

**BEFORE THE FINANCIAL COMMISSIONER (EXCISE),
HIMACHAL PRADESH, SHIMLA-09**

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

Appeal No.: 22 of 2024
Date of Institution: 22-10-2024
Date of Order: 20-02-2025

In the matter of:

Vishal Uppal

(Proprietor of M/s Tulip Bar & Restaurant)

Nadaun Ward No. 3 Licensee L-4, L-5. **Appellant**

Versus

1. Deputy Commissioner of State Taxes & Excise,
Hamirpur District Hamirpur, H.P.
2. The Collector (Excise) – cum-
Joint Commissioner of State Taxes & Excise
(CZ) Mandi, District Mandi (H.P.) **Respondents**

Present:-

1. Mr Kulwant Singh Gill & Mr Pankaj Mehta, Learned
Advocates for the Appellant.
2. Sh. Rakesh Rana, Deputy Director (Legal), for the
Respondents.

ORDER

1. The Appellant is L-4, L-5 License holder under the provisions of the Himachal Pradesh Excise Act, 2011 (hereinafter referred to as "the Act") and has filed the instant Appeal against the order, dated 12-09-2024, passed by the Respondent No. 2, whereby on observations that the Appellant by keeping and procuring liquor at the licensed premises without pass and permit from the authorities has contravened the provisions of Section 43(d) of the Act and Condition



No. 12.29 (ii) 3 of the Excise Policy for the financial year 2021-22 read with Condition No. 11.18 of the Excise Policy for the financial year 2023-24. On the request of the Appellant, the above contraventions of the provisions of the Act, and Conditions of the Policy, the case was compounded by the Respondent No. 2 for a sum of rupees ₹52,000/- (Fifty Two Thousand only) in total and the Appellant was accordingly directed to deposit the aforesaid amount into the Government Treasury. The Appellant aggrieved by the orders, above, of Respondent No. 2 has preferred the above Appeal.

2. Further briefs in the matter are that the licensed premises of the Appellant were inspected on 25-05-2023, by the team of the Respondent Department lead by ACST&E Nadaun circle, District Hamirpur. The inspecting team physically verified the stock of the liquor and found Nineteen Quarts of IMFL and Eleven Quarts of Beer without any pass or permit. The inspecting team, on spot, recorded the statement of Sh. Suman Prasad, S/o Sh. Parmanand, Manager of M/s Tulip Bar & Restaurant, (L-4, L-5) Appellant's licensed premises. The manager of the Bar & Restaurant above accepted the above anomaly. The liquor and beer found without pass and permit was seized on spot and handed over to the Manager of above Bar & Restaurant for safe custody of liquor seized. The inspecting team reported the above detected anomalies to the District In-Charge (Dy. Commissioner of State Taxes & Excise, District Hamirpur), who further reported the matter to Respondent No. 2. The Respondent No.2 after issuing the notice to the Appellant for appearance and thereby affording the opportunity of being heard. On the request of the Appellant itself the case was compounded by the Respondent No. 2 for a sum of ₹52,000/- only.



3. Learned Counsels for the Appellant argued that it is a matter on record that on the day of inspection Stock Register was not signed by the inspecting team/raiding team. However, on earlier occasions inspecting teams used to duly verify the stocks and sign the register; however, in the instant case the said procedure was not followed. The learned Respondent further argued that penalty has been imposed irrationally upon the Appellant without any fault on its part. It was also argued for the Appellant that the liquor pass was issued on the day of inspection by the Department itself therefore, it could not be said that stock was stored in contravention to the rules.
4. Sh. Rakesh Rana, Learned Deputy Director (Legal), submitted that the discrepancy noted during physical stock taking has been admitted by the Manager of the Appellant Bar & Restaurant as he has duly signed the statement, recorded on spot, at the time of inspection of above Bar & Restaurant. Replying on the issue of pass, the Ld. Counsel for the Respondents submitted that it has been clearly mentioned in the ASTEO, Nadaun Circle report, dated 27.12.2023, that the inspection/detection was made in the morning time and pass, on application from the Appellant, was issued in the evening time. This issue has already been addressed in the impugned order dated 12.09.2024, passed by Respondent No. 2.
5. I have heard both the parties in the matter above. The complete case record summoned in the matter has also been carefully perused alongwith written reply submitted by the Respondent No. 1. Perusal of the record and reply reveals that the inspecting team has inspected the Appellant premises in the morning and recorded the statement of Sh. Suman Prasad, S/o Sh. Parmanand, Manager of M/s Tulip Bar & Restaurant, (L-4, L-5). The



Manager of the Bar & Restaurant above accepted before the inspecting team the fact of there being stocked Nineteen quarts of different brands of IMFL and Eleven quarts of Beer without any pass and permit regarding above mentioned quantity of IMFL and Beer. This fact has also been admitted by Sh. Vishal Uppal, the proprietor of the above Bar and Restaurant, who was present before the Respondent No. 2 on dated 05-09-2024 during the case proceedings in the matter above before the latter. Record and reply also reveal that proper inventory of the stock was prepared on the spot which was duly signed by the ASTEO accompanying the inspecting team. The Manager of the Bar & Restaurant, above, has also put his signature on above mentioned stock inventory. This is clear admission of the fact that liquor has been stocked in the Appellant licensed premises without any valid pass and permit particularly at the time of inspection of the premises above irrespective of the fact that the Appellant got pass for above stock after inspection. Therefore, by possessing Nineteen quarts of IMFL and Eleven quarts of Beer without pass and permit, as was detected during spot inspection, the Appellant violated the provisions of Section 43(d) of the Act and Condition No. 12.29(ii) 3 of the Excise Policy for the financial year 2021-22 and read with Condition No. 11.18 of the Excise Policy for the financial year 2023-24. The plea of the Appellant that the inspecting team did not sign the stock register and that the Department issued pass to the Appellant on the day of inspection, itself, is not relevant in the context of merit of the case because the Manager, Bar & Restaurant and the Appellant, themselves have admitted the violation of possession of excess stock without any excise pass. This is evident from statement given on the spot by the Manager before the inspecting team and signature put by him on stock inventory, as well, that was also prepared on spot. In



view of discussion above, I do not find any merit in the arguments of the Appellant and the instant appeal is considered and rejected in view of discussion, observations and reasons given herein above, accordingly. The order dated 12-09-2024, passed by Respondent No. 2 is upheld.

Let all the concerned be informed. File after completion be consigned to records.

ANNOUNCED ON THIS Day i.e. 20th of February, 2025.



**FINANCIAL COMMISSIONER (EXCISE)
HIMACHAL PRADESH**

Endst. No. EXN/CST&E-FC(E)/Reader/2025/ 3763-68

Dated: 20-02-2025

Copy forwarded for information to:-

1. Collector (Excise), Central Zone, Mandi, HP.
2. Dy. Commissioner (ST&E), Hamirpur, District Hamirpur, H.P.
3. Shri Kulwant Singh Gill, Advocate for Shri Vishal Uppal, Prop. M/s Tulip Bar & Restaurant L-4, L-5 Ward No. 3, Nadaun, District Hamirpur.
4. Legal Cell, HQ.

✓ 5. IT Cell.

6. Guard File. M/s Tulip Bar & Restaurant, L-4 L-5, Ward No. 3, Nadaun, Distt. Hamirpur (HP).

READER