HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 5139/2010
CNR: RJHC020266922010 | URN: CW / 8830U / 2010

Gopal Meena Son Of Shri Gulla Ramji Meena, aged about 57 years, R/o Village Nayan, Tehsil Shahpura, District Jaipur Raj.

----Petitioner

Versus

1. State Of Rajasthan Through Excise Commissioner, Udaipur, Rajasthan.
2. District Excise Officer, Jaipur Rural/recoveries, Jaipur.

----Respondents

For Petitioner(s)	:	Mr. Saransh Saini Mr. Vinod Sharma Ms. Sanjana Choudhary
For Respondent(s)	:	Mr. Saurabh Sharma Ms. Simran Sharma for Mr. Kapil Prakash Mathur, AAG

HON'BLE MR. JUSTICE SUDESH BANSAL
HON'BLE MR. JUSTICE ANUROOP SINGHI

Order

27/10/2026

1. We have heard learned counsel appearing on behalf of respective parties.

2. Petitioner has invoked the writ jurisdiction of High Court under Article 226 of the Constitution of India, by means of instant writ petition, questioning the legality of the order and notice of even date i.e. 02.03.2010 (Annex.1 and 2 respectively) issued by the District Excise Officer, Jaipur Rural, to proceed with the attachment and auction of the assets belonging to petitioner in order to recover the outstanding amount of Rs.4,60,419/- plus interest thereupon.

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3. Having considered the factual matrix of the matter, as culled out from the record, it is not in dispute that a licence to operate a liquor shop for the year 2007-2008 was issued in the joint name of Gopal Lal Meena and Anupam Panch, which was renewed for the next year 2008-09 as well, however, on account of registration of an FIR No.626/2008, the license came to be cancelled vide order dated 26.12.2008 at the risk and consequence of the license holders. Later on, the impugned order and notice dated 02.03.2010 have been issued to conduct the proceedings of attachment and auction of the properties, belonging to petitioner, in order to recover the outstanding amount of Rs.4,60,419/-.

4. Contention of counsel for the petitioner is that after cancellation of license, the security money was also forfeited simultaneously vide order dated 26.12.2008 and no notice has been served upon the petitioner to determine the outstanding amount, if any, nor any order determining the outstanding amount against petitioner has been passed, rather directly through impugned order dated 02.03.2010, the assets and properties of petitioner have been sought to be attached and auctioned to realise the outstanding amount. Hence, the impugned orders are ex-facie arbitrary, having no basis of determination of the outstanding amount.

5. Learned counsel appearing on behalf of respondents, during course of arguments, sought to place on record a copy of notice dated 31.03.2009, allegedly issued by the District Excise Officer, Jaipur, Rural, to the petitioner wherein the outstanding amount against the petitioner, on account of cancellation of his liquor

license in the mid term has been mentioned and petitioner was called upon to deposit that outstanding amount.

6. Counsel for the petitioner, having perused the notice dated 31.03.2009, submits that same was never served upon the petitioner, however, he is agreeable that if same is taken on record, petitioner may be given liberty to assail the same by way of filing an appeal under Section 9-A of the Rajasthan Excise Act, 1950, before the Excise Commissioner and all the contentions/objections in order to assail the impugned order/notice, including non issuance of a previous notice prior to passing of this order, may be left open to be raised by the petitioner.

7. Learned counsel appearing on behalf of the respondents have no objection in granting liberty to the petitioner to assail the order/notice dated 31.03.2009 by way of filing statutory appeal, however, they submit that in order to avail the remedy of appeal, petitioner is required to deposit 25% of the outstanding amount and there is limitation of 60 days to file the appeal.

8. From the perusal of the record, we find that in the instant writ petition, at the time of issuance of notice to the respondents, petitioner was called upon to deposit a lump sum amount of Rs.1.5 lakhs against the outstanding amount of Rs.4,60,419/- and according to counsel for the petitioner Rs.1.5 lakhs has already been deposited. On depositing such amount, further proceedings pursuant to the impugned order dated 02.03.2010 were stayed.

9. Without going into the merits and demerits of the case, since the order/notice dated 31.03.2009, wherein the outstanding amount against petitioner has been determined, has come on

record before this Court and same has come to the knowledge of petitioner as well, and as vide interim order dated 13.04.2010, petitioner has already been directed to deposit Rs.1.5 lakhs against the outstanding amount, which is more than the 25% pre-deposit as per Section 9-A of the Rajasthan Excise Act of 1950, we deem it proper to dispose of the instant writ petition on the agreed terms in following manner:-

(i) Petitioner shall be at liberty to file an appeal against the order/ notice dated 31.03.2009 under Section 9-A of the Rajasthan Excise Act, 1950, before the Excise Commissioner within a period of sixty days from today. In case, appeal is filed within sixty days, the same shall be considered within limitation and be heard and disposed of on merits in accordance with law;

(ii) The amount of Rs.1.5 lakhs so deposited by petitioner in furtherance to the interim order dated 13.04.2010 be considered as pre-deposit of 25% as per requirement of Section 9-A and if the amount has not been deposited, petitioner may deposit the same before filing the appeal;

(iii) Petitioner shall be at liberty to raise all legal and valid objections to assail the order/notice dated 31.03.2009 including raising objections for determination of the outstanding amount without serving any notice or without affording an opportunity of hearing.

10. Subject to depositing of amount of Rs.1.5 lakhs, if not deposited earlier, further proceedings pursuant to the impugned order and notice dated 02.03.2010 for attachment and auction of the assets and properties of petitioner, shall remain stayed until decision of the appeal on merits. We hope and trust that the

Appellate Authority shall hear and decide the appeal expeditiously in accordance with law.

11. Pending application, if any, also stand disposed of.

(ANUROOP SINGHI),J (SUDESH BANSAL),J

2/D-A/Pcg/Aman