IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8074 of 2011 (O&M)

Date of Decision: 18.01.2023

Udaiveer Singh

..….... Petitioner

V/s.

State of Haryana and Others

…......Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. A.K. Agnihotri, Advocate
for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana.

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Ritu Bahri, J (Oral)

This petition has been filed to challenge the impugned order dated 30.11.2010 passed by respondent No.2 (Annexure P-11) and the impugned order dated 26.08.2010 (Annexure P-10) passed by the Excise Commissioner-respondent No.3 and the impugned order dated 30.09.2005 (Annexure P-5) passed by respondent no.4 whereby a penalty of Rs.2,50,000/- under Section 61(i) of the Punjab Excise Act of 1914, has been imposed on the petitioner, by the Collector-cum-Deputy Excise & Taxation Commissioner (Excise), Panchkula.

On 09.02.2005, the vehicle was impounded when it was checked at dividing of Setor-7/8 Chowk, Panchkula by the Excise and Police staff. The truck bearing Registration No.HR-20A-3699 was intercepted and 3588 bottles (299 cases) of Chandigarh No.1 brand country liquour (meant for sale in Chandigarh only) were found in the said vehicle, without Excise pass/ permit or valid documents. In the proceedings, the petitioner-Udaiveer Singh, son of Gulab Singh was reflected as the registered owner of the said vehicle as per the Registration Certificate No.139/HTV-03 dated 17.02.2004.

The Deputy Excise & Taxation Commissioner issued notice by registered post to Sita Ram, Ram Bhagat and Udaiveer Singh and none appeared despite being several opportunities were granted. However, the case was decided on merits ex-parte and a penalty of Rs.2,50,000/- was imposed. Against this order, the petitioner filed an appeal before the Excise and Taxation Commissioner. In this appeal, he did not implead Sita Ram and Ram Bhagat as respondent(s) and the same was also dismissed by observing that at the time of confiscation, the vehicle was in the name of the petitioner-Udaiveer Singh and he was the registered owner of the vehicle and his claim that he sold his vehicle to Ram Bhagat-respondent No.5 on 15.12.2004 were not made out and he failed to prove that the vehicle was duly transferred to Ram Bhagat. The affidavit was also filed after a gap of 05 years of the purchase/sale of the vehicle which was made in the year 2004 and on this backdrop, the appeal filed by the appellant was dismissed. Thereafter, the petitioner filed a revision before the Financial Commissioner, Excise Department, Haryana and even that petition was dismissed vide order dated 30.11.2010.

In the present case, the fact that on the date of interception of the vehicle, the petitioner was found to be the registered owner of the vehicle-truck as per the Registration Certificate even if he had sold the vehicle to Ram Bhagat. He was issued a registered notice and was proceeded ex-parte before the Collector-cum-Deputy Excise & Taxation Commissioner (Excise), Panchkula. He did not appear and contest the penalty proceedings. Petitioner being the registered owner has been rightly imposed the penalty vide impugned order dated 30.09.2005 (Annexure P-5).

No ground is made out to interefere with the impugned order.

The present petition is dismissed.

However, the liberty is granted to the petitioner if he wants to avail legal remedy to recover the amount from Ram Bhagat, to whom he claims to have sold the vehicle.

Petition dismissed.

(RITU BAHRI)
JUDGE

18th January, 2023

(MANISHA BATRA)
JUDGE

Sonia Puri

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No