2026:UHC:3176

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Misc. Single No. 1136 of 2026

28 April, 2026

Mukesh Gunsola --Petitioner

Versus

Excise Commissioner, State of Uttarakhand and Others --Respondents

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Presence:-

Mr. Sandeep Kothari, learned counsel for petitioner.

Mr. N.S. Pundir, learned D.A.G. for the State of Uttarakhand/respondents.

Hon'ble Pankaj Purohit, J. (Oral)

Petitioner is aggrieved by the order dated 21.04.2026, whereby, learned District Magistrate/ Collector, Tehri Garhwal-respondent No.2 directed the petitioner to close his shop allotted to him at Hatwalgaon/Satyon Marorapul, Tehri Garhwal and ensure the running of shop in an undisputed and suitable place.

2. A preliminary objection has been raised by learned State Counsel that petitioner can very well maintain Appeal under Section 11(1) of the U.P. Excise Act, 1910 (hereinafter referred to as 'the Act'), before the Excise Commissioner. Section 11(1) of the Act is quoted hereinbelow:-

> "11.(1) The Collector, and every other Excise Officer (not being the Excise Commissioner) shall, in respect of all proceedings under this Act, be subject to the control of the Excise Commissioner and all orders passed by Collector or such other officer under this Act, shall be appealable to the Excise Commissioner in the manner prescribed by rules made by the State Government in this behalf:
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> Provided that no appeal shall be entertained under sub-section(1) unless it is preferred by the aggrieved person within thirty days from the date of

communication of such order, and unless the appellant has furnished satisfactory proof of having paid a sum of not less than 25 per cent, of the disputed amount of tax, fee, penalty or other dues, if any, as the case may be;

Provided further that the appellate authority may, for special and adequate reasons to be recorded in writing, waive or relax the requirements of the preceding proviso in respect of such disputed amount of tax, fees, penalty or other dues."

3. This Court is convinced with the submission made by learned State Counsel. In such view of the matter, writ petition is disposed of, giving liberty to petitioner to file an Appeal before the concerned Excise Commissioner within three days from today. If such Appeal is filed by petitioner before Appellate Authority/ Excise Commissioner, the same shall be considered by the Appellate Authority/Excise Commissioner within 10 days from the date of filing of the Appeal strictly in accordance with law. The arguments raised by petitioner before this Court in the writ petition would be available to him before the Appellate Authority.

4. Pending application also stands disposed of.

5. Let a certified copy of this order be supplied to learned counsel for the parties today itself, as per Rules.

(**Pankaj Purohit, J**.)
28.04.2026

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