

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 1135 of 2019**

- Kanhaiya Lal S/o Shri Sonwalal Aged About 54 Years R/o Shanti Nagar, Behind Girls School, Bhilai-3, District Durg Chhattisgarh Through Power Of Attorney Holder Dileep Saytode S/o Shri Laxmi Prasad Saytode, Aged About 40 Years Village Bhansoj, P. S. Arang, District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Excise Department, Mantralaya, Mahanadi Bhawan, Capital Complex, Atal Nagar Nawa Raipur District Raipur Chhattisgarh,
2. Commissioner Excise Department, Raipur District Raipur Chhattisgarh,
3. Collector Kabeerdham District Kabeerdham Chhattisgarh,
4. Superintendent Of Police Kawardha District Kabeerdham Chhattisgarh,

---- Respondents

For petitioner	:	Mr. Arvind Prasad, Advocate appears on behalf of Mr. Sameer Singh, Advocate.
For State	:	Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Narendra Kumar Vyas**Order on Board****24-08-2021**

1. The petitioner has filed the present writ petition (cr) under Article 226 of the Constitution of India, challenging the order dated 27-08-2019 passed by the Commissioner, Excise Department, Raipur in Appeal Case No. REC-04/2018-2019 whereby learned Commissioner, Excise Department has affirmed the order dated 14-3-2016 passed by the District Collector, Kabeerdham in Revenue Case No.34-B-121 year 2015-2016 (State of

Chhattisgarh vs Kanhaiya Lal) wherein the learned District Collector, Kabirdham has passed the order of confiscation of petitioner's vehicle TATA Sumo bearing registration No. CG-07-AJ 7471.

2. As per Section 47-C of the Chhattisgarh Excise Act, 1915 (for short, the Act, 1915”), there is a remedy of revision against the order passed by the Appellate Authority. Section 47-C of the Act, 1915 is extracted which reads as under:

“47C. Revision before the Court of sessions against the order of Appellate Authority. - (1)

Any party to appeal aggrieved by the final order by the Appellate Authority under sub-section (3) of Section 47-B may, within 30 days of such order submit a petition or revision solely on the ground of illegality of such order to the court of sessions within the sessions division.

(2) The Court of sessions may, if it finds any illegality in the order of the Appellate Authority, confirm reverse or modify the order passed by the Appellate Authority:

Provided that the Court of Sessions shall have no powers to stay the order of confiscation of the order passed by the Appellate Authority during pendency of the petition for revisions before it”.

3. As per provisions of Section 47-C of the Act, 1915, the revision is maintainable before the Sessions Judge, Kabeerdham, therefore, the petitioner has alternate and efficacious remedy available to him under the Act, 1915 to approach the Sessions Judge by filing revision petition within 30 days from the date of order passed by the Appellate Authority. As such, present petition is not maintainable.
4. As the petitioner has challenged the order dated 27-8-2019 passed by the Commissioner, Excise Department by filing this

petition before this court on 13-11-2019 and the petition is pending for the last more than 1 year, 9 months and 15 days, therefore, the period spent before this court as well as the period from 27-9-2019 till passing of the order by this court today i.e., 24-8-2021 are excluded from counting the period of limitation for filing of revision. If the petitioner files a duly constituted revision petition within a period of 30 days from the date of receipt of a copy of this order, the Revisional court, without considering the objection with regard to limitation, shall decide the revision petition on its own merits, in accordance with law.

5. It is made clear that this court has not expressed anything on merit of the case. The revisional court is free to decide the case on its own merits without there being influenced by any of the observations made by this court.
6. With the aforesaid observation and direction, the instant writ petition (cr) is disposed of.
7. Certified copy of the impugned order shall be returned to the counsel for the petitioner after retaining the photocopy of the same.

Sd/-

(Narendra Kumar Vyas)
Judge

Raju