ranch located on the region of Coquimbo in which there were listed barrels of Pisco produced in that Farm. This is the oldest genuine document that proves the existence of Pisco in Chile, older than any document that Peru has filed in this case. Members of the Petitioner have been in the business of openly, extensively and continuously carrying on production of PISCO for well over a century as documented in the Decree dated 12th November, 1873**.*
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

28. Further, this Court notes the submission of the petitioner that Costa Rica has recognized and granted geographical indication rights in PISCO (Chile) to the petitioner by virtue of registration certificate dated 04th February, 2008.

29. It is to be noted that there are multiple Free Trade Agreements between Chile and other countries all over the world, which recognize the Republic of Chile's rights in PISCO. Details of said Free Trade Agreements,

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as given in the writ petition, are as follows:

> *"xxx xxx xxx*
>
> *i. Free Trade Agreement between Mexico and Chile dated 17th April,1998.*
>
> *ii. Trans Pacific strategic economic partnership between Chile, Brunei, New Zealand, and Singapore dated 18th July, 2005.*
>
> *iii. Free Trade Agreement between South Korea and Chile dated 15th February, 2003.*
>
> *iv. Association agreement between European Union and Chile dated 18th November, 2002.*
>
> *v. Free Trade Agreement between USA and Chile dated 5th December, 1997.*
>
> *vi. Free Trade Agreement between China and Chile dated 18th November, 2005.*
>
> *vii. Free Trade Agreement between EFTA and Chile dated 26th June,2003.*
>
> *viii. Free Trade Agreement between Central America and Chile dated 18th October, 1999.*
>
> *ix. Free Trade Agreement between Canada and Chile dated 5th July,1997.*
>
> *x. Free Trade Agreement between Australia and Chile that came into force on 6th March 2009.*
>
> *xi. Free Trade Agreement between Japan and Chile that came into force on 3rd September 2007.*
>
> *xii. Free Trade Agreement between Turkey and Chile that came into force on 1stMarch 2011.*
>
> *xiii. Free Trade Agreement between Vietnam and Chile that came into force on 4th February 2014.*
>
> *xiv. Free Trade Agreement between Hong Kong and Chile that came into force on 29th November 2014.*
>
> *xv. Free Trade Agreement between Thailand and Chile that came into force on 5th November 2015.*
>
> *xvi. Free Trade Agreement between Uruguay and Chile that came into force on 4thOctober 2016.*
>
> *xvii. Free Trade Agreement between Brasil and Chile that came into force on 21st November 2018.*
>
> *xviii. Free Trade Agreement between Indonesia and Chile that came into force on 10th August, 2019.*
>
> *xxx xxx xxx"*

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30. This Court also takes note of the submission of the petitioner that the application for GI PISCO filed by the Peruvian state was refused by Czech Republic, France, Italy, Hungary, Slovakia, Portugal, and Iran, while it was withdrawn from Mexico, Bulgaria and Costa Rica. In reply to the said assertion made on behalf of the petitioner, respondent no. 4 has made submissions in the following manner:

> *"xxx xxx xxx*
>
> *14……..*
>
> *(i) The Petitioner has deliberately made a false assertion that the GI Application filed by the Republic of Peru before the World Intellectual Property Organization (WIPO) in Czech Republic, France, Italy, Portugal, Hungary, Slovakia and Iran was refused and that it was withdrawn from Mexico, Bulgaria and Costa Rica.* ***It is submitted that the Petitioner has knowingly concealed that Czech Republic, France, Italy, Portugal, Hungary and Slovakia only maintained partial refusals on account of a bilateral agreement of 2002 between the European Union and the Republic of Chile.*** *Partial Refusal in fact implies that the GI "PISCO" is recognized as a Peruvian Appellation of Origin.* ***However, such registration is subject to a sole limitation that commercial or market access rights are conferred to Chile under the said agreement. This Agreement does not in any manner confer any statutory or judicial recognition to the Chilean alcoholic beverage, whatsoever in those countries, as they are mainly political in nature and are concerned with commercial interests without paying heed to historical facts****. That said, the Petitioner has willfully concealed that* ***vide regulation EU No. 1065/2013 passed by the European Union, PISCO was recognized as a Geographical Indication in favour of Peru with the exception that owing to the bilateral agreement with Chile, the Regulation would not hinder the use of such denomination in products originating from Chile****. As far as the Republic of Peru's GI Application in Iran is concerned, it is submitted that Iran, being an Islamic country prohibits production, distribution, consumption and registration of alcoholic beverages. Thus, Iran refused Republic of Peru's Application, as it would have done for any other producer of alcohol in the world.*
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

31. Perusal of the aforesaid stand of respondent no. 4, as encapsulated in

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its counter affidavit, clearly shows that the right of the petitioner in PISCO, has been recognized by various countries, and the petitioner has been co-existing with respondent no. 4, for the alcoholic beverage PISCO in various countries in the world. The fact of partial refusals by various countries to its application for GI registration of PISCO, so as to protect the PISCO as originating from Chile on account of various Free Trade Agreements, has been admitted by respondent no. 4. The list of various countries where PISCO has been recognized in Free Trade Agreements signed by Chile and recognition of PISCO in favour of Chile by registration and law, as given by the petitioner, is reproduced as under:

a) Recognition of PISCO in free trade agreements signed by Chile:

Commercial Partner	Date (Day.Month.Year)	Name
México	01.08.1999	PISCO
European Union (Germany, Austria, Belgium, Bulgaria, Cyprus, Croatia, Denmark, Slovakia, Slovenia, Spain, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, United Kingdom, Czech Republic, Romania, Sweden).	01.02.2003	PISCO
Korea	01.04.2004	PISCO
New Zealand	08.11.2006	PISCO
Brunei Darussalam	08.11.2006	PISCO
Singapore	08.11.2006	PISCO
Turkey	01.03.2011	PISCO
Vietnam	04.02.2014	PISCO
Hong Kong	29.11.2014	PISCO
Thailand	05.11.2015	PISCO
Uruguay	4.10.2016	PISCO
Indonesia	November 2017.	PISCO
Brazil	21.11.18.	PISCO

b) Recognition of Chilean PISCO in free trade agreements signed by Chile:

Commercial Partner	Date (Day.Month.Year)	Name
Canada	05.07.1997	Chilean PISCO
USA	01.01.2004	Chilean PISCO
China	01.10.2006	Chilean PISCO
Japan	03.09.2007	Chilean PISCO
Australia	06.03.2009	Chilean PISCO
Malaysia	18.04.2012	Chilean PISCO

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c) Recognition of PISCO by registration:

Costa Rica	16.1.2008 (Registry number: 172796)	PISCO (Appellation of Origin; registered by the Chilean Government)
El Salvador	31.1.2008 (Registry number: 0002 book00001 pages 005-006)	PISCO (Appellation of Origin; registered by the Chilean Government)

d) Recognition of Pisco by Law.

Chile	Law No. 181enacted in 1931	PISCO (Appellation of Origin)

32. As regards the aforesaid Free Trade Agreements, respondent no. 4 has stated that the said agreements are of a commercial and political nature and are mutually beneficial trade arrangements. It is the case of respondent no. 4 that any mutual agreement between two countries does not tantamount to statutory protection of any Intellectual Property ("IP") rights. Though, the submission made by respondent no. 4 that Free Trade Agreements are commercial trade arrangements between two countries may be tenable, however, the fact remains that such agreements have recognized and identified the product of the petitioner originating from Chile, as PISCO.

33. This Court also notes the submission of the petitioner that Chilean PISCO has received multiple accolades and awards by various organizations. The submission of the petitioner in this regard, is reproduced as under:

> *"xxx xxx xxx*
>
> *21.* ***Chilean PISCO has received multiple accolades and awards by various organisations including but not limited to Gold Medal in San Francisco World Spirits Competition in 2000; Diploma Certificate of Gold Medal obtained in the "Concours Modial de Bruxelles, Chile 2007"; Pisco Mistral Reservado 2006, certificate issued by Institut International Pour Les Selections De La Qualite and Gold Medal obtained in 7th World Selection for Wines, Alcohol and Liquors; Gold and silver medal in the International Spirits Challenge of 2016, etc.***
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

34. The petitioner has also given list of various legislations enacted by

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Chile for over a century. The submissions of the petitioner in this regard, are reproduced as under:

> *"xxx xxx xxx*
>
> *22.* ***For over a century, Chile has enacted legislation with respect to PISCO****. The said laws which were enumerated and explained in the evidence in support of the opposition are being reiterated here in brief:*
>
> *i.* ***In 1916, Law No. 3,097 was promulgated, which modified two precepts about PISCO with respect to taxation****.*
>
> *ii.* ***In 1929, Law No. 4536 was promulgated replacing the previous one and laid down that natural PISCO producers will pay only half tax.***
>
> *iii.* ***In 1931 Decree-Law No. 181 was promulgated which created the Denomination of Origin called PISCO, reserving the name for spirits which came from the distillation of grape wine located in places that belong to the 'Pisco Zone". The said zone corresponded to the valleys of III and IV region of Chile****.*
>
> *iv. In 1935, Law No. 3,068 established a normative body that regulated the production of PISCO.*
>
> *v. The current Alcohol Law (18.455) in Chile has a complete chapter called "About the Denomination of Origin" which contains four articles on PISCO.*
>
> *On the contrary, Peru enacted the legal recognition of PISCO as a denomination of origin in 1991.*
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

35. This Court also notes that Peru's registration for PISCO in Europe is subject to Chile's rights. The relevant extract from the document pertaining to the same, as available on record, is reproduced as under:

> *"xxx xxx xxx*
>
> *Article 1*
>
> In Annex III to Regulation (EC) No 110/2008, in product category '9. Fruit spirit', the following entry is added:

	'Pisco (*)	Peru

(*) The protection of the geographical indication "Pisco" under this Regulation shall be without prejudice to the use of the name "Pisco" for products originating in Chile protected under the Association Agreement between the Union and Chile of 2002.'

> *xxx xxx xxx"*

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36. The issue in the present case is whether the 'Chilean Liquor' as referred in the impugned order of the IPAB, is known/identified as 'PISCO'. The fact that the alcoholic beverage from Chile is known as PISCO is evident from various documents on record, including, from the Free Trade Agreements with several countries, as well as the documents pertaining to the European Union, which acknowledge that PISCO is also from Chile.

37. Considering the long-standing use of PISCO by Chile over a prolonged period of time and recognition of the alcoholic drink PISCO from Chile by various countries across the world, it is established beyond doubt that the alcoholic beverage from Chile, is recognized and called as PISCO.

38. Thus, it is evident that the goods of the petitioner are identified as PISCO. The submissions and documents on record clearly point out to the fact that PISCO has a long and well documented origin in Chile. Thus, there is no basis for the IPAB to not have recognized the existence of Chilean PISCO.

39. This Court notes that the Learned IPAB has made reference to the alcoholic beverage product of Chile as 'Chilean Liquor' and premised the impugned order on the basis that the adoption of PISCO by Chile is historically dishonest and is a product of misappropriation. In order to deal with this issue, it is pertinent to make reference to Section 9 of the GI Act, which relates to prohibition of registration of GIs under the GI Act. The same is reproduced as under:

> *"**9. Prohibition of registration of certain geographical indications**.—A geographical indication—*
>
> *(a) the use of which would be likely to deceive or cause confusion; or*
> *(b) the use of which would be contrary to any law for the time being in force; or*

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(c) which comprises or contains scandalous or obscene matter; or
(d) which comprises or contains any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India; or
(e) which would otherwise be disentitled to protection in a court; or
(f) which are determined to be generic names or indications of goods and are, therefore, not or ceased to be protected in their country of origin, or which have fallen into disuse in that country; or
(g) which, although literally true as to the territory, region or locality in which the goods originate, but falsely represent to the persons that the goods originate in another territory, region or locality, as the case may be, shall not be registered as a geographical indication."

40. Reading of the aforesaid indicates that Section 9 of the GI Act deals with prohibition of registration of certain geographical indications. Section 9(a) prohibits registration of GIs, the use of which would be likely to deceive or cause confusion. Section 9(g) stipulates that a geographical indication, which although literally true as to the territory, region or locality in which the goods originate, but falsely represents to the person that the goods originate in another territory, origin or locality, as the case may be, shall not be registered as a geographical indication.

41. There is no reference to goodwill or misappropriation in the GI Act. Section 9 of the GI Act deals with prohibition of registration of certain GIs, and does not refer to 'priority' or 'dishonesty', unlike Section 11 of the Trade Marks Act which deals with 'relative grounds of refusal', which makes reference to an earlier/prior trademark.

42. As noted hereinabove, GI is a community right and not a private property or a statutory monopoly, unlike a trademark. As per Section 24 of the GI Act, a GI cannot be transferred, assigned or licensed. An authorized user of a GI must make an application to the Registrar to be brought on record, and not to the applicant under Section 17 of the GI Act. Therefore,

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the rights pertaining to GI refer to the geographical area from where the goods in question originate. The test would be whether the goods in question are actually recognized and identified to be produced or manufactured in a particular region, locality, territory or country.

43. As regards prior use of GI, as per TRIPS agreement, Article retrieved from the website of World Trade Organization, as attached along with the rejoinder of the petitioner, states as under:

> *"xxx xxx xxx*
>
> ***(iii) Prior use of the geographical indication (Article 24.4)*** *This provision relates to the prior use of a GI, and is mainly relevant to situations where there has been prior use of a GI that is not covered by the exceptions in relation to generic terms and prior trademark rights. Its scope is limited to GIs for wines and spirits.* ***It is optional in the sense that it allows, but does not oblige, a member to permit the continuation of the forms of prior use covered by the provision****.*
>
> ***For prior use of a GI*** *in that member to be covered by the exception, it must be:*
> *• continued and similar use*
> *• of a particular GI (of another member) identifying a wine or a spirit*
> *• in connection with goods or services*
> *• by nationals or domiciliaries of that member*
> *• who have used that GI in a continuous manner*
> *• with regard to the same or related goods or services*
> *• in the territory of that member,*
> *• either for at least ten years preceding 15 April 1994 (the date of signature of the WTO Agreement), or*
> *• for any period before that date, provided the use has been in good faith.*
>
> *The 'similar' use that can be continued is understood by at least some members to require that the use be similar in respect of both scale and nature.*
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

44. However, the present case is not related to prior use of the GI, considering the admitted use of PISCO by both Peru and Chile.

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Furthermore, Article 24.4 itself elaborates upon the exceptions to the protection upon basis of prior use of a GI. Prior use of GI is altogether a separate concept from prior use of a mark/name, as understood in the context of trademarks.

45. This Court is not required to comment on the history of the dispute between Chile and Peru. The questions, as to who was the prior user of the term PISCO or whether Chile's use of PISCO is dishonest in any manner, do not arise for determination of the issue in hand. It is evident that the alcoholic beverage originating from Chile is also identified as PISCO, in view of the various documents on record that point out to the fact that PISCO is also geographically associated and identified with Chile. Therefore, the findings of the learned IPAB that the use of PISCO with reference to Chilean PISCO has historically been dishonest and that Chile has misappropriated the GI PISCO, are erroneous and not relevant for adjudication of the said issue. The GI law does not concern itself with the political history of the country, but with the cultural/industry practice of the name given to a product of that country. It is not the function of any court of law to give findings based on historical speculation or to pass legal judgments on the vagaries of socio-political events.

46. The considerations for registration of and right to use a GI under the GI Act, are completely distinct, from considerations under the Trade Marks Act. The considerations regarding dishonest adoption, misappropriation and prior user, are concepts that are relevant for registration of a trademark. However, for the purposes of GI, it is to be seen and considered as to whether goods are identified as being originating or manufactured in a particular territory, country, region or locality.

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47. Furthermore, as noted above, Section 9 of the GI Act, prohibits registrations of GIs that are likely to cause confusion or deception amongst the consumers. Thus, explaining the concept of confusion, in the book, ***'Law Relating to Trademarks, Passing off and Geographical Indication of Goods', by D.P. Mittal, 2022 Edition, Chapter 35***, it has been stated as follows:

> *"xxx xxx xxx*
>
> *35.3 .....**The geographical indication is also not to be registered if its use is likely to cause confusion. Confusion is mixing up. It is a mistake of taking one thing for the other. If someone confuses two separate things or confuses one thing with the other, it would mean mixing up mentally and imagining they are the one. The circumstance that causes such a situation happening can be said to be causing confusion. If the use of the geographical indication is likely to lead a person into mixing it with the goods of other trade source and into imagining that they are the one, such indication is not to be registered. Confusion may be visual or phonetic in nature, i.e., contextual confusion, or as to trade origin. The purchasers should not be deceived or induced into believing that the goods sold under the geographical indication emanate from the same trade source.***
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

48. Thus, the finding by the learned IPAB in the impugned order referring to the alcoholic beverage in question from Chile to be 'Chilean Liquor', cannot be sustained. Similarly, the issues pertaining to priority, dishonest use, misappropriation and goodwill, as referred by the learned IPAB in its impugned order with regard to use of PISCO by Chile, again cannot be sustained.

49. This Court also takes note of the submission made on behalf of the petitioner that Chile has not made any claim that the regions that produce PISCO in Peru and Chile, are common, adjacent or contiguous. As per the

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petitioner, the region which produces PISCO, is shared between Republic of Chile and Republic of Peru, and other references to the word 'shared', are in the context of *'shared claim'* and *'shared history'*.

50. It is also to be noted that it is respondent no. 4's own case that PISCO in Peru is also grown in Tacna, Arequipa and Montegua, which are approximately 800 Kilometers from the PISCO valley in Peru, which is stated to be located in the Southern East Coast of Peru in the Department of Ica. It is pertinent to note that the 'Production Zones' in the GI application filed by respondent no. 4, do not refer to the city of PISCO and refers to various regions in Peru related to production of PISCO. The specification, as given by respondent no. 4 with regard to PISCO in its application for GI, is extracted as below:

> *"xxx xxx xxx*
>
> ***(e) Specification**:*
>
> ***Alcoholic beverage Pisco is a liquor of grape, obtained by distilling fresh must of recently fermented grapes in accordance with traditional methods that maintain the principle of quality established in the production areas previously recognized (the coast of the departments of Lima, lea. Arequipa, Moquegua and the valleys of Locumba, Sama and Caplina in the department of Tacna, all in Peru).** In this sense, Pisco must be elaborated by exclusively using the varieties of "Pisquer as Grapes", among them: Quebranta, Negra Corriente, Mollar, Italia, Moscatel, Albilla, Torontely Uvina. The Peruvian Tecnhical Standard 211-011:2002 establishes the requirements that must fulfill the grape liquor to be considered as Pisco.*
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

51. Similarly, in regard to the particulars of PISCO, regarding the production zones, respondent no. 4 in its application, had stated as follows:

> *"xxx xxx xxx*
>
> ***(f) Name of the geographical indication (and particulars):** PISCO*

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The production zones are located in the coast of the departments of Lima, lea, Arequipa, Moquegua and the valleys of Locumba, Sama and Caplina in the department of Tacna, all in peru.

xxx xxx xxx"

(Emphasis Supplied)

52. Thus, it is clear that production of PISCO in Peru is also spread over areas, which are not in the city of PISCO or the valley of PISCO, and the regions producing PISCO, are situated far away from the city or the valley of PISCO. Therefore, PISCO is not attributable to any particular city in Peru, but rather a region, wherein PISCO is produced. The respondent no. 4 in its GI application for PISCO has referred to zoological, topographic, and ethnic origins of the word PISCO, including, a word called *'PISCO'* in the Quechua language. Therefore, even respondent no. 4's own case is that the word is not derived from the name of a place alone, but has many different origins. Hence, the fact that there exists a city called PISCO in Peru, and the fact that a city by the name of 'La Union' was renamed as 'PISCO Elqui', in 1936 in Chile, have no bearing on the fact that origin of alcoholic beverages by the name PISCO, is associated with both Peru and Chile.

53. This Court also takes note of the submission on behalf of the petitioner that petitioner is an association of producers of the alcoholic beverage Chilean PISCO in III and IV regions of Chile, which are located in the river valley of Elqui, Limari, Huasco, Copiapo and Choapa. The producers of the petitioner association have been producing and marketing Chilean PISCO for well over a century.

54. Thus, the facts and documents on record clearly establish that both the countries, i.e., Chile and Peru, are using the word PISCO for their alcoholic beverages. Members of the petitioner have openly, extensively and

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continuously been carrying on production of PISCO for a long time, as recorded and manifested in the various documents on record.

Chilean PISCO as homonymous GI

55. This Court further notes the submission of the petitioner that Chilean PISCO is distinct from Peruvian PISCO. The submission of the petitioner in this regard, as given in the rejoinder, is reproduced as under:

> *"xxx xxx xxx*
>
> *E. It is further submitted that Chilean Pisco does not use egg whites. The only context in which egg white is used, is in the preparation of a cocktail called "Pisco Sour", elaborated with Pisco, sugar, lemon juice and egg whites, but in both Peru and Chile this cocktail is prepared in the same way.*
>
> *xxx xxx xxx*
>
> *G. The production of PISCO in Chile is within the parameters of classification ofalcohol. There are different production processes in both Peru and Chile. In addition, both Peru and Chile are part and members of the International Organization of Vine and Wine, an organization that ensures the quality of products worldwide as well as its minimum and maximum ranges of acceptability established by international protocols. In this context, Chilean Pisco fulfils the standards established by the International Organization of Vine and Wine.*
>
> *xxx xxx xxx"*

56. The petitioner has claimed Chilean PISCO as homonymous GI with Peruvian PISCO, on the basis of long and historical use of PISCO by both countries, though, the two beverages are claimed to be qualitatively different from each other. As per the petitioner, the claim for homonymous GI, is distinct from a case of 'trans-national' GI, i.e., the same product produced in different countries, which share regions that produce the goods under the same GI.

57. At this stage, it would be apposite to allude to the concept of homonymous GIs. The term 'homonymous' standalone means words which are spelled and pronounced the same but have different meanings. In legal

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context a fruitful example would be usage of the word *'advocate'* which can be used with meaning of referring to a legal practitioner or used as a word to express support. In relation to the present context, 'homonymous GIs' are those indications that are spelled and pronounced alike, but which designate the geographical origin of products stemming from different countries, places or regions and possess different characteristics from each other. Thus, in principle, homonymous GIs bring about the existence of multiple GIs that are afforded rights and protection *albeit* with a co-existent status, along with addition of auxiliary information/indicator, so as to obviate any confusion or potential of misleading of consumers, as to the true origin of the product.

58. Section 10 of the GI Act deals with the registrations of homonymous GIs, which reads as under:

> *"**10. Registration of homonymous geographical indications.—***
>
> *Subject to the provisions of section 7, a homonymous geographical indication may be registered under this Act, if the Registrar is satisfied, after considering the practical conditions under which the homonymous indication in question shall be differentiated from other homonymous indications and the need to ensure equitable treatment of the producers of the goods concerned, that the consumers of such goods shall not be confused or misled in consequence of such registration."*

59. Hence, the GI Act under Section 10, recognizes registration of homonymous GIs in India, if the applicant satisfies that after considering the practical conditions under which the homonymous indication in question will be differentiated from other homonymous indications, and the need to ensure equitable treatment of the producers of the goods concerned, and that the consumers of such goods will not be confused or mislead in consequence of such registration.

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60. In the context of the claim of the petitioner for homonymous GI, it is to be noted that the historical geographic link between PISCO and Chile, has not only been recognized by Encyclopedia Britannica, but has also been acknowledged globally in atleast 18 Free Trade Agreements between Chile and other countries across the world. Further, the petitioner has GI registration for PISCO in Costa Rica, as well as in Chile itself. Further, this Court takes note of the submission of the petitioner that even under the Lisbon Agreement, Peru's Appellation of Origin 'PISCO' has been subject to partial refusal from a number of Lisbon signatories, based on the protection already existing in their territory for Chile's homonymous 'PISCO' Appellation. While the Peruvian Appellation is protected in these Lisbon countries, however, it cannot be invoked to prevent the use of the Chilean Appellation PISCO.

61. Explaining the concept of Appellations of Origin and Geographical Indication, in the book, ***'Law Relating to Trademarks, Passing off and Geographical Indication of Goods', by D.P. Mittal, 2022 Edition, Chapter 34***, it has been stated as under:

> *"xxx xx xxx*
>
> ***Appellations of origin are a special kind of geographical indication. Geographical indication and appellations of origin require a qualitative link between the product to which they refer and its place of origin. Both inform consumers about a product's geographical origin and a quality or characteristic of the product linked to its place of origin. The basic difference between the two concepts is that the link with the place of origin must be stronger in the case of an appellation of origin****. The quality or characteristics of a product protected as an appellation of origin must result exclusively or essentially from its geographical origin. This generally means that the raw materials should be sourced in the place of origin and that the processing of the product should also take place there.* ***In the case of***

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geographical indication, a single criterion attributable to geographical origin is sufficient – be it a quality or other characteristic of the product – or even just its reputation (WIPO, FAQ).

xxx xxx xxx"

(Emphasis Supplied)

62. It is further to be noted that GI Act was enacted pursuant to Agreement on Trade Related Aspects of Intellectual Property Rights, i.e., 'TRIPS Agreement'. Article 23.3 of TRIPS Agreement states as under:

"xxx xxx xxx

***In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of paragraph 4 of Article 22. Each Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled**.*

xxx xxx xxx"

(Emphasis Supplied)

63. Further, Article 23.3 read with Article 22.4 of the TRIPS Agreement requires each member to determine practical conditions under which the homonymous GI will be differentiated from each other to ensure equitable treatment of the producers concerned and consumers not being misled. Further, Article 23.3 of the TRIPS Agreement provides that in case of wines being homonymous, it is up to the members to determine the conditions necessary to differentiate the wines concerned from both the regions.

64. In the Indian milieu, a classic example of homonymous registration, is that of Bangla Rasogolla registered as GI *'BANGLAR RASOGOLLA'*, and Odisha Rasogolla, registered as GI *'ODISHA RASAGOLA'*. The GI certificate issued in respect of Banglar Rasogolla, is reproduced as under:

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प्ररूप O-2

FORM O-2

बौद्धिक सम्पदा भारत

INTELLECTUAL PROPERTY INDIA

भारत सरकार
GOVERNMENT OF INDIA

भौगोलिक उपदर्शन रजिस्ट्री
Geographical Indication Registry

वस्तुओं का भौगोलिक उपदर्शन (रजिस्ट्रीकरण तथा संरक्षण) अधिनियम, 1999
Geographical Indication of goods (Registration and Protection) Act, 1999

धारा 16 (1) के अधीन भौगोलिक उपदर्शन अथवा धारा 17 (3) (ङ) के अधीन प्राधिकृत उपयोक्ता के रजिस्ट्रीकरण का प्रमाणपत्र
Certificate of Registration of Geographical Indication under section 16 (1) or of authorised user under section 17(3)(e)

भौगोलिक उपदर्शन संख्या:
Geographical Indication No.: 533

CERTIFICATE NO. 303

प्राधिकृत उपयोक्ता संख्या
Authorised user No.:

दिनांक
Date : 18.09.2015

प्रमाणित किया जाता है कि भौगोलिक उपदर्शन (जिसकी समाकृति इसके साथ उपाबद्ध है) / प्राधिकृत उपयोक्ता

के नाम से वर्ग में संख्या के अधीन दिनांक को

के लिए रजिस्टर में रजिस्ट्रीकृत किया गया है।

Certified that the Geographical Indication (of which a representation is annexed hereto)/ authorised user has been registered in the register in the name of **West Bengal State Food Processing and Horticulture Development corporation Limited,** 2nd floor Mayukh Bhavan, DF Block Sector-I,Salt Lake, Kolkata 700 0091 Facilitated by Patent Information Centre, Government of West Bengal, Kolkata, West Bengal, India, 700091

in class 30 under no. 533 as of the date 18.09.2015

in respect of "Banglar Rasogolla" **Falling in Class - 30 -** in respect of - Food stuff (Rasogolla)

आज दिनांक माह 20 को चेन्नई में मेरे निदेश पर मुद्रांकित किया गया।

Sealed at my direction this 14th day of November 20 17 at Chennai.

रजिस्ट्रार, भौगोलिक उपदर्शन
Registrar of Geographical Indication.

65. The aforesaid GI certificate was granted on the basis of the association of Rasogolla with Bengal and in recognition of the fact that Rasogolla was invented in Bengal in the 19th century.

66. Similarly, GI registration has been granted to Odisha Rasagola, in recognition of the fact that Rasagola has been associated historically and culturally with Odisha's Shree Jagannatha Temple, Puri, which was built in the 12th Century. Further, Rasagola is a milk-based confectionary, of which 'Chhena' (Cottage Cheese) is the main ingredient. Chhena and Chhena based sweetmeats have been prevalent in Odisha since time immemorial. The certificate of GI registration of Odisha Rasagola, is reproduced as

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under:



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बौद्धिक सम्पदा भारत INTELLECTUAL PROPERTY INDIA

भारत सरकार
GOVERNMENT OF INDIA

भौगोलिक उपदर्शन रजिस्ट्री
Geographical Indication Registry

वस्तुओं का भौगोलिक उपदर्शन (रजिस्ट्रीकरण तथा संरक्षण) अधिनियम, 1999
Geographical Indication of goods (Registration and Protection) Act, 1999

धारा 16 (1) के अधीन भौगोलिक उपदर्शन अथवा धारा 17 (3) (ई) के अधीन प्राधिकृत उपयोक्ता के रजिस्ट्रीकरण का प्रमाणपत्र
Certificate of Registration of Geographical Indication under section 16 (1) or of authorised user under section 17(3)(e)

भौगोलिक उपदर्शन संख्या:
Geographical Indication No.: 612

CERTIFICATE NO. 345

प्राधिकृत उपयोक्ता संख्या
Authorised user No.:

दिनांक
Date : 23.02.2018

प्रमाणित किया जाता है कि भौगोलिक उपदर्शन (जिसकी समाकृति इसके साथ उपाबद्ध है) / प्राधिकृत उपयोक्ता

के नाम से वर्ग में संख्या के अधीन दिनांक को

के लिए रजिस्टर में रजिस्ट्रीकृत किया गया है।

Certified that the Geographical Indication (of which a representation is annexed hereto)/ authorised user has been registered in the register in the name of 1. The Odisha Small Industries Corporation Limited (OSIC Ltd.), (A Government of Odisha Undertaking), Managing Director, Industrial Estate, Madhupatna, Cuttack, Pin - 753 010, Odisha, India; 2. Utkal Mistanna Byabasayee Samiti, Odisha, B-34, Sahid Nagar, Bhubaneswar - 751 009, Odisha, India.

in class 30 under no. 612 as of the date 23.02.2018

in respect of "ODISHA RASAGOLA"

Falling in Class – 30 – in respect of – Food Stuff - Rasagola

ODISHA Rasagola

आज दिनांक माह 20 को चेन्नई में मेरे निदेश पर मुद्रांकित किया गया।

Sealed at my direction this 29th day of July 20 19 at Chennai.

रजिस्ट्रार, भौगोलिक उपदर्शन
Registrar of Geographical Indication.

67. The aforesaid discussion makes it evident that a product with the same name, associated with two different regions/territories, can be granted GI recognition. Like in the case of Rasogolla, GI registration has been granted to both Bengal and Odisha in view of the historical and cultural association of Rasogolla with both the regions. The fact that the applications filed for GI indication themselves were for 'BANGLAR RASOGOLLA' and 'Odisha Rasagola', does not alter the position that respective prefixes

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have been added in order to distinguish a product by the same name, as originating from two different regions.

68. Therefore, it is evident that in view of the concurrent use of the homonymous GI in the same territories, i.e., all over India and other parts of the world, with a view to avoid any conflict and confusion, and to recognize the particular geographical area of origin, the words Banglar and Odisha, have been prefixed to the word, Rasogolla/Rasagola. This has been done, so that the use of the homonymous GI concurrently in the same territories, is not misleading, as the quality and characteristic of the Rasogolla/Rasagola originating from Bengal and Odisha, are different.

69. Accordingly, the GI Act under Section 10, recognises registration of homonymous geographical indications in India.

70. Likewise, in the present case, the alcoholic beverage originating from both Peru and Chile are recognized and identified as PISCO. However, on account of the pleadings and documents on record, it cannot be ignored that PISCO from Chile is completely different and distinct from PISCO in Peru. Therefore, in the context of concurrent use of the homonymous GI, it would be misleading to the public as to the nature or quality of the two products, i.e., PISCO from Chile and PISCO from Peru, if the GI PISCO does not contain a further specific geographical identifier, in order to identify PISCO from Peru and Chile, respectively.

71. As regards the requirement of additional information or identifier in a homonymous geographical indication, the web page of WIPO[1], states as under:

> *"▼ What are "homonymous" geographical indications?*

[1] https://www.wipo.int/en/web/geographical-indications/faq/geographicalindications

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> ***Homonymous geographical indications (GI) are those that are spelled or pronounced alike, but which identify products originating in different places, usually in different countries. In principle, these indications should coexist, but such coexistence may be subject to certain conditions. For example, it may be required that they be used only together with additional information as to the origin of the product in order to prevent consumers from being misled. A GI may be refused protection if, due to the existence of another homonymous indication, its use would be considered potentially misleading to consumers with regard to the product's true origin****."*
>
> *(Emphasis Supplied)*

72. Therefore, additional information as regards specific geographical identifier in the form of prefix, i.e., Peruvian and Chilean, with respect to PISCO originating from Peru and Chile, respectively, would be in consonance with the statutory provisions of the GI Act, ensuring that the GI is eligible for registration and does not fall foul of Section 9(a) read with Section 9(g) of GI Act. Furthermore, the same would also be in consonance with the international regimes to which India is part of, with respect to homonymous geographical indications.

73. This Court notes the extracts from a 2018 Article, as filed by the petitioner, indicating documentary evidence recognising Chilean PISCO, as separate from Peruvian PISCO, which is reproduced as under:

> *"xxx xxx xxx*
>
> *Chances are, if you've been out to bars and restaurants lately, you've been seeing Pisco pop up more and more on menus and in creative cocktails. And while the Pisco Sour is often the drink that most are familiar with, it's time to learn a bit more about Chilean Pisco, a truly unique, versatile and delightful spirit.*
>
> ***Not to be confused with Peruvian Pisco – the two spirits have a long and storied history, with each claiming to have been the very first produced – the version from Chile is, in fact, very different****. A grape-based spirit, Chilean Pisco is made in only two regions of the country – the Atacama and Coquimbo regions in the north – where the climate is low-humidity and the terrain desert-like. This, of course, has a major effect on the final product and brands like EI Gobernador.*

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xxx xxx xxx

*"**One of the main differences between Chilean and Peruvian pisco flavor comes from the different grapes that are used in each country's Pisco making process," explains Adriana Soley Fuster, the USA Spirits Area Manager for Miquel Torres, under which Pisco EI Gobernador is produced. In Chile, the grapes used are both aromatic – moscatel de alejandría, moscatelrosada and torontel – as well as non-aromatic (Pedro Jiménez and Moscatel de Austria).***

***Chilean pisco is generally produced using discontinuous distillation. Some versions of Chilean Pisco, like brandy, can be aged (Peruvian Piscocan not be aged), often in barrels made from American oak, French oak or Rauli, an evergreen beech tree native to Chile. The biggest difference between the Chilean and Peruvian varieties, however, is found in the distillation process**. After distillation, Chilean piscos add water to lower the ABV while, in Peru, none is added to achieve a lower proof. Like other categories in the brandy family, the water added must be pure, with no sugar, coloring or other additives.*

In the end, Chilean pisco is generally a fruity and floral spirit, ideal for enjoying neat or mixing into elevated cocktails.

*"**Chilean pisco is not a neutral spirit," says David Wondrich, cocktail historian and Senior Drinks Editor at The Daily Beast. "Chilean and Peruvian pisco actually share a lot of the same DNA**."*

Let's get to know a bit more about Chilean Pisco, shall we?

xxx xxx xxx"

(Emphasis Supplied)

74. Other International Articles have also been placed on record to show the recognition of Chilean PISCO alongside Peruvian PISCO. It has also come to the fore that the flavor and other qualities of PISCO originating from both the countries are different in their characteristics. Thus, grant of GI PISCO to respondent no. 4 without a geographical identifier as originating from Peru, would be misleading to the general public apropos to the PISCO originating from Chile, as the very concept of geographical indication is regarding quality, reputation and other characteristics of goods in question to be essentially attributable to its geographical origin.

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Therefore, since the quality and characteristics of PISCO from Peru are distinct in comparison to the PISCO from Chile, it is imperative that the GI further gives the indication as Peruvian or Chilean.

75. The respondent no. 4 has erroneously submitted that reference to Section 7 in Section 10 of GI Act, necessarily implies that there must be a prior GI on the Register under Section 7 for Section 10 of GI Act, to apply. The reference to Section 7 in Section 10 of the GI Act, is in the context of distinguishing between GI applicants (Part A of the Register) and authorized users (Part B of the Register). Further, Section 10 of the GI Act does not refer to other 'registered' or 'prior' homonymous GIs, but only 'other homonymous indication'. Thus, the submission that Section 10 of GI Act contemplates another GI, pre-existing on the Register, is fallacious.

76. Therefore, in view of the shared claim of Chile and Peru for PISCO for geographical indication, it would be in the fitness of things that the same is recognized with additional specific geographical identifier, i.e., Peruvian or Chilean.

Conclusion

77. It is to be noted that on the basis of the finding that both Chilean and Peruvian alcoholic beverages are identified as PISCO, the order dated 3rd July, 2009 passed by the GI Registry, contains a categorical finding that registering PISCO as per the application of respondent no. 4 herein would definitely cause confusion or deception during the course of trade among the consumers. This Court is in complete agreement with the aforesaid findings, in view of the detailed discussion hereinabove.

78. Further, in the order dated 3rd July, 2009 passed by the GI Registry, it is recorded that PISCO is also well known in the country of Chile and that

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the documents established that both the countries are using PISCO. However, the impugned order passed by the IPAB does not address the central question of whether the Chilean goods/alcoholic beverages are identified as PISCO. Rather, in para 23 of the impugned order, IPAB has held as under:

> *"xxx xxx xxx*
>
> *"23. ……. ... by no means the name Pisco can be identified as Chilean or Peruvian as liquor produced by both the countries are totally different in its elaboration, techniques and quality. Hence Pisco prepared in Peru cannot be compared, under any circumstance, to the Chilean liquor. In the light of the above international recognition of the word Pisco to Peru, there cannot be any confusion or deception among the customs. ….. ... ……."*
>
> *xxx xxx xxx"*

79. The fact that the two beverages are qualitatively different, has no co-relation with whether the alcoholic beverage from Chile, is also identified as PISCO. The impugned order wrongly refers to the alcoholic beverage from Chile as *'Chilean Liquor'*, without mentioning the name by which, said *'Chilean Liquor'*, is identified. The documents and pleadings on record clearly establish that the alcoholic beverage from Chile is identified and recognized as PISCO. Therefore, deception and confusion in terms of Section 9(a) and 9(g) of GI Act is bound to occur, if the product of respondent no. 4 is granted GI PISCO, without addition of 'Peruvian' as a geographic identification/indicator.

80. The definition of geographical indication as given in Section 2(e) of the GI Act clearly stipulates an objective test of identification of goods with a geographical attribute. Thus, the relevant consideration would be whether the goods in question are actually and in fact identified by that indication. Therefore, if the goods of the petitioner are actually and in fact identified as

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'PISCO', the GI PISCO would legitimately apply to such goods, as per Section 2(1)(e) of the GI Act. This is independent of the fact whether the goods claimed in the GI application of respondent no. 4, are also identified as PISCO, or whether, chronologically or historically speaking, such goods came to be identified as 'PISCO', either before or after the petitioner's goods. For purposes of Section 2(1)(e) of the GI Act, the only objective determination to be done is whether the alcoholic beverage in question from Chile, is actually identified and recognized as PISCO.

81. The documents filed on behalf of respondent no. 4 evidence the use of PISCO in relation to Peru. The use of PISCO by Peru is not disputed. However, any submission by respondent no. 4 as regards its 'prior use' of PISCO, is not relevant, as GI jurisprudence is different from trademarks jurisprudence. The petitioner has been able to establish on account of various documents on record, the identification and recognition of its products globally as PISCO, continuously, extensively and since a long time. It is further established that even PISCO from Peru, does not necessarily come from the place PISCO.

82. Moreover, given the evidence placed on record that the petitioner's alcoholic beverage from Chile is also consistently and globally recognized as PISCO, the technical argument of delay made by respondent no. 4 is not relevant. Even otherwise, filing of a GI registration application for Chilean PISCO provides a valid cause of action for filing the present writ petition.

83. It is further to be noted that it is admitted by both the parties that Chilean PISCO and Peruvian PISCO, are different products, which are distinct from each other. Therefore, as noted above, the present is not a case of 'trans-national GIs', but that of homonymous GIs. None of the averments

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made in the pleadings by the petitioner imply or suggest that the products/alcoholic beverages from the two countries are the same.

84. This Court further rejects the submission raised on behalf of respondent no. 4 that by pleading a case of 'homonymous GIs', the petitioner has brought in a completely new argument. This is a wholly fallacious submission in view of the case set up by the petitioner in the writ petition as well as reference to Section 10 of GI Act pertaining to homonymous GIs, in the notice of opposition filed by the petitioner before the Registrar of Trade Marks & GI. The GI Registrar directed that the word 'Peruvian' be added as a condition for registration, in consonance with the express provision pertaining to homonymous GIs. Thus, recognizing the right of both Chile and Peru for GI PISCO, with specific geographical identifier, would ensure that there is no confusion between Chilean PISCO and Peruvian PISCO, at the same time providing both Chile and Peru the right to prevent third parties from using the GI PISCO.

85. Thus, in view of the detailed discussion hereinabove, it is evident that the impugned order passed by the IPAB has erred in exclusively granting the rights over PISCO to respondent no. 4. The IPAB failed to appreciate that there are documents establishing that both the countries, i.e., Chile and Peru are using PISCO and have parallel agreements for use of PISCO with various other countries.

86. The impugned order has completely disregarded the fact that emerges from the various documents placed on record, that both Peru and Chile have shared history to the manufacture of the beverage PISCO.

87. This Court is of the view that considering the fact that the alcoholic beverage in question from Chile is also recognized and identified, the world

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over as PISCO, grant of a GI for the word PISCO *per se*, exclusively to respondent no. 4, without specifying the GI of Peru, would be detrimental to the legal and legitimate commercial interest of producers of PISCO in Chile, and the same would also likely to deceive and cause confusion.

88. It is also to be noted that there is no analysis or reference whatsoever in the impugned order to the actual and long-standing legitimate usage of PISCO by Chile worldwide, as well. The impugned order further fails to appreciate the import of various laws, as noted hereinabove, in the Republic of Chile, which recognize PISCO, as a Chilean produce. The fact that the products from Peru and Chile are distinct in substance, is all the more reason for providing a GI, that refers to the different countries, as has been done in the order dated 3rd July, 2009 passed by the Registrar of Trade Marks & GI, by granting GI to respondent no. 4 as 'Peruvian PISCO'.

89. As regards the submission of the petitioner regarding *locus standi* of respondent no. 4, i.e., Embassy of Peru, it is to be noted that Section 11 of the GI Act permits an association of persons or producers, or an organization or authority established by or under law, to file an application for registering a Geographical Indication. Such establishments could be within or outside India.

90. This Court notes the submission of respondent no. 4 that Peru has passed a legislation, namely, 'Legislative Decree 823' on 23rd April, 1996, by virtue of which, Peruvian state is the owner of Peruvian Appellations of Origin. As per respondent no. 4, representing the interest of the producers, Embassy of Peru, representing the State and the country of Peru, have applied for and secured several registrations of the GI/Appellation of Origin/Denomination of Origin 'PISCO' around the world, including, the GI

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application, as filed in the present case. Thus, as per the current legislation in Peru, the Peruvian State is the official holder of the Appellation of Origin PISCO. Hence, the respondent no. 4, i.e., the Embassy of Peru in India, which acts as an authority established under law by the Republic of Peru, is entitled to represent the interest of the Peruvian farmers and producers for registration of GI. The respondent no. 4 is clearly acting in the interest of the Peruvian State and the producers/manufacturers, for whose interest, the GI application in question, was filed. Therefore, this Court rejects the contention raised by the petitioner as regards the authority of respondent no. 4, to file the GI application.

91. Accordingly, in view of the detailed discussion hereinabove, the impugned order dated 29th November, 2018 passed by IPAB is set aside. The GI granted to respondent no. 4 is directed to be modified as 'Peruvian PISCO'. Consequently, it is directed that the entry no. 43 in favour of respondent no. 4 dated 17th June, 2019, for PISCO in the Register of the Geographical Indications, be modified to include 'Peruvian' before PISCO.

92. It is further directed that the stay, as granted *vide* order dated 16th June, 2020, on the GI application no. 689 for the GI Chilean PISCO filed by the petitioner on 3rd June, 2020, is hereby lifted. The Registrar of Trade Marks & GI will accordingly proceed with the application of the petitioner, in accordance with law.

93. The present writ petition, along with the pending applications, is accordingly, disposed of.

(MINI PUSHKARNA)
JUDGE

JULY 07, 2025/*Ak*

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