

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 16369 of 2015

Date of decision: 15.12.2015

Jai Bhagwan

..... Petitioner

Versus

Excise and Taxation Commissioner and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

PRESENT: Mr. Deepak Gupta, Advocate for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana with
Mr. Saurabh Mago, AAG, Haryana.

AJAY KUMAR MITTAL, J. (ORAL)

Prayer in this writ petition filed under Articles 226 and 227 of the Constitution of India, is for issuance of a writ of certiorari for quashing the order dated 10.07.2014 (Annexure P-1) passed by respondent No. 2-Deputy Excise and Taxation Commissioner (Excise), Jhajjar and also the order dated 30.04.2015 (Annexure P-2) passed by respondent No. 1-Excise and Taxation Commissioner, Haryana (Exercising the powers of Financial Commissioner), Panchkula, whereby a penalty of ₹ 10,74,000/- was imposed upon the petitioner for violation of the provisions of Punjab Excise Act, 1914 as applicable to State of Haryana (hereinafter referred to as 'the Act').

2. Briefly, it may be noticed that on 09.05.2014, the Assistant Excise and Taxation Officer, Bahadurgarh and Excise Inspector along with other officers had recovered 2685 bottles of liquor from the petitioner without licence near Sangwan Hotel, Bahadurgarh. After checking made by the said officers, it was found that the petitioner was incharge of abovesaid liquor and was selling the same without any licence. Thereupon, proceedings under the Act were initiated and notice was issued to the petitioner to appear before the Deputy Excise and Taxation Commissioner (Excise), Jhajjar on 10.07.2014. Thereafter a penalty of ₹ 10,74,000/- was imposed upon the petitioner @ ₹ 400/- per bottle as 2685 bottles were found to be in unauthorized possession of the petitioner. The said order was challenged in appeal before respondent No. 1-Excise and Taxation Commissioner, Haryana (Exercising the powers of Financial Commissioner), Panchkula, who vide order dated 30.04.2015 (Annexure P-2) had dismissed the same as the petitioner did not appear before the Appellate Authority and the order dated 10.07.2014 (Annexure P-1) was upheld.

3. Learned counsel for the petitioner submitted that a lenient view may be taken and the penalty may be reduced from ₹ 400/- per bottle to ₹ 300/- per bottle.

4. The prayer made by learned counsel for the petitioner was strongly opposed by learned State counsel who submitted that respondent No. 1 had already taken the lenient view as the maximum penalty under the Act is ₹ 500/- per bottle whereas he imposed penalty @ ₹ 400/- per bottle.

5. After hearing learned counsel for the parties, we do not find any ground in allowing the prayer made by learned counsel for the petitioner for imposing penalty @ ₹ 300/- per bottle instead of ₹ 400/- per bottle upon the petitioner who was found to be in unauthorized possession of 2685 bottles of liquor.

6. Dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

December 15, 2015
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**(RAMENDRA JAIN)
JUDGE**