IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15075 of 2021

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Sarwar Ali @ Md. Sarvar Ali Son of Samimuddin Resident of C/o Samimuddin, 13/A/H/5, Marcus Square, VTC - Barabazar, P.O. and P.S. - Bara Bazar, District- Kolkata, West Bengal.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
2. The Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
3. The Excise Commissioner, Bihar Prohibition and Excise Department, Bihar, Patna.
4. District Magistrate cum Collector, Vaishali.
5. The Additional Collector, Vaishali.
6. The Superintendent of Police, Vaishali.
7. The Superintendent of Excise, Vaishali.
8. The Station House Officer, Kathara O P, Vaishali.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Brisketu Sharan Pandey, Mr. Madan Kumar, Mr. Abhishek Kumar, Advocates
For the Respondent/s	:	Mr.Kumar Manish (Sc5) Mr. Prashant Kumar, AC to SC 5

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 04-09-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

> "(i) For issuance of writ in the nature of certiorari to quash the order dated 13.07.2021 (Annexure P/6) in Excise Appeal Case No.356/2021 passed by the learned Commissioner of Excise and Prohibition (Respondent no.3)

by which the order dated 05.03.2021 (Annexure P/5) passed by the learned Additional Collector, Vaishali in Confiscation Case No.218/2021-21 was confirmed.

(ii) For issuance of writ in the nature of certiorari to quash the order dated 05.03.2021 (Annexure P/5) passed by the learned Additional Collector, Vaishali in Confiscation Case No.218/2021-21 by which the vehicle of the petitioner namely Truck (Tata Company) bearing Registration No. WB-23F-1418 (hereinafter referred to as "petitioner's vehicle") has been confiscated under Section 58(2) of the Bihar Prohibition and Excise Act 2016 and direction has been issued to the Circle Officer, Mahua to complete the process of auction of the vehicle and submit the proceeds to the treasury of the Government.

(iii) For a direction to the respondent authorities to release petitioner's vehicle, which has been seized under the confiscation case No.218/2021-21 by order dated 05.03.2021 (Annexure P/5) registered for the offences under Section 30(a) and 41 of Bihar Prohibition and Excise Act 2016.

(iv) Further prayed for issuance of a consequential writ in the nature of a writ of mandamus or any other appropriate writ order or direction commanding the respondent authorities to not to take any coercive steps against the vehicle during the pendency of this writ application.

(v) For holding that the respondents erred in not releasing the petitioner's vehicle given the fact that the vehicle was already "deemed to be released" in terms of the order dated 21.09.2020 passed by this Hon'ble Court in CWJC 7866 of 2020 as the confiscation proceedings were not completed within 90 days from the appearance of the parties.

(vi) For holding that the respondent erred in confiscating the petitioner's vehicle in connection with Kathara O P P.S. Case No. 179/2020 dated 25.05.2020 given the fact that the FIR and seizure list has not yet been proved to be true in a competent court of law.

(vii) For any other relief/reliefs for which the petitioner may be deemed entitled to."

Petitioner has approached this Court without availing the statutory remedy of revision against the impugned appellate order, as such, liberty is granted to petitioner to file revision against the appellate order before the Revisional Authority and if any such Revision is filed within 4 weeks, then Revisional

Authority shall condone the delay in filing the revision petition and shall decide the revision petition preferably within 8 weeks from the date of its filing on its own merit.

During pendency of revision petition, confiscated property / vehicle shall not be auction sold, if not already auction sold.

With aforesaid liberty, the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.09.2021
Transmission Date	NA