

## **Rajasthan Tax Board, Ajmer**

**Revision (Excise) No. 865/2018/Dholpur**

M/s Gwalior Alcobrew Pvt. Ltd.,  
Rairu Farm, Agra Mumbai Road,  
Gwalior-474010 (M.P.)

...Petitioner

### **VERSUS**

1. State of Rajasthan
2. Excise Commissioner  
Rajasthan, Udaipur
3. District Excise Officer,  
Dholpur

...Respondents

**D.B.**

**SHRI MADAN LAL MALVIYA, MEMBER**

**SHRI OMKAR SINGH ASHIYA, MEMBER**

Present :

Shri Sameer Kumar Shrivastav,  
Advocate

for Petitioner


Shri N.K. Baid,  
Deputy Government Advocate

for Respondents

**Dated : 26/12/2018**

### **JUDGMENT**

1. This Revision has been filed by the petitioner under section 9A(4) of the Rajasthan Excise Act, 1950 (hereinafter called the "Act") alongwith the application for Condonation of Delay, against order of the Excise Commissioner, Rajasthan, Udaipur (hereinafter called the "Commissioner") dated 04.05.2018, who has disposed off the Appeal filed by the petitioner against order of the District Excise Officer, Dholpur (hereinafter called the "DEO") dated 09.02.2017. It is against this appellate order dated 04.05.2018 that the petitioner has filed this Revision Petition before the Rajasthan Tax Board.



2. Brief facts leading to the present Revision are that the excise authorities had seized a truck no. RJ 11-GA-2604 alongwith the liquor carried in this vehicle on 13.10.2016 for allegedly carrying the liquor without a valid permit and a case u/s 14/54 of the Act was registered on 14.10.2016. The DEO while passing the order u/s 69(2B) dated 09.02.2017 ordered release of the liquor. Aggrieved of the proceedings, the petitioner presented an Appeal before the Commissioner who passed the impugned order, summary of which is as under:
  - i) The Appeal on the issue of 900 cartons of liquor which was allegedly dispatched by the petitioner but was not returned to him, was dismissed being devoid of any substance. However, an impartial enquiry was ordered for the case registered u/s 14/54 of the Act; and
  - ii) it was directed to initiate a disciplinary proceeding against the erring officials for not returning the goods in the quantity as it was seized.
3. Aggrieved of the said order the petitioner has preferred this Revision u/s 9A(4) before the Tax Board to give directions to the respondents to return the goods in the same quantity as it was seized.
4. Learned counsel for the appellant submits that the Commissioner has not appreciated the facts of the case and has not ordered to return the exact quantity of the liquor as seized by the Excise Authorities. So, the petitioner's one and the only request before this Revisional Authority is to direct the respondents to return the remaining goods which was not handed over to it.
5. Per contra, the learned Deputy Government Advocate appearing for the respondents vehemently opposed the arguments as advanced by the petitioner and submits that for



some of the packings of the liquor, the respondents have in-fact returned the goods in excess of the quantity that was seized from the petitioner, so at best it can be a case of wrong mentioning of the packings where the actual receipts as claimed by the petitioner for 750 ml. & 375 ml. packings is in excess of the quantity seized by the excise officials, which has been mentioned in the FIR dated 14.10.2016. Not only this, the petitioner claims to have received additional 12 bottles of 180 ml. in loose quantity. He further requests that this appears to be a case of miscalculation on part of the respondent and the petitioner is unnecessarily harping on the issue to pressurize the departmental officers, so he requests to dismiss the Revision.

6. Heard the learned counsels for both the sides and perused the documents as annexed by the petitioner. First, the delay in filing of the revision is condoned and the matter is heard and disposed of on merits. It is pertinent to note that in the impugned order the Commissioner has elaborately dealt with the issues agitated before him and after weighing the evidence produced before him, has ordered an impartial enquiry in the case filed u/s 14/54 of the Act and directed the authorities concerned to file the investigation report. On the second issue i.e. receipt of the lesser quantity of the seized liquor, it has been held that the liquor as seized in the particular packings was not returned as such in the same packings, therefore, it was held to be an act of negligence and dereliction of duty on part of the officials concerned and directions have been given to the Additional Commissioner Excise (Administration), Udaipur, to initiate the disciplinary action against the erring officials namely (i) Shri Punit Sharma and (ii) Shri Yogendra Singh, for negligence and dereliction of duty; and (iii) Shri Riyazuddin Usmani, DEO for supervisory negligence. It is also revealed from the documents

annexed with the revision petitioner that the charge sheets have been issued against the erring officials.

7. It is noteworthy that the petitioner has submitted a comparative statement of the goods seized and released by the Excise officials and the alleged difference in quantity, which is reproduced as under:-

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Pack Size	Total Original Dispatch	As mentioned in FIR dated 14.10.2016 & to be returned as per Impugned DEO Order	Actual Received on 08.03.2017
750 ML	75	20	25
375ML	380	361	373
180 ML	445	395	377
<b>TOTAL</b>	<b>900</b>	<b>776</b>	<b>775</b>

Note: An additional 12 bottles of 180 ML were received loose separately.”

It is also worth mentioning that in totality the so-called difference in quantity as claimed by the petitioner, is of one bottle only. As apparent from the above table, 776 bottles were ordered to be released and the petitioner has in effect received 775 bottles. Not only this, the petitioner claims to have received additional 12 bottles of 180 ML. as stated at bottom of the table. However, we refrain from making any comment on the quantity shortage as alleged by the petitioner or on averment of the learned Deputy Government Advocate that the whole saga of allegedly receiving lesser quantity was motivated to pressurize the departmental officers, since the enquiry as ordered by the Commissioner, is under process.

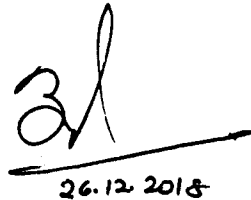
8. On perusal of facts of the case, this Division Bench finds that the Commissioner has fairly dealt with the issues, wherein, firstly the impartial investigation has been ordered to enquire the case registered u/s 14/54 of the Act and secondly, the directions have been given to initiate disciplinary action against the erring

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officials, and in compliance of which the charge sheets have been issued against the officers concerned. We, therefore, do not find any occasion and reason at this stage to interfere with the impugned order or to revise the same. Hence, the Revision is found to be not maintainable.

9. Resultantly, the Revision is dismissed.
10. Order pronounced.



26.12.2018  
(Omkar Singh Ashiya)

Member



(Madan Lal Malviya)

Member