

**BEFORE THE FINANCIAL COMMISSIONER (EXCISE)
HIMACHAL PRADESH**

(Block No. 30, SDA Complex Shimla- 171009)

Excise Case No. 14/2021-22

Date of Order: 24-01-2022

In the matter of:

State

Vs

M/s Govardhan Bottling Plant, Galu
Joginder Nagar, Mandi District Mandi,
Himachal Pradesh
(D-2-A and BWH-2 Licensee, 2021-22)

(Proceedings Pursuant to Notice under Section 29 (b) and (c) of the HP
Excise Act, 2011)

Present:

1. Sh. Navneet Gupta, ACST&E (Excise), Distt. Mandi with Sh. Vikrant Baner, ASTEO, Circle-I, Distt. Mandi for the State.
2. Sh. Pradeep Kumar Soni, Director of noticee firm with Sh. Goverdhan Lal Sharma, Advocate for the Respondent-licensee.

Order

1. This order shall dispose of the Proceedings initiated in pursuance to the issuance of Notice under **section 29 (b) and (c)** of the HP Excise Act, 2011, to above said M/s Govardhan Bottling Plant, Galu, Joginder Nagar, Mandi District Mandi, Himachal Pradesh (D-2-A and other allied License holder).

2. The brief facts giving rise to the initiation of the present proceedings are that the Collector (Excise)-cum-Joint Commissioner State Taxes and Excise (CZ) Mandi was directed to conduct the inspection of Govardhan Bottling Plant, Galu, Joginder Nagar.
3. The Collector (Excise)-cum-Joint Commissioner State Taxes and Excise (CZ) Mandi vide letter no. EXN-JCSTE-CZ-Excise/Inspection-226/2021-22-115 dated 21/01/2022 submitted to this office a detailed inspection report with respect to above bottling plant on 18th January, 2022 which was carried in the presence of the manager of the licensee firm. The Collector (Excise)-cum-Joint Commissioner State Taxes and Excise (CZ) Mandi found the following irregularities and discrepancies, during inspection (amongst others):
- i) Variation in the stock of ENA (SSV-1), i.e. less by 11957.800 Bulk Litres (BLS) was found which has resulted into the loss of about Rs. 84,87,414/- to the Govt. exchequer in the form of bottling fee, Excise Duty, VAT, License Fee, Addl. License fee, TSA and Covid Cess.
 - ii) The bottled stock of Country Liquor in BSSR was short by Quarts 118 cases, Pints 34 cases and Nips 30 cases.
 - iii) The Strength of ENA in SSV-1 was 65⁰ OP instead on 68⁰ OP.
 - iv) The Country Liquor blend was found in excess by 7680.280 Bls and the same was found without any record in VAT RV 6.
 - v) Some of the record not maintained properly like D-14, D-9 and D-13B.
4. The Collector (Excise)-cum-Joint Commissioner State Taxes and Excise (CZ) Mandi has found the contravention of provisions of Section 43(c), (d) and (e) of Himachal Pradesh Excise Act, 2011, Punjab Distillery



Rules 1932 as applicable in Himachal Pradesh, H.P. Liquor License Rules, 1986 and also the contravention of the Condition of the Form D-2-A and BWH-2 licenses and thereafter recommended for suspension/cancellation of noticee's licenses under section 29 (b) and (c) of the Himachal Pradesh Excise Act, 2011/HP Liquor License Rules 1986 as well as conditions of the license.

5. The notice dated 22.01.2022 under Section 29 (b) &(c) of HP Excise Act has been issued to the noticee's licenses for filing reply in the matter on or before 24.01.2022. The said notice has duly been served upon him.
6. On 24.01.2022 the noticee's licenses appeared through his counsel and requested for some more time to file reply on the ground that the record is being applied from the Inspector deputed at the factory premises. Keeping in view the fact that all the record pertaining to the bottling plant lies with the licensee, the said request was liable to be rejected and the same is rejected accordingly.
7. Even otherwise, it is evident from the record that even during the course of inspection, the Collector (Excise)-cum-Joint Commissioner State Taxes and Excise (CZ) Mandi associated Sh. Sunil Saini blender of the above said bottling plant and Sh. Ankush Lakhan Pal Manager of the said bottling plant and their statements were duly recorded. It is evident from their statements, itself that the inspections were conducted by the Collector (Excise)-cum-Joint Commissioner State Taxes and Excise (CZ) Mandi in a transparent manner and due opportunity were given to the licensee.
8. It is also evident from the record particularly the statement/admission made by the Manager of the above said bottling plant that on 01.01.2022 in as much as 25,000/- BLS was received and therefore the physical



stock of ENA SSV-1 ought to have been 30,557/- BLS but during inspection this stock was found to be 18599.2 BLS which was less by - 11957.800 BLS which resulted into the loss of about Rs. 84,87,414/- to the Govt. exchequer and Country liquor blend found in excess by 7680.28 BLS without any record in VAT RV-6 (wrongly mentioned as VAT RV-7 in the notice). Furthermore, the records were also not been properly maintained as pointed out in inspection report.

9. Significantly, as per Condition No. 7 of form D-2-A license, the Financial Commissioner may revoke/determine the license forthwith in case of the infringement of its conditions. The Condition No.7 is also reproduced in verbatim as under:

“ If the licensee infringes or causes or permits any person to infringe, any of the condition of this license, the Financial Commissioner may forthwith revoke and determine this license.”

10. In view of the discussion made hereinabove, it is crystal clear that the licensee has violated the terms and conditions of the licenses D-2-A and BWH-2 issued in his favour especially when the licensee failed to keep the stock of ENA/Blended Spirit which the licensee was duty bound to maintain. This act and conduct of the licensee deserves to be viewed seriously as any default with respect to the same is likely to be misused to the detriment of general public at large.

11. Keeping in view the facts and circumstances discussed as above especially the non-accountability of stock by the licensee, in my considered opinion, it is a fit case where the license D-2-A and BHW-2 are liable to be suspended. Accordingly, in exercise of the powers contained under Sections 29 and 30 of the Act *ibid*, the licenses in form

D-2-A and BHW-2 are suspended with immediate effect from 24.01.2022 to 31st March, 2022.

In view of orders passed, hereinabove, the Collector (Excise), Central Zone, Mandi to ensure compliance of provisions contained under section 30 (2), 31 and 71 of the HP Excise Act, 2011.

All concerned be informed accordingly. Record file and case record be consigned to respective places.

ANNOUNCED IN OPEN COURT ON 24.01.2022


Financial Commissioner (Excise)
Himachal Pradesh

Endst. No. STE/FC (Excise)-Reader/2021-22/ ²³³⁹⁻²³⁴² ~~37348-352~~ Dated: 24-01-2022

Copy to:

1. M/s Govardhan Bottling Plant, Galu, Joginder Nagar, Mandi, District Mandi, (HP).
2. The Collector (Excise)-cum-Joint Commissioner State Taxes and Excise (CZ) Mandi for compliance of the directions given in the orders above.
3. Dy. Commissioner (ST&E), District Mandi (HP).
4. Shri Goverdhan Lal Sharma, Advocate.

Reader to
Financial Commissioner (Excise),
Himachal Pradesh, Shimla.