

WPMS No. 2577 of 2020

Hon'ble Manoj K. Tiwari, J.

Mr. Rajat Mittal, Advocate for the petitioner.

Mr. T.S. Phartiyal, Additional C.S.C. for the State of Uttarakhand.

Heard learned counsel for the parties through video conferencing.

Petitioner was granted a licence for retail sale of Indian Made Foreign Liquor. Since there was some default on the part of the petitioner, therefore, District Magistrate, Dehradun passed an order for recovery against the petitioner.

Pursuant to the recovery order passed by the District Magistrate, Dehradun, a recovery citation has been issued by Tehsildar, Dehradun, whereby a sum of ₹1,34,16,268/- was sought to be recovered from the petitioner.

Earlier petitioner filed WPMS No. 1140 of 2020 before this Court. The said writ petition was disposed of vide order dated 14.08.2020 with liberty to the petitioner to make representation seeking some reasonable time to deposit the outstanding amount to Excise Commissioner and Excise Commissioner was directed to take appropriate decision on petitioner's representation.

Now, Excise Commissioner has taken decision on petitioner's representation vide order dated 29.10.2020, where it has been provided that if petitioner deposits 25 per cent of the amount, i.e. ₹30,49,166/- sought to be recovered, within one week, the remaining amount shall be recovered in monthly installments.

In the present writ petition, petitioner has challenged the condition imposed by the Excise Commissioner of depositing 25 per

cent of the amount sought to be recovered from him, pursuant to the order passed by District Magistrate, Dehradun.

Section 11(1) of the Excise Act provides that appeal shall be entertained only if 25 per cent of the disputed amount, sought to be recovered, is deposited by the person filing the appeal. Petitioner's representation/appeal was entertained without insisting upon fulfillment of the condition mentioned in Section 11(1) of the Excise Act and in the final order, Excise Commissioner/Appellate Authority has asked the petitioner to deposit 25 per cent of the total amount.

Since remedy of revision is available to the petitioner under Section 11(2) of the Excise Act and petitioner's counsel submits that petitioner has already availed this remedy, therefore, this Court does not find any reason to interfere with the order passed by the Excise Commissioner.

Accordingly, the writ petition is disposed of with request to the Revisional Authority to decide petitioner's revision expeditiously.

(Manoj K. Tiwari, J.)

31.12.2020

Aswal