IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Civil Writ Petition No.8561 of 2024

Reserved on : 4.9.2025

Decided on : September 23, 2025

Mars Bottlers Una Private Limited .....Petitioner

Versus

State of Himachal Pradesh and others ....Respondents

Coram:

The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

The Hon'ble Mr. Justice Sushil Kukreja, Judge

Whether approved for reporting? Yes

For the Petitioner : Mr. Desh Raj Thakur, Advocate.

For the respondent : Mr. Anup Rattan, Advocate General, with Mr. Sushant Keprate, Additional Advocate General.

Vivek Singh Thakur, Judge

Petitioner has approached this Court against order dated 15.6.2024 (Annexure P-10), whereby, exercising powers under Sections 29(b), 29(c) and 30(1) of the Himachal Pradesh Excise Act, 2011 (hereinafter referred to as "Act"), the Financial Commissioner (Excise), Himachal Pradesh, has suspended licences granted to the petitioner in Forms BHW-2, L-11, L-1A, L-1C, L-13C, L-15 & L-16, w.e.f. 16.3.2024, with direction to the Collector (Excise), North Zone, Palampur, to ensure compliance of the provisions of Sections 30(2), 31 and 72 of the Act, which provide recovery of licence fee, without any compensation or refund claimable for suspension of licence.

2. During pendency of petition, vide order dated 25.11.2024, direction was issued to respondent No.2 to take appropriate decision in accordance with law on the representation of the petitioner, dated 5.7.2024 (Annexure P-11), in terms of Section 66(2) of the Act, which was pending consideration at the time of filing the petition.

3. In sequel thereto, the Financial Commissioner (Excise), passed consideration order on 9.12.2024 (Annexure P-13), whereby representation of the petitioner was rejected. Therefore, to lay challenge also to the order dated 9.12.2024, passed during pendency of the petition, an application under Order 6 Rule 17 of the CPC was filed, which was allowed.

4. Plea of the petitioner is that inspection conducted on 16.3.2024 of the premises of the petitioner, as alleged, was neither conducted nor any truck-load of liquor was ever detected. To substantiate this plea, he has referred inconsistencies and contradictions in the Inspection Report with the contents of FIR No.33 of 2024, dated 26.3.2024, got registered by Vinod Singh Dogra, Deputy Commissioner, State Taxes and Excise, Una, Himachal Pradesh, in Police Station Haroli, District Una, Himachal Pradesh.

5. It has been contended that, for issuance of necessary licences to the petitioner, the petitioner has guaranteed right to run the business in accordance with law, and has a fundamental right to carry on the business in terms of the licences, and that is apparent from the facts and circumstances of the case that the said right of the petitioner has been infringed by omissions and commissions of respondents, because even if case of the respondents, for argument sake, is considered to be true, the penalty imposed is disproportionate to the offences alleged to have been committed, as all the offences were and are compoundable under Chapter VIII of the Act. It has been further submitted that suspension and revocation of licence are independent from each other and suspension cannot be for an indefinite period amounting to revocation or cancellation of licence, and, therefore, as till date licences have not been cancelled, the suspension of licences deserves to be quashed and set aside.

6. To substantiate the plea on behalf of petitioner, it has been argued that action has purported to have been taken under the provisions of Sections 29(b), 29(c), 31(1), 43(b), 43(d) and 44(b) of the Act, which provide provision for cancellation or suspension of licence for non-payment of duty or fee payable by holder of the licence; on failure to produce

licence, permit or pass on demand of any Excise Officer; willfully does or omits to do anything in breach of any provision of the licence, permit or pass, not otherwise provided in the Act; and for marking any bottle, case, package or other receptacle containing liquor so manufactured from rectified spirit or country liquor, or other receptacle containing such liquor with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor. According to the learned counsel for the petitioner, all these offences were and are compoundable under Chapter VIII of the Act.

7. It has been submitted that the licence was suspended in June 2024, w.e.f. 16.3.2024, and in view of the provisions of the Act and Punjab Distillery Rules, as applicable to the State of Himachal Pradesh, petitioner may have been imposed fine instead of continuing the suspension, without any further inquiry or hearing, for a considerable long period, which amounts to cancellation of the licence but without any probable cause or reason.

8. Learned counsel has referred the documents placed on record, including Inspection Report (Annexure P-2), copy of Notice dated 22.3.2024 (Annexure P-3), Copy of reply filed by the petitioner (Annexure P-4) and copy of FIR (Annexure P-7),

copy of Notice dated 21.5.2024 (Annexure P-8), copy of Final Order dated 15.6.2024 and copy of consideration order dated 9.12.2024 (Annexure P-13).

9. Learned Advocate General, referring Para-53 of judgment passed by the Apex Court in *Har Shankar and others v. The Dy. Excise and Taxation Commr. And others,* (1975) 1 SCC 737, has submitted that there is no fundamental right of the petitioner to carry on business in intoxicants. The said paragraph reads as under:

> "53. In our opinion, the true position governing dealings in intoxicants is as stated and reflected in the Constitution Bench decisions of this Court in *State of Bombay v. F.N. Balsara*, AIR 1951 SC 318 : 1951 SCR 682; *Cooverjee B. Bharucha v. Excise Commr. and the Chief Commr., Ajmer,* 1954 SCR 873 : AIR 1954 SC 220; *State of Assam v. A.N. Kidwai, Commr. of Hills Division & Appeals, Shillong,* 1957 SCR 295 : AIR 1957 SC 414; *Nagendra Nath Bora v. Commr. of Hills Division & Appeals, Assam,* 1958 SCR 1240 : AIR 1958 SC 398; *Amar Chandra Chakraborty v. Collector of Excise, Govt. of Tripura,* (1972) 2 SCC 442 : (1973) 1 SCR 533; and *Stae of Bombay v. R.M.D. Chamarbaugwala,* 1957 SCR 874 : AIR 1957 SC 699, as interpreted in *Stae of Orissa v. Harinarayan Jaiswal,* (1972) 3 SCR 784 : (1972) 2 SCC 36; and *Nashirwar v. State of M.P.,* (1975) 1 SCC 29, There is no fundamental right to do trade or business in intoxicants. The State, under its regulatory powers, has the right to prohibit absolutely every form of activity in relation to intoxicants-its manufacture, storage, export, import, sale and possession. In all their manifestations, these rights are vested in the State and indeed without such vesting there can be no effective regulation of various forms of activities in relation to intoxicants. In *"American Jurisprudence"*, Volume 30 it is stated that while engaging in liquor traffic is not inherently lawful, nevertheless it is a privilege and not a right, subject to governmental control (page 538). This power of control is an incident of the society's right to self-protection and it

> rests upon the right of the State to care for the health, morals and welfare of the people. Liquor traffic is a source of pauperism and crime, (pp. 539, 540, 541)"

10. It has been argued on behalf of respondents-State that it is a case of suspension for the time being but not a case of cancellation and final decision has to be taken and process for cancellation has not yet been initiated, and a *prima facie* case, for recovery of unaccounted truck-load of liquor, is in favour of the State. Further that the impugned order has been passed on the basis of admission on behalf of petitioner and, therefore, now at this stage the admission cannot be ignored and for such admission the facts need not to be proved by referring any other material, and this admission is sufficient for cancellation of the licence of the petitioner. He has further submitted that the licence was valid upto 31.3.2024, and application for its renewal was to be submitted within 90 days before expiry but neither 90 days before nor thereafter no application for renewal of licence from 1.4.2024 onwards, has been filed on behalf of the petitioner and, therefore, licence issued in favour of the petitioner is deemed to have been cancelled. Further that even after one year, i.e. 31.3.2025, no application for renewal has been filed and, therefore, no formal order for cancellation has to be passed on administrative side,

as after one year of expiry of licence, for absence of renewal, licence is not in existence.

11. As per Inspection Report, placed on record, the Inspection Team of the Department inspected the premises of M/s Mars Bottlers Shyampura, Tehsil Haroli (HP) on 15.3.2024 and 16.3.2024. As per Report, Anil Kumar Dogra STEO Incharge of the Plant was absent. One Krishan Kumar son of Fusha Ram was present in the premises. At that time, vehicle bearing registration No.HR-39D-8993, loaded with liquor, was found parked in premises of Bottling Plant, wherein 372 Quarts bottles of 999 Power Star (Chandigarh Branch) IMFL, 2 quarts bottles of Imperio Blue premium (Goa Brand) IMFL, 6 quarts bottles of Vodka Summer (Arunachal Pradesh) IMFL, 12 quarts bottles of Green Vodka Without label IMFL, 8 pins of bottles of Imperio Blue premium (Goa Brand) IMFL, 112 nips of bottles of Without Brand CL, 21650 nips of bottles of Himachali Santra CL (Pet), 192 nips in bottles of Imperio Blue premium (Goa Brand) IMFL, 48 nips in bottles of Vodka Summer (Arunachal Pradesh) IMFL and 96 nips in bottles of Counter Gold Wine (Arunachal Pradesh) IMFL, were found.

12. According to the Inspection Team, Incharge of the vehicle could not produce any documentary proof in support of the alleged liquor in the vehicle.

13. According to the Report, Anil Kumar Dogra, ASTEO Incharge of the Plant, an Officer of the Department/State, was not present, so detailed inspection of the Plant was deferred and and for want of documents, vehicle was detained and custody thereof, alongwith liquor, was handed over to the custody of Krishan Kumar son of Fusha Ram till further orders.

14. As per Report, on inspection of spirit storage all the VATS, bottles stock and the stock, were physically checked, details whereof are as under:

Spirit VAT

S. No.	Spirit VAT	Quantity as per physical verification	Quantity as per record	Difference (In Bls)
1	SSV-I	19205 Bls	19929.82 Bls	-724.82
2	SSV-II	15873 Bls	15890 Bls	-17

Blending VAT

S. No.	Blending VAT	Quantity as per physical verification	Quantity as per record	Difference (In Bls)
1	BSSV-I IMFL	12231 Bls	12234.96 Bls	+3.96
2	BSSV-II IMFL	1926 Bls	1926.46 Bls	+0.46
3	BSSV-I CL	6372 Bls	6383.46 Bls	+11,46
4	BSSV-II CL	-	-	-

Bottled stock and Stock

S. No	Name of Brand	Stock a per stock register				Stock as per physical verification				Difference (In Bls)
		Quarts (in cases)	Pints (in cases)	Nips (in cases)	BLs	Quarts (in cases)	Pints (in cases)	Nips (in cases)	BLs	
1.	Himachali Santra	201	203	402	7254	200	200	400	7200	-54
2.	Golden Tiger (HP)	900	0	0	8100	900	0	0	8100	0
3.	Himalayan Monk Rum	381	0	0	3429	378	0	0	3402	-27
4.	Golden Tiger (Export)	1474	1345	1448	37881.72	1504	1344	1439	38064.96	+183.24
5.	Duet Gin	398	0	112	4549.68	398	0	112	4549.68	0
6.	Blue	13	0	0	117	13	0	0	117	0

7.	Sapphire III Gold	0	0	373	3222.72	0	0	373	3222.72	0

15. It was reported that there was difference in stock as per register and stock as per physical verification; no variation was found in the hologram as per the record and as per physical verification; Hydrometer was used to measure the degree and it was done in the presence of Sunil and Raj Kumar; all the samples were sent to CTL Kandaghat for chemical analysis report. It was concluded that the seized liquor was bottled in the bottling plant and, therefore, the licencee had violated the provisions of Sections 29, 43 and 44 of the Act.

16. Show Cause Notice (Annexure P-3) was issued to the petitioner-company, whereby the petitioner was afforded an opportunity to explain its position with regard to the violations, and to show cause as to why penalty and other action, as warranted under law, should not be taken against the petitioner for the contraventions and that in case the petitioner failed to show cause on the date mentioned in the notice, further action, as warranted under law, would be taken ex-parte and no further opportunity shall be given. Discrepancies/violations mentioned in the notice are as under:

1) On 15.03.2024 found a vehicle bearing number HR39D-8993 in the premises loaded with liquor brands not to be bottled by the Bottling plant having 392 quarts, 8 pints &

22098 nips of IMFL and CL without any documentary evidences.

2) The person named Sh. Krishan Kumar S/o Fusha Ram (introduced as Production Manager) was not in the list of the employees supplied by the licensee.

3) Difference in quantity in SSV-I (Spirit) (-724.82 Bls), in SSV-II (Spirit) (-17 Bls) and variation in degree of (-3.1) as per hydrometer reading in SSV-II.

4) Difference in stock in BSSV-I IMFL (Blending VAT) (+3.96 Bls), BSSV-II IMFL (+0.46 Bls), BSSV-I CL (+11.46 Bls) and variation in strength in BSSV-I IMFL (6.9), BSSV-II IMFL (6.7) and BSSV-I CL (0.3).

5) Variation in strength of Holding Tank golden Tiger, Holding Tan Rum and Holding Tank Himachal Santra.

6) Variation as per D13B and physical stock in Holding Tank Himachal Santra is 450 Bls.

7) Variation in bottled Stock in Himachali Santra (-54 Bls), Himalyan Monk rum (-27 Bls) and golden Tiger (?Export) (+183.24 Bls).

8) CCTV Cameras of the plant was not functional.

17. In reply to the notice, dated 22.3.2024 (Annexure P-4), the petitioner submitted that though Vehicle HR-39D-8993 was parked in bottling plant but there was no liquor loaded in it and full responsibility for Points No.3 to 8 was taken on behalf of petitioner with request to take a lenient action and impose minimum penalty while deciding the case, on the ground that there were some violations which have been committed by the employees at the plant and has assured that the violations shall not be repeated again.

18. Thereafter, respondent Deputy Commissioner, State Taxes and Excise, District Una, Himachal Pradesh, has filed detailed reply (Annexure P-5) dated 26.4.2024 to the reply (Annexure P-4) filed by the petitioner, reiterating therein the findings in the impugned order.

19. Petitioner has filed rebuttal dated 3.5.2024 (Annexure P-6) to the reply (Annexure P-5) filed by Deputy Commissioner, State Taxes and Excise, reiterating therein the stand taken in the reply to the Show Cause Notice.

20. It is also case of the Inspection Team that when the team visited the bottling plant of the petitioner on next date, i.e. 16.3.2024, neither truck nor the person to whom custody of the truck was handed over was present in the bottling plant and the Inspection Team searched for the truck in all directions.

21. Inspection Report was submitted and forwarded on 19.3.2024 to the Collector (Excise) for action, wherein there is no reference with respect to missing of truck, liquor and Krishan Kumar as well as regarding finding of truck abandoned near Amrali Beetan Morh, after search by the Inspection Team in all directions, without any driver with some liquor missing out of the liquor allegedly confiscated from the truck previous day, and only it has been stated that for want of documentary

evidence truck had been detained and its custody was handed over to Krishan Kumar and samples of the confiscated liquor were drawn and it was also recorded that there is apprehension that the confiscated liquor was bottled in the bottling plant. There is no mention of missing of truck or Krishan Kumar from the bottling plant on 16.3.2024.

22. However, when Vinod Singh Dogra, Deputy Commissioner, State Taxes and Excise, Una, lodged FIR No.33 of 2024 against Krishan Kumar it was alleged that the liquor, loaded in truck, was confiscated on 15.3.2024 and custody of the truck was handed over to Krishan Kumar alleging that he was Supervisor of bottling plant, with further assertion that the said truck was not found in the bottling plant on next day and the team tried to telephonically contact the custodian of the seized liquor, but mobile number of Krishan Kumar was found switched of and consequently the team went in different directions in search of the truck carrying seized liquor, and at last at 11.20 p.m. on 16.3.2024, the truck was found abandoned near Amrali Beetan Morh without any driver, and the truck was brought back to the bottling plant premises and during checking it was found that most of the liquor loaded in the truck, which was seized, as detailed in the FIR, was found missing and inventory of left out liquor was prepared.

According to FIR, total BLs which was found less in the vehicle was 3989.39 BLs which was around 442 cases, and further that liquor seized in the truck was not bottled in the bottling plant and, therefore, the licencee had contravened provisions of Sections 39(3) and 39(4) of the Act. With aforesaid facts, FIR No.33 of 2024 (Annexure P-7) was registered in Police Station Haroli against Krishan Kumar.

23. On comparison of Inspection Report and FIR, it is apparent that the allegation is that the confiscated liquor was bottled in the bottling plant, whereas in the FIR, lodged on 26.3.2024, it has been categorically stated that the seized liquor in the plant was not bottled in the bottling plant. In the report, Krishan Kumar has been alleged to be an employee of the bottling plant but without his rank and authority, whereas in the FIR he has been stated to be Supervisor. Further, it has been categorically submitted on behalf of the petitioner that person Krishan Kumar was neither Supervisor nor Incharge of the Unit but he was contractor who was doing construction/ renovation work in the bottling plant. Story of missing of the truck alongwith liquor and on search finding the truck with less liquor is also missing in the Inspection Report. Details of driver of the Truck and action taken as proposed against driver as well as owner are also missing.

24. It is also not understandable that in case Krishan Kumar was Supervisor or Incharge of the Bottling Plant, then under what circumstances, the truck loaded with liquor, which was allegedly recovered from the bottling plant, claimed to be under the supervision or inchargeship of Krishan Kumar, was again handed over to Krishan Kumar. In case of confiscating such a huge quantity of liquor, the inspection team either would have approached the police or the truck would have been handed over to the police or it would have been brought to the office for safe custody of alleged confiscated liquor, but there was no occasion for handing over the custody to the same person who was Incharge of the defaulter bottling plant. It amounts to handing over the custody of articles to the same person from whom those were recovered and confiscated.

25. From the aforesaid different story stated in the Inspection Report as well as in the FIR, it is apparent that FIR has been registered with consultation and is an afterthought to wrap the petition in a case alleging violation of provisions of the Act.

26. It is also apt to record that in reply to the notice as well as in the petition, it has been stated on behalf of the petitioner that Krishan Kumar was not employee of the petitioner and the

said fact can be verified from the list of employees supplied by the petitioner to the department.

27. It has been contended by the learned Advocate General that Krishan Kumar was Supervisor/employee of the petitioner but it was not disclosed to the department and, therefore, he was not included in the list of employees, which plea is also an afterthought, as had it been so, then Inspection Team should have mentioned about it and the concerned authority should have taken appropriate action for this lapse also, but no action has been taken by the respondents regarding such lapse.

28. From the provisions of Section 66(2) of the Act, it is apparent that the offences, alleged to have been committed under Sections 26, 43, 44, 45, 46, 47 or 59 of the Act, were and are compoundable. Perusal of Section 66 depicts that in case of cancellation or suspension of licence under clauses (a), (b) or (c) of Section 29, such cancellation or suspension may be revoked or foregone after payment of penalty, on application made by the holder of such licence. Therefore, suspension of licence for violation of provisions of Sections 43 and 44 read with clauses (b) & (c) of Section 29 and Section 31, was compoundable as all these Sections indicate that it is not mandatory for cancelling or suspending the licence, but

the Financial Commissioner (Excise) has discretion to cancel or suspend the licence, but for the unbelievable story with respect to seizure and confiscation of liquor in the bottling plant and minor variation in the stock, being within permissible limit, and permissible and liable to be adjusted in terms of provisions of Punjab Distillery Rules, the penalty imposed by the Commissioner is highly disproportionate.

29. Learned counsel for the petitioner has also referred to Punjab Distillery Rules, which provide the permissible limit of wastage allowance in case of various operations, such as spirit store room, re-distillation, bottling operation, bottled spirit room, with further provision that for excess wastage within the prescribed limit, it is permissible to set off with the wastage of spirit in the month having less than prescribed scale. Relevant provision reads as under:

"WASTAGE ALLOWANCE IN CASE OF"

Spirit store room	Re-distillation	Bottling operation	Bottled spirit room
2 percent	1.5 percent	1.5 percent	1 percent

1. The excess wastage in various operations, namely, store room, bottling operation, bottled spirit room and re-distillation, shall be worked out separately in form D-26, D-27, D-28 and D-29.

2. The above scale shall apply both to Country Spirit and Indian Made Foreign Spirit. Where the wastage of spirit exceeds the prescribed limit, duty on wastage of each kind of spirit, for which a separate rate of duty is fixed shall be calculated separately, but for this purpose, various brands of Indian Made Foreign Spirit chargeable to the same rate of duty, shall be taken up together.

> 3. For the purpose of this rule wastage shall be calculated for each month for each kind of spirit separately but the charge on account of still head duty for each kind of spirit shall be made at the end of the financial year. The Distilleries, Bottling plant shall be allowed to set off the results of The month/month in which the wastage of spirit was less than the prescribed scale against those of the month/month in which the wastage exceeds.
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> 4. The duty shall be charged at the still head duty rate applicable to particular kind of spirit."

30. The aforesaid provision has not been disputed. Therefore, the variance found in physical checking was permissible to be set off in subsequent months or previous month and, therefore, only on this count such a harsh decision to suspend the licence in perpetuity should not have been taken.

31. Plea taken by learned Advocate General, by referring pronouncement of the Apex Court in *Har Shankar's* case supra, that there is no fundamental right to carry on business of intoxicants, is not relevant in the context of the present case. In present matter, it is not a case where petitioner is requesting for grant of licence to start a business in intoxicants, which is otherwise prohibited or not permissible, but it is a case where licence had already been granted to the petitioner to carry on business in intoxicants and has been cancelled for alleged violation of relevant provisions of the Act and Rules. Once licence is granted to carry out business in intoxicants, the person running such business with valid

licence cannot be deprived from his right to take appropriate recourse of law, including filing representation, appeal or petition under Article 226 of the Constitution of India for judicial review of the action taken by the authorities. A person having a valid licence has a legitimate guaranteed right and fundamental right to carry out such business in consonance with the provisions of law and opposition of the petition on this ground is misconceived.

32. Plea of the learned Advocate General that there is admission on the part of the petitioner before the Financial Commissioner about violation of provisions of Act and Rules, including seizure and confiscation of liquor loaded in the truck, found in the premises, and, therefore, no other evidence is required and, thus, there is no scope of interference in the order, is also misconceived, as in the reply to Show Cause Notice as well as in the Writ Petition, it is categorical stand of the petitioner that though Krishan Kumar was also there in their premises, but the fact of confiscation of illicit liquor loaded in the truck parked in the bottling plant has not been admitted and a question has been raised about the story by stating that in case such truck was found in the bottling plant, then why it was not taken in custody by the department or was handed over to the police, but was handed over to the so-

called employee of the petitioner and it has been categorically stated that entire story of Inspection Team was suspicious and against the due process of law.

33. The contents of the reply (Annexure P-4) wherein full responsibility of violation is stated to have been taken by the petitioner or its representative in rebuttal dated 3.5.2024 (Annexure P-6) filed by representative of petitioner or in response dated 30.5.2024 (Annexure P-9) to the notice dated 21.5.2024 (Annexure P-8) issued under Section 29(b) and (c) of the Act, clearly depict that such responsibility was taken with respect to Points No.3 to 8 of Notice dated 22.3.2024 (Annexure P-3) and Points No.1 to 4 and 7 to 9 of Notice dated 21.5.2024 (Annexure P-9) and none of these points are related to the alleged recovery and confiscation of illicit liquor loaded in the truck. In this regard, Points No.1 and 2 of Notice dated 22.3.2024 (Annexure P-3) and Points No.5 and 6 of the Notice dated 21.5.2024 (Annexure P-9) deal with this issue, regarding which there is no admission in either the replies or representations filed at any point of time on behalf of the petitioner, whereas the only reason for passing the impugned order(s) to suspend the licence with effect from 16.3.2024 and for reiterating the same in order dated 9.12.2024 is that petitioner had itself admitted the commission of offences in

violation of provisions of the Act and relevant Rules. There is no other reasoning in the impugned order, particularly regarding absence of mention of the story of missing truck and discovery of the same after search by the Inspection Team here and there in all directions and disappearance of the confiscated liquor from the truck. The impugned order(s) do not speak anything about the discrepancy in the report and the FIR, as in the report it has been stated that confiscated liquor was appearing to have been bottled in the bottling plant, whereas in the FIR it has been stated, categorically, that it was not bottled in the plant.

34. Plea of learned Advocate General that for not applying for renewal of licence within 90 days prior to expiry of the licence, the licence issued to the petitioner, for want of renewal for the year 2024-2025, has to be deemed to have been cancelled with effect from 31.3.2024, is also not tenable, as from perusal of documents placed on record by the department, during hearing of the case, it is apparent that in 2017, the licence was issued on 8.3.2017, but renewal fee for that was deposited on 21.4.2017 for 2017-18, and balance amount of renewal fee for 2019-20 upto 31.3.2020 was deposited on 13.8.2019, and this fact has been mentioned in the renewal for the year 2019-20, i.e. from 1.4.2019 to

31.3.2020, meaning thereby that the renewal was signed after 13.8.2019, however, for the period from 1.4.2019 to 31.3.2020; similarly for renewal of licence for the year 2020-21, the balance amount was deposited on 18.5.2020 and licence was renewed thereafter and this fact has been mentioned in renewal order signed by the Financial Commissioner; licence fee for 2021-22, for the period 1.4.2021 to 31.3.2022 was deposited on 18.6.2021 and thereafter licence was renewed.

35. Learned counsel for the petitioner has also submitted that for renewal of old licence, application can be made even at delayed stage of the same and such application is considered by the Commissioner (Excise) with approval of Financial Commissioner on payment of fee chargeable for a new licence.

36. The aforesaid plea has also not been disputed.

37. It is also noticeable that licence was suspended in June 2024 and, thereafter, representation was also rejected on 9.12.2024, but till date no final decision has been taken either for revocation of suspension or cancellation of licence. Suspension cannot be perpetuated for indefinite time. There must be some limit for deciding further course of action. Though present petition against suspension of licence was

pending adjudication, but there was no injunction for taking further action to revoke the suspension or cancel the licence. In the facts and circumstances of the present case, under the garb of suspension, the petitioner is being made to suffer cancellation of licence.

38. It has been submitted on behalf of the petitioner that the bottling plant of the petitioner was sealed on 16.3.2024 and till the next decision of the concerned authority there was no occasion or right accrued to the petitioner to file an application for renewal even at delayed stage and after suspension of licence with effect from 16.3.2024 till further order, there was no occasion for submitting an application for renewal of licence, unless suspension would have been revoked and, therefore, during currency of suspension, petitioner could not have applied for renewal of licence and under such circumstances there was no logic in filing application for grant of new licence for the year 2024-25, or 2025-26. Plea of the petitioner appears to be convincing.

39. In view of above, orders dated 15.6.2024 and 9.12.2024 are quashed and set aside and the Commissioner, State Taxes and Excise is directed to determine appropriate compounding fee in consonance with the relevant provisions, in the light of aforesaid observations, within 15 days of passing

of this order and, thereafter, to pass an appropriate order with respect to renewal of licence of the petitioner.

The writ petition is allowed and disposed of, in the aforesaid terms, so also pending application, if any.

(Vivek Singh Thakur)
Judge.

(Sushil Kukreja)
Judge.

September 23, 2025(sd)