

Case No. 178/2013

Shri Sanjay Vs. Excise Commissioner

10.07.2014 :

Present : Smt. A. Shingal, Counsel for the Appellant.
Sh. Rajesh Ranjan, Assistant Commissioner for
Respondent.

1. This appeal no. 178/2013 has been filed by Sh. Sanjay seeking to set aside the order dated November 14, 2012 whereby Dy. Excise Commissioner ordered to confiscate the vehicle no. DL5CH9212 and liquor found therein and impugned order dated August 21, 2013 of Commissioner (Excise) upholding the said order of Dy. Commissioner (Excise).
2. Brief facts of the case are that on January 31, 2012 Sh. Pratap Singh R/o H.No. 187 Singhal Pur Village Shalimar Bagh was apprehended by officials of Police Station Shalimar Bagh while transporting the liquor (288 Nips Besto Whisky and 29 Nips of Narangi special Masaledar Desi Sharab and 150 Nips of Desi Sharab), for sale in Haryana only, in vehicle Maruti ECCO No. DL5CH9212. Police officials seized and detained the said property and registered an FIR No. 28/2012 under Section 33 Delhi Excise Act and intimated the Excise Department. Dy. Excise Commissioner vide order dated November 12, 2012 confiscated the said vehicle and liquor and further ordered to auction the vehicle and disposed of the seized liquor.
3. Petitioner filed an appeal before Commissioner (Excise) who vide order dated August 21, 2013 upheld the order dated November 14, 2012 of Dy. Excise Commissioner.
4. Subsequently petitioner filed appeal under Section 72 (3) of Delhi Excise Act 2009, before this Court.

5. I have heard both the parties and considered the reply filed.
6. Appellant claims that his father Sh. Pratap Singh, who is accused of transporting the illegal liquor in matter does not know driving and also does not have a driving license. Appellant has alleged that Police officials planted the liquor in the vehicle and as such appellant has been implicated in this case under Excise Act. Further a case is pending before a trial Court of M.M. Delhi and vehicle has already been released on superdari to the applicant.
7. In reply, Excise Department, the respondent has submitted that vehicle Maruti ECCO having registration No. DL5CH9212 was confiscated for illegally carrying a large amount of liquor which was meant for sale in Haryana. As per section 59 (2) of Excise Act, where any vehicle is used in the commission of an offence under the Act, the same is liable to confiscation. The provisions of confiscation under Section 58 & 59 of Delhi Excise Act prevents the misuse of the vehicle again in the same offence.
8. In view of the submissions of petitioner and respondent, I am of the considered view that the case be remanded back to Commissioner (Excise) for fresh application of mind and for going into the merits of issues and points raised by appellant before this Court as well as before the appellate authority. Further the vehicle of the petitioner not be auctioned till the pendency of the case before the Excise Commissioner.
9. File be consigned to record room after completion.

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(D.M. Spolia)
Financial Commissioner
Delhi.

