

**BEFORE THE COMMISSIONER STATE TAXES & EXCISE-
CUM-FINANCIAL COMMISSIONER (EXCISE),
HIMACHAL PRADESH**

(Block No. 30, SDA Complex, Shimla-09)

Representation No. : 02/2024

Date of Decision : 09-12-2024

IN THE MATTER OF: -

M/s Mars Bottlers
(Now Mars Bottlers Una Private Limited),
VPO Shyampura, Tehsil Haroli, Distt. Una (HP)
Licensee BHW-2, L-11, L-1C, L-13C, L-15, L-16 (Year 2023-
2024)

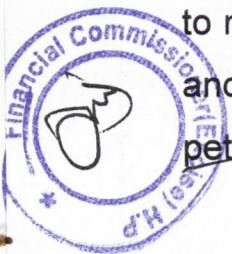
Present:

1. Sh. Anil Kumar, Director M/s Mars Bottlers (Petitioner).
2. Sh. Rakesh Rana, Deputy Director (Legal), on behalf of the Respondents.

ORDER

The Hon'ble High Court in CWP No. 8561 of 2024 titled as Mars Bottlers Una Pvt. Ltd. Versus State of HP and Ors. Vide order dated 25-11-2024 was pleased to direct to decide the representation dated 05-07-2024, **(Annexure P-11)**.

Vide representation dated 05-07-2024, **(Annexure P-11)**, the petitioner has requested to reinstate the license which was suspended by the Respondent No. 2 vide order dated 15-06-2024 **(Annexure P-10)**. The petitioner has filed the representation on the grounds *inter- alia* that the expenses for the plant are very hefty and the petitioner is not in a position to meet the expenses. The bottling plant of the petitioner has been sealed, and renewal fee for the year 2024-25, is also to be deposited. The petitioner has further submitted that the case is under investigation by the



department and the petitioner is ready to face the consequences and has requested to reinstate the bottling plant after levying minimum penalty to the petitioner.

Brief facts of the case are as under:-

- a) The petitioner is a license holder in Forms BHW-2, L-11, L-1A, L-1C, L-13C, L-15 & L-16 granted by this Department. On the basis of particular information, a team of officers and officials of the respondents, inspected the premises of the petitioner on 15-03-2024 and 16-03-2024 and found a vehicle loaded with liquor and the vehicle In-charge could not produce any documents in respect of the liquor loaded in the vehicle parked in premises of the petitioner. The petitioner contravened the provisions of the Himachal Pradesh Excise Act, 2011 relevant Rules, orders and terms and conditions of the Licenses above which the petitioner is bound to comply with.

- b) Since the petitioner contravened the provisions of Sections 43 (b) and (d) and 44 (b) of the Act, and Rules 9.20, 9.21 and 9.23 of the Punjab Distillery Rules, 1932 (as applicable to HP) therefore, the Respondent No. 3 recommended suspension/cancellation of the above licenses under Section 29 (b) and (c) of the Act.



- c) The petitioner was provided with an opportunity of being heard and the petitioner admitted that violations have been committed by the employees at the plant and for the acts of omissions, commissions and irregularities as pointed out a lenient action be taken by imposing a minimum penalty.
- d) The licenses in Form BHW-2, L-11, L-1A, L-1C, L-13C, L-15 & L-16 granted in favour of the petitioner were suspended with effect from 16-03-2024 in terms of Sections 29 (b) and (c) and 30 (1) of the Excise Act, 2011.
- e) Against the aforesaid order dated 15-06-2024 (**Annexure P-10**), the petitioner filed the above mentioned writ petition in the Hon'ble High Court.

Notice dated 29-11-2024, was issued to the petitioner and the respondents No. 3 and 4 for hearing on 05-12-2024. The Director Sh. Anil Kumar, for M/s Mars Bottlers (Petitioner) appeared and submitted that the matter may be taken of in accordance with the provisions of Section 66(2) of Himachal Pradesh Excise Act, 2011 which states that the suspended or cancelled license may be revoked by the authority concerned on application made by the holder of such license after payment of such penalty as may be fixed.

The Deputy Director, Legal for the respondents argued that during the course of hearing petitioner's case in Appeal No. 04/2024, the petitioner, itself, had admitted the fact of having committing irregularities under the Himachal Pradesh Excise Act, 2011. The inspecting team, during the course of petitioner's premises inspection, on 15-03-2024 and



16-03-2024, had found in the premises of the petitioner, an unauthorised person and also a truck loaded with large quantity of liquor, without any valid documents with regard to loaded liquor in the truck. Also, at the time of inspection above, the CCTV Cameras of the above bottling plant were found to be non-functional. Not only this, on inspection of liquor stock, difference in liquor stored in vats vis-à-vis stock register was also detected; furthermore there were remarkable variations of degrees in strength of Blended Spirit, IMFL and liquor contained in holding tanks. Also, there was considerable quantitative variation in bottled country liquor and IMFL. On above variations in stock and strength of liquor, the petitioner is liable to pay all the Excise levies, taxes, including penalties for irregularities noticed during inspection. However, since the above matter is under investigation and FIR No. 0033 dated 26-03-2024, has been lodged against the petitioner in Police station Haroli, District Una, and the petitioner itself, having admitted the facts of having committed irregularities under the Act, therefore, it will not be appropriate to revoke the suspended license of the petitioner.

I have gone through the contents of representation (**Annexure P-11**) and also the arguments put forth by the parties. In order to consider the representation on merits, it would be worthwhile to quote the irregularities, again, noticed during inspection and mentioned in the order dated 15-06-2024:

The inspecting team, during the course of above inspection, found, in the premises of the licensee, a person named Shri Krishan Kumar S/o Shri Fusha Ram R/o 1303/7, Tower-07, Royal Motiya City, Zirakpur, SAS Nagar(Mohali), Punjab- 140603. On the basis of inquiry and recorded statement, above Shri Krishan Kumar was not found in the list of the employees supplied by the Licensee to the Department. In addition to this, a vehicle No. HR-39D-8993



loaded with 392 Quarts of IMFL, 8 Pints of IMFL, 112 Nips of without Brand Country Liquor, 21650 Nips of Himachali Santra CL (pet), 192 Nips of Imperio Blue Premium (Goa Brand) IMFL, 48 Nips of Vodka Summer (Arunachal Pradesh) IMFL, 96 Nips of Counter Gold Wine (Arunachal Pradesh) Green Vodka was found in the premises of the licensee. The vehicle in-charge could not produce any documentary evidence in respect to above detailed liquor loaded in the vehicle parked in the licensee premises.

Also, at the time of inspection of licensee premises, the CCTV Cameras of the above bottling plant were found to be non-functional.


On further inspection vis-à-vis stock in the premises, differences of 724 Bulk Litres of Spirit in Vat SSV-1, 450 Bulk Litres of Country Liquor in holding Tank Himachali Santra, variations of 3.1 degrees in strength of Spirit in Vat SSV-II, variations of 6.9 and 6.7 degrees in strength of Blended IMFL in Vats BSSV-I and BSSV-II, variations of 49.6, 9.2 and 3.1 degrees respectively were found in Holding Tanks containing Golden Tiger, Rum and Himachal Santra liquor respectively. Similarly, variations by -54 Bulk Litres, -27 Bulk Litres and +183.24 Bulk Litres in bottled stock of Himachali Santa, Himalyan Monk Rum, Golden Tiger (Export) respectively were found.

It is worthwhile to mention here that during the course of hearing in the matter above in Appeal No. 04/2024, the petitioner itself, had admitted the facts of having committed the above noticed irregularities and therefore, has violated the applicable provisions of the Act, Rules and the terms and conditions of the Licenses granted to the petitioner in Forms BHW-2, L-11, L-1A, L-1C, L-13C, L-15 & L-16 for the year 2023-24. Further the petitioner is also ready to face the consequences of the pending investigations. The plea of the petitioner that the expenses for plant are very hefty and the licensee has to pay all



the running expenses from his own pocket and the further plea that not only the petitioner but, Government exchequer is also at loss, is not on merits as the State had granted license to the petitioner to run the liquor business only within the ambit of HP Excise Act, Rules and the terms and conditions of the Licenses granted to the petitioner; but the petitioner on account of its own acts of omissions and commissions rendered the granted licenses liable for suspension which were accordingly suspended vide order dated 15-06-2024. The Departmental authorities are complainant in the instant matter and criminal proceedings against the petitioner are going on. In view of the above, the representation (**Annexure P-11**) filed by the petitioner is considered and rejected.

Parties be informed accordingly and the file be consigned to the record room.


**Commissioner,
State Taxes and Excise-cum-
Financial Commissioner (Excise)
Himachal Pradesh Shimla-09**



Endst. No. EXN/FC (Excise)-Reader/2024-31081-085 Dated: 09-12-2024

Copy as per directions is forwarded for information to: -

1. Shri Anil Kumar, Director of M/s Mars Bottlers (Petitioner).
2. The Jt. Commissioner State Taxes & Excise-cum-Collector (North Zone), Palampur, District Kangra (HP).
3. Dy. Commissioner State Taxes & Excise, District Una, HP.
4. Legal Cell (HQ).
- ✓ 5. IT Cell



Reader