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HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 63 of 2021

- Ranjeet Kumar Gupta S/o - Shri Mahesh Kumar Gupta Aged About 36 Years R/o - Kodwaripara, Police Station And Tahsil Dharamjaigarh District Raigarh Chhattisgarh

---- Petitioner

Versus

1. The State Of Chhattisgarh Through The Commissioner (Excise) Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. The Collector (Distt. Magistrate) Raigarh District Raigarh Chhattisgarh
3. The Station House Officer, Police Station - Dharamjaigarh, District Raigarh Chhattisgarh

---- Respondents

For Petitioner	:	Shri A.N. Bhakta, Advocate
For State	:	Shri Sudeep Verma, Dy. Govt. Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

25.06.2021

1. The petitioner by filing this petition under Section 482 of the Cr.P.C. has challenged the order dated 30.09.2020 passed by the Collector, Raigarh by which though the vehicle has been released on Supurdnama, the District Magistrate, Raigarh has imposed condition of depositing Rs. 3,00,000/- in the office of Assistan Commissioner (Excise), Raigarh for release of vehicle (Wagon R) bearing registration No. CG-13-UD-7609. The petitioner is mainly aggrieved with the condition of demand of Rs. 3,00,000/- to be deposited in the Government account for release of the vehicle.

2. The brief facts as projected by the Learned counsel for the petitioner are that on 01.08.2015 the Sub-inspector, P.S. Dharmjaigarh arrested the petitioner and seized the vehicle (Wagon R) bearing Registration No. CG-13-UD-7609 under Section 34(2) of the Chhattisgarh Excise Act, 1915 on the allegation of transportation of 16.80 Liters of illegal foreign liquors. Crime No. 224/2015 for offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915 was registered against the petitioner, he faced trial and on 22.11.2019 he was acquitted from the charges levelled against him by the learned Judicial Magistrate First Class, Raigarh in Criminal Case No. 1081/2015.
3. The vehicle was given to the petitioner on Supurdnama vide interim order dated 16.05.2017. The learned District Collector, Raigrah issued confiscation order on 20.07.2018 against which the petitioner preferred an appeal on 19.02.2019 before the learned Commissioner Excise, Raipur. The learned Commissioner Excise, Raipur affirmed the order of the learned District Collector, Raigarh and rejected the appeal on 23.09.2019. Against that order the petitioner preferred a revision before the learned District and Sessions' Judge, Raigarh. During pendency of the revision, the petitioner acquitted from the charges levelled against him vide order dated 22.11.2019 passed by the learned Judicial Magistrate First Class. This information was brought to the notice of the learned District and Sessions Judge, Raigarh. The learned District and Sessions Judge, Raigarh taking note of the acquittal order dated 22.11.2019, rejected the revision on 26.02.2020. While rejecting the revision learned District and Sessions Judge directed

the petitioner that since he has already exhausted remedy of Supurdnama of the vehicle, therefore, now option is given to him that in place of confiscation of the vehicle he may, on the order of the Collector, deposit an amount of Rs. 3,00,000/- before the Assistant Commissioner (Excise), Raigarh or submit the vehicle within 15 days before the Assistant Commissioner (Excise), Raigarh for auction.

4. The Judgment dated 26.02.2020 was further challenged by the petitioner before this Court in Cr.M.P. No. 627/2020. This Court on 19.06.2020 disposed of the case reserving liberty in favour of the petitioner to proceed in accordance with law by staying the auction proceeding for a period of 15 days. The petitioner filed an application under Section 452 of the Cr.P.C. before the learned District Collector, Raigarh on 30.06.2020 praying that since the petitioner has been acquitted from the charges levelled against him, the vehicle may be released to him. The learned District Collector found that since the confiscation order is still maintained, directed the petitioner to deposit **Rs. 3,00,000/- in cash** before the Assistant Commissioner (Excise), Raigarh within 15 days. If the amount is not deposited within 15 days, the confiscated vehicle will be subjected to auction.

5. Learned counsel for the State has drawn attention of this Court towards Section 47-B of the Chhattisgarh Excise Act, 1915 which provides remedy of appeal against the order of confiscation. Section 47-B of the Act, 1915 is reproduced below :-

> "**47-B Appeal against the order of confiscation -**
> (1) Any person aggrieved by an order of confiscation passed under sub-section (2) of Section 47-A may, within thirty days of such order prefer an appeal to the Collector concerned or to any other officer authorised by the State Government by

> notification (hereinafter referred to as the Appellate Authority). Such appeal memorandum shall be accompanied by a certified copy of the order appealed against.
> (2) The Appellate Authority on presentation of such memorandum of appeal, issue a notice to the appellant and to any other person who is likely to be adversely affected by the order that may be passed in appeal.
> (3) The Appellate Authority after hearing the parties to the appeal, shall pass an order confirming, reversing or modifying the order of confiscation appealed against:
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> Provided that he may pass such order of interim nature for custody, disposal etc. of the confiscated articles during the pendency of appeal, as may appear to him just or proper in the circumstances of the case but he shall have no power to stay the order of confiscation appealed against during the pendency of appeal."

6. Section 47-B of the Act, 1915 provides that any person if aggrieved by the order of confiscation by the Collector concerned or any other officer authorised by the State Government, may file an appeal within 30 days.

7. India as well as the whole world is affected by the ongoing COVID-19 pandemic which has hampered not only judicial proceedings but also the normal life of citizens. The Hon'ble Supreme Court has considered the difficulties faced by the litigants in **Suo Motu Writ Petition (Civil) No. 3 of 2020 In Re : cognizance for extension of limitation** due to pandemic of COVID-19 and has passed the following order on 08.03.2021:-

> "2. We have considered the suggestions of the learned Attorney General for India regarding the future course of action. We deem it appropriate to issue the following directions: -
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> > "1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.
> > 2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation

remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.
3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."

8. Again, the Hon'ble Supreme Court has examined the difficulties of the litigants on account of COVID-19 Virus and passed the following **order on 27.04.2021 in Misc. Application No. 665/2021 in SMW(C) No. 3/2020**:-

" We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant-public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.

It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Section 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the Court or tribunal can condone delay) and termination of proceedings. "

9. The petitioner has filed this Cr.M.P. on 11.01.2021, this Court has issued notice on 25.01.2021 and the Cr.M.P. is being disposed off today i.e. on 25.06.2021, therefore, the period between filing of

petition and disposal of the petition by this Court today also deserves to be excusable while counting the period of limitation as per the provisions of the Limitation Act, 1963.

10. The impugned order was passed on 30.09.2020 whereas time period given under the Chhattisgarh Excise Act, 1915 for appeal is 30 days which was expired on 30.10.2020. Therefore, in view of the order passed by the Hon'ble Supreme Court **on 27.04.2021 in Misc. Applicatoin No. 665/2021 (supra)** the period from 30.10.2020 to till the date of receipt of copy of this order is condoned and if appeal is filed within 45 days from the receipt of copy of this order, the appellate authority shall not raise plea of limitation while deciding the case of the petitioner on merits.

11. It is made clear that this Court has not expressed any opinion on the merits of the case. The appellate authority shall apply its mind and decide the case on its own merits in accordance with law, without being influenced by any of the observations made by this Court.

12. With the aforesaid observations and directions, the writ petition is finally disposed off.

13. The certified copy of Annexure P/1 be returned to the petitioner after furnishing self attested photocopy of the same.

Sd/-

(**Narendra Kumar Vyas**)
JUDGE

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