

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**(JUDICIAL DEPARTMENT)**

**Writ Petition No.770 of 2020**

Sher Bahadur Khan  
*Versus*  
Excise & Taxation Office & others

Petitioner By: Shaukat Mehmood Malik Advocate

Date of decision: 11.05.2020.

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**GHULAM AZAM QAMBRANI, J.**:-The petitioner through the instant Writ Petition, filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeks setting aside of orders dated 17.07.2019 passed by the Excise & Taxation Officer Motor Registering Authority, Islamabad, dated 07.11.2019 passed by the Director Excise & Taxation Appellate Authority ICT, Islamabad and dated 25.01.2020 passed by the District Collector/Director General Excise & Taxation ICT, Islamabad, whereby the appeal and revision petitions filed by the petitioner, were dismissed, hence this petition with the following prayer;-

“It is, therefore, respectfully prayed that the writ petition may please be accepted and the impugned orders dated 25.01.2020, 07.22.2019 and 17.07.2019 passed by the respondents may very graciously be set aside and the vehicle in-question applied for vehicle Model 2014, Bearing Engine No. 2KDA313698, Chassis No. AHTFR29G907039820, Maker” Toyota Hilux may very graciously be ordered to be handed over to the petitioner on Superdari in the best interest of justice, fair play and equity.

Any other relief, which this Hon’ble Court deems fit and proper, may also be awarded.”

2. Learned counsel for the petitioner submits that the petitioner is a lawful and bonafide purchaser of the vehicle through an agreement dated 03.04.2019 executed by one Ghazanfar Abbas, on

the basis whereof the vehicle in-question may be handed over to him on Superdari.

3. Perusal of record reveals that infact the vehicle in-question was seized by the staff of Excise & Taxation Department due to its suspicious chassis under Rule 3 of the Islamabad Capital Territory (Seizure & Disposal of Motor Vehicles) Rules, 2014. The vehicle was sent to the Forensic Science Laboratory for chemical examination of its chassis number. After examination, the Forensic Science Laboratory Capital Territory Police, Islamabad, issued the following report on 03.05.2019:-

“The Chemical treatment of the chassis number of **Toyota Hilux** Reg. No.**Nil**.in the case as subject has revealed that its chassis number plate has been found cut and another iron piece bearing number **AHTFR29G807039280** has been welded on its chassis number place.”

4. The impugned order dated 17.07.2019 shows that in fact the vehicle in-question was taken into possession from one Imran Khan son of Ghulab Khan, who was issued notice by the Excise & Taxation Officer for hearing and for establishing the genuineness of his ownership of the said vehicle, but he failed to produce any evidence. On the basis whereof, the said vehicle was confiscated under Rule 7 of Islamabad Capital Territory (Seizure & Disposal of Motor Vehicles) Rules, 2014. For ready reference, Rule 7 of above said Rules is reproduced hereunder:-

“**Confiscation.**\_ If no claim is received pursuant to the proclamation made under Rule 6, or if received and the claimant is unable to prove his bonafide ownership to the vehicle, the MRA shall record his order for confiscation of vehicle and confiscate the same in favour of Government and subject to Rule 8, dispose of the vehicle by way of sale in an open auction through an auction committee to be constituted by the Government. The sale proceeds thereof shall, after clearance of the dues of the

Custom Department, if any, in the form of custom duty, sale tax, etc, be paid into Government Treasury:

Provided that the confiscated vehicle in which no other number is deciphered on its chassis sheet is refitted and welded, will not be put to sale by way of auction. Such vehicles can be retained in the Excise & Taxation Department for performance of official duties or allotment to other Departments of the Government for official duty, by the Director General, after fulfilling all the codal formalities.”

5. The petitioner feeling aggrieved from order dated 17.07.2019, preferred an appeal before respondent No.3/Director Excise & Taxation Appellate Authority ICT, Islamabad, which was also rejected vide order dated 07.11.2019, whereby order dated 17.07.2019 was upheld. The petitioner challenged the impugned orders before the District Collector/Director General Excise & Taxation Office, Islamabad by filing a revision petition which was also dismissed vide order dated 25.01.2020, hence this petition.

6. After hearing the learned counsel for petitioner and going through the entire record, appended with this petition, it has been observed that the vehicle in-question is not a registered one and on the other hand, the chemical expert has found that the chassis number plate has been cut and another iron piece, bearing number AHTFR29G807039280 has been welded on its chassis number place.

7. The vehicle in-question has already been confiscated under Rule 7 of Islamabad Capital Territory (Seizure & Disposal of Motor Vehicles) Rules, 2014. No case is pending against the said vehicle, therefore, question of superdari does not arise. The record further reveals that the vehicle in-question was taken into possession from one Imran Khan s/o Ghulab Khan, who was the last possessor of the said vehicle. Under the law of Superdari, vehicle can only be handed

over to the last possessor or to the recorded owner, but in the case in hand, admittedly the vehicle in-question is not a registered one and the petitioner is neither found to be a recorded owner nor the last possessor of the said vehicle. On the other hand, chassis number of the vehicle has also been found cut and welded.

8. While perusing the record, it has been observed that chassis number of the vehicle in-question has been wrongly mentioned in para 02 & in the prayer clause of the instant petition, in paras 02 & 03 of the impugned order, in the revision petition and in the appeal as "Chassis No. AHTFR29G907039820" whereas the actual chassis number of the vehicle in-question as mentioned in agreement to sell dated 03.04.2019 and in the report of Forensic Science Laboratory Capital Territory Police, Islamabad, dated 03.05.2019, is "AFTFR29G807039280".

9. In view of above discussion, this Court finds no illegality or irregularity in the impugned orders passed by respondents No.1 to 3, therefore, this petition, having no force, is dismissed in limine.

**(GHULAM AZAM QAMBRANI)**  
**JUDGE**

"S.Akhtar"