HIGH COURT OF CHHATTISGARH, BILASPUR

WP(CR) No. 114 of 2018

Kanhaiyalal, S/o. Sonwalal, Aged About 54 Years, R/o. Shanti Nagar, Infront Of Kanya School, Bhilai - 3, Civil & Revenue District Durg Chhattisgarh.

---- Petitioner

Versus

1. The State Of Chhattisgarh, Through The Station House Officer, Police Station Sahaspur Lohara, Civil & Revenue District Kabirdham Chhattisgarh.
2. The Collector, Kabirdham, Civil & Revenue District Kabirdham, Chhattisgarh.
3. The Commissioner, Division Durg, Civil & Revenue District Durg, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Punit Ruparel, Advocate
For State	:	Mr. S.K.Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

23.02.2018

Heard

1. Learned counsel for the petitioner submits that the Commissioner, Durg, without any rhyme or reason has dismissed the appeal preferred against the confiscation order dated 14.03.2016 whereby confiscation order was made on the ground that the revision has been preferred.

2. Learned counsel for the petitioner submits that only on the nomenclature of the petition, the order under challenge of the Collector of confiscation dated 14.03.2016 should not have been dismissed and the appellant authority was bound to exercise its power vested in it under Section 47-B of the Chhattisgarh Excise Act, 1915.

3. Since the challenge was made against the order of confiscation, he submits that the challenge was virtually under Section 47-B of

the Excise Act. The Commissioner, Durg, has dismissed the petition whereby the confiscation was challenged on the ground that only revision has been preferred. Section 46-C of the Excise Act gives a power of revision to the Sessions Court against the order of appellate authority. It is for the petitioner to seek redressal before the appropriate form. The petitioner, therefore, if feel aggrieved that the order of the Commissioner, Durg, was without jurisdiction, the same may be agitated before the revisional Court under Section 47-C of the Excise Act, 1915. At this stage, since the alternative forum of appeal & revision is provided, it is for the petitioner to seek appropriate forum, I do not find any reason to exercise the power under Article 226 of the Constitution of India ignoring the provisions of Section 47-B & 47-C of the Excise Act, 1915.

4. In view of the above, the petition has no merit and accordingly it is dismissed at the admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge

Ashok