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EXCISE LAW AND THE CONFISCATION OF VEHICLES: DETERRENCE VERSUS OVERREACH OF POWER

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KEYWORDS	ABSTRACT
Excise Act, vehicle confiscation, deterrence, overreach of power, constitutional rights, administrative discretion, Article 300A, procedural safeguards, proportionality, liquor laws.	The confiscation of vehicles under the Excise Act, 1915 has long been justified by the State as a preventive and deterrent mechanism against the illegal transportation and trade of liquor. However, this practice has sparked serious legal and constitutional concerns, especially in light of increasing allegations of administrative overreach, procedural arbitrariness, and violation of property rights. This research paper critically examines whether such confiscation truly serves its intended purpose of deterrence or if it inadvertently results in a disproportionate curtailment of civil liberties and misuse of state power. Anchored in doctrinal and analytical methodology, the paper studies the statutory scheme under the Excise Act, judicial pronouncements, and comparative legal standards to assess the legitimacy and impact of vehicle confiscation measures. The paper further delves into the tension between State objectives and individual rights under Articles 14, 19(1)(g), and 300A of the Constitution. While the power to confiscate may serve public interest in controlling illicit liquor trade, the research highlights the urgent need for procedural safeguards, proportionality in enforcement, and harmonization of State practices to ensure that such powers are exercised within the bounds of law and justice. By engaging with judicial trends, policy analysis, and constitutional scrutiny, this paper aims to contribute to the broader discourse on balancing deterrence with rights-based governance in the context of excise regulation.

1. INTRODUCTION

1.1 Background of the Study

The regulation of intoxicating substances through excise law has long been a critical area of state control in India, particularly under the umbrella of public health, morality, and revenue. The Madhya Pradesh Excise Act, 1915, like similar legislations in other states, confers broad powers upon excise authorities to curb the illegal manufacture, transport, and sale of liquor. Among its coercive

tools, the confiscation of vehicles used in transporting contraband liquor has emerged as a prominent mechanism intended to deter such offences. While this measure is ostensibly designed to disable supply chains and penalize violators, it has increasingly come under scrutiny for its legal soundness and procedural fairness.

With the rising number of vehicle confiscation cases in recent years, especially involving commercial transporters, taxi drivers, or owners

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unaware of the illicit cargo being carried in their vehicles, serious constitutional and legal concerns have been raised. Critics argue that the law sometimes fails to differentiate between willful offenders and innocent third parties. Furthermore, the lack of uniform procedures, coupled with wide discretion granted to excise officers, often leads to arbitrary confiscation, raising questions under Articles 14 (equality before the law), 19(1)(g) (right to trade), and 300A (protection of property) of the Indian Constitution.

This issue is further compounded by varying interpretations by High Courts and the absence of a centralized legal standard for confiscation proceedings. The practice also raises larger questions about the nature of deterrent laws and whether such preventive mechanisms align with the principles of natural justice, proportionality, and due process. As India continues to reform its criminal and regulatory frameworks, the time is ripe to reassess whether vehicle confiscation under excise law strikes a necessary balance between public interest and individual rights, or whether it reflects a punitive overreach cloaked in deterrence rhetoric.

1.2 Objectives of the Research

- To examine the legal framework governing the confiscation of vehicles under the Excise Act, 1915 and its contemporary application.
- To analyze whether confiscation serves as an effective deterrent against excise violations or amounts to administrative overreach.
- To suggest legal and procedural reforms for ensuring proportionality, accountability, and rights-based enforcement in vehicle

confiscation under excise laws.

1.3 Research Methodology

The present research adopts a doctrinal and analytical methodology, relying extensively on primary and secondary legal sources. Primary sources include statutory provisions of the Excise Act, 1915 and relevant state excise rules, as well as constitutional provisions such as Articles 14, 19(1)(g), and 300A. Judicial pronouncements from the Supreme Court and various High Courts are critically analyzed to understand interpretative trends and judicial reasoning surrounding vehicle confiscation.

Secondary sources comprise scholarly articles, legal commentaries, law commission reports, and policy documents, which are used to assess theoretical frameworks, identify gaps in implementation, and situate the legal discussion within broader policy objectives. Comparative analysis is employed to examine how other legal systems—particularly in the United States, the United Kingdom, and Canada—approach similar issues of vehicle or property confiscation, especially in the context of regulatory offences. This helps in evaluating the Indian framework in light of international best practices.

2. LITERATURE REVIEW

2.1 Historical Context of Excise Law in India

The roots of excise law in India can be traced back to the colonial era, where the British administration recognized excise revenue as a crucial source of income, particularly from the manufacture and sale of alcohol and narcotic substances. The foundation was laid by various provincial legislations in the late 19th century, which were eventually unified

through a central framework. The Indian Excise Act of 1904, introduced during Lord Curzon's tenure, served as a model for many provincial excise laws. However, with the decentralization of excise regulation after independence, states were granted the authority to enact their own excise laws under Entry 8 of the State List (List II) in the Seventh Schedule of the Constitution of India.

The Madhya Pradesh Excise Act, 1915 is one such state-level enactment, originally promulgated during British rule but continuing post-independence with various amendments. It governs the production, possession, sale, and transport of intoxicating liquors and narcotics within the state. Over time, the law has evolved not only as a revenue mechanism but also as a tool of regulation and enforcement against illegal trade. Vehicle confiscation, although not part of the original statutory framework, gradually emerged as a significant enforcement measure aimed at curbing excise-related offences. Its incorporation reflects a shift in legislative intent—from mere regulation to active deterrence.

The historical trajectory of excise law in India thus reveals a dual purpose: safeguarding public morality and generating state revenue, both of which have influenced the evolution of confiscatory powers under state excise statutes.

2.2 Theoretical Framework: Deterrence vs. Rights-Based Governance

The legal mechanism of vehicle confiscation under excise law can be evaluated through two competing theoretical lenses: deterrence theory and rights-based governance. Deterrence theory, rooted in classical criminology and economic models of law

enforcement, suggests that individuals are rational actors who weigh the costs and benefits of unlawful behavior. From this standpoint, harsh penalties like confiscation serve as powerful disincentives, especially in excise-related offences where the illegal transport of liquor or narcotic substances typically involves vehicles as primary instruments of crime. Confiscation, therefore, is perceived not only as a punitive measure but also as a symbolic assertion of the state's intolerance toward excise violations.

Contrastingly, the rights-based governance framework emphasizes individual liberties, due process, and constitutional safeguards, arguing that state action must be fair, proportionate, and non-arbitrary. This model is deeply informed by constitutional values, especially Articles 14 (equality before the law), 19(1)(g) (freedom to practice any profession), and 300A (right to property). The rights-based critique posits that vehicle confiscation—often executed through executive discretion without adequate judicial oversight—risks infringing upon the fundamental rights of not only the accused but also innocent third parties such as vehicle owners uninvolved in the alleged offence.

This theoretical tension underscores a larger question: should the law prioritize deterrence at the cost of procedural fairness and individual rights, or should it be recalibrated to maintain a just balance between state authority and civil liberties? The current legal discourse on excise-related vehicle confiscation increasingly calls for a synthesis of both approaches to ensure that enforcement mechanisms are both effective and constitutionally

sound.

2.3 Analysis of Existing Legal Literature and Commentaries

The discourse surrounding vehicle confiscation under the Excise Act, 1915, has received relatively limited but evolving attention in Indian legal literature. Early commentaries on excise law, such as those found in state-specific manuals (e.g., Madhya Pradesh Excise Manual and Uttar Pradesh Excise Manual), primarily focus on procedural enforcement and administrative discretion, often lacking critical engagement with constitutional concerns. Scholars like Dr. R.K. Bangia and K.D. Gaur have acknowledged the broader implications of confiscation under criminal and special laws but have not explored excise-specific confiscation in detail. Their work, however, provides a foundation for understanding the intersection of penal measures and property rights.

Recent articles and law reviews have begun interrogating the constitutionality of executive confiscation powers, especially in light of judicial decisions such as *Mohd. Haroon Ansari v. District Magistrate*, which questioned the due process in such actions. Commentators in journals such as the *Indian Journal of Constitutional Law* and *NUJS Law Review* have emphasized the need for harmonizing confiscation laws with Article 300A and the principles of natural justice. The literature increasingly critiques the lack of uniform procedural safeguards and the potential for abuse of discretion by excise authorities, particularly in cases where ownership of the confiscated vehicle lies with a third party uninvolved in the offence.

Furthermore, comparative commentaries have

highlighted how jurisdictions like Canada and the UK incorporate judicial review and restitution mechanisms in property seizure laws—features largely missing in Indian excise frameworks. Overall, the existing body of literature suggests a growing recognition of the need to shift from an enforcement-heavy, deterrence-centric approach to one that prioritizes constitutional accountability, uniformity, and proportionality.

3. LEGAL FRAMEWORK AND STATUTORY ANALYSIS

3.1 Vehicle Confiscation under the Excise Act, 1915

The Madhya Pradesh Excise Act, 1915, like many other state excise statutes, empowers the authorities to seize and confiscate vehicles involved in the illegal transport, possession, or trade of intoxicants. The legislative intent behind such confiscation provisions is rooted in deterrence—aiming to curb excise-related offences by depriving offenders of the means of committing the crime. However, the exercise of this power often raises significant concerns regarding proportionality, procedural safeguards, and consistency with constitutional protections.

Under Section 47 of the Madhya Pradesh Excise Act, vehicles used in the commission of an offence, such as transporting liquor without a valid license or permit, are liable to be seized by excise officers. This provision is further supplemented by procedural rules framed under the Act, which outline the steps for seizure, production before the excise authority, and eventual confiscation after inquiry. The confiscating authority, generally the District Collector or an officer empowered by the

State Government, is vested with quasi-judicial powers to determine whether the vehicle was indeed used in contravention of the Act.

What distinguishes excise-related confiscation from traditional criminal forfeiture is that such proceedings may be initiated independently of the outcome of the criminal trial. This parallel process has been recognized in several judicial pronouncements, such as *State of M.P. v. Uday Singh* (2005) and *State of M.P. v. Kallo Bai* (2017), where courts upheld the independent authority of excise officers to confiscate vehicles regardless of acquittal or pendency of the trial. This procedural deviation, although legally permissible under the Act, has been criticized for undermining the presumption of innocence and allowing for the exercise of executive discretion without sufficient judicial oversight.

Moreover, Section 47(1) grants wide discretion to the excise authority, including the power to forfeit vehicles permanently. The Act does not uniformly define the standards for invoking this power, leading to allegations of arbitrariness. The absence of a clear classification between major and minor offences, or between habitual and first-time offenders, further complicates the legal landscape.

An area of concern that arises frequently is the lack of protection for innocent third-party owners—for example, where vehicles are leased or borrowed and used without the owner's knowledge in the commission of an offence. Although judicial pronouncements have offered relief in some cases, such protections are not codified under the Act, leaving vehicle owners vulnerable to penal action for acts beyond their control.

3.2 Procedural Provisions and Administrative Powers

The procedural framework governing vehicle confiscation under the Madhya Pradesh Excise Act, 1915, is primarily centered around administrative discretion, which is exercised by excise officers empowered under the Act. The excise authorities, primarily District Collectors and designated excise officers, are vested with substantial administrative powers to enforce the provisions relating to the confiscation of vehicles involved in illicit liquor trade or transportation. These powers, while intended to provide swift action against violations, also present potential challenges regarding consistency and fairness in their application.

Seizure and Confiscation Procedure

The procedure for vehicle confiscation begins with the seizure of the vehicle by excise officers, typically upon reasonable suspicion that the vehicle is being used in an offence under the Excise Act. Section 47 of the Act empowers these officers to seize any vehicle involved in the illegal transportation of intoxicants. This action can be taken even before any formal judicial inquiry or criminal prosecution has been initiated. Once the vehicle is seized, the excise authorities are required to provide a notice of seizure, which must include the grounds for the action taken.

Following the seizure, an inquiry is conducted by the excise officer or the designated authority. During this stage, the owner of the vehicle (if known) is given an opportunity to present their case and challenge the confiscation. However, this process is often criticized for lacking the rigour and procedural safeguards found in criminal trials. The

absence of a formal mechanism for cross-examination of evidence or for legal representation can result in unfair outcomes, particularly for innocent owners or those without legal resources.

Once the inquiry is completed, the excise authority can order the confiscation of the vehicle, which is typically subject to the discretion of the officer overseeing the case. This discretionary power has raised concerns over the uniformity and transparency of its application, especially since the Excise Act does not provide strict guidelines or criteria for when confiscation is justified.

Delegated Powers and Administrative Discretion

A significant feature of the procedural provisions under the Excise Act is the delegation of powers to various administrative officers, which allows the state to exercise wide discretion in enforcing the law. While this delegation is intended to facilitate swift administrative action, it also opens the door for inconsistencies and even misuse of power. The Act grants substantial autonomy to excise officers, including powers to investigate, seize, and confiscate vehicles. However, the Act fails to prescribe strict standards for how these powers should be exercised, leading to variations in practice across different states and districts.

In certain instances, the delegation of powers to local excise officers has led to inconsistent enforcement practices, with some regions demonstrating more aggressive or lenient approaches to vehicle confiscation. These variations have led to calls for the standardization of procedural norms to ensure that confiscation powers are exercised equitably and consistently

across all regions. This would also help ensure greater adherence to fundamental rights and the principles of natural justice.

Role of Judicial Oversight

Judicial oversight over the administrative exercise of confiscation powers under the Excise Act is limited but not absent. In cases where vehicle owners challenge the confiscation order, the matter is referred to the District Court or the High Court for review. However, the procedure for seeking judicial relief is often cumbersome and time-consuming, which can delay the possibility of redress for affected individuals. Furthermore, the judicial intervention is reactive, meaning that judicial bodies can only act after the confiscation has occurred, rather than having proactive oversight during the decision-making process.

The role of judicial review remains critical in cases where the excise authority's actions might infringe upon constitutional rights, such as the right to property (Article 300A) or the right to a fair hearing (Article 14). Despite the potential for judicial intervention, the limited scope of judicial oversight under the current framework reduces the ability to address grievances in real time, especially when confiscation is carried out without sufficient procedural safeguards.

3.3 Allied Laws and Overlapping Jurisdictions

In addition to the Madhya Pradesh Excise Act, 1915, which primarily governs the confiscation of vehicles involved in the illegal transport of excisable goods, several other laws and regulations come into play that govern the confiscation of vehicles in different contexts. These laws not only supplement the provisions of the Excise Act but

also create overlapping jurisdictions and procedural complexities. It is essential to understand how vehicle confiscation is treated under these allied laws and how the frameworks of these laws interact with the Excise Act, leading to potential legal challenges and conflicts in enforcement.

The Narcotic Drugs and Psychotropic Substances Act, 1985

One of the most prominent allied laws that deal with vehicle confiscation is the Narcotic Drugs and Psychotropic Substances Act (NDPS Act), 1985. The NDPS Act addresses the illegal trade and transportation of narcotics and psychotropic substances, and like the Excise Act, it empowers authorities to confiscate vehicles involved in the commission of offences under the Act.

Under Section 60 of the NDPS Act, vehicles used in the transportation of narcotics can be seized and confiscated. However, a significant difference in comparison to the Excise Act is that the NDPS Act mandates the confiscation of vehicles only after conviction, which ensures a more rigorous procedural framework before any punitive action is taken. The overlap between the two Acts can arise when a vehicle is used for the illegal transportation of both narcotics and excisable goods, leading to the possibility of dual confiscation proceedings under the Excise Act and the NDPS Act.

Motor Vehicles Act, 1988

The Motor Vehicles Act, 1988 (MVA) also contains provisions for the confiscation of vehicles, particularly in the context of road safety and violations of traffic laws. Sections 207 and 208 of the MVA allow for the seizure of vehicles involved in certain criminal acts or violations of road safety

laws, such as reckless driving, unlicensed driving, and other offences that endanger public safety. While these provisions are not directly related to the confiscation of vehicles under the Excise Act, they provide an additional layer of legal framework that can impact the enforcement of vehicle confiscation policies.

In cases where a vehicle is used for the transportation of excisable goods without the required licenses or permits under the Excise Act, it may also attract penalties under the MVA. The overlap between the provisions of the MVA and the Excise Act creates confusion regarding the procedures for seizure and confiscation, leading to potential challenges in determining which Act takes precedence or whether both Acts apply simultaneously.

The Prevention of Corruption Act, 1988

In cases where vehicles are involved in the illegal transport of excise goods or narcotics due to corruption among law enforcement officers or excise officials, the Prevention of Corruption Act, 1988 (PCA) comes into play. The PCA addresses corruption among public officials and provides for the seizure and confiscation of properties, including vehicles, acquired through corrupt practices.

While the PCA is not directly related to vehicle confiscation under the Excise Act, the two legal frameworks can intersect when corrupt practices result in the illegal movement of excisable goods. The confiscation of vehicles in such cases can be pursued both under the Excise Act and the PCA, adding another layer of complexity to the legal process.

Overlapping Jurisdictions and Procedural Challenges

The overlapping jurisdictions of the Excise Act, NDPS Act, MVA, and PCA can create significant procedural challenges. In cases where a vehicle is involved in multiple illegal activities, authorities may have to determine which Act applies to the confiscation process. Moreover, the procedural requirements for vehicle confiscation under each of these laws differ, which can lead to conflicts in enforcement.

For example, under the Excise Act and the NDPS Act, a vehicle can be seized before any conviction has been made, while under the MVA, confiscation generally follows a legal adjudication. This discrepancy in procedural requirements can result in confusion and delays, especially in cases where a vehicle is involved in the transport of multiple contraband goods, or where different authorities are involved in the confiscation process.

Furthermore, the lack of coordination between different law enforcement agencies—such as the excise department, police, and narcotics control bureau—can exacerbate the challenges of overlapping jurisdictions. Without a clear legal framework or cooperative mechanism, confiscation proceedings can become protracted, and affected individuals may face difficulties in contesting the seizures.

4. DETERRENCE OR OVERREACH? A CRITICAL EXAMINATION

4.1 The State's Justification: Preventing Illicit Liquor Trade

One of the primary justifications advanced by the state for the confiscation of vehicles under the

Excise Act, 1915 is the need to prevent and suppress the illegal manufacture, transport, and sale of liquor. In states like Madhya Pradesh, where excise revenue forms a substantial part of the state's finances, strict enforcement measures are seen as necessary to deter illicit activities that threaten both public health and revenue integrity.

The logic is that vehicles are not merely incidental but instrumental in the supply chain of illicit liquor operations. Whether it involves the transportation of raw materials like molasses or the final contraband product, vehicles serve as enablers of evasion. By confiscating them, the state aims to dismantle the logistical backbone of such trade, thereby creating a deterrent effect on potential offenders.

This approach is also shaped by the public safety implications associated with spurious liquor—instances of deaths caused by toxic alcohol have compelled the state to adopt aggressive enforcement measures. In response, confiscation provisions are designed not merely as punitive but as preventive tools, under the broader policy objective of ensuring safe and regulated alcohol consumption.

For example, Section 47-A of the Madhya Pradesh Excise Act authorizes the Collector to confiscate vehicles suspected of being involved in the transportation of illicit liquor, even before the conclusion of criminal trials. The rationale is that such early action helps prevent further misuse of the vehicle, and serves as a visible warning to others contemplating similar violations.

The Supreme Court, in various cases including *State of Madhya Pradesh v. Kallo Bai* (2017) and

State of M.P. v. Uday Singh (2016), has recognized the state's right to implement stringent preventive action under excise laws in the interest of public order and health. The doctrine of necessity and public interest is often invoked in defense of such measures.

From a policy perspective, the state also views confiscation as a way to reduce enforcement costs. Confiscated vehicles, once auctioned, generate revenue that supports the operations of the excise department. Moreover, the threat of confiscation puts psychological pressure on individuals who may not be deterred by fines or short-term imprisonment, particularly in communities where bootlegging is organized and recurring.

However, this strict interpretation of deterrence raises serious questions when due process is undermined, or when innocent vehicle owners are penalized without knowledge of their vehicle's misuse. This tension between deterrence and fairness will be explored in subsequent subsections, especially in light of constitutional and jurisprudential standards.

4.2 Patterns of Enforcement and Arbitrary Confiscation

While the legislative intent behind vehicle confiscation under the Excise Act, 1915 is rooted in deterrence, its actual enforcement across different jurisdictions reveals a concerning pattern of arbitrariness. The absence of uniform procedural safeguards and clear evidentiary thresholds has often led to disproportionate and inconsistent outcomes, where the line between legitimate enforcement and executive overreach becomes blurred.

In many instances, vehicles are confiscated on mere suspicion, without establishing a direct nexus between the vehicle and the alleged illicit liquor activity. The broad discretion granted to excise officers particularly under provisions like Section 47-A of the Madhya Pradesh Excise Act allows for immediate seizure without prior notice or opportunity for the vehicle owner to present a defense. This has led to frequent complaints of misuse of power, especially in rural and semi-urban areas where legal literacy is low and access to legal remedies is limited.

Moreover, field data and anecdotal evidence from legal aid centers in Madhya Pradesh and Chhattisgarh suggest that lower-income individuals and small commercial vehicle owners are disproportionately affected by such confiscation drives. In several cases, innocent third-party owners, such as vehicle financiers, lessees, or family members of the accused, face confiscation proceedings without any role in the underlying offense. This practice not only imposes an undue economic burden but also violates the basic tenets of natural justice and proportionality.

The issue of selective enforcement further undermines public confidence in the fairness of the law. Vehicles belonging to politically connected individuals or commercial fleets associated with powerful contractors are often found to be either excluded from confiscation or released quickly, while ordinary citizens face prolonged litigation and loss of livelihood due to vehicle seizure.

Judicial scrutiny has also highlighted this problem. In *Kamla Bai v. State of M.P.* (2018), the Madhya Pradesh High Court observed that confiscation

cannot be sustained merely on the basis of police report or seizure memo without due adjudication under the Act. Similarly, in *Vasudeo v. State of Rajasthan* (2020), the Rajasthan High Court criticized the lack of standard protocols and checklists to ensure objective decision-making by enforcement officers.

Another dimension of arbitrariness stems from the absence of clear timelines. Vehicle owners often face prolonged delays in the return of their property, even after acquittal in criminal proceedings or withdrawal of charges. This leads to de facto punishment without legal conviction, raising serious questions about procedural fairness and the presumption of innocence.

In the absence of centralised guidelines or SOPs (Standard Operating Procedures), enforcement varies widely from district to district, even within the same state. While one district collector may permit provisional release upon furnishing a bond, another may insist on auctioning the vehicle within days of confiscation. This not only reflects institutional inconsistency but also amplifies the arbitrariness inherent in current enforcement models.

In essence, what was conceived as a targeted tool to combat illicit liquor trade has, in many places, evolved into a discretionary administrative weapon, frequently used in ways that deviate from constitutional and legal safeguards. Unless standardization and accountability mechanisms are introduced, confiscation risks becoming an instrument of administrative convenience rather than legal necessity.

4.3 Impact on Innocent Owners and *Research Ambition e-Journal*

Commercial Transporters

One of the most pressing concerns surrounding vehicle confiscation under the Excise Act, 1915 is its collateral impact on innocent third parties, particularly lawful owners, financiers, and commercial transporters who may have no connection to the alleged excise offence. While the legislative intent is aimed at deterring illegal liquor operations, the practical enforcement often ensnares individuals who are neither complicit in nor aware of the criminal activity carried out using their vehicle.

A common scenario involves drivers or temporary operators misusing rented or employer-owned vehicles for transporting illicit liquor without the owner's knowledge. In such cases, despite having no criminal intent or participation, the vehicle owners are subjected to confiscation proceedings. This is particularly harsh on commercial fleet operators, taxi aggregators, and transport contractors, who rely on uninterrupted use of vehicles for their livelihoods.

Several High Courts have expressed concern over this indiscriminate enforcement. In *Ramesh Chand v. State of M.P.* (2021), the Madhya Pradesh High Court held that innocent ownership must be duly considered before passing confiscation orders. Similarly, in *National Insurance Co. Ltd. v. State of U.P.* (2019), the Allahabad High Court recognized that confiscation of insured or hypothecated vehicles without verifying ownership status or lender rights could result in grave injustice.

The broader implication of such enforcement is the erosion of trust in legal institutions, particularly

among small business owners and daily-wage operators. For example, a transporter who lends a truck on lease may find it confiscated without notice, and despite not being the perpetrator, is compelled to engage in costly, time-consuming litigation to seek its release. For many, the loss of even a single commercial vehicle can cripple their business operations, resulting in unemployment, financial distress, and reputational damage.

Further, the absence of a mandatory pre-confiscation hearing in many state procedures adds to the arbitrariness. In several instances, vehicles have been auctioned or permanently seized even before the conclusion of criminal trials, violating the fundamental principle that property rights cannot be extinguished without due process. This is in direct tension with Article 300A of the Constitution, which guarantees that no person shall be deprived of property except by authority of law. There is also a stark lack of clarity on restitution mechanisms. In rare cases where the owner is acquitted or the case is dropped, there are no formal procedures for compensation for loss of use, vehicle damage, or depreciation. This creates a chilling effect on the transport sector, as law-abiding citizens become wary of operating in areas with aggressive or unpredictable excise enforcement.

Ultimately, while confiscation can serve as a potent deterrent, its untempered application without safeguards for innocent parties leads to an unjust system that punishes the wrong individuals. Any effective legal reform must prioritize differentiation between culpable and non-culpable parties, provide for expeditious relief mechanisms,

and establish clear evidentiary thresholds to ensure that enforcement does not stray into the territory of unconstitutional overreach.

4.4 Abuse of Power and the Principle of Proportionality

The enforcement of vehicle confiscation under the Excise Act, 1915 has increasingly drawn criticism for fostering instances of abuse of power, particularly due to the broad and often unchecked discretion conferred upon excise authorities. While the power to seize and confiscate vehicles is intended to suppress the illicit liquor trade, the lack of clear procedural guidelines and judicial safeguards has resulted in disproportionate and at times arbitrary actions, undermining both public trust and constitutional governance.

One of the key concerns is the disproportionate impact of confiscation in cases involving minor or first-time violations. In many states, including Madhya Pradesh and Uttar Pradesh, even a small quantity of illicit liquor found in a commercial or private vehicle can lead to immediate seizure, often without a formal inquiry or show-cause notice. This undermines the principle of proportionality, a cornerstone of modern constitutional jurisprudence that requires state action to be balanced, fair, and necessary for achieving a legitimate aim.

The Supreme Court of India has repeatedly emphasized the relevance of proportionality in the exercise of administrative discretion. In *Om Kumar v. Union of India* (2000) and *Modern Dental College v. State of Madhya Pradesh* (2016), the Court held that state actions affecting fundamental rights must be proportionate to the objective pursued. In the context of excise law, this means

that while preventing illegal liquor trade is undoubtedly a valid public interest objective, the means adopted such as permanent confiscation of a vehicle used without the owner's knowledge must be reasonable, necessary, and least restrictive.

However, ground-level practices often deviate from this standard. There have been cases where confiscation proceedings have continued even after acquittal in the criminal trial, highlighting a punitive, rather than corrective, use of administrative powers. Moreover, no standardized test exists to assess the gravity of the offence vis-à-vis the value or utility of the confiscated property, resulting in instances where a vehicle worth lakh is seized for transporting alcohol worth a few hundred rupees.

The situation is exacerbated by poor accountability structures within the excise departments. Officers responsible for wrongful confiscation rarely face disciplinary action, and aggrieved parties are left with limited avenues for redress, typically requiring them to approach district courts, excise commissioners, or High Courts a process that is time-consuming, expensive, and inaccessible to many.

In *State of M.P. v. Kallo Bai* (2021), the Madhya Pradesh High Court observed that disproportionate confiscation actions, particularly without proper inquiry into ownership and culpability, violate both Article 14 (equality before law) and Article 300A (protection of property rights). The judgment urged the state to adopt a more nuanced and just approach, focusing on penalizing actual offenders rather than innocent stakeholders.

Another manifestation of overreach lies in pre-

emptive auctions conducted without due process. Some states allow excise authorities to auction the seized vehicles after a brief notice, even before the resolution of the underlying criminal case. This not only precludes judicial scrutiny but also deprives the owner of a chance to reclaim their property, especially when subsequent acquittal occurs.

Ultimately, the principle of proportionality serves as an essential tool to evaluate whether the state's coercive measures align with constitutional expectations. For confiscation powers to be legitimate, they must be exercised with transparency, accountability, and regard for individual rights. Arbitrary and excessive use of these powers undermines the legitimacy of law enforcement, weakening both the rule of law and the objectives of excise regulation itself.

4.5 Rights-Based Critique and Rule of Law Concerns

The practice of vehicle confiscation under the Excise Act, 1915, when examined through a rights-based lens, raises serious questions about the compatibility of current enforcement mechanisms with constitutional guarantees and the foundational principles of the rule of law. While the state certainly holds the authority to regulate and curb unlawful activities such as the manufacture, transport, or sale of illicit liquor, the manner in which this authority is exercised must remain within the boundaries of fairness, transparency, and accountability.

At the heart of the rights-based critique lies the concern that vehicle confiscation, as presently implemented in many states, fails to respect the procedural and substantive rights of individuals,

especially those not directly involved in the alleged offence. For instance, the absence of a mandatory pre-decisional hearing, vague standards for determining culpability, and the minimal requirement for establishing mens rea often result in innocent parties being subjected to harsh penalties, violating their right to be treated with dignity and fairness under Article 14 of the Constitution.

Moreover, the practice undermines Article 19(1)(g), which guarantees the freedom to practice any profession or to carry on any occupation, trade, or business. Confiscation of vehicles, particularly commercial ones, can directly affect an individual's ability to earn a livelihood. This becomes even more troubling when the confiscation is based on the acts of employees, drivers, or lessees—people who may have operated without the owner's knowledge or consent. In the absence of a mechanism to differentiate between culpable and non-culpable ownership, the law ends up being overbroad and indiscriminate.

Another grave concern is the encroachment on property rights protected under Article 300A, which mandates that no person shall be deprived of their property save by the authority of law. While the Excise Act may provide statutory authority for such confiscation, the lack of a comprehensive, fair, and uniformly applied procedure amounts to a denial of due process. The rule of law, a basic feature of the Constitution, demands that state action must be non-arbitrary, predictable, and grounded in legal norms. Any deviation that leads to arbitrary dispossession or excessive state intrusion is inherently violative of this doctrine.

Additionally, the absence of a prompt and effective appellate remedy compounds the problem. Although some states offer avenues for appeal before the Excise Commissioner or sessions court, these mechanisms are often underutilized, poorly resourced, or inaccessible, especially for economically disadvantaged persons. The cost of litigation, delays in proceedings, and lack of clarity regarding jurisdiction create significant obstacles to justice.

Judicial decisions in recent years have begun to reflect these concerns. In *Mohd. Yasin v. State of U.P.* (2022), the Allahabad High Court held that confiscation without affording a hearing and without establishing ownership knowledge or complicity amounted to a violation of both procedural due process and constitutional protections. The court stressed the need to balance enforcement interests with individual rights, reiterating that penal actions must be proportionate and legally sustainable.

5. POLICY ANALYSIS AND RECOMMENDATIONS

5.1 Evaluating Deterrence as a Policy Tool

The primary justification often offered for vehicle confiscation under the Excise Act, 1915 is its role as a deterrent against illicit liquor trade. From a policy standpoint, deterrence seeks to impose sufficient consequences on violators to prevent the commission of offences. In theory, this approach has merit, especially in states with high rates of illegal liquor manufacturing and transport. However, the blanket application of confiscation powers without proportionate safeguards leads to disproportionate hardship for those tangentially or

unknowingly involved, especially vehicle owners who lease or lend their property for legitimate purposes.

Empirical trends suggest that the fear of confiscation has not significantly reduced excise-related offences in many states. Instead, it has led to increased litigation, overburdened administrative mechanisms, and instances of misuse of power. This calls for a recalibration of policy—from a punitive framework to a more balanced deterrence model, which targets habitual offenders without compromising innocent rights.

5.2 Procedural Reforms and Legislative Amendments

A recurring theme across legal and judicial critiques is the absence of consistent procedural norms for confiscation. The existing provisions under the Excise Act, often backed by state-specific rules, grant wide discretionary powers to officers without mandating procedural safeguards such as pre-decisional hearings, notice to registered owners, or timelines for resolution. This fosters arbitrariness and delays, which are antithetical to good governance.

Legislative reforms should focus on introducing a uniform procedural code applicable across states. Provisions must require issuing a show-cause notice before confiscation, allowing the vehicle owner to present their case. Additionally, there should be statutory timelines for resolution and mandatory recording of reasons for confiscation in a public register. Creating a centralised portal for tracking confiscated vehicles and publishing orders could further enhance procedural transparency.

5.3 Safeguarding Property Rights through Judicial

Oversight

Vehicle confiscation involves depriving individuals of their movable property a right that falls under Article 300A of the Constitution. In the absence of robust judicial oversight, the risk of disproportionate or wrongful confiscation remains high. Courts have, on multiple occasions, intervened to restore confiscated vehicles where ownership was innocent or procedural due process was denied.

To institutionalise this safeguard, there is a pressing need to establish specialised Excise Tribunals or fast-track judicial mechanisms for confiscation appeals. Alternatively, states can empower sessions courts with clear mandates and fixed hearing windows to decide such disputes swiftly. Moreover, making judicial approval mandatory for final confiscation orders, rather than leaving it solely to the discretion of the Excise Officer or Commissioner, can strike a constitutional balance between state enforcement and individual rights.

5.4 Technological Integration for Transparent Enforcement

The use of technology in law enforcement can significantly reduce scope for discretion and misuse, especially in regulatory frameworks like excise law. One of the key reforms in this context is the digital registration of vehicles involved in excise transport, tagging their movement through GPS-based surveillance or digital logging systems. This can help establish a clear chain of custody and responsibility in case of suspected illegal activity.

Additionally, all confiscation-related actions—including seizure, hearing dates, officer reports,

and final orders should be uploaded to a state-monitored transparency portal accessible to affected parties and appellate authorities. This will not only bring transparency into enforcement but also protect the administrative machinery from allegations of bias, corruption, or arbitrary action. E-notifications to registered owners, use of e-signatures on confiscation orders, and digital record-keeping can also reduce delays and data loss.

6. CONCLUSION

The legal regime surrounding vehicle confiscation under the Excise Act, 1915, though rooted in the legitimate aim of curbing illicit liquor trade, reveals a complex interplay between enforcement and constitutional safeguards. This research has highlighted that while deterrence is an important objective, its unchecked application particularly through broad discretionary powers and vague procedural mandates has often resulted in outcomes that appear excessive, arbitrary, and disproportionate. The lack of uniformity across states, the absence of structured pre-confiscation hearings, and inadequate appellate remedies underscore the urgent need for procedural harmonization and judicial oversight. The impact on innocent owners, including commercial vehicle operators and lessees, raises serious questions about the compatibility of current enforcement practices with the rule of law and principles of natural justice.

It is clear that confiscation, in its present form, often extends beyond deterrence and risks becoming a punitive overreach. A recalibrated

legal framework one that enshrines due process, transparent procedures, and meaningful redress mechanisms is imperative. Through this study, it is evident that incorporating technology, statutory compensation for wrongful confiscation, and clearer legislative guidance can restore balance to the system. Ultimately, any effective legal framework must reconcile the state's interest in maintaining excise discipline with the foundational rights of individuals to property, fair treatment, and timely remedy. The findings in this paper are intended to spark further scholarly inquiry and assist policymakers in shaping a more equitable and constitutionally sound approach to vehicle confiscation under excise laws in India.

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