

The Odisha Excise Act, 2005

Section 71 - Seizure of property liable to confiscation :—

1) (a) When there is reason to believe that any offence under this Act has been committed, the intoxicant, materials, stills, utensils, implements, apparatus, receptacles, package, coverings, animals, carts, vessels, rafts, vehicles, or any other conveyances or articles or materials used in committing any such offence may be seized by the Collector or any Officer of the THE ODISHA EXCISE ACT, 2008 Excise Police, Customs or Revenue Departments. (b) any intoxicant lawfully imported, transported, manufactured in possession or sold along with, or in addition to, any intoxicant which is liable to seizure under clause (a) and the receptacles, packages and coverings in which any such intoxicants as aforesaid, or any such materials, stills, utensil, implement or apparatus as aforesaid, is found and the other contents, if any, of such receptacles or packages, and the animals, carts, vessels, rafts, vehicles or other conveyances used in carrying the same, shall likewise be liable to seizure. (2) Every officer seizing any property under this section shall, except where the offender agrees in writing to get the offence compounded under Section 75, produce the property seized before the Collector, or an officer, not below the rank of a Superintendent of Excise, authorized by the State Government in this behalf by notification (hereinafter referred to as Authorized Officer). (3) Where the Collector or the Authorized Officer seized any property under Sub-section (1) or where the property seized is produced before him under Sub-section (2) and he is satisfied that an offence under this Act has been committed in respect thereof, he shall, without prejudice to any other punishment to which the offender is liable under this Act, order confiscation of the property so seized or produced together with all other materials, articles, vehicles or conveyances used in committing such offence, whether or not a prosecution is instituted for the commission of such an offence. (4) No order confiscating any property shall be made under Sub-section (3) unless the person from whom the property is seized is given (a) a notice in writing informing him of the grounds on which it is proposed to confiscate such property; (b) an opportunity of making a representation in writing within such reasonable time as may be specified in the notice; and (c) a reasonable opportunity of being heard in the matter. (5) Without prejudice to the provisions of Sub-section (4), no order of confiscation under Sub-section (3) of any articles, materials, vehicles or conveyances shall be made if the owner thereof proves to the satisfaction of the Collector or the Authorized Officer, as the case may be, that it was used without his knowledge or connivance or the knowledge or connivance of his agent, if any, or the person in charge of such property, in committing the offence and that each of them had taken all reasonable and necessary precautions against such use. (6) Any person aggrieved by an order passed under Sub-section (3) may, within thirty days from the date of such order, appeal to the Excise Commissioner, who shall after giving an opportunity to the parties to be heard, pass such order as he may think fit. (7) The property seized under this Section shall be kept in the custody of the Collector, the Authorized Officer or the other officer seizing such property or with any third party, until the amount for compounding the offence or the sum equal to the prevailing market value of the seized property or both are paid or until it is confiscated as the case may be : Provided that the seized property shall not be released during pendency of the 26 THE ODISHA EXCISE ACT, 2008 confiscation proceedings even on the application of the owner of the property for such release. (8) Whenever property seized is liable to confiscation under this section and the offender or the person entitled to possession is not known or can not be found, the case shall be inquired into and determined by the Collector or the Authorized Officer, who may order confiscation : Provided that no such order shall be made until the expiration of one month from the date of seizing of the property to be confiscated, or without hearing any person who may claim any right within the said period and the evidence if any, which he produces in support of his claim. (9) If the property seized is liable to speedy and natural decay, or if the Collector or the Authorized Officer, as the case may be, is of the opinion that sale would be for the benefit of its owner, such officer may, at any time, direct it to be sold and the provisions of this section shall, as nearly as may be practicable, apply to the net proceeds of the sale. (10) Subject to the rules as may be made by the State Government under Section 90, the Collector or the Authorized Officer, while making an order of

confiscation, may also order that such of the properties to which the order of confiscation relates, which in his opinion to be recorded in writing cannot be preserved or not fit for human consumption, may be destroyed. (11) Where the Collector or the Authorized Officer after passing an order of confiscation under Sub-section (3) is of the opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof to be sold by public auction or dispose of departmentally. (12) The Collector or the Authorized Officer shall submit a full report of all particulars of confiscation to the Excise Commissioner within twenty-four hours of such confiscation. (13) The Collector or the Authorized Officer shall, for the purposes of this Act, have the same powers as are vested in the Civil Court under the Code of Civil Procedure, 1908, while making inquiries under this section in respect of the following matters namely : (a) receiving evidence on affidavit; (b) summoning and enforcing the attendance of any person and examining him on oath; and (c) compelling the production of documents,

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