

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
ACTING CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 2nd OF JULY, 2025

WRIT PETITION No. 23607 of 2025

M/S MAHAKUSHAL TRADING CO.

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Rahul Diwakar - Advocate for petitioner.

Dr. S.S. Chouhan - Government Advocate for respondents/State.
.....

ORDER

Per. Sanjeev Sachdeva, Acting Chief Justice

Petitioner impugns order dated 13.06.2025 passed by the Deputy Excise Commissioner, Jabalpur whereby a penalty of Rs.3,97,168/- equivalent to one day's licence fee has been imposed on the petitioner.

2. Learned counsel for the petitioner submits that a show cause notice dated 23.05.2025 was received by the petitioner and petitioner sent a response to the said notice on 26.05.2025. However, in the impugned order dated 13.06.2025, the respondents have disregarded the reply filed by the petitioner by only stating that the reply is not satisfactory.

3. Issue notice.

4. Notice accepted by the learned counsel appearing for respondents.

5. With the consent of parties, the case is taken up for final disposal.

6. Learned Deputy Advocate General appearing for the respondents submits that petitioner was found to be selling liquor at a price above the maximum retail price. He submits that petitioner was liable to comply with the terms and conditions of the licence and the excise policy specifically stipulates that in case of breach of the licence conditions or sale by the vendor beyond the maximum retail price, the penalty equivalent to one day's minimum duty payable shall be the fixed amount of penalty. He submits that keeping that in account the penalty amount of Rs.3,97,168/- has been imposed.

7. Per contra, learned counsel for petitioner submits that since the reply has not been taken into account, the matter should be remitted to the competent authority to re-adjudicate the show cause notice. He further submits that the requisite documents relied upon for issuance of show cause notice were not provided to the petitioner. He submits that without prejudice to the rights and contentions, petitioner is willing to deposit the penalty amount with the authorities subject to the outcome of the show cause notice and without the same amounting to an admission by the petitioner. Petitioner impugns the vires of the excise policy, inasmuch as, it imposes a penalty amount allegedly in contravention of Section 39 of the M.P. Excise Act, 1915.

8. In view of the above and particularly in view of the fact that the impugned order only records that the reply to the show cause notice is not satisfactory, the order is clearly erroneous. Petitioner has placed on record an e-mail dated 26.05.2025 whereby the reply to the show cause notice was annexed.

9. In view of the above, the impugned order dated 13.06.2025 is set aside. Subject to the petitioner depositing the penalty amount of Rs.3,97,168/- with the respondents within one week, respondent No.2 shall re-adjudicate the show cause notice dated 23.05.2025. Respondent No.2 shall also provide to the petitioner all relied upon documents in the show cause notice within a period of one week. Petitioner shall thereafter file a response to the show cause notice within two weeks thereafter. It is clarified that the deposit of the penalty amount shall be without prejudice to the rights and contentions of the parties and shall not amount to an admission of any nature on behalf of the petitioner.
10. The writ petition is accordingly disposed of in the above terms.

(SANJEEV SACHDEVA)
ACTING CHIEF JUSTICE

(VINAY SARAF)
JUDGE

MSP