SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			WPMS/862/2026 Vivek Shah --Petitioner **Versus** State of Uttarakhand & Others --Respondents **Hon'ble Manoj Kumar Tiwari, J.** Mr. Chetan Joshi, Advocate, for the petitioner. Mr. Suyash Pant, Standing Counsel, for the State. Mr. Sandeep Kothari, Advocate, for the respondent no. 5. (2) Petitioner has challenged the order dated 31.3.2026, passed by Commissioner, Excise, Uttarakhand in an appeal filed by respondent no. 5. In that appeal, respondent no. 5 had questioned opening of liquor sub-shop at Lolti, District Chamoli by the petitioner on the ground that due to said sub-shop, business of his liquor shop is adversely affected; liquor shop of respondent no. 5 is situate at Tharali, which is only six kilometres from Lolti, while the main liquor shop allotted to petitioner at Gwaldam is 24 kilometres away from Lolti. (3) Appeal filed by respondent no. 5 was allowed by Commissioner, Excise by holding that since revenue of liquor shop of respondent no. 5 is adversely affected, therefore, the sub-shop opened by the petitioner at Lolti shall be relocated to some other place near Gwaldam, where petitioner

			is allotted main liquor shop.
			(4) Petitioner has challenged the order passed by Commissioner, Excise on the ground that in the absence of any provision in the Excise Act, Excise Rules or the Excise Policy, regarding maximum distance between main shop and sub-shop opened by a licensee, the appeal filed by respondent no. 5 could not have been allowed; loss of revenue to other liquor shop licensee in itself cannot be a ground for disturbing a sub-shop; appeal under Section 11(1) of Uttarakhand Excise Act, 1910 would be maintainable only against an order, while in the present case, there was no such order, which could have been appealed against, and the appeal was, therefore, not maintainable; notice on the appeal was sent to the petitioner through Speed Post by the O/o Commissioner, Excise on 16.3.2026 and it was served upon the petitioner on 20.3.2026, while the hearing was scheduled on 18.3.2026, therefore petitioner was not given reasonable opportunity of hearing; Commissioner, Excise referred to Rule 28.4(b) of Uttarakhand Excise Policy, however power under the said Rule is available only to District Magistrate and not to Commissioner, Excise; Lolti sub-shop is operational since Financial Year 2024-25, therefore appeal was time-barred, as the limitation period prescribed in proviso to Section 11(1) of Excise Act is 30 days from the date of communication of order.
			(5) District Excise Officer, Chamoli has filed counter affidavit stating that distance between main shop and Lolti sub-shop of petitioner is only 16 kiometres.

(6) It is not in dispute that permission to open sub-shop was given to the petitioner as per the Excise Policy applicable in the State, vide order dated 8.8.2024, therefore this Court finds substance in the contention raised on behalf of petitioner that the appeal was barred by limitation and also that the appeal was not maintainable, as there was no order which was challenged in the appeal. Rule 28.4(b) of Uttarakhand Excise Policy is reproduced in the impugned order, perusal whereof reveals that it enables the District Magistrate to relocate a shop from one place to another within the district. Thus the power under the said provision was not available to Commissioner, Excise.

(7) Even otherwise also, in the absence of any provision regarding distance between two liquor shops, main shop or sub-shop, prescribed in the Excise Act, Excise Rules or Excise Policy, Commissioner, Excise could not have interfered with the sub-shop of the petitioner only on the ground that revenue of the shop run by respondent no. 5 is adversely affected.

(8) Thus the impugned order is liable to be set aside and is hereby set aside. Writ petition stands allowed accordingly.

(Manoj Kumar Tiwari, J.)

21.8.2026

Pr

PRABODH KUMAR