IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3681 of 2026

CNR No.ODHC010072832026

Sk. Tabrez .... ***Petitioner***

Mr. MD Golam Madani, Advocate

-Versus-

State of Odisha & Ors. .... ***Opposite Parties***

Ms. Aishwarya Dash, ASC

CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE CHITTARANJAN DASH

ORDER
30.10.2026

Order No.

01. **1.** By means of this application the Petitioner has assailed the order dated 28.04.2025 passed by the Excise Commissioner, Odisha, Cuttack, in Confiscation Appeal No.08 of 2025, whereby the order dated 14.02.2025 passed by the Authorised Officer-cum-Superintendent of Excise, Bhadrak, in Confiscation Case No.62 of 2024-25, directing confiscation of the Petitioner's Mahindra Bolero Pick-up vehicle bearing Registration No. OD-04-G-2783, has been affirmed.

2. The vehicle in question was seized on 26.11.2024 while transporting 2000 litres of illicitly distilled liquor. The case of the Petitioner is that he had no knowledge of such transportation and that

the confiscation proceeding was concluded ex parte without affording him an effective opportunity of hearing. It is further contended that, during the relevant period, he was attending to the medical treatment of his father-in-law at Bhubaneswar and Hyderabad and was, therefore, unaware of the alleged misuse of the vehicle.

3. On perusal of the order passed by the Authorised Officer, it appears that notices were issued to the Petitioner on more than one occasion. The initial notice was delivered on 18.12.2024, another notice was received by his father on 30.12.2024 and a further notice was received by the Petitioner on 13.01.2025. Significantly, the Petitioner had also submitted a written petition before the Authorised Officer on 17.01.2025. In such circumstances, the contention that the Petitioner was wholly unaware of the confiscation proceeding or was denied an opportunity to participate therein cannot be accepted. The mere fact that the proceeding was ultimately concluded ex parte would not, in the circumstances, render it violative of the principles of natural justice.

4. Section 71 of the Odisha Excise Act, 2008, empowers the competent authority to order confiscation of a vehicle used in the commission of an offence under the Act. However, the protection contemplated under sub-section (5) thereof is available to an owner who establishes that the vehicle was used without his knowledge or connivance, or that of his agent or the person in charge thereof, and that reasonable and necessary precautions had been taken against such use. Thus, mere assertion of absence of knowledge would not, by itself, be sufficient to attract the statutory protection. The authority

is equally required to examine the circumstances surrounding the use of the vehicle and the precautions, if any, taken by its owner.

5. The position of law in this regard is no longer res integra. It is well settled that, before ordering confiscation of a vehicle, the competent authority is required to independently examine whether the owner had knowledge of or connivance in its use for the commission of the offence and whether reasonable and necessary precautions had been taken to prevent such use.

6. The Authorised Officer has taken note of the statements of the two persons apprehended in the vehicle, who disclosed that the transportation of illicit liquor was being undertaken with the knowledge of the Petitioner. The recovery of a substantial quantity of illicit liquor, coupled with the aforesaid statements, was considered along with the Petitioner's failure to place any material demonstrating that reasonable and necessary precautions had been taken to prevent such misuse. The medical documents relied upon by the Petitioner, though indicative of the treatment of his father-in-law, do not, by themselves, establish either his lack of knowledge regarding the use of the vehicle or the precautions taken by him against its misuse. The Appellate Authority, upon consideration of the relevant materials and the submissions advanced on behalf of the parties, has affirmed the findings of the Authorised Officer.

7. This Court, in exercise of its jurisdiction under Articles 226 and 227 of the Constitution of India, is not required to reappreciate the materials as an appellate forum in the absence of any patent illegality, perversity or violation of the statutory procedure. No such

infirmity is discernible in the orders impugned herein. The conclusion reached by the authorities is founded upon relevant materials and does not warrant interference by this Court.

8. Accordingly, the writ petition is disposed of. It is, however, clarified that the Petitioner shall not be precluded from raising his grievance by availing himself of such statutory remedy as may be available to him in accordance with law.

(Harish Tandon)
Chief Justice

(Chittaranjan Dash)
Judge

AK Pradhan/Priyanka

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Location: High Court of Orissa, Cuttack
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