[1]THE RAJASTHAN EXCISE (AMENDMENT) ACT, 2007

1. Amendment of section 3, Rajasthan Act No. II of 1950. – In clause (19) of section 3 of the Rajasthan Excise Act, 1950 (Act No. II of 1950), hereinafter in this Act referred to as the principal Act, after the existing expression "boat, raft" and before the existing expression "and enclosure", the expression ", vehicle" shall be inserted.

2. Amendment of section9, Rajasthan Act No. II of 1950. – For the existing sub-section (1A) of section 9 of the principal Act, the following shall be substituted, namely:-

"(1A) The State Government may also appoint such and so many other persons as it thinks fit and necessary to be:-

(i) Director Enforcement, Special Director Enforcement, Additional Director Enforcement, Joint Director Enforcement, Zonal Director Enforcement, Deputy Director Enforcement and Assistant Director Enforcement:

(ii) Deputy Excise Commissioners;

(iii) District Excise Officers;

(iv) Other inferior Officers.:."

3. Amendment of section 9A, Rajasthan Act No. II of 1950. – In section 9A of the pricipal Act,-

(i) In clause (b) of sub-section (1), for the existing expression " to the Division Bench of the Board of Revenue established under the provisions of Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956)," the expression " to the Division Bench of the Rajasthan Tax Board constituted under section 88 of the Rajasthan Value Added Tax Act, 2003 (Act no. 4 of 2003)," Shall be substituted;

(ii) in sub-section (3), for the existing expression "Board of Revenue", the expression "Rajasthan Tax Board" shall be substituted; and

(iii) in sub-section (4), for the existing expression "Board of Revenue", the expression " Rajasthan Tax Board" shall be substituted.

4. Insertion of section 10 A, Rajasthan Act No. II of 1950. – After the existing section 10 of the principal Act, the following new section shall be inserted, namely:-

"10 A. Establishment of check-post and inspection of goods while in movement. – (1) The Excise Commissioner may, with a view to prevent or check evasion of excise duty, by notification in the Official Gazette, direct the setting up to check-posts at such places and for such period as may be specified in the notification. Every officer or official, who exercises his powers and discharges his duties at such check-posts by way of inspection of documents produced and goods being moved, shall be its Incharge.

(2) Notwithstanding anything contained in sub-section (1), the Excise Commissioner may, by notification in the Official Gazette, declare any existing check-post established by any other department of the State Government to be the check-post for the purposes of this section and may appoint any officer or official to act as the Incharge of the check-post for the purpose of this section.

(3) The driver or person Incharge of a vehicle or carrier carrying, excisable articles shall-

(a) Carry with him the permit, pass, bill and bilty;

1. No. F.2(27)vidhi/2/2006 dated 6 June 2007. Published in Raj. Gaz. Part 4(Ka) dated 6-6-2007. Page 9(1) to 9(16) w.e.f.6-6-2007.

(b) Stop the vehicle or carrier at such check-post;
(c) Produce all documents for inspection of the Incharge of the check-post; and
(d) Allow the inspection of goods / excisable articles.

Explanation. - For the purpose of this section " vehicle or carrier" shall include any means of transportation including an animal to carry goods from one point to another.".

5. Amendment of section 48, Rajashan Act No. II of 1950.- In proviso to section 48 of the pricipal Act, after the existing clause (iii), the following clause shall be added, namely:-

"(iv) The provisions of section 162 of the Code of Criminal Procedure, 1973 (Central Act No.2 of 1974) shall not apply to the investigations made under this Act."

6. Amendment of section 49, Rajasthan Act No. II of 1950. – For the existing section 49 of the principal Act, the following shall be substituted, namely:-

"49. Modified application of certain provisions of the Code.- (1) Section 167 of the Code shall apply to a case involving an offence punishable under the proviso to section 54, or under sections 54B, 54D or 56 of this Act subject to the modification that in sub-section (2) therof the reference to "sixty days" and "ninety days" wherever they occur , shall be construed as reference to "one hundred twenty days" and "one hundred eighty days" respectively.

(2) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under the proviso to section 54, or under sections 54B, 54D or 56 of this Act.

(3) Notwithstanding anything contained in the Code, no person accused of an offence punishable under the proviso to section 54, or under sections 54B, 54D or 56 of this Act shall, if in custody, be released on bail or on his own bond, unless-

(a) the Public Prosecutor has been given an opportunity to oppose the application of such release; and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guily of such offence and that he is not likely to commit any such offence while on bail.

(4) The limitations on grant of bail specified in sub-section (3) are in addition to the limitations under the Code or any other law for the time being in force on the grant of bail.

Explanation.- In this section, the expression "the Code" means the Code of Criminal procedure, 1973 (Central Act No. 2 of 1974).

7. Amendment of section 54, Rajasthan Act No. II of 1950. – In section 54 of the principal Act,-

(i) For the existing expression "be punishable with imprisonment for a term which may extend to three years and with fine which may extend to twenty thousand rupees", the expression " be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine of twenty thousand rupees or five times of the loss of excise duty, whichever is higher" shall be substituted;
(ii) the existing first proviso shall be deleted; and
(iii) for the existing second proviso, the following shall be substituted, namely:-

" Provided that if the quantity of liquor found at the time or in the course of detection of the offence under clause (a) of this section exceeds fifty bulk liters, the

person guilty for such offence shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine of twenty thousand rupees or ten times of the loss of excise duty, whichever is higher."

8. Insertion of new section 54B, 54C and 54D, Rajasthan Act No. II of 1950.- After the existing section 54A and before the existing section 55 of the principal Act, the following new sections shall be inserted, namely:-

"54B. Penalty for adulteration resulting in death etc.. – (1) Whoever mixes or permits to be mixed with any liquor or intoxicating drug any noxious substance or any substance, which is likely to cause disability or grievous hurt or death to human beings, shall, on conviction, be punishable, -

(i) if, as a result of such an act, death is caused to any person, with imprisonment for a term which shall not be less than two years but which may be for life, and with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees;
(ii) if, as a result of such an act, disability or grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may be for life, and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees;
(iii) in any other case, with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh and fifty thousand rupees.

(2) Whoever omits to take reasonable precautions to prevent the mixing of any noxious substance or any substance which is likely to cause disability or grievous hurt or death to human beings, with any liquor or intoxicating drug shall, on conviction, be punishable,-

(i) if, as a result of such omission, death is caused to any person, with imprisonment for a term which shall not be less than two years but which may be for life, and with fine which shall not be less than One lakh rupees but which may extend to ten lakh rupees;
(ii) if, as result of such omission, disability or grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may be for life, and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees;
(iii) in any other case, with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh and fifty thousand rupees.

(3) Whoever possesses any liquor or intoxicating drug in which any substance referred to in sub-section (1) is mixed, knowing that such substance is mixed with such liquor or intoxicating drug shall, on conviction, be punishable with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to one lakh rupees.

Explanation. - For the purpose of this section and section 54 C the expression " grievous hurt" shall have the same meaning as is in section 320 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

54C. Order to pay compensation. – (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) the court when passing the judgment in a case falling under section 54B may, if it is satisfied that death or grievous hurt or disability or other injury has been caused to any person or persons

by consumption of liquor or intoxicating drug sold in any place, order the person who sold the liquor or intoxicating drug, whether or not he is convicted of an offence under section 54B, to pay, by way of compensation, such amount as it thinks just to the legal representatives of the deceased or to the person or persons to whom grievous hurt or disability has been caused:

Provided that the amount of compensation ordered to be paid under this section shall not be less than three lakh rupees in case of death, two lakh rupees in case of grievous hurt or disability and twenty thousand rupees in other cases:

Provided further that, where the liquor or intoxicating drug is sold in a licensed shop, the liability to pay the compensation under this section shall be on the licensee.

(2) Any Person aggrieved by an order under sub-section (1) may, within thirty days from the date of the order, prefer an appeal to the High Court:

Provided that no such appeal shall lie unless the amount ordered to be paid under sub-section (1) is deposited in the court which passed such order:

Provided further that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

54D. Penalty for criminal conspiracy. – Whoever is a party to a criminal conspiracy to commit an offence punishable under this Act shall be punished in the same manner as if he had committed such offence.

Explanation.- For the purpose of this section the expression " criminal conspiracy" shall have the same meaning as is in section 120-A of the Indian Penal Code, 1860 (Central Act No. 45 of 1860)."

9. Amendment of section 56, Rajasthan Act No. II of 1950.- In section 56 of the principal Act,-

(i) for the expression "which shall not be less than six months and may extend to three years and also with fine which shall not be less than rupees two hundred and may extend to one thousand rupees", the expression "which shall not be less than two years but which may extend to five years and with fine of two lakh rupees or five thousand rupees per bulk liter of denatured spirit or denatured spirituous preparation involved, whichever is higher." shall be substituted; and

(ii) after section 56, so amended, following explanation shall be added, namely:-

"**Explanation**.- For the purpose of this section it shall be presumed, unless and until the contrary is proved, that any spirit, which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants, is or contains or has been derived from denatured spirit.".

10. Amendment of section 58, Rajasthan Act No. II of 1950.- In section 58 of the principal Act, for the expression " which may extend to five hundred rupees", the expression " of five thousand rupees" shall be substituted.

11. Insertion of section 58A, Rajasthan Act No. II of 1950.- After the existing section 58 of the principal Act, the following new section shall be inserted, namely:

"58A. Penalty for adulteration, etc., by licensed vendor or manufacturer.- Whoever being the holder of a license for the sale or manufacture of any intoxicant under this Act, or a person in the employment of such holder-

(a) mixes or permits to be mixed with intoxicant sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality, or any article prohibited by any rule made under this Act where such admixture does not amount to the offence of the adulteration under section 272 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860); or

(b) sells or keeps or exposes for sale as foreign liquor, which he knows or has reason to believe to be Indian made foreign liquor; or

(c) marks any bottle or the cork of any bottle, case, packing or other receptacle containing Indian made foreign liquor , or uses any bottle, case, package or other receptacle, with any mark thereon or on the cork thereof, to contain Indian made foreign liquor with the intention for causing it to be believed that such bottle , case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false property mark with intention to deceive or injure any person under section 482 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860); or

(d) sells or keeps or exposes for sale any Indian made foreign liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to be offence of selling goods marked with a counterfeit property mark under section 486 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860); or

(e) makes any block for the purpose of counterfeiting excise adhesive labels or holograms or prepares copies by any means of such labels or holograms for the purpose of counterfeiting such labels or holograms or counterfeits excise adhesive labels or holograms or makes any block for the purpose of counterfeiting corks or capsules to be used on bottles, cases, packing or other receptacles containing Indian made foreign liquor or foreign liquor or counterfeits such corks or capsules or is in possession of counterfeit excise adhesive labels, holograms, corks, capsules or blocks or any other material to be used for counterfeiting such labels, hologram, corks, capsules,

shall, on conviction, be punished with imprisonment,

(i) in case of first offence, for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than ten thousand rupees but which may extend to three lakh rupees;

(ii) in case of a second or subsequent offence, for a term which shall not be less than two years but which may extend to five years and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

Explanation.- For the purpose of this section, the expression " counterfeit" shall have the same meaning as is in section 28 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860)."

12. Insertion of section 61A, Rajasthan Act No. II of 1950.- After the existing section 61 and before section 62, the following new section shall be inserted, namely:-

"61A. Penalty for certain acts and omissions by Excise Officers. – If any Excise Officer unlawfully releases or abets the escape of any person arrested under this Act or acts in any manner inconsistent with his duty for the purpose of enabling any person to do any thing whereby any of the provisions of this Act may be evaded or contravened or the excise revenue may be defrauded, he shall be punished with imprisonment for a term which shall not be less than three months but which may extend to one year;

Provided that no court shall take cognizance against any officer under this section without prior permission of the State Government."

(ii) after the existing sub-rule (3), the following new sub-rules shall be inserted, namely :-

"(4) In respect of wholesale licences granted to Canteen Stores Department a privilege fee amounting to Rs. 30.00 lac shall be charged in addition to the annual wholesale licence fee prescribed for licences under rule 47(1)(b).

(5) A sum of Rs. 2500/- shall be charged from the commanding officer of the Armed Forces of the Union of India Stationed in Rajasthan and Commandant of the Border Security Force personnel for holding retail off licence."

3. Amendment of rule 69-B:- In the 'Table' appearing below rule 69-B of the said rules :-

(i) the existing S.No. 3 and entries thereto shall be deleted;

(ii) the existing expression "IMFL" appearing in column No. 2 against S. No. 4 shall be substituted by expression "Foreign Liquor (excluding beer)"; and

(iii) the existing expression "Indian made beer" appearing in column No. 2 against S.No. 5 shall be substituted by the expression "Beer".

[Noti. No.F.4(27)FD/Ex/2005 Dated : 10-9-2007]

(3)

In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the State Government being of the opinion that reasonable grounds exist for doing so hereby exempts manufacturers of country liquor from payment of permit fee payable under rule 69-B of Rajasthan Excise Rules, 1956 for such quantity of rectified spirit/extra neutral alcohol that was manufactured and utilized by the same manufacturer for manufacturing country liquor during the period of 17-9-2005 to 13-8-2007.

[Noti. No.F.4(31)FD/Ex/2005 Dated : 13-8-2007]

(4)

In excise of the powers conferred by Section 28 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the State Government hereby makes the following amendment in this Department's Notification No. F.4(62)FD/Ex/96 dated 31-3-1997 (as amended from time to time) with immediate effect; namely:-

AMENDMENT

In the said notification.

1. Entries appearing at S. No. (i) under head "1. Excise Duty" shall be substituted respectively by the following entries :-

(i)	Indian made foreign liquor/spirit (including heritage liquor) having price per carton of quart bottles (irrespective of whether the packing is in quarts, pints, nips or others) as declared by manufacturers and as accepted by Rajasthan State Beverages Corporation Ltd. :	Excise Duty
(a)	Up to Rs. 400/-	Rs. 170/- per LPL
(b)	above Rs. 400/- but upto Rs. 600/-	Rs. 210/- per LPL
(c)	above Rs. 600/- but upto Rs. 900/-	Rs. 250/- per LPL
(d)	above Rs. 900/- but upto Rs. 1500/-	Rs. 280/- per LPL
(e)	above Rs. 1500/- but upto Rs. 3000/-	Rs. 350/- per LPL
(f)	above Rs. 3000/- but upto Rs. 8000/-	Rs. 500/- per LPL
(g)	above Rs. 8000/- but upto Rs. 10000/-	43% ad-valorem
(h)	above Rs. 10000/-	50% ad-valorem

[Noti. No.F.4(27)FD/Ex/2005 Dated : 10-9-2007]

The Rajasthan Excise Act, 1950
(Act No. II of 1950)

[Made by His Highness the Rajpramukh on the 20th day of March, 1950]

PREAMBLE

An Act to enact for Rajasthan a Uniform Law relating to the import, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs.

Whereas it is expedient to consolidate and amend the law in Rajasthan relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs, [1][and to provide for certain other matters hereinafter appearing].

It is hereby enacted as follows -

COMMENTARY
SYNOPSIS

1. Importance of Preamble
2. Historical Background
3. The Object of the Act
4. The Contents of Preamble
5. Consolidating Statute
6. Scheme of the Act
7. Rules under the Act
8. Canons of Interpretation of a statute
9. Whether Directory or Mandatory
10. Interpretation of Taxing statute.
11. Validity of the Act
12. Validity of delegation of powers
13. Principle of Promissory Estoppel
14. Principles of natural Justice
15. Use of discretion.
16. Remedy by way of writ petition.
17. Latest trend

1. Importance of the Preamble—The Preamble is the beginning of Statute. it suggests the mind of the maker of the Act- It has been held to be the key to the construction of the Act and should be resorted to unlock the mind of its makers"[2] The preamble precedes the words of enactment and is in nature of a recital of facts operating on the minds of the law giver in proceeding to enact.[3] The Policy and purpose of a given measure may be deducted from the long title and the preamble of it [4] The old view that the preamble cannot the part of statute was[5] held by Lord. Holt, but Lord. Halsbury followed the other

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[1] Inserted vide S. 2 of the Rajasthan Act No. 3 of 1966 Published in Raj. Gaz-EO-Part IV A dated 29-3-1966.

[2] Shamsher Ali v. Ratnaji AIR 1952 Hyd. 38 FB

[3] Cases on Statute Law (V Edn-Page 38)

[4] In re Kerala Education Bill AIR 1958 SC 958: 1959 SCR 995

[5] Mills v. Welkins 87 English Reports 822.

v and held that the preamble may be regarded as the part of the statute[1]. The preamble statute is also one of the aids of interpretation of a statute. Though not an operative of a statute, but, however, is not without significance[2]. It is a key to open the ds of the framers of the Act[3] it is a preparatory statement at the beginning of the ite following the title and preceding the enating clause, explaining or declaring the ons or motives for and the object to be sought to be established by the enactment he statute.[4] The preamble is good means of finding out the meaning of a statute. a key to the understanding of it and may be used to decide its aim, scope and ct[5]. The preamble may no doubt be used to solve any ambiguity or to fix the measure words which may have more than one meaning but it can, however not be used to inate as redundant or unintended the operative provisions of a statute.[6] The preamble cy to the statute and affords a clue to the scope of the statute when the words structed by themselves without the aid of the preamble are fairly capable of more one meaning.7 It may be legitimately consulted to solve any ambiguity or to fix meaning of the words which may have more than one[8]. The motive of the legislation ften recited in the preamble but the remedy may extend beyond the evil intended e removed.[9] Aid cannot be taken beyond the cure of evil intended to be removed.[10] imble can be an aid in construing a provision which is ambiguous in nature.[11]

2. Historical Background— The State of Rajasthan is a union of several princely es of Rajputana which came into existence on 30th March 1949. This was a symbol lemocratic awakening in the people of Rajasthan. There were several laws relating xcise duty and control on production, sale etc. of liquor in different princely states Rajasthan. Hence consolidation of law was felt necessary to amend and re-enact it ording to need of the new State of Rajasthan. In 1950 therefore, the Rajasthan Excise was enacted and was enforced in some parts of the State. After reorganisation of state of Rajasthan, it was made applicable to Abu area also w.e.f. 1-9-1978.

Prohibition in Rajasthan in 1969– Suspension of operation of Excise Act – ival in 1981—

In 1969, the Rajasthan Prohibition Act was enacted and the operation of the Rajasthan ise Act, 1950 was suspended. The Prohibition Act, thus, prevailed over this Act,

Halsbury's Laws of England Vol 31, Page 461.

Secretary of State for India V. Maharaja of Bobbili 46 I A 302 Radha Kishan v. Ramnagar Co-operative Society AIR 1951 All.346 FB.

Shabbir Ali Hussain v. Janab Sartaj Begum AIR 1953 Hyd. 129.

District Board Bhagalpura v. State of Bihar AIR 1954 Patna. 529.

A Thugul Kunju v. Venkattachallam AIR 1956 SC 246: 1955 SCR 323: Geneshmal v. Board of Revenue ILR 1966 (16) Raj. 577: 1956 RLW 396

State of Rajasthan v Mrs. Leela Jain AIR 1966 SC 1296

Kochuni v. State of Madras & Kerala AIR 1960 SC 1080.

Venkatswami Naidu v. Narsa Ram Narain das AIR 1966 SC 361: (2) 1965 SCJ 880

Burrakur Coal Co. Ltd. v. Union of India AIR 1961 SC 954.

AIR 1958 SC 958.

Sita Devi V. State of Bihar, 1995 Supp(1) SCC 2001

On Failure of the policy of Prohibition and due to heavy loss of revenue, the Rajasthan Prohibition Act, 1969 was repealed by Rajasthan Act No. 13 of 1981 w.e.f 11-8-1981 runs as under :—

"4. Revival of the Rajasthan Excise Act, 1950—Upon the commencement of this Act, the Rajasthan Excise Act 1950 (Rajasthan Act No. 2 of 1950) shall in relation to liquor, revive and extend to the whole of the State of Rajasthan".

The principle argument advanced by the State Government for bringing the Rajasthan Prohibition Act Repealing Act, 1981 was stated to be "heavy losses in revenue of State". Thus the cause of public morality and health was defeated by revival of the Rajasthan the Statement of object & reasons of the Act of 1981 is being reproduced hereunder for ready reference :-

3. The Object of the Act- (a) Statement of Objects & Reasons—
[Rajasthan Prohibition Act Repealing Act 1981]

Total prohibition was imposed in the State with effect from 1st April 1980. Despite efforts; there was no perceptible change in the habit of drinking. Anti Social elements took to illicit distillation and bootlegging and the persons involved at the cost of health of the People addicted to drinking as also the state revenues. Hence the Rajasthan Prohibition Act, 1969, could not achieve the desired results. In these circumstances, it was decided to repeal the Rajasthan Prohibition Act, 1969 and to revive the Rajasthan Excise Act, 1950 in relation to liquor. For this purpose, the Rajasthan Prohibition Act Repealing Ordinance, 1981 (Ordinance No. 7 of 1981) was promulgated by the Government on the 1st day of August, 1981.

One of the purpose of the Act is to raise revenue. Revenue is collected by the grant of contracts to carry on trade in liquor. Therefore, the State has power to hold public auction for grant of such right or privilege & accept payment of a sum in consideration of grant of lease. These contracts are sold by auction. The grantee is given licence on payment of auction price.[1]

The preamble indicates the object of the Act as follows:

(a) to consolidate and amend the existing law, and

(b) to regulate and to prohibit various activities and dealings with liquor.

The object behind this Act is mainly centred round the collection of excise duty to raise the revenue of the State.

The object of the Act as given in the preamble and its long title is to enact for Rajasthan a uniform law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs. Prior to the integration of the princely States in Rajasthan, the covenanting States had separate Statues and, therefore the present Act was enacted to consolidate and amend the law relating to intoxicating liquor and drugs for the entire State. The purposes of the Act have to be understood in the light of Article 47 of the Constitution which mandates the State to endeavour to bring about prohibition of the consumption of intoxication drinks and drugs which are injurious to health. Seen in this light, the objective is clear that the State has to proceed towards complete prohibition of the consumption of intoxicating drinks and drugs. (Para 22)[2]

[For further details, see in S. 42 infra]

1. Nashirwar vs. State of M.P. 1975 (1) SCC 29
   Pannalal v. State of Rajasthan . AIR 1975 SC 2008.
2. Lekh Raj. v. State 1987 (1) WLN 774 : 1987 (1) RLR 661

(b) Importance of the Objects and reasons of the Act—The intention of the statute cure a particular evil or mischief which is presented in the form of the statement ıe Objects and reasons given at the beginning of a bill which later on becomes ct when passed by the appropriate legislature. The Statement of Objects and reasons ɔt admissible as aid to the construction of a statute, but it can be referred to for limited purpose of ascertation the conditions prevailing at the time which actuate sponcer of the bill to introduce the same and the extent and urgency of the evil :h sought to be remedy.[1] The Primary duty of the Court is to give effect to the ıtion of the legislature as expresed in the words used by it and no outside consideration be called in aid to find that intention.[2]

The statement of object and reasons can be referred to ascertain mischief sought ɜ remedied by the statute, but is not an aid to interpretation of the provision.[3]

Reference to the statement of objects and reasons may be of great help to the t where words and expressions in a statute are sought to be construed to mean ɜthing different than what emerges from a plain reading thereof.[4]

Intention of Legislature and its Importance

Sections should ordinarily be interpreted as they stand without addition of any ls[5] the language used by the legislature is the true dispository of the legislative ıt, and the words used and phrases occurring in a statute are to be taken not in solated or detached manner dissociated from the context, but are to be read together construed in the light of the purpose and object of the Act itself.[6] To ascertain egislative intent, all the consistent parts of a statute are to be taken together and word phrase or sentence is to be considered in the light of the general purpose Object of the Act itself.[7]

Legislative proceedings can be looked into for the proper understanding of the mstances under which a particular Act or amendment is made and also for understanding eason which necessitated the passing of that legislation. The legislative proceedings ot certainly be referred to for purpose of constructing an Act[8] where clear indication gislature available, such intention may be given effect to notwithstanding lacuna ıe language[9]. Parliamentary proceedings as well as statement of objects & reasons ot be looked into for the construction of a statute[10]. The court is not concerned the movies of Parliament in judging the character of a piece of legislation enacted

State of West Bengal v. Subodh Gopal AIR 1954 SC 92; A.S. Ghose v. Arbindra Bose AIR 1952 SC 369; Express Newspaper v. UOI, AIR 1958 SC 578.

The New Piece Goods Bezar Co. Ltd v. CIT. Bombay AIR 1950 SC 165.

Bhagwan Sahai v State of Raj. 1961 RLW 369

Babu Ram v. State of U.P., (1995) 2 SCC 689 A Thangal Kanju Musaliar VM Venkatachalam Potti, AIR 1996 SC 246.

Aujandas Naraindas Advani v. Narsingdas Narain das Advani, AIR 1997 Bombay 20.

Nitish v. Promode AIR 1953 Cal. 16.

Darshan Singh v State of Punjab AIR 1953 SC 83

Poppat lal v State of Madras AIR 1953 SC 284

Murarilal v. State 1960 RLW 160- ILR (1959) 9 Raj. 801.

The State v Abdul Rasid ILR (1962) 12 (Raj.) 363; 1962 RLW 235.

The Madho Singh v State of Raj ILR (1954) 4 Raj 518; 1954 RLW 601; AIR 1954 Raj 197

by it, but with what it has actually enacted [1]. It is well established rule of interpretation that if the word used is clear and not ambiguous, the court is not to consider the object of the statute for which the legislative assembly he passed it.[2] It is a recognised rule of interpretation of the statute that the expression used therein should ordinarily be understood in a sense in which they best harmonise with the object of the statute and which effectuate the object of the legislature. If an expression is susceptible of a narrow or technical meaning, as well as a popular meaning the court would be justified in assuming that the Legislature used the expression in the sense which would carry out its objects and reject that which renders the exercise of its powers invalid.[3]

If language is clear and explicit, the court must give effect to it. "for in that case the words of the statute speak the intention of the Legislature (1832) 2 D &CI 480) And is so doing it must bear in mind that its function is *jus dicere not jus dare:* the words of a statute must not be over ruled by the judges but reform of law must be left in the hands of Parliament [Chency v. Conn (1968) I WLR 242 and (1968) 2 QB 932 followed][4].

It is duty of the court to interpret a statute so as to promote the object and purpose of the Act. While doing so it is open to the Court to depart from normal rule that plain words should construed according to their plain meaning[5].

4. The Contents of Preamble—As the Preamble has been regarded as a key to the Act. it is worthwhile to examine it contents summarised as follows:-

(i) to consolidate and amend the law, i.e. uniform law for Rajasthan, and

(ii) the law relating to-

(A) (1) import, (2) export, (3) transport, (4) manufacture, (5) sale and (6) possession of -

(a) intoxicating liquor, and

(b) intoxicating drugs, and

(B) to provide for certain other matters hereinafter appearing.

[For meaning of these terms, please refer to commentary of section 3, infra.

5. Consolidating Statute: "An act to consolidate and amend the law:- This clause means that the present Act not only codifies the law, but also amends it.

In view of Waston J: the very **object of consolidation** is to collect the statutory law bearing upon a particular subject and to bring it down to date, in order that it may form a useful code applicable to the circumstances existing at the time when the consolidating Act is passed[6]

1. Marwar Textile Mills Ltd. v. Union of India- ILR (1955) 6 Raj 832; AIR 1955 Raj. 114
2. Refer- Chhattar Singh v. State 1972 RLW 506; Abdul Aziz v. Maurnat Kumar 1969 RLW 424; 1969 WLN 52; Mangal Singh v. State 1971 WLN 23 Manna Lal v State 1969 WLN 311; 1970 RLW 194.
3. Aswini Kumar v. State 1976 RRD 617; Sashi Sharma v Delhi Administration AIR 1973 SC 917; AIR 1973 SC 1239
   Amarnath v. Tekchand AIR 1972 SC 1550
   State of M.P v. C.J. Patel AIR 1972 SC 972.
4. Maxwell on the Interpretation of Statutes (Edn XII 1980) Page 1-2
5. Jogeshwar Majhi v Ramia Kisan,, AIR 1997 Orissa 54.
6. Addm. General of Bengal v Premahal Mullick (95) 22 Cal 788.
   Poonamchand v. Municipal Board, Jhalawar AIR 1965 Raj 98.

"To consolidate" means to reduce to a system of the statute law relating to the : subject matter as illustrated by judicial decisions.

So the task of consolidation and consdification of existing law was taken up and .ing law was also amended to suit the needs of the Union of Rajasthan.

In case of an Act which is amending as well as consolidating, beyond the reasonable pretation of its provisions there is no means of determining whether any particular on is intended to consolidate or to amend the previously existing law[1]. The law ıld not be considered to have been changed unless the words used by the legislature rly show this[2]. In the consolidating Acts only statutes not expressly repealed should be held to continue in force without modification[3]. The approval of the legislature particular construction put on the provisions of an Act on account of its making ılteration in those provisions is presumed only when there had a consistent series ases putting a certain construction on certain provisions[4].

A consolidating statute is one which collects the statutory provisions relating particular topic, and embodies them in a single Act of Parliament making only minor ndments and improvement.[5]

In the construction of a Consolidation Act, the presumption that Parliament does intend to alter the existing law, applies with particular force. For object of the Act merely to 'reproduce the law as it stood before and there is a further perhaps less uassive presumption that the words used in the consolidating Act bear the same ning as that which they had at the time the enactments consolidated were passed[6].

6. The Scheme of the Act & its Contents— The scheme of the Rajasthan Excise 1950 is to prohibit possession, import, export and transport of excisable articles out a valid permit or licence under section 5 of the Act.[7]

The Scheme of the Act entails two fold objectives— (i) It is regulatory as well i) prohibitory. It regulates the Collection of excise duty by means of issuing licences nanufacture, sale, supply, export, import, possession, consumption and transportation toxicating drugs & liquors. So also it regulates the Sale, consumption, opening, closure etail liquor shops, whole Sale dealers, manufacturers, hotel & clubs under licence.

It prohibits manufacture, consumption, export, import, Sale and Supply, and possession licit liquor and restricts these activities. It prevents offences and punishes the offenders. which regular machinery of officers in the Excise Department has been created and ointed.

Ramdass Vithaldass v. Amerchands Co AIR 1916 PC 7(9)

R.S.Ramsay v. Pasupatinath AIR 1955 Cal. 255.

H. Shantanand v. Basudevanand AIR 1930 All 255 (F.B.)

Purshottam Dass Dalmia v. State of West Bangal AIR 1961 SC 1589

Maxwell on Interpretation of Statutes (Edn-XII-1980-Tripathi)-Page 12, See Administrator General of Bengal v. Prem Lal Mullick (1896) LR 22 Ind. App 107.

Craies on Statute Law. 6th Edn P. 361-363.

Maxwell on Interpretation of Statutes, Edn-XII-1980 (Tripathi)- Page 21. (See-Gilbert v. Gilbert (1928) P. 1. (1959) 1 QB 268: Crook v. Edmondson (1966) 2 QB 81).

Nathulal vs. State of Rajasthan, ILR (1976) 26 Raj. 996: 1977 RLW 23: 1976 WLN 681: 1977 Cr. LR (Raj.) 1027.

Outlines of the Act— The Act contains eleven Chapters consisting of 74 Sections.

Chapter I – Preliminary matters have been dealt with. Section 3 provides various definitions while S. 4 has invested the Government with powers to declare an article to be "liquor".

Chapter II – Sections 8 to 10 deal with control and establishment of Excise Department. S. 9A deals with appeals and revision, as remedies against action.

Chapter III – Import, export & transport have been dealt with.

Chapter IV – manufacture, possession and Sale of intoxicating drugs & liquor have been dealt with.

Chapter V – deals with imposition of duties and fees under section 28 to 30 A, while.

Chapter VI – deals with licences, permits and passes to be issued to regulate the activities relating to liquor.

Chapter VII – under Ss. 39 to 42 contains general provisions and Rule making powers of the State Government and the Excise Commissioner.

Chapter VIII – enumerates powers and duties of Officers under S. 43 to S. 53

Chapter IX – is penal law creating offences & penalties from S 54 to S. 70 of the Act.

Chapter X – deals with miscellaneous provisions under S. 71 to 74.

Schedule II appended to the Act prescribes a proforma for Bond under Section 66 A of the Act.

This is the outline scheme of the Act in brief.

7. Rules & Notifications under the Act—

(1) The following rules under this Act have been made-

(a) **Rules framed by State Government** (under S. 41)

1. Rajasthan Excise Rules, 1956.
2. Rajasthan Excise (Closure of Country Liquor shop by Local option) Rules, 1975.
3. Rajasthan Excise (Grant of Hotel bar/ Clubbar Licences) Rules, 1973
4. The Foreign Liquor (Grant of whole sale Trade and Retail off Licences) Rules, 1982.
5. The Rajasthan Liquor Prohibition Rules, 1967
6. Rajasthan Molasses Rules, 1985
7. Rajasthan Intoxicating Spirituous Preparations Import, Transport Possession & Sales Rules, 1989

(b) **Rules framed by the Excise Commissioner (under S. 42 of the Act)**

1. The Rajasthan Brewery Rules, 1972
2. The Rajasthan Distilleries Rules 1976
3. The Rajasthan Country Liquor (Fixation of Strength) Rules, 1963
4. The Rajasthan Issue & Sale Price of Country Liquor Rules, 1964
5. The Rajasthan Issue & Sale Price of Bhang Rules, 1964.
6. The Rajasthan Sacramental Wine Rules, 1970

7. The Rules regulating Stock taking and wastage of Liquor at Distilleries & Ware Houses, 1959.
8. The Rules regarding the wastage in transit, issue and storage of hemp drugs in a ware house, 1959
9. The Rajasthan Neera (Unfermented Juice of Palm) Rules, 1960
10. The Rajasthan Fixation of Retail Sale Price of Denatured Spirit Rules 1987.
11. Terms & conditions for Registration of contractors.
12. Scheme of Bonded Ware House.

[For Text of these Rules, Please refer to Part II of the Book.]

(2) Notifications—Various Notifications issued under the provisions of the Act ıe Rules frarmed thereunder are also very important part of the Law of Excise.

For importance of notification refer to note (5) of the Commentary of section 1,

We have reproduced the important statutory Notifications alongwith the commentary ıe concerned section for useful reference. Other various Notification are being given art III-Notifications of the book for further reference It is to be noted that these ications are liable to frequent changes, so the learned readers are being advised onsult the following sources from time to time as no book can be complete and o date due to flood of changes-

(1) Rajasthan Rajpatra (Gazette) (Govt. of Raj.)
(2) Rajasthan State Current Statutes. (Jodhpur)
(3) Rajasthan Law Times (Jaipur).

8. Canons of Interpretation of a statute—Before we proceed to examine the provisions ' ε Act, it would be worthwhile to recapitulate the cannons or principles of the interpretation statute in brief–

(i) Marginal Notes or Head Notes—Marginal notes are important part of the section erned. It is true that a marginal note cannot be used to qualify or govern the contents section but such a marginal note can be considered in arriving at a conclusion ı the legislative intention manifested by means of such note[1]. The marginal note ot override the provisions of the enactment and can however be taken in to consideration :e the enactment is ambiguous and is capable of more than one interpretation.[2] Where : is ambiguity in the language and grammatical construction of a particular provision ıe statute they should receive the plain and natural meaning and no aid is to be ht from the marginal or head notes or the statement of aims and object.[3].

The marginal notes cannot control the meaning of the body of the section, if the uage employed therein is clear and unambiuous.[4] Headings prefixed to section or of sections in some modern statute are regarded as preamble to those sections. re the language and the object of the section is not open to doubt the preamble ot either restrict or extend the enacting part. It is only when there is any ambiguity

Ahmedabad Municipal Corporation v. Seth Manilal Jesingbhai 1965 (1) Guj. LR 855.
Wakf Ali Allah Kardar Ahmed Khan v. Balak Singh 1955 All LJ 645.
State of Bihar v. Md. Ismail AIR 1966 Patna 1 (F.R.)
Collector, Ajmer v. Smt. Begheliji ILR (1960) 10 Raj 1023: 1960 RLW 550.

of the language of the section that the preamble can be invoked as an aid for the proper interpretation of the section [1] Marginal notes can afford no legitimate aid to construction and cannot be referred to for that purpose.[2] Marginal note to section is not to control or interfere with interpretation of the section.[3]

A heading to one group of sections cannot be used to interpret another group of section.[4]

(ii) Section- General Principles—It is a well known principle of judicial interpretation that when the words of statute are themselves precise and unambiguous, then they should be understood- taken as best declaring the intention of the legislature.[5]

The meaning of words is to be gathered from the language use, the object and the context in which the expression occures. The construction and legal import of the definition are to be found by reference to the language used and the object and the context of the Act where it occurs and it would be dangerous to rely upon the provisions of the other statutes where a similar expression has been defined for other purposes.[6]

It is always unsafe and not at all desirable to just pick out a provision & try to understand it without reference to the scheme of the statute, the intendment of the legislature and the context in which the particular provision occurs.[7]

Where the language of statute is obscure, or it is open to more meanings than one, then it may be necessary to resort to extraneous aids such as the state of pre-existing law and the consideration of cognate provision and the like, but where that is not the case, then there can be hardly any necessity or justification for trying to seek the meaning of the provision elsewhere, except by putting the plain meaning on the words used by the legislature itself.[8] It is legitimate rule of construction to construe words in an Act of Parliament, with reference to words found in immediate connection with them.[9] When an expression is ambiguous, the meaning to be but on it should be one which should advance the remedy rather than hamper it.[10] When the language of the law is clear considerations of hardship and inconvenience have no relevance for purpose of interpretation.[11] It is a rule of construction that where there are general words following the particular and specific words in a section the General words must be confined to things of the same kind- (ejusdem generis) as those specified.[12] Government's interpretation of enactment is no guide to court in interpreting its language.[13] Strict grammatical

1. Amardeep Singh v. Collector, Ajmer ILR (1960) 10 (Raj. 630): 1960 RLW 364
2. Mrs Priti Prabha v. Dr. C P Singh ILR (1968) 18 Raj. 712.
3. Shambhu Ram v. Kanhaiyalal ILR (1955) 5 Raj 253. 1955 RLW 404.
4. Maxwell on Interpretation of Statutes (Edn-XIII 1980 Tripathi) Page 12.
5. Deodutta Sharma v. The Collector Ajmer 1961 RLW 122, Referred - AIR 1953 SC 83.
6. Birla Cotton, Spg. & Wvg. Mills Ltd. V. Employees State Insurance Corporation 1977 Lab IC 119 (Delhi).
7. N.M. Mehta v. Coromandal Fertilisers 1977 Lab IC 387 (A.P.)
8. Mahmuddinnisa Begum v. The Board of Revenue Raj. ILR (1959) 9 Raj. 1043.
9. Khilumal Topandas V. Arjundas Tulsidas ILR (1959) 9 Raj 524: AIR 1959 Raj. 280
10. Khubilal V. Maloom Singh 1957 RLW 180: AIR 1957 Raj. 21.
11. Kewaldas v. Phusa 1957 RLW 330, ILR (1957) 7 Raj. 636
12. Somnath v. Dwarka Prasad 1963 RLW 40: ILR (1963) 13 Raj. 88.
13. Sardariya v. The Raj. Board of Revenue 1955 RLW 355 . AIR 1954 Raj 224: ILR (1954)4 Raj 861.

ning to be given to language. It is well settled principle of interpretation that the te of limitation, like all other, ought to receive a construction which may be borne by the plain meaning of the language. Extraneous or equitable considerations are of the place and the safest guide is the strict grammatical meaning which can be n to the language.[1]

If the words of the statute are clear and unambiguous, it is the plainest duty of court to give effect to the natural meaning of the words used in the provision. The tion of construction arises only in the event of an ambiguity or the plain meaning e words used in the statute would be self defeating. The court is entitled to ascertain ntention of the legislature to remove the ambiguity by construing the provisions e statute as a whole keeping in view that was the mischief when the statute was ted and to remove which the legislature enacted the statute.[2]

Where two interpretations are possible-Two views on same provision—In such se purposive interpretation is permissible, but it must be such as to preserve the titutionality of the provision.[3]

Procedural Provision-Interpretation of—A procedure provision can be interpreted the aid of a principle of procedure evolved for doing justice.[4]

(iii) Proviso:—A proviso to a section or a sub-section is sub-servient to the main ision.[5] The proper function of a proviso is to except to quality something enacted e substantive clause which but for the proviso would be within that clause. It may narily be presumed in construing a proviso that it was intended that the enacting of the sections would have included the subject matter of the proviso.[6] The effect excepting or qualifying proviso according to the ordinary rules of construction, except out of the precesoding portion of the enactments or to qualify something ted there, which but for the proviso would be with in it.[7]

Occasionally in a statute a proviso is unrelated to the subject matter of the preceding on, or contains matter extraneous to that section, and it may have then to be interpreted substantive provision, dealing independently with the matter specified therein and s qualifying the main or the preceding section.[8] Proviso can be treated as a substantive ision in exceptional cases.[9]

The legal position is well established, to sum up, the proviso may serve for different ose:

(1) Qualifying or excepting certain provisions from the main enactment.
(2) It may entirely change the very concept of the intendment of the enactment by insisting on certain mandatory conditions to be fulfilled in order to make the enactment workable.

Birbal v. Thaman Singh 1956 RLW 72; ILR (1955) 5 Raj. 427.
R. S. Nayak v. A.R. Antulay AIR 1974 SC 684: 1984 Cr. L.J. 613 (SC)- Para 18.
Tej Kumar Balakrishna Ruia v. A.K.Menon, AIR 1997 SC 442
CIT v Ajanta Electricals AIR 1995 SC 2172.
South Asia Industries Pvt Ltd v. Sarup Singh AIR 1966 SC 346.
Iswarlal v. Motibhai AIR 1956 SC 450.
Kedarnath Jute Manufacturing Co. Ltd. V. Commercial Tax Officer AIR 1966 SC 12
AIR 1966 SC 12.
The Commissioner of Income tax. Delhi & Raj. v. Champalal Ramswarup. Beawar AIR 1959 Raj. 23: ILR (1958)8 Raj. 634.

(3) It may be so embeded in the Act itself as to become an integral part of the enactment and thus acquire the tenor or color of the substantive enactment itself.
(4) It may be used merely to act as an optional addenda to the enactment with the sole object of explaining the real intendment of statutory provision.[1]

These seem to be, by and large, the main purport and parameters of a proviso.[2] Both proviso and main provision should be read together harmoniously.[3]

(iv) Explanation :—An explanation to a section makes plain or intelligible or clear from obscurity something which may arise from the main section. The construction of an explanation like the construction of any other provision of statute mainly depends on the language used.[4] The proper function of an explanation to a section in an Act is to explain and not to add or even alter. If there is something ambiguous in a provision it is made clear through an explanation.[5] Generally it is by way of an exception to what is stated in the main section that an Explanation or proviso is added to a section. Sometimes an Explanation stresses upon a particular thing which ordinarily, would not appear clearly from the provision in the main section.[6]

● From a conspectus of the authorities, it is manifest that the object of an Explanation to a statutory provision is :

(a) to explain the meaning and intendment of the Act itself:
(b) where there is any obscurity or vagueness in the main enactment, to clarify the same as to make it consistent with the dominant object which it seems to subserve.
(c) to provide an additional support to the dominant object of the Act in order to make it meaningful and purposeful.
(d) an Explanation cannot in any way interfere with a change of the enactment or any part thereof but where some gap is left which is relevant for the purpose of the Explanation, in order to suppress the mischief and advance the object of the Act it can help or asset the Court in interpreting the true purport and intendment of the enactment, and.
(e) It cannot, however, take away a statutory right with which any person under a statute has been clothed or set at naught the working of an Act by becoming an hindrance in the interpretation of the same.[7]

(v) Rule of Construction of Penal Laws— It is well-established canon of construction that the Court should read the section as it is and cannot rewrite it to suit its convenience, nor does any canon of construction permit the court to read the section in such manner

1. S.S.Pillai v. V.R. Pattabiraman AIR 1985 SC 582 : 1985 (1) SCC 591
2. S.S.Pillai v. V.R. Pattabiraman 1985 (1) RLR 415 (SC from Tamilnadu) (Para-32): 1985 (1) RCJ 267: 1985 (1) RCR 422 (SC).
3. CST. v. B.G.Patel, AIR 1995 SC 865.
4. Public Prosecutor v. A.I. Gladstone 1963 MLJ (Cr) 555: 1963 (2) Andh. L. T. 473.
5. Sarju Prasad Pritam Lal v. Judge, Revisions, Sales Tax, U.P. 1963 (14) STC 884 (All.).
6. State of Bihar v. Md. Ismail AIR 1966 Patna 1 (F.B.)
7. S.S.Pillai v. V.R. Pattabiraman 1985 (1) RLR 415: 1985(1) RCJ 267 1985(1) RCR 422 (SC from Tamilnadu).

to render it to some extent otiose.[1] Power given to do certain thing in certain way, it thing must be done in that way.[2]

The statutes dealing with jurisdiction and procedure are, if they relate to the infliction penalties, strictly construed: compliance with procedural provisions will be stringently ected from those proceedings against the person liable to be penalised, and if there any ambiguity or doubt it will as usual be resolved in his favour. This is so even ugh it may enable him to escape upon a technicality.[3]

(vi) Analogy:— The construction on analogy (of some other enactment) is scarely missible[4] it may prove to be the most dangerous of snares. Unless the fact and cumstances are identical, it is not safe to extend principles by analogy. Where the e is one is exception in the other, the same principles may not hold.[5] The rules of cedure cannot be extended by analogy or reference to preceeding to which they do expressly apply or could be said to apply by necessary implication.[6]

(vii) Non-Obstante Clause:—A non-obstante clause is usually used in a provision ndicate that provision should prevail despite anything to the contrary in the provision ntioned in such non-obstante clause. In case there is any inconsistency or a departure ween the non-obstante clause and another provision one of the objects of such a ise is to indicate that it is the non-obstante clause which would prevail over the er clauses. It does not however necessarily mean that there must be repugnancy between two provision in all such cases.[7]

(viii) Amendment—The rule of construction with regard to the effect of amendment hat a statute amended is to be understood in the same sense exactly as if it had d from the beginning thus amended.[8] The rule, no doubt is that an amending statute e regarded as having been written in the statute. Book with the same pen and ink the statute must, therefore, be regarded as incorporating the amendment from the e on which the Act was passed. But the rule applied only for the purpose of determining t the meaning of any particular provision of the Act as amendment is, whether it n the unamended part or in the amended part.[9]

(ix) Punctuation—Though punctuation is not regarded in England as affording assistance in construction of a statute owing mainly to the historical reason that utes when enacted donot contain any punctuation. In a country like India where statute when enacted by the legislature bears careful punctuation, it would not be t to regard punctuation as a totally irrelevant consideration when the court is faced the task of construing the statute.[10]

AIR 1984 SC 718 (Para-18).
AIR 1964 SC 358: 1964(1) Cri. LJ 263(2).
Maxwell on Interpretation of Statutes, Edn-XII 1980- (Tripathi)-Page 245. (See 1963) 1 WLR 270 (1961) 1 WLR 347 and (1964) 1 QB 481).
Tribhuwandass v. Premchand 1963 MPLJ 904.
Chellappan v. Roman Jacob 1964 Ker. LT 305.
Bholanath Naik v. Krupasindhu Naik AIR 1964 Orissa 215.
Parsuramalah v. Pokuri Lakshamamma 1965 (1) Andh W.R. 253: AIR 1965 A.P. 220.
Management of Burhanpur Tapti Mill Ltd. v. Industrial Court AIR 1965 M.P.43.
T.A. Vaidhy v. Gujrat Revenue Tribunal AIR 1964 Guj. 183.
Saraf Ali Tayab Ali v. Municipal Corporation of Ahmedabad- ILR 1964 Guj. 493

(x) Schedules and forms—A schedule in an Act is as much a part of the statute and is as such an enactment, as any other part.[1] They are added towards the end for the purpose of avoiding encumbering of sections in the statute with the matters of excessive detail. The division of a statute into sections and schedules is a matter of convenience and a schedule, therefore, may contain substantive provision which may go beyond the scope of a section to which the schedule may appear to be connected by its headings; in such a case clear positive provision in the schedule may be held to prevail over its heading or the main provisions in the enactment.[2] But in India much importance is not given to the provision of a schedule as they are intended to suit the generality of the provisions and give way to the provisions of the enactment.[3] But in cases of doubtful words in the enactment a schedule may be utilised for the purpose of throwing light on their meaning.[4] At times, the prescribed form or schedule may contain some imperative requirement which may be termed as mandatory.[5]

Schedules—Schedules to statues are as much part of an Act as any other and may be used in construing the body of the Act. (1967) 2 QB 482. (1969) 2 WLR 310(316). Similarly, provisions in a schedule will be construed in the light of what is enacted in the sections (1963 AC 135).[6]

9. Whether a provision is Directory or Mandatory- The practical bearing of the distinction between a provision which is mandatory and which is directory is that a mandatory provision must be strictly observed, and in the case of directory provision it is sufficient that it is substantially complied with.[7] Ordinarily where the legislature uses the expression "may" when clothing authority with the exercise of certain powers, the meaning is that such exercise is discretionary and there is no obligation on the part of the authority concerned to do the act which it is merely authorised to do. In the peculiar context of a provision of law the court may be compelled to conclude that the provision does cast an obligation on the concerned authority, but such as usual construction is not to be resorted so lightly and must be justified by the scheme of the provisions in question.[8] It is a settled rule of construction of statues that statutory provisions regarding the manner in which the Government or public officials shall exercise of the power vested in them and which are intended for the protection of public interest and private rights, have to be construed mandatory, rather than directory.[9]

There is no such rule that the entire provision must be held to be mandatory or directory. A part of a single provision of law may be mandatory and another part there of may be only directory. The use of the word "shall" in a statute though generally

1 A.C.v. Lamp-Longh (1878) 3 Ex.D.214 (229):
Bengal Immunity Co. v. The State of Bihar AIR 1955 SC 661
2. Inland Revi Com.v.Gittus (1920) K.R.463 (576).
3 M.S. & W. Mills Co. v. Com. Sales Tax. AIR 1965 SC 957
4. Halsbury's Laws of England Vol. 36 P.I 399 3rd Ed
5 Com. of Income Tax v. Keshav Chandra AIR 1950 SC 265.
6 Maxwell on Interpretation of Statues (Edn-XII-1980-Tripathi) Page 12
7. Haribandhu Satpathy v. Chandrasekhar Surendra Singh AIR 1966 Orissa 12
8. Sodhi Harbaksh Singh v. Central Govt. AIR 1964 Punj. 137
9. C.J.Patel & Co.v. State of M.P.AIR 1966 M.P. 34

ken in a mandatory sense does not necessarily mean that in every case if the words f the statute are not punctiliously followed, the proceedings or the custom of proceeding ould be invalid.[1] Enactment which confer powers should be so construed as to prevent person on whom powers are conferred from abusing the same[2] use of the word "shall" id a penalty prescribed for breach of the provision, the provision is not necessarily andatory.[3] Where there is an obligation cast on an authority coupled with discretion, e word"may" amounts to a command and "may" means"shall" or "must".[4]

There are no ready tests or invariable formulae to determine whether a particular ovision in a statute is mandatory or directory. The broad purpose of the statute is portant. The object of the particular provision must be considered. The link between e two is most important. The weighing of the consequence of holding a provision be mandatory or directory is vital and, more often than not determinative of the very estion whether the provision is mandatory or directory. Where the design of the statute the avoidance or prevention of public mischief (i.e.Food Adulteration Act in this case), it the enforcement of a particular provision literally to its letter will tend to defeat that sign, the provision must be held to be directory, so that proof of prejudice in addition non-compliance of the provision is necessary to invalidate the act complained of.[5]

"Shall" Word 'Shall" ought to be construed in the contest in which it is used d the purpose it seeks to serve. Then it is to be as cribed as mandatory or directory.[6]

Whether a provision is Mandatory or Directory ?—Test for determination View Crawford—"The question as to whether a statute is mandatory or directory depends on the intentof the Legislature and not upon the language in which the intent is clothed. e meaning and intention of the legislature must govern and these are to be ascertained, t only from the phraseology of the provision but also by considering its nature, its sign, and the consequences which would follow from construing it the one way or er".[7]

10. Interpretation of Statues–Taxing Statute–When and how excise duty can be ied in Rajasthan—(Constitution of India, Art. 265)- Intention to tax should be by express rds in Notification-The levy of duty under the Act could not be in any other manner cepting the one provided by the Act. The excise duty could not be imposed either means of a contract or by executive order or direction. It is a well settled proposition law that intention to tax cannot be assumed to otherwise than by express words If ew burden by way of tax is to be imposed it must be stated in plain language and

Bijai Cotton Mills. Ltd. v. State of Raj. ILR (1959) 9 Raj 1242.
Kirori Ram v. State ILR (1960) 10 Raj 1170.
Sardarmal v. Smt. Gaytri Devi ILR (1964) 14 Raj 503, Jaiwant Rao v State ILR 1960 (10) Raj 1703.
Veerappa Rachappa Soboji v B.P. Dalal 1977 Lab. IC 65 (69) Bom.
Dalchand v. Municipal Corpn. Bhopal AIR 1983 SC 303: 1983 Cri. L.J. 448.
State of Haryana v. Raghubir Dayal, 1995 (1) SCC 133.
Crawford on "Statutory Construction" (1940-Edn. Art 261, Page 516)
Quoted in Govind Lal Chhagan Lal Patel v. Agricultural Produce Market Committee Godhra (1976) 1 SCR 451: (1975)2 SCC 482 (487-Para 13) Also refer to Ganesh Prasad Sah Kesari v. Lakshmi Narayan Gupta (1985) 3 SCC 53; B.P. Khemka Pvt. Ltd. v. Birendra Kumar Bhowmick (1987) 2 SCC 407- (415-para 14).

direct reference however eminent the source, is not adequate to impose a tax. No tax can be levied by inference or analogy.[1]

11. Validity of the Act-Not hit by Articles 14,19 or 300 A of the Constitution of India—No person has an absolute right to sell liquor, and the purpose of this Act is to control and restrict the consumption of intoxicating liquors. Such control and restrictions over trade in liquor are obviously necessary for the preservation of public health and moral and to raise revenue and State Government is within its rights to lay down conditions regarding payment of initial fee for grant of retail sale off licence relating to Indian made foreign liquor and foreign liquor. The provisions of Articles 14, 19 or 300A of the constitution are not attracted.[2]

Constitutional Validity— Held, S.71(2) gives unregulated and unbridled power to grant exemption- Hence is discriminatory & void-Consequently Notification dated 18-7-1952 withdrawing concessions under S 71(2) is also void & inoperative.[3]

No natural or Fundamental Right–Power of State—The State has the power to prohibit trade (in liquor) which are injurious to the public health and welfare of the public, that elimination or exclusion from business is inherent in the nature of the liquor business that no person has an absolute right to deal in liquor and that all forms of dealing have from their inherent nature, been treated as a class by itself by all civilised communities. The contention that the citizen had eighter a natural or a fundamental right to carry on trade or business in liquor has been repeatedly rejected by Supreme Court.[4]

Reasonable restriction- Test thereof—Reasonableness of any restriction has to be tested with reference to the object of the legislation and its object being total prohibition, and issuance of liquor permits on ground of health etc. being an exemption to the general Rule and such exemption cannot be claimed as of right always There fore restrictions and conditions imposed are valid and reasonable.[5]

Note trade within meaning of Art 301— "Trade in liquor" has historically stood on a different footing from other trade. Restrictions which are not permissible in other trades are lawful and reasonable so far as the trades in liquor is concerned That is why even prohibition of the trade in liquor is not only permissible, but is also reasonable The reasons are public morality, public interest and harmful and dangerous character of the liquor.[6] The citizens have no fundamental right to carry unrestricted trade in liquors. By virtue of Entry 8 of List II of the Constitution the State Government can hold a public auction to grant lease, the amount representing the consideration for the grant of such right or privilege.[7] Regular dealings in Liquor cannot come within the meaning of the term "trade" as contemplated under Article 301 of the Constitution.[8]

1. State v. Balmukund, ILR (1974) 24 Raj. 910: 1974 WLN 367 (DB)
2. Ramkrishna Vijaya Vargiya v. State of Rajasthan 1981 WLN (UC) 267.
3. Rao Manohar Singh v. State ILR (1954)4 Raj. 133: 1955 RLW 98 AIR 1954 Raj 85 (FB)
4. Harshanker v. Dy Excise Commissioner (1951) 1 SCC 737 (Para 19)
5. Satish Majumdar v. State of Madras, AIR 1979 Madras 246 (FB) (Para 19)
6. Dalchand v. State of Rajasthan 1981 RLW 195. (Para 13) 1981 WLN 7: AIR 1981 Raj. 180
7. Nashirwar v. Stat eof M.P. (1975) 1 SCC 29.
   Pannalal v. State of Rajasthan, AIR 1975 SC 2008.
8. M.C. Dowell & Co. Vs Board of Revenue, Andhra Pradesh 1979 Tax L. Reporter 2461 (A.P.)

No fundamental right or Inherent right to do trade or business dealing with ntoxicants:— Liquor is an intoxicant injurious to public health, morality and welfare. Jnder such circumstances the state has the power to prohibit the trade inliquor which ; harmful to the public health. Morality and welfare and therefore, no person has an bsolute right to deal in liquor. It cannot be safely contended that in not issuing renewal f license to the petitioner the Prohibition Commissioner has a violated the principle f equality before law and has in no way in fringed the provisions contained in Article 4 and 19(1) and (g) of the Constitution of India (Para 11).[1]

Regulatory control of state:— The state, under its regulatory powers, has the ight to prohibit absolutely every form of activity in relation to intoxicants This power f control is an incident of the society's right to self-protection and it rests upon the ight of the state to care for the health, morals and welfare of the people. Liquor traffic ; a source of pauperism and crime (Para 13).

The state possesses the right of complete control over all aspects of intoxicants, iz, manufacture. collection, sale, transport and consumption. The State has exclusive ight to manufacture and sell liquor and to sell the said right in order to raise revenue" Para 12).[4]

No fundamental right-Control of State:—There is no fundamental right to trade r business or otherwise deal in intoxicating drugs and liquors. The state under its supervisory nd regulatory powers has right to prohibit absolutely every form of activity in relation) intoxicants i.e. its manufacture. storage. export, import, sale and possession. In all r any of such manifestation's all such rights vested in the state. The power of control ; an extent of the society's right to self protection and it rests upon the state as its velfare state's duty to take care for the health, morals and well being of the people. 'he sale and consumption of liquor has been at all times considered as the proper subject f state regulation. A licence may be extracted and restrictions may be imposed as to ale, consumption etc. of the liquor. There may be absolute or relaxed prohibition in ale of liquor. The licences for sale of liquor have no inherent fundamental right to trade n liquor. The idea of prohibition is connected with the public health. moral and public vell being as envisaged under Article 47 of the Constitution. An absolute prohibition f manufacture or sale of liquor is permissible and only exception can be for medical reparations.[2]

Sale of liquor is not a fundamental right—The citizens cannot have fundamental ight to trade in properties or rights belonging to the Government writ filed with oblique notive. (Petition dismissed).[3]

Dalchand v. State 1981 RLW 195: 1981 WLN 7 AIR 1981 Raj. 180 (AIR 1975 SC 360 relied on).

Devilal v.State 1978 RLW 23: AIR 1978 NOC (Raj.) 226 1977 WLN 697: ILR 1978) 28 Raj. 135. (AIR 1954) SC 220: relied on)

Also refer- Harishanker v Deputy Excise Comm. (1951) 1 SCC 737, State of Bombay v. R.M.D.C. AIR 1951 S.C. 699.

State of Orissa v. Harnarayan. (1972) 2 SCC. 36.

Nashirwar v State of M.P.(1975) 12 SC 29.

Lakhanlal v. State 1976 UJ (SC) Notes 157.

. Anil Kumar Sunil Kumar v. State, 1993 (1) WLN 313 (Raj)

Art. 47 & Ss. 24 & 30 of the Raj Excise Act- Validity of Contract under— Contracts of Sale of liquor not void being opposed to Directive Principles of State Policy contained in Art. 47 of the Constitution of India.[1]

Trade in Liquors not a fundamental right— It is not trade or business but a privilege granted under a licence alone. Licence fee in fact is neither a tax nor a fee for services rendered, but a consideration for granting such privilege which forms part of excise revenue.[2]

Excise duty on Rectified Spirit imported for Industrial Use invalid— [Constitution of India-Schedule VII- List II- Entry 51 (a)]- **Beyond Competence of State Legislature-** Rectified Spirit is also alcohol which is not meant for human consumption and no excise duty can be charged by the State Government under Entry 51 (a) of List II of the Seventh Schedule of the Constitution of India. It is invalid as beyond the competence of the State Legislature (Para 6). All writs allowed.[3]

Validity-Bottling of Liquor-Affixation of adhesive label-Freedom of Trade— (Arts. 19(1) (g) or 30.

There is no fundamental right to trade in liquor. It is grant of a privilege and not a right. Not offending Arts. 19(1)(g) or 301 of the Constitution.

In Bottling of liquor affixing adhesive label is not unreasonable or arbitrary but it is a recognised mode of safe guarding the interest of revenue and to prevent evasion of tax.[4]

Leading Case (1) **The Supreme Court (7 Judges)**

SYNTHETICS & CHEMICALS LTD.
V/S
STATE OF U.P.
[AIR 1990 SC 1927]

❑ **Validity—Provisions beyond Legislative Powers- Meaning of "Industrial Alcohol"- [Schedule VII- List I, Item 84 and List II-Item 51- Constitution of India].**

The framers of the Constitution when they used the expression "alcoholic liquor for human consumption", they meant at that time and still the expression means that liquor which as it is consumable in the sense capable of being taken by human being as such as beverage of drinks. Hence the expression under Entry 84. List I must be understood in that light. (Para 54)

Ethyl Alcohol (95%) is not alcoholic liquor for human consumption but can be used as raw material in-put after processing and substantial dilution in the production of whiskey, Gin. Country Liquor etc. (Para 73)

Ethyl Alcohol (95%) is an industrial alcohol and is not fit for human consumption. It is not only non-potable but is highly toxic. (Para 73)

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1. State v. Balmukand 1974 WLN 367 (DB)
2. Paradise Bar cum Restaurant v. Govt. of Andhra Pradesh. (1979) 2 Andhra WR 293.
3. M/S Hindustan Copper Ltd. v. State 1989 (1) RLR 632.
4. M/s Jagdale & Sons v. State of Karnataka AIR 1990 Karnt 251 (DB)

Held, there is no taxing provision permitting these in the lists in the field of industrial lcohol for the State to legislate. (Para 82)

(Relevant provisions of State Acts of U.P., A.P., Tamilnadu, Bombay declared illegal rospectively.) [AIR 1980 SB 614. Overruled] Not to affect any regulating measure as uch.[1]

eading Case (2) **[Rajasthan High Court (DB)]**

M/s. GEETA ENTERPRISES
v/s
STATE OF RAJASTHAN

[1993 (2) WLN 564: 1993 (1) RLW 308: 1994(3) W.L.C. (Raj) 304].

[A] Excise Duty cannot be levied on Industrial Alcohol.

[B] Misuse of Industrial Alcohol-Regulating Excisable articles not ultravires.

[C] Powers of State Government examined.

[D] Concept of "quid proquo" examined.

[E] Regulatory function of Government approved.

[A] Duty cannot be levied on Industrial Alcohol—

The State Government has no powers to impose any tax or duty under S. 28 of ıe Act on industrial alcohol. The State Government has voluntarily stopped the levy f excise duty or countervailing duty on the industrial alcohol. However, the levy of xcise duty on the alcohol other than industrial alcohol is concerned, the State Government as full power to do so and therefore, the provisions of S. 28 of the Act as such cannot e declared as ultra vires to the provision of Constitution.

The provisions of S.28 of the Act are ultravires of the Constitution only to the xtent they authorise the State Government to levy excise duty and countervailing duty n the industrial alcohol, otherwise the section as such is not ultra vires of the Constitution.

[B] Misuse of Industrial Alcohol–Regulating Excisable articles not ultra vires-(Ss.3(4) (i) and 28)—

When the State Government has power to regulate and monitor the misuse of ıe industrial alcohol and converting it to that of potable alcohol, the inclusion of the enatured spirit or the denatured spirituous preparation in the provisions of Section 3(4) I) of the Acts whereby the excisable article have been defined, cannot be held to be ltra vires of the Constitution.

Regulating the import, expert, transport and possession of the excisable articles ınnot be said to be ultra vires because in this case, framing of the Rules is within ıe legislative competence of the State. Likewise, prohibition of sale of any excisable rticle to any person or class of persons cannot be said to be a power, which is against ntry 84 of the List II of Schedule VIII of the Constitution or against the provisions f Arts 245 and 246 of the Constitution.

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Synthetics & Chemicals Ltd. v. State of U.P. AIR 1990 SC 1927 (7 Judges Bench)

[C] Power of State Government examined—It is clear from the authority in Synthetics & Chemicals Ltd. case [AIR 1990 SC 1927] that the State Government has no power to impose or levy any duty or tax on industrial alcohol till it is not diverted to make it an alcohol for human consumption but regulatory functions impose a duty on the State Government to see that no attempt is made by the users of the industrial alcohol to divert the use of industrial alcohol to that of potable alcohol. S. 56 of the Act provides that whoever renders or attempts to render fit for human consumption any spirit (wherever manufactured) which has been denatured or any denatured spirits preparation or has in his possession any denatured spirit or any denatured spirituous preparation which has been rendered fit for human consumption or in respect of which any attempt or in which any alteration has been made to render it so fit, shall be punished with imprisonment for a term which shall not be less than six months and may extend to three years and also with fine which shall not be less than rupees two hundred and may extend to one thousand rupees. Thus, a duty is case on the State Government to see that any person who is in possession of industrial alcohol or denatured spirit or denatured spirituous preparation or for that matter, ethyl alcohol may render or attempt to render it fit for human consumption is to be punished with imprisonment for a term which shall not be less than six months and may extend to three years and also with fine which shall not be less than rupees two hundred and may extend to one thousand rupees.

S.66—A of the Act deals with security for abstaining from commission of offences and S.66 of the act deals with enhanced punishment after conviction. Thus, it is clear that certain regulatory functions have to be performed by the State Government and for that, proper staff has to be kept to see that the persons who are permitted to import denatured spirit or industrial alcohol or ethyl alcohol may not utilise it or attempt to utilise it for the purposes other than industrial purpose and may not render it fit for human consumption. When such regulatory functions are entrusted to the State Government, it can certainly impose fee and imposition of such a fee on account of such regularity functions has not been prohibited by their lordships of the Supreme Court in Synthetics and Chemicals Ltd. case [AIR 1990 SC 1927] 9See paras 85 and 87 of the Judgement)

In Bileshwar Khand Udyog Khedut Sahakari Mandali Ltd. v State of Gujarat & Anr. [AIR 1992 SC 872], wherein it has been observed as under.

> "The power to levy tax or duty on industrial alcohol no doubt vests in the Central Govt.It is also true that the competency of the State Government to frame any legislation to levy any tax or duty on industrial alcohol is excluded But by that a provision enacted by the State for supervision which is squarely covered under Entry 33 of the concurrent list which deals with production, supply and distribution, which includes regulation cannot be assailed. Principle of occupied field precluded State Government from trenching on any power which was already covered by Central legislation. But in absence of any provision in Industries (Development & Regulation) Act touching upon regulation or ensuring that industrial alcohol was not diverted, the State was competent to legislate on it under Entry 33 of list III of VIII Schedule of the Constitution".

Thus, it has been categorically held by their lordships of the Supreme Court that Entry 33 List II of VII Schedule of the Constitution authorises the State Government

to regulate production, supply and distribution of the industrial alcohol and regulation of production, supply and distribution of the industrial alcohol is a supervisory function.

A similar view has been taken by their lordships of the Supreme Court in M/s Gujchem Distillers India Ltd. V. State of Gujarat & Anr. [1992 JT (2) SC 20], where in it has been observed as under :

"In countering the submissions, it is argued on behalf of the State that Synthetics and Chemicals Ltd. etc. (supra) dealt merely with the vend fees. That is not the case here. The maintenance of the staff contemplated under S. 58(A) of the Act is primarily for the purpose of ensuring that while dealing with industrial alcohol, no attempt shall be made to divert non-potable alcohol. Therefore, by regulatory measures, the State sees to it that industrial alcohol is not diverted for the use as potable alcohol. Such a regulatory measure is perfectly valid as seen from Southern Pharmaceuticals and Chemicals v. State of Kerala, [AIR 1981 SC 1863]. This decision was noted with approval in Synthetics & Chemicals Ltd. Etc. (supra). However, such a power was sustained though not on police power but as a regulatory measure."

In that case, their lordships of the Supreme Court have also quoted with approval para 85 of the Judgment in Synthetics & Chemicals Ltd. etc (supra) [AIR 1990 SC 1927], which has been quoted here in above inestenso.

In para 14 of the Judgment in M/s Gujchem Distrillers India Ltd. case, it has been further observed as under :

"14. In dealing with U. Synthetics Chemicals (Supra) case, the following observations were made :

.....He referred to the observations of this Court in Coverage B. Bharucha v. The Excise Commissioner Kand the Chief Commissioner Ajmer & Ors. (1954) SCR-873, which quoted the passage from Crowely v. Christense, (1890) 34 Lawyers' Edn. 620. Reference was also made to Hari Shankar' a case (supra) where this Court quoted Vol. 38 of the American Jurisprudence where it was stated that the higher the fee is imposed for a licence, better is the regulation. Reliance was also placed on P.N. Kaushal's case (supra). It was contend that it has been accepted by this Court that the police power is exercisable for regulation of an activity of a legislature within the permissible field or impost as regulatory measure. It may be valid though it may neither be fee nor a tax in the limited sense of the term. See the observations of this Court in Southern Pharmaceuticals & Chemicals, Trichur & Ors. etc. v. State of Kerala & Ors. etc. [(1982) 1 SCR 519 at 537].

We must accept the position that the States have the power to regulate the use of alcohol and that power must include power to make provision to prevent and/or check industrial alcohol being used as intoxicating or drinkable alcohol".

The State Government has no power to impose any duty on industrial of the Supreme Court in Synthetics and Chemicals Ltd. case [AIR 1990 SC 1927], such a power does not vest in the State Government to levy any excise duty on industrial alcohol but that validity has been declared to be prospective and not retrospective and so to that extent, now the State Government has no powers to impose any tax or duty under S. 28 of

the Act on the industrial alcohol. The State Government has voluntarily stopped the levy of excise duty or countervailing duty on the industrial alcohol. However, the levy of excise duty on the alcohol other than industrial alcohol is concerned, the State Government has full power to do so and, therefore, the provisions of S.28 of the Act as such cannot be declared as ultra vires to the provisions of the Constitution.

The imposition of excise duty or countervailing duty on the denatured spirit or the denaturedspirituous preparation is declared to be illegal with effect from 25.10.1989, when the State Government itself has voluntarily stopped its levy after pronouncement of the judgment by their lordship of the Supreme Court in Synthetics & Chemicals Ltd. v. State of U.P. [AIR 1990 SC 1927]. In other words, the respondents are restrained from enforcing the levy of octroi duty or countervailing duty on the denatured spirit or the denatured spirituous preparation with effect from 25.10.1989 any further but the petitioners will not be liable for any refund of the octroi duty or the countervailing duty which has been recovered or has become recoverable prior to 25.10.1989. However, it is declared that the State Government is free to levy permit fee on the industrial alcohol including denatured spirit or the denatured spirituous preparation as regards its import and export in exercise of its regularity functions, keeping in view the provisions of Entry 33, of list III of Schedule VII of the Constitution.

Consequently, it is declared that the provisions of S. 28 of the Act are ultra vires of the Constitution only to the extent they authorise the State Government to levy excise duty and countervailing duty on the industrial alcohol, otherwise the section as such is not ultra vires of the Constitution.

[D] Concept of *quid pro quo* examined— The concept of *quid pro quo* has undergone a definite change in Sree Nivasa General Traders V. State of A.P.(AIR 1983 SC 1246] warren it has been observed as under;

"The traditional view that there must be actual quid pro quo for a fee has undergone a sea of change subsequent to decision in AIR 1980 SC 1008. Correlation between the levy and the services rendered/expected is one of general character and not of mathematical exactitude. All that is necessary is that there should be 'reasonable relationship' between the levy of the fee and the services rendered. Moreover, this is no generic difference between a tax and a fee. Both are compulsory exactions of money by public authorities. Compulsion lies in the fact that payment is enforceable by law against a person in spite of his unwillingness or want of consent. A levy in the nature of a fee does not cease to be of that character merely because there is an element of compulsion or corrosiveness present in it, nor is it a postulate of a fee that it must have direct relation to the actual service rendered by the authority to each individual who obtains the benefit of the service. It is now increasingly realized that merely because the collection for the services rendered or grant of a privilege of licence are taken to the consolidated fund of the State and not separately appropriated towards the expenditure for rendering the service is not by itself decisive."

In Municipal Corporation of Delhi v. Mohd. Yasin [(1983) 3 SCC 229], their lordships of the Supreme Court have observed:

"What do we learn from these precedents ? We learn that there is no generic difference between a tax and a fee, though broadly a tax is a compulsory exaction as part of a common burden, without promise of any special advantages to classes of tax payers where as a fee is a payment for services rendered, benefit provided or privilege conferred. Compulsion is not the hallmark of the distinction between a tax and a fee. That the money collected does not go into a separate fund but goes into the consolidated fund does not also necessarily makes levy of a tax. Though, a fee must have relation to the services rendered, or the advantages conferred, such relation need not be direct, a mere casual relation may be enough. Further neither the incidence of the fee nor the service rendered need be uniform. The others besides those paying the fees are also benefited does not detract from the character of the fee. In fact, the special benefit or advantage to the payers of the fees may even be secondary as compared with the primary motive of regulation in the public interest. Nor is the Court to assume the role of a cost accountant. It is neither necessary nor expedient to weigh too meticulously the cost of the services rendered etc. against the amount of fees collected so as to evenly balance the two. A broad correlationship is all that is necessary. Quid pro quo in the strict sense is not the one and only true index of a fee, nor is it necessarily absent in at tax."

That was a case in which the Municipal Corporation of Delhi enhanced the slaughtering fee in respect of two categories of animals by eight fold and that was sustained.

[E] Regulatory function of Government approved—Thus, keeping in view these authorities, it can safely be said that the State Government under its regulatory functions may levy the fee in pursuance of Entry 33 of List III of Schedule VII of the Constitution and if the permit fee which has been enhanced from Rs. 1/- per litre which was imposed in the year 1962 to Rs.2/- per litre vide its Notification dated 26.3.1987, that cannot be said to be exhorbitant keeping in view the price-rise in the intervening period. Thus, the levy of permit fee can neither be said to be unjust or unreasonable nor it can be said to be excessive.

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• The Latest View of the Supreme Court

Demand of Excise Duty—Not a regulatory measure—Power of State pointed out—The power of State to demand excise duty is limited by the provisions of the Constitution and the Act. The demand for excise duty is not a regulatory measure. Held, the power of the State to levy excise duty cannot be expanded with reference to its power to regulate manufacture of liquor.[1]

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Rajasthan Prohibition Act-Constitutional Validity-Application of Prohibition Act Stage by Stage— There is nothing wrong in applying the Act stage by stage and in light of experience gained-it involves additional duties and expenditure to carry it out-Trade or business in intoxicant is held not a fundamental right. Held, Act is valid.[2]

1. State of U.P. v. Modi Distillery (1995) 5 SCC 753.
2. Devi Lal v. State, ILR (1978) 28 Raj. 135: 1978 RLW 23: 1977 WLN 697 (699)

Constitution of India—Art. 14-S.3 (1) not violative of Art. 14 and valid Introduction of phased program of prohibition is matter of policy within plenary powers of State-Held, it cannot be challenged-valid licence can be cancelled as per law after following proper procedure.[1]

Validity of the Act—Art. 14 and Rajasthan Prohibition. Act-Against the phased programme for introducing the prohibition, the invoking of Art. 14 even if not protected by Art. 31C, was not available [1978 RLW 23 and 53 relied on] Notification dated 31-3-79 held to be valid.[2]

—Arts. 37 &47 and Rajasthan Prohibition Act, 1969- Scrapping out Prohibition by Ordinance in Rajasthan-Neither Article 47 is justiciable, nor it is enforceable by Courts. True, it is, that it is the duty of the State under Art, 37 to treat it as fundamental. (Writ dismissed).[3]

Validity of Rules under the Excise Act— Rules published in Gazette without proper authentication-Held, such rules are invalid and ineffective.[4]

[Also refer to Commentary of Sections 41-42.]

12. Validity of delegation of Powers—'It is settled by the majority judgment in the"- Constitution of India and Delhi Laws Act, 1912 etc, AIR 1951 S.C. 332 (B) that essential powers of legislation cannot be delegated. In other words the legislature cannot delegate its function of laying down legislative policy in respect of a measure and its formulation as a rule of conduct".

> "In the present case the Legislature has laid down such a principle and that principle is the maintenance or increase in supply of essential commodities and of securing equitable distribution and availability at fair price. The principle is clear and offers sufficient guidance to the Central Government in exercising its powers under Sec. 3 Delegation of the kind mentioned in Sec. 3 was upheld before the Constitution in a number of decision of their Lordships of the Privy Council vide- Russull Vs. Reg. (1882) 7 AC 829 (C)- Hodge vs. Rg. (1884) 9 AC 117 (D) and Shannon vs Lower Mainland Dairy Products Board 1948 AC 708 (D) and since the coming into force of the Constitution delegation of this character has been upheld in a number of decisions of this Court on Principles enunciated by the majority in other -AIR 1951 S C 33 (B)' As already pointed out, the preamble and the body of the sections sufficiently formulate the legislative policy and the ambit and character of the Act as such that the details of that policy can only be worked out by delegating them to a subordinate authority within the framework of that policy". (Ibid)

This last mentioned case now sets all doubts at rest regarding delegation of powers to subordinate authorities so far as India is concerned. The principle has been laid down

1. M/s Gehlot Engineer & Wine Store v. State ILR (1978) 28 Raj. 181: 1978 RLW 53: 1978 WLN 5: AIR 1979 Raj. 14.
2. Ramesh Chandra Paliwal v. State ILR (1982) 32 Raj. 211 Also refer- Dalchand v. State 1981 WLN 7: AIR 1981 Raj. 180.
3. Nandulal v. State 1982 WLN 681: ILR (1982) 32 Raj. 1105: 1982 RLW 631 1982 Raj L R 209.
4. The Maharaja Kishanjarh Mills Ltd v. Union of India ILR (1953) 3 Raj. 128: 1953 RLW 381: AIR 1953 Raj. 145

that the Legislature must declare the policy of the law and the legal principles which are to control any given cases and must provide a standard to guide the officials or the body in power to execute the law. It further lays down that the essential legislative function consists in the determination or choice of the legislative policy and of formally enacting that policy into a binding rule of conduct.[1]

13. Principles of Promissory Estoppel—Applicability-Notification is bad- When an exemption has been issued under rule 8 of the Central Excise Rules such exercise of powers cannot be equated with the legislative function and the promise held by the Central Government to grant exemption in given condition, Government is bound by it and the obligation cannot be released on the anvil of the argument that such exemption is in legislative exercise of its function.

The Notification being No. 159/85 CE is bad and in violation of the principles of promissory estoppel and same deserves to be quashed (Writ allowed).[2]

Effect of Promise made by Government- (Excise Act, Ss. 37 and 41)–Validity of Notification dated 31-3-82 amending Rs. 6 & 7—The amendment of the Rules is a legislative function of delegated Legislature and the principles of natural justice or the right of hearing or opportunity to show cause cannot be extended to it. Rules cannot override the Act and therefore, in view of S. 37 whatever promise might have been made or impressions given to the licensee for renewal, no legal right is created and the respondents can certainly reject the prayer for renewal and go ahead with the auction proceedings according to the amendment of 31st, March 1982 (Five writ petitions dismissed summarily)[3]

14. Principles of Natural Justice-Scope & Applicability to administrative action—Natural Justice is the basic concept of procedural law which provides the minimum standard required to be followed in the judicial proceedings where the procedure is not provided for. Later on it was applied to the quasi-judicial proceedings and now it has been held to be applicable to all administrative proceedings even.[4] This concept is based on the principles of "equity, justice and good conscience".

Fair Hearing-*Audi alteram partem* (hear the other party)-

Natural Justice implies "fair hearing". The concept of fair hearing implies two ideas:-

(i) the authority deciding the dispute should be free from bias; and

(ii) it should follow the *"audi alteram partem* rule, which means that a person affected by a decision has a right be heard. Hearing involves many components like adequate notice, reasonable opportunity to present his case, legal representation etc. The various components are not fixed but are flexible.[5]

Aim of Natural Justice- The aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules can operate only

Gauri Shanker v. The Municipal Board, Jhunjhunu 1959 RLW 6 (DB)
M/s J.K. Industries Ltd. v. Union of India 1986(2) WLN 612. 1986 RLR 831.
M/s Raju Wine Store v. State 1982 Raj. LR 466.
State of Orissa v. Dr. (Mrs.) Binapani Dei, AIR 1966 SC 1269.
Principles of Administrative Law: By Jain & Jain Edn III-1979-Page 204
Judicial Review of Administrative Action: By De Smith (1980-IV Edition- Page 156-157).

in the areas not covered by any law validly made in other words, they do not supplant the law of land, but supplement it.[1] The rules of natural justice can be abrogated by Legislature or statutory body and these rules are to be read into the statutory provisions.[2]

● **Minimum requirements of natural justice-Right of hearing-Question of Prejudice**—Held, proof of prejudice is not necessary. Non-observance of natural justice is itself a prejudice to any man.[3]

● **Prejudice ruled out by Seven Judges Bench of the Supreme Court**—"No prejudice need be proved for enforcing the fundamental rights. Violation of a fundamental right itself renders the impugned action void. So also the violation of natural justice renders the act a nullity" (Para 57).[4]

Expectation case : Refusal of renewal of licence-Hearing to be given—The principles enshrined in the maxim *"audi alteram partem"* i.e. a right to be heard have been extended in recent times not only to the administrative Tribunal, but even to expectation case. Lord Denning in case of **"Regina v. Inland Revenue Commissioner, National Federation of self-employed and small business Ltd.**[5] extended the principles of natural justice to some legitimate expectations of which it would not be fair to deprive a person for hearing what he has to say. A person can have legitimate expectation of being heard in case a licence granted to a person is not renewed. It can be said that such a person has expectation of being heard in case of renewal of licence to be refused. **In Restaurant v. Municipal Corporation of Delhi,**[6] their Lordships of the Supreme Court were dealing with the case where licence of running a restaurant was necessary. It was observed that when in order to carry of business a licence is required, obviously, refusal to give licence or cancellation or revocation of licence would be visited with both civil and pecuniary consequences and as the business cannot be carried on without licence it would also affect the livelihood of the person. In such a situation before either refusing to renew the licence or cancelling or revoking the same, the minimum principle of natural justice of notice and opportunity to present one's case is a must. (writ allowed).[7]

Right of hearing a statutory requirement—Where the right of hearing has been included in the Statutory provision or rule, it is to be followed strictly as the principles of natural justice have been incorporated in that provision as statutory requirement.

Suspension of Licence-Non-Compliance of Principles of Natural Justice-Order Vitiated—Show cause notice issued to petitioner after 30 days of suspension of licence. No opportunity of hearing was given before suspension of licence. Held, the order stands vitiated.[8]

1. A.K. Kripak v. Union of India AIR 1970 SC 150
2. Union of India v. J.N. Sinha, AIR 1971 SC 40.
3. S.L. Kapoor v. Jagmohan AIR 1971 SC 40
4. A.R. Antuley v. R.S. Nayak, AIR 1988 SC 1531; (1988)2 JT 325 (1988) 16 Reports 452; 1988(2) SCC 602; 1988 SCC (Cri) 372
5. 1980 WLR (1) 582.
6. AIR 1982 SC 1550.
7. Vishwa Niwas Mishra v. State 1986 (1) WLN 776 (Para 3)
8. Mangilal v. District Excise Officer Ajmer 1970 WLN 159; AIR 1971 Raj. 46.

15. Use of Discretion-Discretionary Powers of Authorities—Limits of discretion It is the implied condition of every discretionary power that the power will be exercised FAIRLY and HONESTY and not capriciously or oppressively.[1]

Rule of Law: (Art.14)- Arbitrary Action violative of Article 14 of the Constitution—The conduct of administrative authorities must be in accordance with law and not arbitrary. Arbitrary action would be void and violative of Article 14 of the Constitution.[2]

Use of Discretion—The absence of arbitrary power is the first essential of the "Rule of Law" upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The rule of law from this point of view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule it is unpredictable and such a decision is the antithesis of a decision taken in accordance with the rule of law. Discretion, as Lord Mansfield stated in classic terms in the case of John Wilkies (1891 AC 173) means sound discretion guided by law. It must be governed by rule, it must not be arbitrary, vague and fanciful.[3]

Meaning of discretion—

(a) "Discretion" is a science of understanding to discern between falsity and truth, between right and wrong, between shadow and substance, between equity and coloarable glasses and pretence, not to do according to will and personal affection.[4]

(b) The discretionary authority does not carry any despotic power. There is nothing like absolute discretion boardering on arbitrariness and legal responsibility. Discretion does not permit procedural irregularity or high-handedness. The power enstrusted to one authority should not be exercised even on the discretion of an official superior.[5] It should also be not exercised wrongly, and for a bad motive(i.e.malafides).[6]

(c) Where the discretion by and large vested in the Government and it was not shown that the administrative action was malafide or discrimination was conscious, held that in a boarder line case the Court would be reluctant to interfere.[7]

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1. Babulal Chaukhani v. Emperor, AIR 1938 PC 130.
2. Refer to : Ajay Hasia (1981) 2 SCR 79;
   D.S. Nakara v. Union of India 1983 (1) SCC 305.
   Mrs. Menka Gandhi v. Union of India, AIR 1979 SC 597, A.L.Kalara v. P &F. Corpn. of India AIR 1984 SC 1361. Rohta Industries AIR 1969 SC 707 (720).
3. S.G.jaisinghani v. Union of India AIR 1967 SC 1427 (Para 14).
4. Pratabpur Co. v. Cane Commissioner, Bihar AIR 1970 SC 1896.
   Commissioner of Police v. Gordhandas Bhanji AIR 1952 SC 16.
   State of Punjab V. Harikishan Sharma AIR 1966 SC 1081, Smt. Kaushalya Devi v. State of Rajasthan 1988 (2) RLR 800 (DB)
5. W.A.Robson in 'Justice & Administrative Law (Edition II)-Page 294.
   The Indian Administrative Law: M.C.J. Kagzi (1973)- Pages 82-83.
   Govind Kant Sharma v. State of Raj. 1974 RLW 450.

(d) The discretion, like other judicial discretion, must be exercise according to common sense and according to justice, and if there is a miscarriage in exercise of it, is will be reviewed by the Courts.[1]

(e)"-When it is said that something is to be done within the discretion of the authorities that something is to be done according to rules of reason and justice, and not according to private opinion-according to law and humour. It is to be not arbitrary, vague, fanciful, but legal and regular.[2]

Thus discretion of the Excise Authorities under this Act and the rules there-under must be regulated by the principles discussed above. Discretionary orders may be challenged on the grounds explained above in writ petition to get justice.

16. Remedy by way of Writ Petition–General Grounds—The writ-petition under Article 226 or 227 of the Constitution may be filed in the High Court in appropriate cases. The basic concept and general grounds are being indicating hereunder for ready reference in brief.

(A) According to Friedmann[3]

1. **Concept of excess of power-** (Ultravires) - i.e. examination of jurisdictional facts and wrong interpretation of facts constituting the jurisdiction;
2. **Concept of Procedural defects-** a denial of justice i.e. by insufficient opportunity for the aggrieved to be heard, failure to give due notice of an impending decision etc.
3. **Concept of Error of law on the face of record.**
4. **Concept of "Substantial evidence"-** When the findings of administrative bodies are not supported by "such relevant evidence as a reasonable mind might accept as adequate to support the conclusion". But on the whole, this review power has been exercised with considerable restraint
5. Concept of Abuse of discretion (i.e.arbitrary action).

(B) Ground for awarding "Certiorari" & "Prohibition"–According to Prof. S.A. de smith—[4]

(a) Lack of jurisdiction
(b) Breach of the Rules of Natural Justice.
(c) Error of Law on the face of record &
(d) Fraud or collusion

Now writ of certiorari can be issued even against purely administrative orders [5]

Nature of Error apparent on record- Not to require long reasoning- An error which has to be established by a long drawn process of reasoning on points where there may conceivable to be two opinions can hardly be said to be an error apparent

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1. M.S.R.T Corp v. Mirja Khasim Ali Beg. 1977 Lab. IC 272 (SC) [Gardner v. Jay (1885) 29 Ch.D 50 followed].
2. Lord Halsbury in Sharp v. Wakfield 1891 AC 173- Also refer AIR 1975 SC 550.
3. Law in Changing Society Friedmann- Pelcon Book A 685- Indian Reprint - 1970- Page 311
4. Judicial Review of Administrative Action -Edn. III, Pages 349-362.
5. Kraipak's case AIR 1970 SC 150.
   S.L.Kapoor v. Jagmohan AIR 1981 SC 136.
   State of Orissa v. Binapani Dei AIR 1967 SC 1269

on the face of the record. Where an alleged error is far from self evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari under Article 226 according to the rule governing the powers of the superior court to issue such a writ.[1]

Question of Fact-Writ does not lie—Question of shortfall of guarantee amount on account of short supply, it is a question of fact not to be considered by the High Court exercising jurisdiction under Art. 226 of the Constitution.[2]

Contractual Right-Remedy by way of writ not available—Branch of contractual rights by revoking licence under the Rajasthan Excise Act, 1950 is a civil dispute [AIR 1975 SC 200 followed]. Held, in case of violation of such contractual rights, remedy is by way of a civil suit and a writ is not appropriate remedy.[3]

Disputed question of facts—Contractual obligation- cannot be wrangyled out. Advised to go to the Excise Commissioner. (Writ dismissed).[4]

Recovery to be made, when contract restored—Contact not violative of provisions of the Constitution of India. If contract is restored under S.30A, the recovery could be made. When petitioner failed to deposite requisite amount, held, the Government was entitled to interest.[5]

Distinction between Ministerial acts and Statutory acts—There is distinction between ministerial acts and statutory or quasi-judicial functions under the statute.[6]

Alternative remedy—No writ, but suit as adequate & efficacious remedy, where Questions relating to location of liquor shop and short fall of liquor are question of fact which cannot be gone into in writ jurisdiction.[7]

Alternative remedy, when not a bar to Writ-petition—The alternative remedy would not come in the way of the aggrieved party if the order has been passed in clear violation of the principles of natural justice. The argument that the petitioner had an alternative remedy this point of view is not only desirable, but even necessary to establish that the article seized is one coming within the definition of term "liquor".[8]

Since the demand of excise duty in the present case is not backed by a valid law, it gives a right to the petitioner to move High Court under Article 226 of the Constitution. The petitioner, in such circumstances, cannot be compelled to wait or go through the lengthy procedure of appeal provided under section 9-A of the Rajasthan Excise Act. The Excise Commissioner could not be expected to give any adequate remedy to the petitioner in face of the notification issued by the State Government.[9]

Haru v. State of Raj 1977 WLN (UC) 381.
Haru v. State of Raj 1977 WLH (UC) 381
Devilal v. State of Raj 1978 RLW 23 : AIR 1978 NOC (Raj.) 229 : [AIR 1975 SC 112 referred to]
Badruddin v. State, 1991 WLN (UC) 164 :1991 (2) WLC 390.
Shyam Lal & Party v. State, 1992 WLN (UC) 87
Karnal Improvement Trust v. Prakash Wanti, (1995) 5 SCC 159.
Bhagwan Singh v. State 1984 WLN 551 : 1984 RLW 562.
Mangilal v. District Excise Officer, Ajmer ILR (1970) 20 Raj. 569: 1970 WLN 159: AIR 1971 Raj. 46.
J.K Synthetics Ltd. Kota v. State of Rajasthan 1976 WLN 277: 1976 RLW 338.

Validity of Licence, when cannot be challenged by way of writ-petition—In the instant case, the petitioner worked under the licence for the full term and excluded his competitor. When non-compliance of the terms of such licence resulted in inconvenient consequences, the petitioners could not challenge its validity.[1]

Contract for Grant of Licence for Liquor (S. 9-A & Constitution of India, Art. 226)—Where remedy by way of appeal not availed, the plea of alternative remedy can be raised as no fundamental right of trade in liquor is available. Mere admission of writ is not a sufficient ground to ignore such pleas.[2]

Writ held not maintainable (S.-A and Raj. Public Demand Recovery Act, 1952)—There is weight in the contention that cancellation of licences on 13-1-1966, the respondents have prevented the petitioners from lifting and selling liquor and thereby making up the guaranteed amount- But alternative remedy bars the writ jurisdiction under amended Art.. 226 of the Constitution. (Writ dismissed).[3]

Appeal available under S. 9—Order under S. 34 violating rules of natural justice- Held, writ lies, no bar.[4]

Writ lies when Action of State is arbitrary

(a) Alternative remedy when available—

The respondents have opposed the writ petition on various counts. Certain preliminary submissions have also been made regarding the maintainability of the writ petition. It has been submitted that under S. 9-A of the Act, the petitioner could have filed an appeal to the Divisional Commissioner from the order passed by the Excise Commissioner and since the petitioner has not availed of this remedy, the writ petition deserves to be dismissed. It was next submitted that there is no fundamental right in a citizen to carry on trade or business in liquor. Section 37 of the Act provides that no one can claim renewal of licence as a matter of right and, therefore, the writ petition was barred by virtue of this provision. It was next pleaded that Excise Commissioner had full authority even to revoke, cancel or determine the licence in the event of infringement of any of the conditions of licence. In this case, the petitioner infringed condition No. 13 of the licence by not establishing a bonded warehouse within the prescribed time nor did he get any plan approved from the Excise Commissioner for construction. It was pleaded that the Excise Commissioner had, in fact, declined to renew the licence of the petitioner as back as 19-7-88 vide Annex. R.1.sent to District Excise Officer, Jodhpur, who in his turn, sent a copy of the same to the petitioner vide endorsement dated 23.7.88. The Excise Inspector, Jodhpur, also brought this fact to the notice of the petitioner vide a registered letter sent to the petitioner vide Annex. R.3. dated 25.8.88 the postal receipt whereof is Annex. R.3-B (Para 4)

(b) Complicated & disputed questions of facts—

It was next pleaded that the writ petition raises complicated and disputed questions of facts as to the performance of the conditions of the licence by the petitioner. It was

1. State of Rajasthan v. Balmukand ILR (1974) 24 Raj. 910. 1974 WLN 373
2. Champa Lal v. State 1984 WLN (UC) 178.
3. Haru v. State 1977 WLN (UC) 381 (383)
4. Mangi Lal v. District Excise Officer AIR 1971 Raj. 46.

aded that the petitioner had no right to claim any renewal of his licence, which was inted to him on 6.10.87 and which had expired on 31.3.88. It was pleaded that it was umbent on the petitioner to establish a bonded warehouse within the period of one nth of the grant of licence. It was also incumbent on him to obtain approval of plan owing the location of the building including store rooms and office, etc. (Para 5)

(c) Objections rejected, when State acted arbitrarily-Writ allowed—

We have considered the rival contentions and have carefully purused the material ced on record. First, we may deal with preliminary submissions of the respondents. is is true that an order passed by the Commissioner, Excise. This is also true that petitioner has not availed of this remedy by filing an appeal before the Divisional nmissioner u/s 9A of the Act. But, we cannot lose sight of the fact that according the petitioner, the refusal of the application for renewal was never conveyed to him the Commissioner. We have no reason to doubt the correctness of this stand of the itioner. Excise Commissioner claims have issued Annexures R.I.R II & R III to the itioner Annex. R III A specifically mentions that since the petitioner was not available, could not be served with the order of refusal to review the licence. Annex. R III mentions that the order of refusal is being sent by registered A/D A Postal receipt nex R III B has been placed on record but, significantly enough, postal acknowledgment owing that the letter under reference had been received by the petitioner, has not n placed on record. As against this, there is specific averment of the petitioner supported affidavit of Ramesh Chand that the letter under reference was never received by the itioner. The postal acknowledgment would have been the best evidence to establish t the order refusing renewal of licence had been served on the petitioner Since this not been done, we have no reason to doubt the statement of the petitioner that letter of refusal renewing the licence was never received by him. As such, there s no occasion for the petitioner to file any appeal against the order of the Excise nmissioner Annex. RI, which had never been brought to his notice. (Para 11)

Moreover when the petitioner has come with a clear-cut case that the Excise nmissioner has acted in an arbitrary and capricious manner in refusing to review his nce the fact that the petitioner did not avail of the remedy of appeal, should not e in his way This view has been expressed in **Samrath Bottlers P. Ltd. V. State Rajasthan & others** (1988 (2) R.L.R. 577) and we are entirely in agreement with the w that existence of an alternative remedy is not an absolute bar to exercise of the vers under Art. 226 and despite the fact that an alternative remedy exists this Court in a proper case, whether the alternative remedy exists this Court can in a proper e, whether the alternative remedy has been availed or not, if satisfied that the State ts officers have acted arbitarily or have acted in a discriminatory manner, is competent nvoke its powers under Art. 226 of the Constitution of India. We, therefore, do not ee with the learned counsel for the respondents that the writ petition should be dismissed the ground of this preliminary objection. (Para 12)[1]

* * * * *

M/s R.N.Products, Jodhpur v. State 1989 (2) RLR 741

Preliminary Objection to writ-petition-Contractual Obligation cannot be avoided, but petitioner can challenge Validity of Amendments in the Issue Price Rules—The foremost contention that requires consideration at the outset is the one advanced by the Additional Advocate General as a preliminary objection that the petitioners having voluntarily entered into a contract and having worked the licence for the entire term cannot now be allowed to challenge the validity of the same Relying on (1) **State of Rajasthan vs. Bal Mukund ILR 1974 (24) Raj. 510, (2) Panna Lal & Others etc. vs. State of Rajasthan and other AIR 1975 SC 2806, (3) Har Shanker & others etc vs. The Deputy Excise and Taxation Commissioner & others etc** AIR 1975 SC 1121, (4) State of Haryana & others vs. Jag Ram & others AIR 1980 SC 2018 (5) Shyam Lal & others vs State of Punjab & others AIR 1976 SC 2045, (6) State of Punjab & others vs Ajudhia Nath & another AIR 1981 SC 1374, (7) State of Haryana & others vs. Lal Chand & other AIR 1974 SC 1327 and (8) State of Punjab vs. Dial Chand Gian Chand and Co. AIR 1983 SC 743, the Additional Advocate General has contended that the petitioners are not entitled to invoke the jurisdiction of this Court to impeach or wriggle out of their contractual obligations under the licence. (Para 17).

In State of Rajasthan vs. Bal Mukund's case (ILR 1974 (24) Raj. 510) this court held- (Para 18 quoted).

* * * * *

In Panna Lal & others vs. State of Rajasthan & others (AIR 1975 SC 2806), Chief justice A.N.Ray said;

"The licences in the present case are contracts between the parties. The licenses voluntarily accepted the contracts. They fully exploited to their advance the contracts to the exclusion of others. The High Court rightly and that it was not open to the appellants to resile from the contracts on the ground that the terms of payment were onerous. The reasons given by the High Court were that the licensees accepted the licence by excluding their competitors and it would not be open to the licensees to challenge the terms either on the ground of inconvenient consequence of terms or of harshness of terms" (Para 19)

In Har Shanker & others etc. vs. The Deputy Excise and Taxation Commissioner & others etc. (AIR 1975 SC 1121), Chandrachud, J., as he then was, delivering the Judgment of the Constitution Bench of the Supreme Court held:

"Those who contract with open eyes must accept the burden of the contract along with its benefits. The powers of the Financial Commissioner to grant liquor licences by auction and to collect licence fees through the medium of auctions cannot by writ petitions be questioned by those who, had their venture succeeded, would have relied upon those very powers to found a legal claim. Reciprocal rights and obligations arising out of contract do not depend for their enforceability upon whether a contracting party finds it prudent to abide by the terms of the contact. By such a test no contact could ever have a binding force"

* * * * *

The licences, in a large measure, owe their existence and validity to the rule making power of Financial Commissioner. One of the reliefs with the appellants ask for is that Rules 27-A, 30 and 31 be declared ultra vires and unconstitutional and consequently

he respondents be directed to refund the assessed fees already recovery. By attempting o exploit the licences without the burden of assessed fees originally attaching to them nder the rules framed by the Financial Commissioner the appellants are seeking to work he licences on such terms as they find convenient. The writ jurisdiction of High Courts nder Article 226 of the Constitution is not intended to facilitate avoidance of obligations oluntarily incurred. That however, will not stop the appellants from contending that he amended Rules are not applicable as their licences were renewed before the amendments ere made."

It is not necessary to multiply case on this point. Suffice it to say that the law s well settle that the licensees having voluntarily entered into the contract and having njoyed the licence to their benefit, could not be permitted to avoid their contractual bligations and the preliminary objection raised by the Additional Advocate General to he maintainability of the writ petition in so far as it seeks to challenge the conditions f the licence deserves to be accepted. The writ jurisdiction of the High 'Court under Article 226 of the Constitution is not intended to facilitate avoidance of contractual obligations. The petitioners, in the present group of writ petitions, voluntarily entered into the contract sed and enjoyed the privilege granted by the licence and worked the contract to their enefit. It is not now open to them to resile from the same and urge that the conditions ncorporated in the said licence are void and not binding on them.

The Additional Advocate General has further urged that the petitioners are also ot entitled to challenge the validity of the Rules which they voluntary accepted. The etitioners have been purchasing liquor at the prices fixed under the Issue Price Rules nd, therefore, they cannot be permitted to challenge the same. True, the petitioners ave been purchasing liquor at the price fixed under the Issue Price rules and they ad also agreed to abide by the provisions of the Act, the Rules and the terms of the icence but for that reason they are not precluded from challenging the Amendment in he Issue Price Rules, brought about by the Notification dated 25th May 1985, issued y the Excise Commissioner in the exercise of this powers conferred by section 42 (e) iii) of the Act. Whether the petitioners succeed in their challenge on merits or not is lifferent but the writ petition challenging the constitutional validity of the amendments nade in the Issue Price Rules, by the Notification dated May 25, 1980 cannot be thrown, t the thresh-hold on the preliminary objection raised by the Additional Advocate General. , therefore, propose to examine the validity of the notification dated 25th May, 1985 n merits.[1]

Civil suit as remedy—No writ, but suit as adequate & efficacious remedy where Questions relating to location of liquor shop and short fall of liquor are questions of act which cannot be gone into a writ jurisdiction.[2]

Refund of security deposit—When demand of licensee could not be met out, e is entitled to refund of deposit, but when Interest was not claimed in notice under ection 80 CPC.- Held, plaintiff is not entitled to interest on amount of deposit.[3]

Lekh Raj v State 1987 (1) WLN 774: 1987 (1) RLR 661. [For further details, please refer to Commentary of Section 42, infra].

Bhagwan Singh v. State 1984 WLN 551: 1984 RLW 562

Dhanraj v State of Rajasthan 1986 WLN (UC) 392

Contract for Sale of Liquor—Short Supply where not available at Ware house Held, suit of plaintiff deserves to be decreed where State was responsible for short supply of liquor.[1]

Sale of liquor- Where the liquor was not supplied inspire of payment of full amount of price.- Held, suit is liable to be decreed.[2]

❑ 17. Latest Trend—Principles laid down by the Courts—

(1) No unjust enrichment- No refund of Excise Duty Collected—When in normal commercial transaction duty is passed on to the consumers, then the petitioner is not entitled to refund of excise duty. Not averted in writ-petition that the excise duty was not collected from the consumers (Para 6) (Writ petition dismisses).[3]

(2) All power necessary by implication–Framing of Rules—By framing of the said rules, the Government has not contravened any provisions of the Act, including Section 42. The State Government has power under S. 41(2) (d) to frame rules regarding permit fee also while framing rules for regulating the import, export, transport or possession of raw excisable article. This clause (d) is of very wide import. Held, grant of jurisdiction implies the grant of all powers necessary for its exercise. When statute confers power in general terms, all powers incidental and necessary to make such law effective are included by implication.[4]

● (3) Validity of Amendment Act- Molasses-The operation of the Molasses Control Order and the operation of the Amendment Act have not occupied the same field not run into collision course, The Amendment Act was made by the State Legislaure exercising the power under Entry 33 (a) of the concurrent list read with Entry 24 of the State List as molasses is a bye product of a sugar industry covered by the Industrial Development & Regulation Act. The Amendment act does not enter into the occupied field of the Molasses Control Order. There is no inconsistency in their operation and that therefore both the Amendment Act and the Molasses Control Order would harmoniously co-exist and operate in their respective fields. The State Legislature had thereby made the Amendment Act regulating import, export, transport or possession of molasses within the State of Rajasthan.[5]

Important Case **[Rajasthan HC**

RAM GOPAL V. STATE OF RAJASTHAN
[1995 (1) RLW (Raj) 609 : 1995 (3) WLC (Raj) 621.]

❑ **Cause of action, when not survived.**
Question of short-fall in supply of country liquor—
Writ – petitioners failed to supply information.
No consideration given as no cause of action survives—
Legal position explained—

In State of Rajasthan v. Nandlal & Ors[6] it was held that the burden lies upon the licensees separately through documentary evidence to discharge the same and the

1. Mangi Bai v. State 1986 WLN (UC) 183
2. M/s Ajaib Singh and Co v. State 1985 WLN (UC) 66
3. Satish Kumar v State of Raj, 1992 (1) RLW 710
4. M/s Pesticides India v. State of Raj 1994 (1) WLN 239 1992 (3) WLC 582
5. Sita Ram & Bros. v. State of Rajasthan (1995) 1 SCC 257 AIR 1995 SC 356
6. J T 1992(5) SC 655

mere fact of short supply of production does not establish that quantity asked for was not supplied. (Para 12). It was also held by the Apex court that the question in issue is individual to each writ petitioner and the onus to prove the same is on the petitioner and not on the department and that no generalisation can be made in such a situation. (Para 13) It was further held by the Apex Court:-

"It is for the writ petitioners to establish their contentions that inspite of their demands, the state could not supply the requisite quantity. The mere fact that there was a short fall in overall production of country liquor in the State of Rajasthan during the said year does not establish the contention of any of the petitioners. Even if there was an overall short fall in production and even if some of the warehouses could not be supplied with the full monthly allocation.....It does not follow therefrom that the petitioners in any given writ petition was not supplied the quantity asked for by him, nor does it follow that all the licensees attached to that particular warehouse were subjected to a uniform cut.". (Para 15)

The apex court further held that it was obligatory upon each of the writ petitioners to establish that he asked for or intended for a particular quantity of liquor on a particular date, but that he was not supplied on account of lack of supplies in the concerned warehouse. In the context, it must be remembered that the contracts in question are essentially commercial though they are governed by the statutory provisions. (Para 16).

[State of Raj. v. Nand lal & ors J.T. 1992(5) SC 655 followed.]

Held, in the instant case, no cause of action survives in favour of petitioners for consideration of this court and accordingly these writ petition are dismissed with no order as to costs. (Para 18).

* * * * *

(5) Validity Upheld—The State legislature has power to regulate and control the products, manufacture, purchase, sale and transportation of the alchoholic or intoxicating liquors meant for human consumption and, therefore the provision of S.16 (1) (a) and S. 16 (1) (e) of the Act cannot be said to be ultravires of the Constitution or the Industries (Development & Regulation) Act. 1951. (Para 19).[1]

Election–Drinking prohibited–"Dry days" declared by Government on day of polling and counting.–Allegation of breach of contractural obigation not accepted Restriction held to be reasonable–Held : The contract of liquor cannot be equated with contract in other cases, nor the issue of reasonableness and fairness be agitated in liquor contract. His Excellency the Governor is the Executive Head of the State and the Constitutional provisions mandate that every order shall be carried in his name. In the instant case, no fault can be found on these grounds or on the ground of authenticity of the same.[2]

1. Udaipur Distillery Co. Ltd v. State of Raj.1 8 Ors 1996 (2) WLC (Raj) 413 (DB).
2. Murlidhar vs. State of Rajasthan & Ors., RLW 2000(2) Raj. 744.

Chapter [I]

Preliminary[1]

1. Short title, extent and commencement– (1) This Act may be called the Rajasthan Excise Act, 1950.

(2) It extends to the whole of [3][The State of Rajasthan [4][X X X][5]

(3) It shall come into force on such date[2] as the [6][State Government] may by notification in the [4][Official Gazette], appoint in that behalf.

2. [7][Omitted].

COMMENTARY
SYNOPSIS

1. Purpose & meaning of Short title.
2. Extent-"whole of the State of Rajasthan"
3. "Those parts of the State of Rajasthan to which this Act extends"- rendered useless
4. Commencement
5. Validity of Notification.
6. Operation of Excise Act suspended and Revived

1. Purpose & meaning of Short title:— The title is the important part of the Act as it is known and referred to by this name. The meaning of the tile gives an over all picture of the enactment. This shows that this Act is related to the Excise (duty on liquor) in the State of Rajasthan and it was enacted in the year 1950

1. For Statement of Object and Reasons, for the amendments made by Rajasthan Act No. XXVIII of 1952, see Rajasthan Gazette, Part III, No 120 dated 7-10-1952
2. Came into force with effect from 1-7-1950 vide Notification No. F. 49(1) S.R. 50, dated 20-6-1950, published in Part I of the Rajasthan Gazette No. 29 dated 1-7-1950
3. Substituted by section 5 of Rajasthan Act No. 38 of 1957, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 5th December, 1957. This Act now extends to the whole of the State of Rajasthan except the Abu area with effect from 1st February, 1958 i.e. the date of enforcement of the Raj. Act No. 38 of 1957, vide Appendix "A".
4. Substituted by section 4- ibid.
5. Omitted by section 6- ibid.
6. Omitted w.e.f. 1-9-1978 by section 2 of Rajasthan Act No. 15 of 1978, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13-11-1978
7. It extends to the Abu area from the date of commencement of the Rajasthan Excise (Amending and Extending) Ordinance, 1978 e.g. 1-9-1978 by section 3 of the Rajasthan Act No. 15 of 1978.

The title of the Act undoubtedly forms part of the Act and is a very important art of it.[1] The policy and purpose of a given measure may be deduced from the long tle and preamble thereof.[2] It, no doubt indicates the main portion of the Act, but it annot obviously control the express operative portion of the Act.[3]

Every Act of Parliament should have a short title, ending with the date of the ar in which it is passed.[4] The short title is given to the Act solely for the purpose facility of reference. It is a statutory nickname to obviate the necessity of always ferring to the Act under its full and descriptive title[4] but the construction of a statute nnot be limited to its title.[6]

2. Extent-"Whole of the State of Rajasthan"— The expression denotes and determines e territorial jurisdiction and extent of territorial scope of the application of the Act.

The expression "State of Rajasthan" has been defined in Sec. 32 of the Rajasthan eneral Clauses Act, 1955 as under-

"(62) "Rajasthan" shall mean-

(i) as respects the period before the 1st day of November, 1956 the Prereorganisational State of Rajasthan, and

(ii) as respects the period on and from the said day, the new State of Rajasthan as formed by section 10 of the State Re-organisation Act, 1956 (Central Act 37 of 1956), but shall not include the former Rajasthan State".

ther clause (74-A) of section 32 of the Rajasthan General Clauses Act, 1955 defines term State as under-

(74-A) State used with reference to Rajasthan, shall mean the new State of Rajasthan formed by Section 10 of the States Reorganisation Act, 1956, which runs as under-

Section 10. Formation of a new Rajasthan State

(1) As from the appointed day, there shall be formed a new Part-A state to be own as the State of Rajasthan comprising the following territories, namely:-

(a) the territories of the existing State of Rajasthan, except Sironj sub-division of of Kota District;

(b) the territories of existing State of Ajmer;

(c) Abu Road Taluka of Banaskantha District in the existing State of Bombay; and

(d) Sunneltappa of Bhanpura Tehsil of Mandsaur District in the existing State of Madhya Baharat, and thereupon the said territories shall cease to form part of the said State of Rajasthan, Ajmer, Bombay and Madhya Bharat, respectively.

Sutton v. Sutton 1882 (22) Ch. 511.

In re Kerala Education Bill AIR 1958 SC 956.

Mohan Lal v. State of Punjab AIR 1961 SC 418

Lord Thring: Practical Legislation (Page 37)

Vocher & Sons Ltd. v. London Society of Compositor 1913 AC 167

Sutherland: Statutory Construction -(Third Edition- Art. 206 on Page 351.

Maxwell: On Interpretation of Statutes- Edn XII-1980 (Tripathi) Page 4

(2) The territories comprised in the existing State of Ajmer shall form a separate district to be known as Ajmer District, and the territories referred to in clause (c) and (d) of sub-section (1) shall be included and become part of. Sirohi and Jhalawar districts, respectively, in the new State of Rajasthan."

★ ★ ★ ★ ★

Thus the whole of the State of Rajasthan has been defined in which this Act shall come into force throughout its territory.

3. Use of expression- "those parts of the State of Rajasthan to which this Act extends"- Now it is rendered useless—This expression was inserted by the Rajasthan Act No 38 of 1957 w.e.f. 5-12-1957 in clauses (6), (9), (B), & (25) of Section 3 and in Section 9, 19 (4), 20(2), 24, & 71 (2) also. This expression was used. When the Act was not made applicable to "Abu area" and as such the Act was not applicable to [1]"whole of the State of Rajasthan". Now the Act has been extended to "Abu area" also w.e.f. 1-8-1978. Hence this expression is now rendered useless as the Act is applicable to "whole of the State of Rajasthan".

4. Commencement—The Act was brought into force by a notification issued by the State Government in this behalf, which is reproduced hereunder-

NOTIFICATION

[No F. 49 (1) SR/50, dated 20.6.1950] In pursurance of sub-section (3) of section 1 of the Rajasthan Excise Act, 1950 (Act No. 11 of 1950), the Government of Rajasthan is pleased to direct that the said Act shall come into force with effect from the date of publication of this Notification in the Rajasthan Gazette.

[Published in Rajasthan Gazette, Part I No. 29 dated Ist July 1950

Thus this Act came into force w.e.f. 1st July 1950

5. Validity of Notification & Commencement of act from future date—Notification in Gazette, held valid- printing mistake in notification as to Sec. 1(13) instead of 1(3), held not material and the Act, is operative & valid.[1]

Notification- Validity of—

Two conditions are to be fulfilled.

(i) its publication in the Gazette, and

(ii) its publication under proper authority. (Para 42)

[AIR 1966 Raj. 142 followed][2]

Amending Act- Commencement of effect on Main Act—Strictly speaking an amending Act is not regarded as an "independent Act" (construction of statutes by Crawford, 1940 Edition at page1(10). The amending law becomes effective from the date it has come into force.

In the area in which the main Act is in force, the provisions of the main Act must be deemed to have been amended in accordance with amending Act. This means that in the entire area in which the main Act is in force, the provisions of the Amending Act into force ipsofacto, and there is no need for a separate notification extending its

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1 Manohar Singh v.State ILR (1954) 4 Raj 113: 1955 RLW 98: AIR 1954 Raj 85 (89) (FB)

2 H.U.Construction Co. V. State of Raj. 1993(1) WLC 280: 1992(2) WLN 275: 1992(2) RLR 46: 1992 (2) RLW 209.

visions in any local area by any notification to be issued by the State Government ept perhaps cases when the whole of the provisions of the main Act have not come force. No new notification is required to enforce and apply the amending Act.[1]

ification and Circular—

Validity examined—The expression "by notification in the official Gazette—These ds are significant and indicate the manner in which the State Government shall exercise ower. A circular letter is not a notification at the unless it is published in the Rajasthan zette for knowledge of general public. Without such publication it cannot be held to legal binding.[2] Administrative circular cannot be a notification and it cannot claim cedence over statutory provisions of law.[3]

Publication of Rules & Notification (section 72)—Section 72 of the Act provides rule for commencement of the Rules or a notification in the following manner-

"72. Publication of rules and notifications—All rules made and notifications issued ler this Act shall be published in the official Gazette and shall there-upon have effect if enacted in this Act from the date of such publication or from such other date. may be specified in that behalf".

6. Operation of Excise Act when suspended during Prohibition but later revived— 1969, the Rajasthan Prohibition Act, 1969 was enacted and policy of prohibition (of ıking) was adopted on Gandhian Principles in the State of Rajasthan consequently operation of the Rajasthan Excise Act, 1950 was suspended and the Prohibition Act, s, prevailed over. But due to heavy loss of revenue the Rajasthan Prohibition Act, 9 was repealed by the Raj. Act No. 13 of 1981 w.e.f. 11.8.1981 and the Rajasthan ise Act, 1950 was then revived.

Section 4 of the Rajasthan Act No. 13 of 1981 provides—

4. Revival of the Rajasthan Excise Act, 1950—Upon the commencement of this , the Rajasthan Excise Act, 1950 (Raj.Act No. 2 of 1950) shall in relation to liquor, ive and extend to the whole of the State of Rajasthan".

[For further details, please refer to Note 2-"Historical Background in Commentary Preamble. Supra.]

3. Definitions—In this Act unless there is something repugnant in the ject or context.-

(1) "Beer" includes ale, stout, porter and all other fermented liquors made m malt;

[5][(2) "Abu area" means the territory comprised in the Abu Road taluka Banaskantha district in the State of Bombay as it existed immediately before first day of November, 1956];

Chunnilal vs. Vaspujaiji Maharaj, 1966 RLW 295: AIR 1966 Raj. 418.
M/s J.K. Synthetics v. M.C.Kota, 1979 RRD 156.
Harbanslal v. State & Tharumal, 1982 RRD 507; Paras v. State 1982 RRD 435.
Substituted by section 4 of Rajasthan Act No .38 of 1957, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 5th December, 1957.
Inserted by section 7- ibid.

[1][(3) "Denatured" means mixed with such substance and such process as may be prescribed under Section 42 in order to render any spirit unfit for human consumption whether as a beverage or as medicine or in any other way whatsoever];

[2][(3-A) "Denatured spirituous preparation" means any preparation of denatured spirit or alcohol and includes liquors, French polish and varnish prepared out of such spirit or alcohol];

[3][(4) "Excisable Article" means and includes-

(i) Spirit, fermented liquor or any alcoholic liquor for human consumption or denatured spirit or denatured spirituous preparation, or
(ii) any intoxicating drug, or
(iii) stills or other appliances for distillation, or
(iv) fermented wash or other material for distillation, or
(v) any other article which the State Government may, from time to time, declare to be an excisable article for the purpose of this Act];
[4](vi) Heritage liquor.

(5) "Excise Commissioner" means the Excise Commissioner appointed by the [3][State Government] under this Act;

(6) "Excise duty" means any duty of excise imposed by or under this Act on excisable articles manufactured or produced in [3][those parts of the State of Rajasthan to which this Act extends].

(7) "Excise Officer" means any officer or person [5] [other than the Excise Commissioner], appointed [5][under Section 9] or invested with power of an excise officer under this Act;

(8) "Excise Revenue" means revenue derived or derivable from any payment, duty, fee, tax, fine (other than a fine imposed by a court of Law) or confiscation imposed or ordered under the provisions of this Act or of any other law for the time being in force relating to liquor or intoxicating drugs;

(9) "Export" means to take out of [3][those parts of the State of Rajasthan to which this Act extends];

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1 Inserted Substituted by section 2 (a) of Rajasthan Act No. 28 of 1961, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 21-10-1961.
2 Inserted by S.2(b)- ibid.
3 Substituted by section 4 of the Rajasthan Act No 38 of 1957, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 5th December, 1957.
4 Inserted by No. F. 4(30) FD/Ex./98 dated 9-7-98 published in Raj. Gaz. Extraordinary part-4(Ga)(II) dated 9-7-1998 page 165(12).
5 Inserted by section 2 of Rajasthan Act No. XXVIII of 1952, published in the Rajasthan Gazette, dated 13-12-1952.

(10) "Fermented liquor" means wine, Pachari (Pachawai) and fermented ri, and any other liquor that may from time to time be declared by the State Government] to be fermented liquor;

(11) [2][X X X]

(12) [3][X X X]

(13) "Import" means to bring into [1][those parts of the State of Rajasthan which this Act extends];

(14) "Intoxicating drug" means-

[4][(i) the leaves, small stalks and flowering or fruiting tops of the hemp plant (Cannabia Sativa) including all forms known as Bhang, Sidhi or Ganja]

(ii) Charas, that is, the resin obtained from the [5][X X X] hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport.

(iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom, and

(iv) any other intoxicating or narcotic substance which the [6][State Government] may declare; by notification in the [6][Official Gazette], to be an intoxicating drug, such substance not being opium coca leaf or a manufactured drug as defined in the [7][Dangerous Drugs Act, 1930 (Central Act II of 1930)];

[8][(14-A) *"Lanced Poppy heads"*— means the capsules of the opium opy plant, whether in their original form or cut, crushed or powered, from ich juice has been extracted.]

(15) "Liquor" means intoxicating liquor and includes spirit of wine, spirit, leritage liquor] Wine, Tari, Pachawar, Beer and all liquid consisting of, or

Substituted by section 4 of the Rajasthan Act No 38 of 1957, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 5th December, 1957.

Omitted by section 2 of the Rajasthan Act No.XV of 1954, published in the Rajasthan Gazette, IV-A dated 24-7-54.

Omitted by section 7 (iii)-ibid

Substituted by section 2 (d) (i) of the Rajasthan Act No. 28 of 1961, published in the Rajasthan Gazette, Part IV-A Extraordinary, dated 21-10-1961.

Omitted by section 2 (6)(ii)- ibid

Substituted by section 4 of the Rajasthan Act No. 38 of 1957, published in the Rajasthan Gazette, Part IV-A Extraordinary 5-12-1957.

Substituted by section 7 (iv)- ibid.

Inserted by S. 2 of Rajasthan Act No. 1 of 1986, published in Raj. Gaz., E-O. 4 (Ka) dated 10-2-86, Page 85.

Inserted by no. F. 4(30) FD/Ex./98 dated 9-7-98 published in Raj. Gaz. Extraordinary part-4(Ga)(II) dated 9-7-1998 page 165(12).

containing alcohol, as also any substance which the [1][State Government] may from time to time by notification in the [2][Official Gazette] declare to be liquor for the purposes of this Act;

[3][(16) "Magistrate" means any Magistrate of the first class;]

(17) "Manufacture" includes every process, whether natural or artificial, by which any excisable article is produced or prepared wholly or partly and also redistillation and every process for the rectification, reduction, flavouring, blending or colouring of liquor;

[4][(17-A) *"Molasses"* means the mother liquor produced in the final stage of the manufacture of sugar or Khandsari sugar by the vacuum pan process or open pan process from sugar cane or gur.]

(18) "Pachawai" means fermented rice, millet or other grain whether mixed with any liquid or not and any liquid obtained there-from whether diluted or undiluted;

(19) "Place" includes a house, building, shop, room, booth, tent, vessel, boat, raft and enclosure;

(20) "Sale" with its grammatical variations includes any transfer otherwise than by way of gift;

(21) "Spirit" means any liquor containing alcohol obtained by distillation, whether it is denatured or not;

[5][(21-A) "State" or "State of Rajasthan" means the new State of Rajasthan as formed by section 10 of the States Reorganisation Act, 1956(Central Act 37 of 1956)];

[6][(21-B) "Still" includes any part thereof, and any other appartus for distillation or manufacture of spirit];

(22) "Tari" means fermented or unfermented juice drawn from any kind of palm tree;

(23) "To bottle" means to transfer from a cask or other vessel to a bottle, jar, flask or other receptacle, for the purpose of sale, whether any

1. Substituted by section 4 of the Rajasthan Act No. 38 of 1957, published in the Rajasthan Gazette, Part IV-A Extraordinary 5-12-1957.
2. Substituted by section 7 (iv)- ibid.
3. Substituted by section 2 (e)-ibid.
4. Inserted by S.2. of the Rajasthan Act No.8 of 1985, published in Rajasthan Gaz E.O. 4(Ka) dated 6-8-85, Page 73 w.e.f. 4-5-1985.
5. Inserted by section 7(v) ibid
6. Inserted by section 2 (f) of the Rajasthan Act No. 28 of 1961, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 2-10-1961.

ess of manufacture or rectification be employed or not, and bottling includes tling;

[7][(24) "Tola" means a weigh of 180 grains troy or 11.638 grams; and]

(25) "Transport" means to move from one place to another within [those s of the State of Rajasthan to which this Act extends.]

COMMENTARY

SYNOPSIS

Scope of the Section
Rules of Interpretation of definitions.
Definitions in the Rules.
Use of expression.
Definitions, classified.
Definitions explained

Definitions relating to Excisable Articles-

Excisable Article (CI 4)
Intoxicating drugs (CI.13)
Liquor (CI 15)
Beer (CI 1)
Denatured (CI 3)
Denatured Spirituous Preparation (3-A)
Fermented (Liquor CI 10)
Lance Poppy heads (CI 8)
Molasses (CI.17-A)
Pachawai (CI 18)
Spirit (CI.21).
Still (CI. 21-A)
13. Tari (CI-22.)

(B) Definitions relating to Excise Articles

14 Excise duty (CI.6)
15. Excise Revenue (CI.8)

(C) Definitions relating to movement & transaction in excisable Articles

16. Export (CI.9)
17. Import (CI.13)
18. Transport (CI.25)
19. Manufacture (CI-17).
20. To bottle (CI-23)
21. Sale (CI.20).

(D) Definitions relating to Officers, places & Others-

22 Excise Commissioner (CI.5)
23 Excise Officer (CI.7)
24. Magistrate (CI.16)
25. Abu Area (CI.2)
26. State or State of Raj. (CI.21-A)
27. Place (CI.19)
28 Tola (CI.24)

1. Scope of the Section—Section 3 provides for "definitions" in this interpretation ses of the act. The definitions of twenty-eight words or expression have been given is Section. Before we venture to explain and examine these definitions we should pitulate the Rules of the Interpretation of Definitions, in brief, so as to make the worthwhile

2. Rule of Interpretation of Definitions—Practically it is the common practice of islative body to incorporate a definition clause' or 'interpretation clause' in the enactment rve as a valuable guide to resolve the question of the statutory meaning of the is, phrases etc used in the statute.[3] These definitions are generally of three kinds i) **enumerative** which explains the meaning. **(ii) inclusive,** which enlarge the ordinary ning by providing certain matters to be included in the meaning of the term, and **exclusive** which excludes something from the ordinary meaning or excludes some cular thing from the meaning of that term. The interpretation clause declares the tion, of the legislature for using a particular words in a particular sense.

Substituted by section 2 (g)-ibid.

Inserted by S.2 of the Rajasthan Act No.8 of 1985, published in Rajasthan Gaz E.Q 4(Ka) dated 6-8-85, Page 73 w.e.f 4-5-1985.

Sutherland Statutory Construction-III Edn, Vol. II Article 3003, Page 322

(i) Construction of Definition clause— "There is no doubt that when an Act itself provides a dictionary for words used, we must look into that dictionary first for an interpretation of the words used in the statute. We are not concerned with any presumed intention of the legislature: our task is to get at the intention as expressed in the statute It is true an artificial definition may include a meaning is intended. Where within the framework of the ordinary acceptation of the words to show that such a meaning different from or in excess of the ordinary meaning is intended. Where within the frame work of the ordinary acceptation of the word every single requirement of the definition clause is fulfilled, it would be wrong to take the definition as destroying the essential meaning of the word defined".[1] A definition clause, however, doesnot enlarge the scope of the Act containing it[2] where the definition of a word gives it an extended meaning, the word is not to be interpreted by its extended meaning every time it is used, for the meaning would depend on the context.[3] Where the definition clause is so worded that the requirements laid down therein are fulfilled whether a wider or restricted meaning be given to it; to that extent there is an ambiguity and the definition clause is readily capable of more than one interpretation, what then is the position ? We must then see what light is thrown on the true view to be taken of the definition clause by other provisions of the Act or even by the aims and provisions of subsequent statute amending the Act or dealing with the same.[4] The definition should be used only for interpreting words which are ambiguous or equivocal and so as not to disturb the meaning of such as are Plain. Definitions given in the Act should be so construed as not to be repugnant to the context and as would not defeat or enable the defeating or the purpose of the Act.[5] The definition in a statute must be read in its context, with the scheme of the statute and what the statute is intended to remedy: all these control the construction of definition.[6]

(ii) Use of words "means" & "includes"- Effect of-- According to Maxwell, "it is common for a statute to contain a provision that certain words and phrases shall, when used in the statute bear particular meanings. Sometimes, it is provided that a word shall "mean" what the definition section says it shall mean : In this case, the word is restricted to the scope indicated in the definition section. Sometimes, however, the word" "include" is used "in order to enlarge the meaning of words or phrases occurring in the body of the statute; and when it is so used these words or phrases must be construed as comprehending, not only such things as they signify according to their natural import but also those things which the interpretation clause declare that they shall include". In other words, the word in respect of which "includes" is used bears both its extended statutory meaning and "its ordinary, popular and natural sense whenever that would be properly applicable".[7]

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1. Rajasthan State Electricity Board v. Labour Court AIR 1966 Raj. 56
2. Poppathi Ammal v Nallu Pillai AIR 1964 Mad. 173 (F.B.)
3. Hazari Singh v S Sanjay ILR 1963 MP 132
4. Hari Pd. v. Divelkar AIR 1957 S.C 121
   Ram Swaroop v S.P. Sethi AIR 1959 SC 951
5. Official Liquidator v. Jugal Kishor AIR 1939 All 1.
6. Employees Osmania University v. Industrial Tribunal AIR 1960 A.P. 388,391
7. Maxwell on "The Interpretation of Statutes "- Edition XII-1980 (Tripathi) Page -270

The definition may be either restrictive or when the definition clause states a word 'mean' the definition is prima-facie restrictive and exhaustive.[1] Whereas where the ord defined is declared to "include" the definition is extensive.[2] The word used in inclusive definition denote extension and cannot be treated as restricted in any sense. 'here the courts are dealing with an inclusive definition it would be appropriate to put restrictive interpretation upon terms of wider denotation.[3]

It is well settled that when in the definition clause given in any statute the word neans' is used, what follows is intended to speak exhaustively. When the word 'means' used in a definition, it is hard and fast definition and no meaning other than that ven in the definition can be assigned to the same in other words, the legislature intends exhaust the significance of the term "defined". When the word "includes" is used a definition, the Legislature intends that the definition should be enumerative, but ot exhaustive. That is to say, the term "defined", will retain its ordinary meaning, but scope would be extended to bring within its matters which in its ordinary meaning ay or may not comprise.[4]

Words 'means and includes' are used generally to enlarge scope and not to restrict 5

Meaning of 'includes' & its effect- Definition, whether exhaustive- Test laid down the Supreme Court- A definition is ordinarily expected to be exhaustive. Its very terms ay, however, show that it is not meant to be exhaustive. For example, a purported definition ay say that the term "include" what it specifies, but in that case, the definition itself not complete.[6]

In a case where the definition uses the word "includes" the same cannot be exhaustive d that its meaning has to be understood in the light of the context and the purposes the provision in connection with which the same has been used.[7]

"Includes"- Meaning of—When an interpretation clause states that a certain term ncludes" certain specified, it implies that the expression retain its original meaning and ntents It does not curtail its natural content of the expression. Further a definition e any other word in the Statute has to be understood having regards to the context the scheme of the enactment.[8]

The interpretation circulated by the State Government on basis of the legal advisers not to guide the Courts as it is not the advice of the legislature.[9] The Technical words ay not be interpreted in their plain non-technical sense.[10]

V.F. & G Insurance Co v Fraser & Ross AIR 1960 SC 971 (974-75).
State of Bombay v. Hospital Mazdoor Sabha AIR 1960 SC 610 (614);
Ardeshir v. State of Bombay AIR 1962 SC 29.
AIR 1960 SC 610 (Ibid).
1976 Lab. IC 868; (1977) I Lab LN 567 (AP)
1978 Lab. IC 1074 (DB) (Cal).
State of Tamilnadu v. M s Pyare Lal Malhotra AIR 1976 SC 800; (1976) 1 SCC 834,
Somdutt v. State of U.P. (1976) 2 ALJ. 529.
N.V. Krishna Rao v. Govt. of A.P [1979] 3 SLR 343 [349].
Sadana v. Board of Revenue 1955 RLW 355; ILR 1954 Raj. 861,
Jain Brothers and Co. Bundi v. State 1963 RLW 645

The meaning of definition should be ascertained only from the words given in the definition, but the set up and the context are also relevant for ascertaining what exactly was ment to be conveyed by the terminology employed. The definition clause must be read in the contest of the subject matter and scheme of the Act and consistently with the object and other provisions of the Act.[1]

(iii) Definition- Rule of Construction—The frame of any definition, more often than not, is capable of being made flexible. But the precision and certainty in law requires that it should not be made loose or kept tight as far as possible.[2]

Definition in statute has to be followed- Decisions under different Acts- Value of—Where a piece of Legislation gives a statutory definition for a word or expression while interpreting it, the meaning assigned to it by the definition or interpretion clause must be given unless otherwise indicated by the subject or context. Cases decided under different Acts or coming from states where the provisions of law are not similar cannot be taken as a safe guide.[3]

It is not a sound principle of construction to interpret expressions used in one Act, with reference to their use in another Act and decisions rendered with reference to construction of one Act cannot apply with reference to the provisions of another Act, unless the two Acts are in pari materia. Further, when there is no ambiguity in the statute, it may not be permissible to refer to, for purposes of its construction, any previous legislation or decisions rendered thereon.[4]

The word defined in the Act should be given only the meaning assigned to it by the definition. Presumed intention of Legislature cannot be looked into for the purpose.[5]

Construction of undefined word—Where the definition of a word has not been given it must be construed in its popular sense if it is a word of every day use Popular sense means, that sense which people conversant with the subject- matter with which the statute is dealing, would attribute to it.[6]

(iv) Dictionary meaning-use of—The appropriate dictionary meaning of words has not to be arbitrarily selected and mechanically applied. Dictionary meaning, cannot control where the scheme of the Statute clearly conveys a some what different shade of making.[7]

Dictionary meaning not binding—It is cardinal principle of a mature and developed jurisprudence that one should not make a fortress of the dictionary Statutes have always some purpose and object to accomplish, whose sympathetic & imaginative discovery is the surest guide to their meaning.[8]

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1. AIR 1958 SC 353; Hindustan Leve v. Delhi Administration 1977 Lab. I C 681 (Delhi).
2. Kalyan Singh v. Gendalal (1976) 1 SCC 304; AIR 1975 SC 1634 1637
3. AIR 1975 Punjab 189 (191-92)
4. The Board of Muslim Wakfs, Rajasthan v Radha Kishan AIR 1979 SC 289 (1979) 1 SCJ 325; S Mohanlal V.R. Kondiah 1979 (1) RCR 708 (SC).
5. 1970 RLW 519; AIR 1971 Raj. 151.
6. Commr. or I.T. v. Taj Mahal Hotel (1971) 3 SCC 550 (1971) 3 Um NP 912 AIR 1972 SC 168 (170); M/s Arjunlal Madanlal v. State of Raj 1977 WLN (UC) 32
7. Dy. Chief Controller v. K.T. Koseiram (1970) 3 SCC 82 AIR 1971 SC 1283 (1288-91).
8. Sant Ram v. Union of India AIR 1976 Delhi 90.

Importance of -Use of Dictionaries—Dictionaries can always be referred to in order to ascertain not only the meaning of a word but also the general use of it.[1]

While it may be permissible to refer to dictionaries to find out the meaning in which a word is capable of being used or understood in common parlance, the well known canon of construction should not even for a minute be overlooked that the meaning of the words and expressions used in a statute ordinarily take their colour from the context in which they appear.[2]

> "While question may sometime arise as to the extent to which a court may inform itself by reference to dictionaries there can be no doubt that dictionaries may properly be referred to in order to ascertain not only the meaning of a word, but also the use to which the thing (if it be a thing) denoted by the commonly put".[3]

(v) Expression in one Act, when can be interpreted with reference to those used in another Act—It is not a sound principle of construction to interpret expression used in our Act with reference to their use in another Act, and decisions rendered with reference to construction of one Act cannot apply with reference to the provisions of another Act, unless the two Acts are in pari materia. Further when there is no ambiguity in the statute, it may not be permissible to refer to for purposes of its construction, any previous legislation or decisions rendered thereon."[4]

(vi) Different Statutes- Doctrine of 'Pari materia'—Two statutes can be stated to be pari materia only if they relate to the same person or thing or to same class of persons or things.[5]

Departure from particular Act to other areas to be avoided—It is the part of judicial prudence to decide an issue arising under a specific statute by containing the focus to that statutory compass as far as possible. Diffusion into wider jurisprudential areas is fraught with unwriting conflict or confusion.[6]

(vii) Literal Construction and Intention of Legislature—The dominant purpose in construing a statute is to ascertain the intention of the Parliament. One of the well recognised canons of construction is that the legislature speaks its mind by user of correct expression and unless there is any ambiguity in the language of the provision the court should adopt literal construction if it does not lead to an absurdity. The first question to be posed is whether there is any ambiguity in the language used in the provision. If there is none, it would mean the language used, speaks the mind of Parliament and there is no need to look some where else to discover the intention or meaning. If the literal construction leads to an absurdity external aids to construction can be resorted to. To ascertained the literal meaning it is equally necessary first to ascertain the justaposition

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State of Bihar v. Radha Krishna Singh (1983) 3 SCC 118 (147) Para 67.
R.S. Nayak v. A.R. Antulay AIR 1984 S.C. 684; 1984 Cri. L.J. 613 (SC) (Para 50).
Coocola Co. of Canada Ltd. v. Pepsi Cola Co. of Canada Ltd AIR 1942 PC 40; 202 IC 203; 15 RPC 23.
Board of Muslim Wakfs, Rajasthan v. Radha Kishan AIR 1979 SC 289; 1978 WLN 388 (SC); (1979) 2 SCC 468.
Shah & Co. v. State of Maharashtra AIR 1967 SC 1877; (1967) 3 SCR 466; C. Devamani v. State 1983 Cri. L.J. 1320 (Madras).
State of M.P. v. Orient Paper Mills. AIR 1977 SC 587; (1977)2 SCC 77.

in which the rule is placed, the purpose for which it is expected and the object of which it is required to subserve and the authority by which the rule is framed (In the instant case- Provisions of S 21 Army Act and Rules thereunder were considered).[1]

(viii) Rule of "*Ejusdem Generis*"—It is well-known canon of construction that ejusdem generis rule is one to be applied with caution and not pushed too far. Normally every word in a statute ought to be construed in its primary and natural sense unless secondary or more limited sense is required by the subject or context. Ultimately the principle of law generally known as ejusdem generis rule is really a principle of assumed intentions of the statute.[2]

The true scope of the rule of ejusdem generis is that words of a general nature of following specific and particular words should be construed as limited to things which are of the same nature as those specified and not as reverse that specific words which precede are controlled by general words which follow.[3] Where there are general words following particular and specific words in a section, the general words must be confined to things of same kind as those specified.[4] General words following particular words should be presumed to belong to same genus.[5]

(ix) Importance of "Context"- The opening clause—All definitions so given are ordinarily qualified by the words, "unless there is anything repugnant in the subject or context" or "unless the context otherwise requires" and in such circumstances different meaning is to be assigned to the words in the context in which it has been used.[6] Even in the absence of such an expression such a qualification is always implied.[7] But when a word is defined to bear a number of inclusive meaning the sense in which the word is used in a particular provision must be ascertained from the context of the scheme of the Act, the language of the provision and object intended to be served thereby.[8]

The presence of this clause warns not to make out an obscure meaning of a word or phrase that cannot fit in the context wherein it is used.[9] The words used in an Act of Parliament are presumed to have been used correctly and exactly. The burden of proving that this rule has been broken lies heavily on those who make such an assertion.[10] A definition clause does not necessarily apply to all possible contexts in which the word may be found in a particular statute. Sometimes a strict adherence to the definition may lead to an anomaly or even repugnancy. All statutory definitions must be read subject to the qualifying words "unless the context otherwise requires", even though the definition clause does not contain these words.[11]

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1. Lt. Col. Prithi Pal Singh Bedi v. Union of India AIR 1982 SC 1413; 1983 Cri. L.J. 947.
2. Smt. Bina Mohamed v. State of Maharashtra 1983 Cri. L.J. 762 (Bombay).
3. Th. Amer Singh v. State of Rajasthan AIR 1955 SC 404 (523).
4. Somnath v. Dwarka Prasad, 1963 RLW 40; ILR (1963) 13 Raj. 68.
5. Ganesha Ram v. Collector, Jalore ILR (1967) 17 Raj. 335; 1968 RLW 95; AIR 1968 Raj. 72.
6. Irrigation Board v. Govinda Samy AIR 1920 PC 114 (116).
7. Dhandhania K. & Co. v. I.T. Com AIR 1959 SC 219 (227).
8. Anand Niwas (P) Ltd. V. Anandji AIR 1965 SC 414 (424).
9. Borough of New Plymouth v. Taramaki Electric Board AIR 1933 PC 216 (Para).
10. [illegible] v. Ashok Bank Ltd. AIR 1966 Ker. 12 (FB).

Meaning of words and expression defined under the definition clause ought to : assigned its meaning in accordance with its definition under the Act. No different eaning can be given unless subject or context otherwise requires.[1]

Unless the context otherwise requires"- Meaning—While interpreting a definition, has to be borne in mind that the interpretation placed on it should not only not repugnant the context, it should also be such as would aid to achievement of the purpose which sought to be served by the Act.[2]

Special Act v. General Act— A special enactment would prevail over a general iactment, if both operate technically in the same field.[3]

3. Definitions in the Rules— In Rajasthan Excise Rules, 1956, definitions of ten cpressions have been given under rule (2) viz. (1) the Act, (2) Bonded warehouse, ;) Country liquor (4) Foreign liquor, (5) Indian Made Foreign Liquor (6) Issued on Bond ') Liquor, (8) London Proof liter, (9) Section & (10) Words & expressions.

These definitions are to be read with the definitions given in section 3 of the ct being discussed hereinafter.

There are 22 sets of Rules relating to excise matter (see in part II of the Book), hich provide definitions of the specific words or expressions used in the Rules concerned. hese definitions are also to be read with reference to context.

● **4. Use of expression–"those parts of the State of Rajasthan to which this Act xtends"-Now it is rendered useless**—This expression was inserted by the Rajasthan .ct No. 38 of 1957 w.e.f. 5-12-1957 in Clauses (6),(9) (13) & (25) of section 3 and in ;ctions 9, 19 (4), 20(2), 24 and 71(2) also. This expression was used when the Act was ot made applicable to "Abu Area" and as such the Act was not applicable to "whole f the State of Rajasthan." Now the Act has been extended to "Abu Area" also w.e.f. .9.1978. Hence these expressions "Abu area" and "those parts of the State of Rajasthan f which this Act extends" have been rendered useless as the Act is made applicable) **"Whole of the State of Rajasthan" in 1978.**

5. Definitions Classified— There are 28 definitions in this section in alphabetical rder. For the purpose of study and proper understanding, we may classify these definitions ur groups as detailed below:—

(a) relating to excisable articles—There are thirteen definitions in this group, viz.—

(1)	Beer	(14A)	Lanced Poppy Heads
(2)	Denatured.	(15)	Liquor
(3A)	Denatured Spirituous Preparation	(17A)	Molasses
		(18)	Pachawai
(4)	Excisable Article	(21)	Spirit.
(10)	Fermented liquor	(21B)	Still
(14)	Intoxicating drug	(22)	Tari

. Dr. Anil Kumar v. State 1985 Raj LR 650, Municipal Corporation of City of Hubli v. Subbarao AIR 1976 SD 1398.

. K.V.Muthu v Angamuthu Ammal. AIR 1997 SC 628.

. Rajkot Municipal Corporation v. State of Gujarat. AIR 1997 Gujarat 46.

(b) relating to Excise- There are three definition in this group, viz.—

(6)	Excise duty,	(8)	Excise revenue and
(4)	Excisable Article.		

(c) relating to activities relating to movement & transactions in excisable article— There are six definitions in the group, viz—

(9)	Export	(20)	Sale
(13)	Import	(23)	to bottle
(17)	Manufacture	(25)	Transport

(d) relating to officers, places & others—

There are seven definitions in this group, viz–

(5)	Excise Commissioner	(2A)	State
(7)	Excise Officer	(19)	Place
(16)	Magistrate	(24)	Tola
(2)	Abu Area		

6. Definitions explained—Now we venture to examine and explain the important definitions hereinafter as classified :-

(A) Definitions relating to Excisable Articles

1. Excisable Article [clause (4)]

(a) Definition analysed–means & includes—

(i) —Spirit [defined in clause 21]
—fermented liquor, or [defined in clause (10)]
—any alcoholic liquor for human consumption, or [liquor defined in clause (15).
—denatured spirit of [defined in clause (3)]
—denatured spirituous preparation or [defined in clause(3)]

(ii) any intoxicating drug, or [defined in clause(14)]

(iii) Stills, or [defined in clause (21-B)]
Other, appliances for distillation, or

(iv) Fermented wash or other material for distillation, or

(v) Any other article, which the State Government may, from time to time, declared to be an excisable article for the purposes of this Act

The definition, as analysed above, is exhaustive as well as enumerative. It mentions the various items which are excisable articles under this Act. It includes various articles which have been defined in various clauses of this section. References of clauses have been given above for ready reference to definition.

Sub-clause (v) empowers th State Government to declare certain articles to be excisable article for the purpose of this Act. A few notifications issued under S.3 (iv) are being reproduced hereunder.

(b) Rule of ejusdem generis—It is to be noted that the State Government can not and should not declare an article to be deemed to be an excisable article, if it does

not fall in the categories of articles mentioned above in the definition. The doctrine of "ejusdem generis" is to be applied here in full swing.

(C) NOTIFICATIONS

(i) Methyl Alcohol

[No. P. 49(8) SR-53, dated 15-2-1957]

In exercise of the powers conferred by clause (iv) of sub-section (4) of section 3 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) the Government of Rajasthan is pleased to order that Methyl alcohol shall be deemed to be an excisable article.

[Published in Raj. Gaz., Part I(B) dated 28-2-1957]

(ii) Lanced Poppy Heads

[No. F.1(3) FD/EX/85, S O 172, January 24, 1986]

In exercise of the powers conferred by clause (v) of sub-section (4) of section 3 of the Rajasthan Excise Act, 1950 (Raj. Act II of 1950), the Government of Rajasthan is pleased to order that **Lanced Poppy Heads** shall be deemed to be an excisable article w.e.f. 14.11.85.

[Published in Raj. Gaz. E-O. 4 (Ga) II dated 25-1-86. Page 335] [1986 IRLT 79]

(iii) Molasses

[No. F. 1 (1) FD/EX/81, S.O. 155, October 15, 1986]

In exercise of the powers conferred by clause (v) of sub-section (4) of section 3 of the Rajasthan Excise Act, 1950 (Raj. Act. II of 1950) the Government of Rajasthan is pleased to order that **Molasses** shall be deemed to be an excisable article w.e.f. 4-5-1985.

[Published in Raj. Gaz. 4(Ga) II dated 30-10-86, Page 137]

(iv) Heritage Liquor

S.O.112.—In exercise of the powers conferred by sub-clause (v) of clause (4) of section 3 of the Rajasthan Excise Act. 1950. (Rajasthan Act. No. 2 of 1950), the State Government hereby declares the heritage liquor as an excisable article for the purposes of the said Act.

[No.F.4(30) FD/EX/98. dated 9.7.98, Pub. in Raj. Gaz-EO-4(Ga) (II) dated 9.7 1998 Page 165(12)]

(d) Excise duty cannot be imposed on Methyl Alcohol Methanol-Not meant for human consumption—Methyl Alcohol or Methanol is poison not meant for human consumption, in no case it be considered a beverage meant for human consumption. It is true that its small quantity if consumed by a human being, it is a beverage fit for human consumption.

As the methyl alcohol is a liquor not fit for human consumption thus in view of List I Entry 84 of Seventh Schedule of the Constitution, the State Government is not competent to impose excise duty on such goods. Any notification imposing levy of excise duty by the State Government is thus ultra vires the Constitution.[1]

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1. M/s J.K. Synthetics v. State of Raj 1976 WLN 277

(e) Constitutional Provisions examined—

In Schedule VII List I Union List

(i) Entry No. 84—Duties of excise on tobacco and other goods manufactured or produced in India, except-

(a) alcoholic liquors for human consumption.

(b) Opium, Indian hemp and other narcotic drugs and narcotics.

But including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

★ ★ ★ ★ ★

List II- State List-Entry No.8- Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.

Entry No. 51—Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:-

(a) alcoholic liquors **for human consumption;**

(b) opium, Indian hemp and other narcotic drugs and narcotics, **but not including-**

— medicinal and toilet preparations containing alcohol or

— any substance included in sub-paragraph (b) of this entry.

List III–Concurrent List

Entry No. 19 - Drugs and poisons, subject to the provisions of entry 59 of list I with respect to Opium.

★ ★ ★ ★ ★

It is to be noted here that the Union Parliament has no power to enact any law relating to **"(a) alcoholic liquors for human Consumption."** as it has been excluded from Entry No. 84 above. This entry does bar the State Legislature to impose excise duty on such goods but allowed by entry No. 51 of List II and Entry No. 8 of List II refers to "intoxicating liquors" only for which State Legislature is competent to enact a law.

It is also to be noted that term "intoxication" has no where been defined, but it does refer impliedy to intoxication to human being and not to animals & others. Hence a liquor not fit for human consumption, cannot be the subject matter of enacting statute by State Legislature, when these entries are read together.

The question, therefore, arises whether the State Legislature or its delegate State Government can impose excise duty or can control the transactions and dealings of an article which is not covered in the abovementioned entries (i.e. alcoholic liquors for human consumption or Intoxicating liquors which impliedy covered "for human consumption").

The plain answer would be in negative, as also held by the Rajasthan High Court in M/s J.K. Synthetic's case (1976 WLN 277) and the M/s Hindustan Copper Ltd v State [illegible] PLR 632.

Thus the articles which do contain **"alcohol" and are "not meant for human consumption"** are out of the purview of Entries No. 8 &51 of the State List and also [illegible] of exception (a) carved out in Entry No. 84 of Union List and included in Entry

No. 51 of State List. As such the State Legislature or its delegate State Government is not competent to impose excise duty on liquors not capable of being used for human consumption & the declaration to be made by State Government under S.4 read with last part of clause (15) of section 3 of the Act, cannot go beyond its legislative powers and expression **"for human consumption"** is to be impliedly read in expression "Intoxicating liquor" read with Entry No. 51 of State List. This view may also get support from clause (13) of section 3 which defines "Intoxicating drugs"

● Hence, in my humble view, the following articles should not and can not be included in **"Excisable Articles"** in clause (4) of section 3 of the Act not being fit for human consumption-

"denatured spirit, denatured spirituous preparation defined under clauses (3) and (3A) of section 3".

The learned Bar & Bench are also requested to examine this view deeply in view of these constitutional provisions.

The State Government vide Notification No. 49(8)SR 53 dated 15-2-1957 (reproduced in Commentary of clause (4) Supra) has ordered that "methyl alcohol" shall be deemed to be an excisable article. This notification stands superseded by the verdict of the Rajasthan High Court in M/s J.K.Synthetic"s Case (1976 WLN 277) on the ground that it is poison and is not fit for human consumption.

The contrary view may be taken if word"Intoxicating Liquor" is interpreted in the sense that it is not to be meant for human consumption, but as an article of general nature as it has not been qualified by the expression"fit for human consumption" as used in Entry 51, List II of seventh schedule. What has been impliedly excluded, cannot be included by implication. This argument also requires consideration.

The View of the Supreme Court—

● **Meaning of "Industrial Alcohol"**—[Schedule VII List I Item 84 and List II item 51- Constitution of India]--

The framers of the Constitution when they used the expression"alcoholic liquor for human consumption", they meant at that time and still the expression means that liquor which as it is consumable in the sense capable of being taken by human being as such as beverage of drinks. Hence the expression under Entry 84, List I must be understood in that light. (Para 54)

Ethyl Alcohol (95%) is not alcoholic liquor for human consumption but can be used as raw material in-put after processing and substantial dilution in the production of whiskey, Gin, Country Liquor etc. (Para 73) Ethyl alcohol (95%) is an industrial alcohol and is not fit for human consumption. It is not only non-potable but is highly toxic. Para 73)

Held, there is no taxing provision permitting these in the lists in the field of industrial alcohol for the State to legislate. (Para 82) (Relevant provision of State Acts of U.P., A.P., Tamilnadu, Bombay declared illegal prospectively).

[AIR 1980 SC 614, Overruled] Not to affect any regulating measure as such.[1]

Synthetics & Chemicals Ltd v State of UP, AIR 1990 SC 1927 (7 Judges Bench)

(f) Unfit for human consumption---This expression has not been used in the definition of word 'liquor' in clause (15), but only main ingredient of Intoxicating liquor is the presence of **"ALCOHOL"** in any liquid or spirit etc.

The expression "human consumption" has been used in clause (i) of sub-section (4) of Section 3 as follows:

(i) Spirit, fermented liquor or any alcoholic liquor for human consumption.

After considering this provision, the High Court held that - the expression"for human consumption" qualifies only alcoholic liquor and not spirits etc. even if unfit for human consumption, its possession is an offence under S. 57 of the Act[1] as it is an excisable article under clause (4) (i) of 53 of the Act.

The different view has been taken in later case, which we reproduce hereunder in full for ready reference—

(g) Leading Case:–(1)

M/s. HINDUSTAN COPPER Ltd.

v.

STATE OF RAJASTHAN

[1989 (1) RLR 632 (DB)]

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RACTIFIED SPIRIT— NOT EXCISABLE ARTICLE

[Not fit for human Consumption, but for purely Industrial Purpose]

Ss. 3(4) & 28- Excise duty on Ractified Spirit invalid being beyond the Competence of State Legislature-Entry 51 of List II (State List) of the Seventh Schedule]- Rectified spirit not alcoholic liquor for human consumption-Does not fall within expression "Excisable article" under Section 3(4) of the Act.

The litigation in the above four writ petitions is between the same parties, namely- M/s Hindustan Copper Ltd. Khetri Copper Complex Khetri Nagar, (Jhunjhunu) (for short petitioner company) and the State of Rajasthan and others and a question in each of them is as to whether any excise duty can be charged on the rectified spirit imported by the petitioner company. Therefore, all the above four writ petitions are being disposed of by this common order.

2. The Government of India Ministry of Industry, Department of Chemicals and Petrochemicals, has been making ad hoc inter-State allocation of Alcohol for potable and industrial use from year to year and the petitioner company has imported rectified spirit from year to year for industrial use. The non-petitioner No. 3 is demanding excise duty on the imported rectified spirit on the ground that it is an excisable article within the meaning of Section 3(4) of the Rajasthan Excise Act, 1950 (for short, the Act) and though in the above writ petitions the period of allocation is different but as stated earlier the issue involved in all the above four writ petitions, is identical whether any excise duty under the provisions of the Act can be charged on rectified spirit imported for industrial use. It will be convenient to give facts of the first of the four writ petitions, namely Writ Petition No. 1669/84. The petitioner company is engaged in the mining operations

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Ramchandra v State ILR (1960) 10 Raj. 738; 1960 RLW 215

d manufacture of copper and other bye-products. It has a complex known as Khetri ıpper Complex at Khetrinagar, where amongst other plants the company has its Refinery ınt also. In the aforesaid Refinery plant the company is using rectified spirit for stripping eration of pure copper starting sheets. **Rectified spirit as aforesaid is used for purely dustrial purposes and is not at all used or meant for human consumption.** The rectified irit is being purchased by the petitioner company from M/s Damala Sugar Works UP the basis of permit issued by the Government of India and on the basis of allocations ıde as aforesaid from year to year. The petitioner company for the purpose of industrial e is procuring 20,200 litres of rectified spirit on the basis of the permit granted by Government of India. As the rectified spirit is not being imported for human consumption, is not excisable article. The District Excise Officer (Rural) Jaipur vide his notice dated -6-1984 called upon the petitioner Company to deposit a sum of Rs. 4,24,054.75 towards payment of the excise duty for the rectified spirit within a period of 10 days failing ıich it was stated that recovery of the said amount would be effected in accordance th the Rajasthan Land Revenue Act, 1956. The petitioner company replied that it has ken steps to make representation to the State Government and the Excise Commissioner d it was requested that the demand notice be kept in abeyance till these authorities ke a decision on the matter. The District Excise Officer(Rural) Jaipur sent a notice to e petitioner company under Section 229 of the Rajasthan Land Revenue Act, 1956, September 24, 1984 for effecting recovery of the aforesaid amount. By this notice e petitioner company was called upon to make payment within 15 days of the receipt the notice. In the return filed by the non-petitioner No. 3 a case has been set up at within the meaning of definition of 'excisable article' under Sec 3(4) of the Act all irit fermented spirituous alcoholic liquor for human consumption or denatured spirit denatured spirituous preparation is excisable article and whether the spirit is for human ınsumption or otherwise, it is included in Section 3(4) of the Act. Thus the case of ın petitioner is that even if 'spirit' is unfit for human consumption it will be excisable ticle. As per the case of the non-petitioners the petitioner company is liable to pay ıcise duty on the rectified spirit even if it being imported by them purely for industrial ırposes. It is also the case that the non-petitioners are not duty bound to issue the ırmit.

3. It may be stated that in Writ Petition No. 4557/88 the two notifications dated ırch 30, 1977 and April 10,1982 are under challenge and the case of the petitioner ımpany is that the aforesaid notification in so far as the imposition of excise duty is ıncerned they are violative of the provisions of the Constitution as under Entry 51 List II (State List) of the Seventh Schedule to the Constitution of India, the State ın only impose excise duty on the articles fit for human consumption and that too ey are not for medical preparations. It is only the Central Legislature which can impose ıty under alcoholic liquor which are not fit for human consumption and in other words, ıe competence of the State Government to issue the aforesaid notifications has been ıestioned.

4. We have given our due consideration to the arguments advanced before by ıe learned counsel for the parties. It may be stated at the very outset that there is ɔ dispute between the parties that unless water is added, it is not rendered fit for human ınsumption, and cannot be used for human consumption. This Court and other courts

had the occasion to examine this question and there is unanimity amongst the courts that so far as rectified spirit is concerned. It is not alcoholic liquor for human consumption and therefore the State Legisture is not competent to impose and levy any excise duty on it. In this connection, a reference is made to the case of (1) J.K.Synthetics Ltd. Kota V. State of Rajasthan 1976 RLW 338. In that case the court was dealing with methyl alcohol. The court said that methyl alcohol or methanol is a poison and in no case it can be considered a beverages meant for human consumption. At the stage of its manufacture it is poison and therefore the State legislature has no right to impose any excise duty, notwithstanding the fact that by some process, the methyl alcohol can be turned into an alcoholic liquor consumable by human beings. In the case of (2) M/s Sona Distilleries Ltd. Alwar and Ors.V. Excise Commissioner Rajasthan and other, 1984 RLR-page 773 though the court was dealing with some other controversy but in para No. 16 referring to the aforesaid case of M/s J.K.Synthetics, the court said that-

"All that this court decided in the cited case is that methanol or methyl alcohol is not an alcoholic liquor for human consumption and therefore it is not an excisable article on which excise duty may be lawfully levied under section 28 of the Act. Relying on this authority and the unreported Bench decision of the Allahabad High Court mentioned above, one may be prepared to agree that rectified spirit undergoing further process of manufacture under the Act, the Rules and the Distillery Rules, is not an alcoholic ıquor for human consumption and therefore no excise duty may be lawfully levied on such spirit under Section 28 of the Act".

Allahabad High Court in the case of (3) D.C. & G.M. Co. V. Excise Commissioner, ı973 ALJ 629 was dealing with the rectified spirit and said that it is not an alcoholic ıquor for human consumption and is not an excisable article under the U.P. Excise Act. ı 10 No excise duty could be legally imposed upon rectified spirit. The court said that-

"It is true that rectified spirit is capable of being converted into profitable liquors, ıuch are fit for human consumption but in our opinion the capability of conversion ıto alcoholic liquors for human consumption' will not make the rectified spirit itself ar. alcoholic liquor for human consumption. When it is converted, then the converted material will be the 'alcoholic liquor for human consumption' and will be liable to excise duty at the stage of conversion. Before conversion it cannot be said to be an alcoholic liquor for human consumption".

The court referred in the aforesaid case to the case of (4) Suneeta Laboratories V State of M.P. 1972 TLR 2058 where also similar view was taken that the State legislature has no right to impose any excise duty thereon. In the case of (5) M/s Mohan Mackin Breweries Ltd. Ghaziabad and another V. State of Uttar Pradesh 1977 TLR 130 (Allahabad) another Bench of the Allahabad High Court took a similar view that rectified spirit is not an article meant for human consumption & State legislature has no competence to impose excise duty on rectified spirit. In the case of (6) M/s. Ajudhia Distillery Rajaka Sahaspur V State of U.P. and another 1980 TLR 2262, another Division Bench of the Allahabad High Court taking the similar view said that the Excise duty under the U.P. Excise Act cannot be levied at any prior stage of the article. The court was dealing with the case of rum and said that since the process of manufacture of rum is not complete till caramel is added to the spirit duty is attracted only when rum is manufactured and not any

ge prior to manufacture of excisable article. State is not entitled to charge obscuration y and the manufacturer is entitled to refund of amount illegally debited against advance y.

5. *It can therefore be said on the basis of the authorities of this Court as well other courts that rectified spirit does not fall within the expression "excisable article" view of the provisions of Section 3(4) of the Act.*

6. Mr. Sharma, learned counsel for the non-petitioners has contended that the view en by this Court needs re consideration because there can be no dispute that 'rectified rit' is alcohol and according to the learned counsel it will fall under the expression 'excisable icle' used in Sec. 3(4) of the Act and therefore the Notifications have been rightly ued and are within the competence of the State legislature. Learned counsel for the- itioners has referred to a Simplified Texbook of Medical Jurisprudence & Toxicology. st Edition, and to its page 698, while defining the expression alcohol the author said it in general use, the word 'alcohol' means any intoxicating drink.

Of the various alcohols in common use, only ethyl alcohol are found in drinks. latter only cheap adultrous spirit. Dealing with the methyl alcohol the author at page 9 of the said book, said that methyl alcohol also known as wood alcohol, wood spirit. od Naphtha, pyroxylic spirit or methanol is obtained by the destructive distillation wood or molasses. It has an action on the system similar to that of ethyl alcohol has a peculiarly disagreeable odour, and is used for fouling rectified spirit so as to ıder it non-drinkable. Referring to the text-book of Organic Chemistry by O.P.Agrawal, st Edition 1986-87, and to its page 458, learned counsel for the non-petitioner has d that though the rectified spirit contains only 93%-95% ethyl alcohol and therefore would be fit for human consumption.

Dealing with Distillation, at page 458, the author said that during the process of tillation, the alcohol obtains 90% pure and is subjected to fractional distillation and process is known as rectification. Rectification of 90% alcohol gives three fractions. st fraction consists mainly of low boiling liquids like acetaldehyde middle fraction contains .95% ethyl alcohol which is sold under the name of rectified spirit and it is commercial ohol and the last fraction (b p 125-1400) or fusel oil which contains water and fusel

Learned counsel also referred to page 459 to 467 of the aforesaid text book and atended on that basis that even ethyl alcohol can be used for drinking purposes and is lawful to tax the same in the form of excise duty. A look at page 460 of that book ll show that ethyl alcohol used for industrial purpose is duty free so the industrial ohol can be used for drinking purposes. In order to make industrial alcohol (rectified rit) unfit for drinking purposes it is denatured by mixing some poisonous substances e methanol, pyridine, acetone etc. Such alcohol (denatured) is known as methylated rit. Thus, it is a mixture of rectified spirit (85-90%) and methyl alcohol (10-15%). The ntention of the learned counsel for the non-petitioners is that because rectified spirit nothing but it contains 93-95% ethyl alcohol and it can be used even without water erefore, it can be taxed.

In our opinion, the above contention of the learned counsel for the non-petitioners s no force. The reason is that as stated earlier, it is at the stage of manufacture that

the excise duty can be and is leviable and only such rectified spirit which is alcoholic liquor fit for human consumption, can be excisable within the expression of Section 3(4) of the Act and the State legislature can only be competent to impose and levy duty under Section 28 of the Act in view of entry 51 (a) of List II (State List) of the Seventh Schedule to the Constitution of India and it may be stated that rectified spirit is also alcohol which is not meant for human consumption and no excise duty can be charged by the State Government under the aforesaid entry of List II (State List) of the Seventh Schedule of the Constitution of India and it is beyond the competence of the State Legislature. (Page 6).

[Writ allowed-excise duty on rectified spirit quashed-refund to be made]

❑ ***Editorial Note-*** *Impact of Entry 8-List II "Intoxicating Liquors" has not been considered in the above judgment, please note.]*

❑ Latest Trend (Case-Law)

Misuse of Industrial Alcohol- Regulating excisable articles not ultra vires [Ss.3(4)(i) and 28]

When the State Government has power to regulate and monitor the misuse of the industrial alcohol and converting it to that of potable alcohol, the inclusion of the denatured spirit or the denatured spirituous preparation in the provisions of Section 3(4)(i) of the Act, whereby the excisable article have been defined, cannot be held to be ultra vires of the Constitution.

Regulating the import, expert, transport and possession of the excisable articles cannot be said to be ultra vires because in this case, framing of the Rules is within the legislative competence of the State. Likewise, prohibition of sale of any excisable article to any person or class of persons cannot be said to be a power, which is against Entry 84 of the List II of Schedule VII of the Constitution or against the provisions of Arts. 245 and 246 of the Constitution.[1]

Whether the tax can be levied on the ratified spirit by the State Government ?— This question came up for consideration before the High Court in M/s Geeta Enterprises v.State of Rajasthan [(1993(2) RLR 183 : 1994 (3) WLC (Raj) 304 (DB)]. In this case the levy of excise duty on the industrial alcohol was declared illegal in view of the judgment of the Supreme Court in Synthetic & Chemicals Ltd. v.State of U.P. (AIR 1990 SC 1927) and the State was restrained from enforcing the levy of excise duty and counter- vailing duty on the product produced after 25.10.1989, but it was also held that the petitioner will not be liable for any refund of the octroi duty or counter-vailing duty which had already been recovered from him or has become recoverable prior to 25.10.89.

In the present case, the excise duty charged from the petitioner-appellant relates to the period earlier than 25.10.89 and, therefore, the demands, raised by the District Excise Officer, Udaipur, for the levy of excise duty of rectified spirit, were in accordance with law and are recoverable from it. (Para 10) (Special appeals dismissed) [2]

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1. M/s Geeta Enterprises v. State of Rajasthan, 1993 (2) WLN 564: 1994(3) WLC (Raj) 304: 1993(1) RLW 308.
2. M/s Udaipur Distillery & Co. v. State of Rajasthan, 1996 (1) WLC (Raj) 385 (DB)

:ading Case (2) **Rajasthan High Court (DB)**

UDAIPUR DISTILLERY CO. LTD.
V/s
STATE OF RAJASTHAN & ORS.

[1996 (2) WLC (Raj) 419 (DB)

[A] Validity of Sections 16 & 24 of Excise Act & Rule 68(2) of Excise Rules -Not unconstitutional.

[B] Bottling is a process of sale-

[C] Levy of Bottling fee not unconstitutional.

[D] Production of Alcoholic Liquor for Human consumption- Power of State to make rules.

.] Validity of Section 16 and Section 24 Upheld- Not unconstitutional—

The State legislature has power to regulate and Control the production, manufacture, rchase, sale and transportation of the alcoholic or intoxicating liquors meant for human nsumption and, therefore, the provisions of S.16 (1) (a) and S.16 (1) (e) of the Act nnot be said to be ultravires of the Constitution or the Industries (Development & :gulation) Act, 1951. (Para 19).

No fault can be found with S.24 of the Act, which pertains to grant of exclusive ivilege for manufacture and supply of any country liquor, foreign liquor or intoxicating ugs within any local area and therefore the validity of S.24 of the Act is upheld.

:] "Bottling" is a process of sale—

Section 16(1)(a) and (d) of the Act says that no excisable article (intoxicable liquor) all be manufactured and no liquor shall be bottled for sale, except under the authority d subject to the terms and conditions of a licence granted in that behalf by the Excise ommissioner or by an Excise Officer duly empowered in that behalf, and, therefore, the quor has to be bottled under a licence and such a licence has been obtained by the titioners for the purpose of sale of liquor meant for human consumption, whereby has been prescribed what will be the strength of a particular quality of wine and what ll be its colour and is what quantity, it will be sold and what will be its price. The stilleries Rules, 1976, under which licence has been granted to petitioners also provide at in what conditions, the liquor is to be sold.. (Para 21)

:] Levy of Bottling Fee not unconstitutional—

Rule 91(3) of the Distilleries Rules, 1976 says that the Excise Commissioner may ecify wherever possible that mechanical arrangements may be made for all operations to the stage of bottling and may also lay down that bottling operation must be carried under proper supervision in conformity with high standard of hygine and the product ould not be touched by human hand at this stage. Thus, certain conditions are prescribed to how the liquor is to be bottled. So that the liquor may not become hazardous the public. These services, thus, are being rendered by the State Government, and, erefore, it cannot be said that the levy of bottling fee is unconstitutional because no rvices are being rendered by the State. (Para 22)

)] Alcoholic Liquor for human Consumption- Bottling Fee held not unconstitutional—

After noticing Entry 84 of List I and Entry. No. 51 of Schedule VII of the Constitution,

the Supreme Court in Synthetics and Chemicals Ltd. v.State of U.P.[1] has observed as under:

"A comparison of the language of these two entries clearly demonstrates that the powers of taxation on alcoholic liquors have been based on the way in which they are used as admittedly alcoholic liquor is a very wide term and may include variety of types of alcoholic liquors but our Constitution- makers distribution them into two heads:

(a) for human consumption;

(b) other than for human consumption;

Alcoholic liquors which are for human consumption were put in Entry 51, List-II authorising the State legislature to levy tax on them where as alcoholic liquors other than for human consumption have been left to the Central legislature under Entry 84 for levy of duty of excise. This scheme of these two entries in Lists I and II is clear enough to indicate the line of demarcation for purposes of taxation of alcoholic liquors. What has been excluded in Entry 84 has specially been put within the authority of the State for purposes of taxation."-

After noticing Entry No. 8 of List II of Schedule VII of the Constitution, it has been further observed in para 98 of the judgment as under:

"This entry talks of intoxicating liquors and further on refers to production, manufacture, possession, transport, purchase and sale of these liquors. It appears that the State has levied some kind of duties in various names at each of these stages used in this entry, that is, production, manufacture possession, transport, purchase and sale. But from the scheme of entries in the three lists, it is clear that taxing entries have been specially enacted conferring powers of taxation whereas other entries pertain to the authority of the legislature to enact laws for purposes of regulation, if we compare Entry No. 8 in List II with entry 51, it is clear that Entry 51 authorises the State Legislature to levy tax and duties on alcoholic liquors falling in Entry 51, Entry 8 confers authority on the State legislature to enact laws for regulation. Similarly are entries in List I".

Their lordships further noticed Entry 52 of List I of Schedule VII of the Constitution and thereafter, observed in para 100 of the judgment as under.

"Such a declaration is made by the Parliament and this industry that is industry based on fermentation and alcohol has been declared to be an industry under that Act and therefore, is directly under the control of the Centre and therefore, even in respect of regulation, the authority of the State legislature in Entry 8 List II could only be subject to the Industries Development and Regulation Act or rules made by the Centre.

Under these circumstances, it is clear that the State Legislature had no authority to levy duty or tax on alcohol which is not for human consumption as that could only be levied by the Centre."

Thus, it is clear from this authority that the State legislature has power to regulate and control the production, manufacture, purchase, sale and transportation of the alcoholic or intoxicating liquors meant for human consumption and, therefore, the provisions of S. 16(1)(a) and 16(1)(e) of the Act cannot be said to be ultravires of the Constitution or the Industries (Development and Regulation) Act, 1951

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1. AIR 1990 SC 1927 : 1990 (1) SCC 109.

Levy of Excise duty on rectified spirit and India made Foreign Liquor (IMFL) wasted during transit- Contractual obligation- Ss. 9-A, 17, 41, 42- Rajasthan Excise Rules, 1959- R.5(5)- Rajasthan Stock-taking & Wastage of Liquor Rules, 1959.

Licence was granted to petitioner under the Excise Act and Rules thereunder condition No. 33 of the Licence provided for levy of excise duty on wastage on IMFL as per rules. Nature of contract is held to be statutory and petitioner having accepted licence cannot wriggle out from contractual obligations arising out of the conditions of licence. Held, the State is entitled to realise excise duty on wastage of IMFL during transit in accordance with terms of contract. Rules of 1959 held not applicable in the instant case. Hence enquiry under R.5(5) was out of question and contractual obligation alone is to prevail. (Special Appeals dismissed).[1]

• The Latest view of the Supreme Court- Scope of power of State as to regulatory measure- Demand of Excise duty—The power of State to demand excise duty is limited by the provisions of the Constitution and the Act. Demand for excise duty is not a regulatory measure. Held, the power of the State to levy excise duty cannot be expanded with reference to its power to regulate manufacture of liquor.[2]

"Alcoholic liquor" Meaning of—It is clear that alcoholic liquor is a beverage containing alcohol. It is further clear that liquids containing alcohol, which are not intended to be used as intoxicating beverage are not alcoholic liquors.[3]

Liquor-Proof thereof—Mere smell not sufficient to prove alcoholic contents - Expert opinion is held necessary.[4]

Limited Use of expression "for human consumption"- It qualifies only alcoholic liquor and not spirits etc. - Held, spirit even if unfit for human consumption, it possession is an offence under S.57.[5]

Excisable Article"—Illicit liquor seized from house- No plea that it is medical preparation- found intoxicating liquor- Held, conviction was right.[6]

Use of word "and" means "Or"—In S.3(4) (iii) Possession of any one appliance for distillation has been made punishable- Having regard to the object of the Rajasthan Excise Act and the provisions of Section 16(g) and Section 54 (d) of the Act the word "and" appearing in Section 3(4) (iii) of the Act has to be read as "or" so that the possession of a still or any other appliance for distillation as well as the possession of fermented wash or similar other material for distillation would fall within the mischief of Clause (d) of Section 54 of the Act and would be an offence. [1937.1 KB 305, Rel on.][7]

Nature of French Police—"French Police" is excisable article. It is made of denatured spirit, so it is a "denatured spirituous preparation" under clause (3A).[8]

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1. M/s Udaipur Distillery & Co. v. State of Rajasthan 1996(1) WLC (Raj) 385 (DB)
2. State of U.P. v. Modi Distillery. (1995) 5 SCC 753.
3. M/s J.K. Synthetics v. State 1976 WLN 277. (281)
4. State v. Sanwal Ram ILR (1971) 21 Raj. 729: 1970 WLN 440: 1970 RLW 566: 1971 Cr LJ 200 (DB)
5. Ramchandra v. State ILR (1960) 10 Raj. 738: 1960 RLW 215.
6. Sewandas v State 1960 RLW 600
7. State v. Govind Ram ILR (1962) 12 Raj. 351: 1962 RLW 283.
8. M/s Hiranand Ghanshyam Dass v State 1979 RRD (NUC) 53.

Not excisable article but medicine-[1]" Mrit Sanjiwani Sudha"— is an Ayurvedic medicinal preparation. Held, it is not an excisable article as such not liable to excise duty.[2]

"Malathion Technical"— is not excisable article as it is insecticide.[3]

2. Intoxicating drugs [clause(13)]

(i) the leaves, small stalks and flowering or fruiting tops of the hemp plant (Cannabla Sativa) including all forms known as Bhang, Sidhi or Ganjaa.

(ii) Charas that is, the resin obtained from the hemp plant which has not been submitted to any manipulations other than those necessary for packing and transport.

(iii) any mixture, with or without natural materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom, and

(iv) any other intoxicating or narcotic substance which the State Government may declare; by notification in the Official Gazette, to be an intoxicating drug, such substance not being opium, coca leaf or a manufactured drug as defined in the Dangerous Drugs Act, 1930 (Central Act 11 of 1930).

This is an important definition which deals with one of the subject-matters of the Act i.e. "Intoxicating drugs".

This definition is exhaustive, but word "Intoxicating" has not been defined in this Act and the Rules made thereunder. Let us examine the meaning from dictionary—

Meaning of "Intoxicating"-examined—The dictionary meaning is as follows:

(a) **Intoxicant**- Intoxicating (liquor).

Intoxicate v.t.Make drink, excite, exhilarate, beyond self-control (intoxicated with or by)-hence

intoxicating - poison F.L.,toxicum Toxic.[4]

—**intoxicating** नशा करने वाली, मादक : producing or fitted to produce intoxication.

—**intoxicating drink** मादक पेय - [Art.47, Constitution]

intoxication, state of: the quality or state of being drunk. [S.510.IPC] (मत्तता की हालत)

—**intoxication**, the state of being intoxicated. [S.85, IPC] (मत्तता

From legal Glossary – विधि शब्दावली (Govt. of India) (Page 179)-

The expression "intoxication" etymologically means condition produced, on brain or nervous system of human being, by excessive use of alcoholic stimulants. The term has been defined to be a poisoning whether by drug or liquor or other toxic substances and hence the condition of the mind and nervous system produced by excessive drinking of alcohol. In the absence of any statutory definition of the term, it is applied only to the excessive use of intoxicating liquor or drugs.[5]

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1. मृत संजीवनी सुधा ।
2. Mathur's Shakti Aushdhalya Dacca (Pvt.) Ltd. v. Union of India 1963 (3) SCR 957 AIR 1963 SC 622.
3. M/s Pesteides India v. State of Rajasthan 1994 (1) WLN 238: 1992 (3) WLC 582
4. The Concise Oxford Dictionary Sixth Edition (1976) Page 567.
5. A Narayan Nair v. State. AIR 1952 TC 239: 53 Cr. LJ 1095.

Intoxicating drug-Sulfa—The definition of an intoxicating drug in S.3 (14) does not show that it means sulfa also. It cannot be presumed without any evidence that Sulfa & Charas are the same thing.[1]

Thus excessive use of any drug or liquor affects the condition of brain and nervous system of human being and such drug or liquor would be "intoxicating" in nature. It does not mean poison or poisonous drugs or liquor not fit for human consumption.

All drugs mentioned in the definition in clauses (i) to (iv) are the intoxicating drugs for the purpose of the Act. There are provisions for licence for use of such drugs in the rules.

"Charas" & Ganja"— "Charas" is not cannabis plant, but is resin obtained therefrom, where as "ganja" is flowering or fruiting tops of cannabis plant excluding seeds and leaves when not accompanied by tops. (Para 7).[2]

3. **Liquor-i.e. Intoxicating Liquor-Clause (15)**—

(a) **Analysis of Definition**- There are two parts of this definition as analysed below:-

I..... means-Intoxicating liquor,

AND

II..... includes-

(A)— (i) Spirits of wine
(ii) Spirit. [defined in Cl.(21)]
(iii) Wine.
(iv) Tari [defined in Cl.(22)]
(v) Pachawar [defined in Cl. (18)]
(vi) Beer [defined in CL. (1)]
& (vii) all liquid consisting of or containing- ALCOHOL

(b)..... *as also any Substance.*

Which the State Government from time to time by notification in the official Gazette declare to be liquor for the purpose of the Act.

Thus this definition explains that where a liquor is intoxicating it is covered under this clause and forms a jurisdictional fact which can be examined by the courts while considering the scope of the Act.

(b) Meaning of "liquor"— The expression 'liquor' covers not only those alcoholic liquids which one generally used as beverage (i.e.drinks) and producing the effect of intoxication on the brain or nervous system of the consumer. but it also includes all such liquids which contains "alcohol".

(c) Meaning of Intoxicating—We have discussed the meaning of this word in commentary of clause (13) while examining the term" Intoxicating drug".

The expression "intoxication" means effect produced by the liquor on brain or nervous system of human being due to excessive use of alcoholic contents. This is effect of the excessive use of intoxicating drink or drugs.[3]

1. Shabbir Ali v. State, ILR (1957) 7 Raj. 1982: 1957 RLW 625.
2. Manjee v. State of Rajasthan, 1996(2) WLC 405
3. A Narayan Nair v. State AIR 1952 T.C. 239: 53 Cr LJ 1095

Word "intoxicating" has been prefixed with "liquor" this does not mean that word "liquor" without prefix means "not intoxicating substance" The term"intoxicating liquor" has been used in entry 31 (Sic-Entry8) of List II of the Seventh Schedule of the Constitution of India.[1]

(d) Three ingredients of Liquor—From the perusal of the definition of liquor in clause (15), it is clear that there are three ingredients or elements of liquor, i.e.

[1] Intoxication, as effect of the use of liquor, and

[2] Alcoholic contents of liquor affecting brain & nervous system of human being consuming it.

[3] For human consumption—as used in Entry 51 of List II of the Seventy Schedule of the Constitution.

[Please refer to Note (e) in Commentary of clause [4]- "Excisable Article" for further details, on "for human consumption".]

(e) Inclusive Definition- Second Part of definition enumerates seven kinds of substances and liquids which are "liquor". It is important to note that all liquids consisting of or containing "Alcohol" are liquor or intoxicating liquor within meaning of this clause.

The definition includes all liquids consisting of or contain alcohol includes at the same time the toilets and medicinal preparation etc. containing alcohol but unfit for human consumption.[2]

It is thus clear that alcoholic liquor is a beverage containing alcohol. It is further clear that liquids containing of alcohol which are not intended to be used as intoxicating beverage are not alcoholic liquor.[3]

[f] Declaratory Provision- "declared to be liquor"- In the inclusive definition of "liquor", the point [B] shown in analysis given above is very important Declaratory provision which is to be read with Section 4 of the Act which empowers the State Government to declare what is to be deemed to be 'liquor" and also to be deemed to "Country liquor" and "foreign liquor". For such declaration a notification in the official Gazette is necessary.

[Please refer to the Commentary of section 4, infra for further details.]

(g) NOTIFICATIONS

(1) Tonics & Medicated wines

[Notification No. F. 49(8)-SR-53 dated 15-2-1957]

In excercise of the powers conferred by sub-section (15) of section 3 and sub-section (1) of section 4 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) the Government of Rajasthan is pleased to order that tonic and medicated wines over [illegible] degree of proof spirit shall be regarded as liquor for the purposes of that Act.

[Pub. in Raj. Gaz, Part I (B), dated 25-2-1957]

State of Bombay v. F.N. Balsara, AIR 1951 SC 318 (325)[illegible] 1951 SCJ 478 [illegible] 1957 SCR [illegible]
[illegible] Ram v. State 1973 Cri LJ 563.
[illegible] K Synthetics v. State 1976 WLN 277 (281)

(2) Spirituous Preparations

[No F 1(2) FD/EX/89, S.O. 25 dated 8-5-1990]

In exercise of the powers conferred by sub-section (15) of section 3 and sub-section (1) of section 4 of the Rajasthan Excise Act, 1950 (Raj Act No 2 of 1950), read with rule 3 (g) of the Rajasthan Intoxicating Spirituous Preparations, Import, Export, Transport, possession and Sales Rules, 1989 and in continuation of Notification No F 49 (8) SR-53 dated 15-2-1957, R.G.G.I. (B) dated 28-2-57, the State Government is pleased to declare all medicinal and toilet preparations and other spirituous preparations containing more than 20° proof alcohol to be liquor for the purpose of the said Act and Rules.

[Published in Raj. Gaz. E.O.,4 (Ga) (II) dated 3-5-1990, Page 29 [2]

(3) Heritage Liquor

S.O.113, July 9,1998—In exercise of the powers conferred by clause (15) of section 3 and sub-section (1) of section 4 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950), the State Government hereby declares the heritage liquor to be liquor for the purposes of the said Act.

[No F.4(30)FD/EX/98, Dated 9.7.98–Published in Raj. Gaz-EO-4(Ga)(II) dated 9 7.98, Page 165 (12)]

(h) Proof of Alcoholic contents in Liquor—The percentage of alcohol could not be so calculated with any precision by mere visual observation [AIR 1967 SC 1550 relied on[2] Mere smell alone is not sufficient to prove alcoholic contents of liquid, a scientific expert opinion is always necessary. The Inspector failed to tell the court as to his training etc. and as such his bald opinion without convincing ground cannot be accepted as expert evidence [3]

4. Beer [(Clause(1)]—"includes ale, stout, porter and all other fermented liquors made from malt."

This is not a clear meaning of the word "Beer", but it is an inclusive definition in which above mentioned things have been included. The word "beer" has been defined in the Concise Oxford Dictionary as "alcoholic liquor (esp. of lighter kind) from fermented malt, etc. flavoured with hops etc."

5. Denatured [clause (3)]— means-

(1) Mixed (preparation)
With such substance and
by such process
—as prescribed under S.42.

(2) It is in order to render any spirit-
—unfit for human Consumption-

1. Mangi Lal v. District Excise Officer ILR (1970) 20 Raj 569; 1970 WLN 159 AIR 1971 Raj. 46
2. M/s J.K. synthetics v. State 1976 WLN 277 (281)
3. State v. Sanwal Ram ILR (1971) 21 Raj. 729, 1970 WLN 140 1970 RLW 566, 1971 Cri LJ 200 (DB)

Whether (i) as a beverage or
(ii) medicine or
(iii) in any other way.

Thus "denatured" means mixed preparation of spirit which is not fit for human use.

6. Denatured Spirituous Preparation (Clause 3-A)—It is in two parts

(I) means— any preparation of
(i) denatured spirit, or
(ii) Alcohol.....and

(II) includes— (i) Liquors (ii) French Polish and
(iii) Varnish prepared out of such (i.e.denatured) spirit or alcohol

"French polish" is an excisable article.[1]

7. Fermented Liquor [Clause(10)]-means—

(i) Wine, Pachari (Pachawai) [as defined in Cl. (18)] and fermented Tari [as defined in Cl. (22)]. AND

(ii) Any other liquor that may from time to time be declared by the State Government to be fermented liquor.

[Also refer to definition of "Liquor" in clause (15).

8. Lance Poppy Heads [clause (14-A)]—means-

—capsules of the opium poppy plant-

—whether in their original form or cut, crushed or powdered-

—from which juice has been extracted.

The lance poppy head is the residuary bye-product of opium poppy heads devoid of juice used for preparing opium. It may be in any of the three forms- (a) Original poppy, or (b) cut-in cuttings, or (c) crushed-in Semi-powered stuff or (d) powdered- in Form of powder. In all its forms. It is covered by this definition. It should not contain juice in it. This clause was inserted w.e.f. 10 2.1986 in this Section.

Statement of Objects & Reasons

(Act No. 1 of 1986)

The Parliament enacted a law called the Narcotic Drugs & Psychotropic Substances Act 1985 (Central Act 162 of 1985).

The earlier enactment, namely, the Opium Act, 1867, the Opium Act 1878 and the Dangerous Drugs Act, 1930 have been repealed by S. 81 of the said Central Act 162 of 1985 After the repeal of the aforesaid Acts, various rules made by the State Government under those Acts were also rendered ineffective and, thereafter it become necessary to make new rules under the new Central Act and also to empower the State Government to make rules regarding lanced poppy heads under the Rajasthan Excise Act 1950 Earlier, lanced poppy heads were being dealt with under the Rajasthan Opium Rules, 1960

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1. Ved Hiranand Ghanshyam Dass v State 1979 RRD (NCC) 53, Page 30

LANCED POPPY heads- Excise duty

NOTIFICATION

[No.F 1(3) FD/EX/85, S.O. 120, Nov. 14, 1985]

In exercise of the powers conferred by section 28 of the Rajasthan Excise Act, 950, (Raj. Act II of 1950), the State Government hereby imposes, with the immediate ffect, excise duty on lanced poppy heads at the rate specified below:—

Excise Duty	[1][1985]	[2][1988]	[3][1999]	[4][2001]
(a) When consumed in the State	Rs. 1.25 per kg	5.00	15.00	35.00
(b) When imported in the State	Rs.1.25 per kg	5.00	15.00	35.00
(c) When exported outside the State	Rs. .25 paisa per kg	25 paisa	25 paisa.	

9. Molasses (Clause [(17-A)]—

Means:—

— the mother liquor-

— produced in the final stage of the manufacturer of sugar or Khandsari sugar

— by (a) the vacuum pan process or

(b) open pan process

— from sugar cane or gur.

Statement of Objects & Reasons

(Raj. Act No. 8 of 1985)

Molasses is the mother liquor produced in the final stage of the manufacture of ugar. The Central Government has made Molasses Control Order, 1961 with regard to olasses. The Rajasthan Excise Act, 1950 does not however contain any provision in spect of molasses. It appeared necessary to check unauthorised use of molasses, to revent its loss in transit and storage and to control the production of spirit.

In view of the above, it appeared necessary to define the expression "Molasses" y adding a new clause (17-A) in Section 3 and to empower the State Government to ake rules by inserting the expression 'molasses" in clause (d) of sub-section (2) of ection 41 of the Rajasthan Excise Act, 1950.

NOTIFICATION

[No. 3(15) FD/EX/74, S.O. 261, March 15, 1989]

In exercise of the powers conferred by Section 28 of the Rajasthan Excise Act, 950 (Rajasthan Act II of 1950), the State Govt. hereby imposes, with effect from 1.4.1969 uty at the rate of Rs. 2.00 per quintal on import of molasses for the purpose of manufacture f I.M.F.L.

[Published in Raj. Gaz-EO-(Ga)II dated 15-3-1989, Page 474- [1989 I RLT 113]

. Published in Raj, Gaz-EO-4(Ga)II dated 16-11-85 Page 258.
[Refer-1985 I RLT 554]

. No. F. 3 (15) FD/EX/74, SO.96 dated 3.8.1988 R.G.Page 195 (1988 I RLT 195).

. No. F. 4 (8) FD/EX/94 dated. 1.4.1994- Pub. in Raj. Gaz.-EO-4C (II) dated 2.4.94.

. Notification No. 4 (12) FD/Ex./2001 Part-II/ dated 13-2-2001 w.e.f. 1-4-2001.

Validity of Amendment Act. (Rajasthan Act 8 of 1985)—The operation of the Molasses control order and the operation of the Amendment Act have not occupied the same field nor run into collision course. The Amendment Act was made by the State Legislature exercising the power under Entry 33 (a) of the concurrent list read with Entry 24 of the State List as molasses is a by-product of a sugar industry covered by the Industrial Development & Regulation Act. The Amendment Act does not enter into the occupied field of the Molasses control order. There is no inconsistency in their operation and that therefore both the Amendment Act and the Molasses control order would harmoniously co-exist and operate in their respective fields. The State Legislature had thereby made the Amendment Act regulating import, export, transport or possession of molasses within the State of Rajasthan [1]

Similarly, the Molasses Rules are held to be intravires.[2]

10. Pachawai [clause (18)]—

means—

fermented rice, millet or other grain—

— whether mixed with any liquid or not AND

— Any liquid obtained therefrom-

— whether diluted or-undiluted.

Thus it is preparation made out of food grains by process of fermentation and may be in liquid or solid forms.

11. Spirit [clause (21)]—

means—

— Any "liquor"containing alcohol-

— Obtained by distillation,

— Whether it is denatured or not.

"Alcohol" is the main content of spirit which is obtained by process of distillation and not by any other process. Re-distillation is also distillation. Spirit is of two kinds - (a) Pure Spirit (i.e. not denatured) and (b) denatured as defined in clauses (3) and (3A)

[Please refer to definition of "liquor" under clause (15). Supra also]

12. Still [Clause (21B)]—

—includes any part thereof,

and

— Any other apparatus for-

(a) distillation, or

(b) manufacture of Spirit.

It is inclusive definition. "Still" is an apparatus used for purposes of distillation of spirit. All parts of still are to be treated as still, when recovered in an offence. Any other apparatus which is used in preparation of spirit is also covered by word "still" under this clause.

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1. [illegible] & Bros v.State of Rajasthan (1995) 1 SCC 257 AIR 1995 SC 356

2. [illegible] Moondra v. State of Rajasthan 1998(1) WLC (Raj) 376 (DB)

13. Tari [Clause (22)]

means—

— fermented or unfermented

— Juice drawn from any kind of Palm Tree.

There is a set of Rules called "Rajasthan Neera (Unfermented Juice of Palm) Rules, 1960- See at S.No. 9 of Rules, infra.

(B) Definitions relating to Excise

14. Excise Duty [clause (6)]—

means—

— Any duty of excise, imposed by or under this Act-

— on excisable articles

— manufactured or produced

— in those part of the State of Rajasthan to which this Act extends.

(a) Meaning of "Excise"—The word "excise" has not been defined anywhere in the Act and Rules, but according to Concise Oxford Dictionary, the word "excise" means 'duty or tax levied on goods and commodities produced or sold within the country and on various licences".

(b) Excise duty–Nature of—The Excise duty is an indirect tax capable of being passed over to consumer as it is included in the sale price of the commodity.[1] It is in nature of tax.[2]

The Excise duty may be construed as a duty leviable upon the manufacture or producer of excisable articles or at least at the stage of or in connection with manufacture thereof [AIR 1963 SC 721, AIR 1939 F C.I. AIR 1942 E.C. 33, AIR 1945 P.C. 98, AIR 1962 SC 1281 and AIR 1967 SC 1512 relied on].[3] A duty of excise if primarily a duty levied on a manufacturer or producer. It is a tax on goods and not on sales.[4]

(c) Meaning of "duty"—Generally a "duty is a levy in the nature of a tax charged from the manufacturer or producer while manufacturing or producing any commodity chargeable to such duty, for example, excise duty on cloth, sugar by Central Government and on the liquor, tobacco or other intoxicating herbs is levied by the respective State Government.[5]

(d) Excisable Articles—The excise duty under this Act is imposed on excisable articles as defined in clause (4) of Section 3 of the Act, which are manufactured or produced in the State of Rajasthan.

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1. British India Corporation Ltd.v. Collector Central Excise AIR 1963 SC 104 1963 (3) SCR 642
2. Coverage B Bharucha V Excise Commissioner Ajmer 1964 SCR 873
3. State v. Balmukand ILR (1974) 24 Raj 910; 1974 WLN 368
4. Tata Iron & Steel Co. Ltd. v. State of Bihar AIR 1958 SC 453 1958 SCR 1355 Union of India v.Delhi Cloth & General Mills AIR 1963 SC 791.
5. M.S.U. Mill v Union of India, ILR (1959) 9 Raj. 984 1960 RLW 44 AIR 1960 Raj 92 [Madras Province v. Bodhu Paidanna & Sons. AIR 1942 FC 33 (1942) 4 FCR 90 Governor-General-in-Council v. Madras Province. AIR 1945 PC 98; 1945 FCR 179; Ram Krishna Ram Nath v. Secretary Municipal Committee Kamptee. AIR 1950 SC 1] referred to.]

Expression "those parts of the State of Rajasthan to which this Act extends'- used in this section- rendered useless- This expression was inserted in 1957. Thereafter the Act has been extended to whole State of Rajasthan w.e f. 1-9-78, but this expression was not omitted, may be due to oversight.

(e) Systems charging Excise duty & Price-Ss 24, 28 & 30 & Rajasthan Excise Rules, 1956, Rr 6 A, 90 Chapters VII A and VII B Rajasthan Issue and Sale Prices of Country Liquor Rules 1964, R. 2.

Licence for sale of country liquor Guarantee system and exclusive privilege System- "Value Price" and 'Licence Fee" include excise duty-Excise duty chargeable only on liquor drawn from Government Warehouse at time of purchase and not on undrawn quantity of liquor.[1]

Under the guarantee system the licenses is required to pay the 'value' of the liquor to the extent to which he guarantees the payment and the value of the liquor contains certain portion which can easily be attributed towards the payment of house of the State Government and paying the issue price thereof. Under the 'Exclusive privilege system' that component of the issue price which is attributable to payment of excise duty is adjusted towards the guarantee amount which a licensee is required to pay during a financial year under the exclusive privilege system guarantees the payment of the excise duty to the extent the lump sum is determined by the Commissioner and for the payment of that guaranteed amount he has to purchase from the bounded warehouse of the State Government liquor of such value which may pay off the entire amount guaranteed by him under that system.

A close comparison of the two systems reveals that the "exclusive privilege system" is nothing but an old wine in a new bottle Under the "guarantee system" the licencee is required to pay the amount guaranteed by him in the shape of the value of the liquor whereas under the exclusive privilege system he is required to pay the excise duty as lump sum fixed by the Commissioner under section 30 of the Act read with Rule 67-1 of the rules by drawing liquor of the value which may be sufficient to pay off the guaranteed amount from the component part of the issue price which is attributable to the payment of excise duty.[1]

The demand raised under the first system (guarantee system) to pay the value of the liquor which has not been drawn, does contain therein the excise duty which is an indirect tax and which under the provisions of the law can not be realised unless the liquor is drawn by a licensee under the terms of his licence from a warehouse. Under the exclusive privilege system, whatever is demanded from the licensee to complete the guarantee amount is nothing but excise duty and such a duty cannot be charged unless the licensee has purchased from the Government the liquor under the terms of his licence.

I am constrained to hold that even under the guarantee system in demands raised by the State Government for the payment of the shortfall the guarantee amount cannot be realised from the petitioner, to the extent to which the demands relate to the price of the liquor. The demands raised by the respondents under the guarantee system so also under the exclusive privilege system are quashed [1976 WLN 373]

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1. Bai Mukand v. State ILR (1972) 22 Raj 84 : 1971 WLN 373 1972 Tax LR 2463.

The State was not entitled to raise demands under guarantee system or the exclusive privilege system because it was in essence, realisation of excise duty on undrawn liquor.[1]

(f) Exclusive Privilege of Sale of Country Liquor- Section 24 read with section 30 authorises the Excise Commissioner to grant a licence for the exclusive privilege of selling by retail country liquor in the State of Rajasthan and under S. 30 instead of or in addition to any duty leviable under this Chapter Excise Commissioner may accept payment of a sum in consideration of the grant of the licence for exclusive privilege under S. 24 Contractor is bound to pay guaranteed amount even when liquor is not sold in agreed quantity.

Merely because the issue prices had a component of excise duty it will be wrong to say that demand for guaranteed amount or deficiency therein was a demand for excise duty [ILR (1972) 22 Raj. 84 reversed.][1]

Constitution of India-Art. 47- Contracts to sale liquor not void being opposed to Directive Principles of State Policy contained in Art. 47.[1]

Rule when held invalid- A rule which enables the State to recover excise duty also as a part of the Issue Price in case of undrawn liquor is invalid and ultra vires the provisions of the Act.[2]

Licence Fee & Excise duty- By licence fee or fixed fee is meant the price or consideration which the Government charges to the licensees for parting with the privilege or consideration in granting them to the licensees. As the State can carry on the trade or business, such a charge is the nominal incident of a trading or business transaction. The licence fees or fixed fees in instant case does not have to confirm to one of the three elements i.e., reasonable relationship with the services rendered to the licensee. Some times high licence fees are exacted to discourage trade in liquor.[3]

Leading Case **[The Supreme Court.**

PANNALAL
V.
STATE OF RAJASTHAN

[(1975) 2 SCC 633 : 1975 TaxLR/ 2005 : AIR 1975 SC 2008.]

❑ ***Guarantee & Exclusive Privilege System****—Grant of licences thereunder for country liquor - Liability of Licensee to pay stipulated sum- Enforcing payment of guaranteed sum not recovery of Excise duty- The license fee stipulated to be paid by contractors is the price or consideration or rental charges- Neither a tax nor an excise duty. [AIR 1975 SC 360, 1975 SC 1121 & ILR (1969)2 Ker. 71 foll.].*

These licenses are contracts and lumpsum amount voluntarily agreed to pay to the State are not levies of excise duty, but are in the nature of lease money or rental or lumpsum amount for exclusive privilege of retail sales granted by the state to the

1. State of Rajasthan v. Bal Mukand 1974 WLN 367 (D.B.)
2. Brahmanandan vs. Tehsildar Gannavaram, AIR 1977 AP 196; (S.C.Banerjee v.State, AIR 1971 SC 517 Followed).
3. Harshanker vs. Dy. Excise Comm. (1975) 1 SCC 739 ·
   Guru Swami & Co. vs State of Mysore, AIR 1967 SC 512 (1967) 1 SCR 548.

licensees the lump sum amount stipulated is not to be equated with Issue price also [1974 WLN 367 (DB) Affirmend].

The lump sum amount stipulated to be paid under an agreement of licence is not equivalent to the issue price. The issue price is payable only when the contractors take delivery of the particular quantity of specified value of liquor. The issue price relates to excisable articles drawn by the contractor and does not pertain to undrawn articles. The issue price is the price at which liquor is to be sold to the liquor contractor. The contractors on their part pay the total sum as price which already includes the excise duty in respect of which they have no direct liability.

The price of goods necessarily includes different components but price a buyer pays is different from duty or taxes payable by the manufacturer the incidents of all component taxes and duty pass on to the consumer in from of single world "price". What the consumer pay is the price of the goods and not the antecedent duties and taxes. The remission given to the contractor in the matter of his obligation is to pay the excise duty component of the issue price. The excise duty component of the issue price is, therefore, only a measure of the quantum or extent of the concession or the remission to be given to the liquor contractor.

The lump sum amount paid for the exclusive privilege is not to be confused with the issue price. In essence what is sought to be recovery from the contractor is the shortfall occasioned on account of failure on the part of the contractor to fulfil the terms of the contract. The contractual obligation is not dependent on the quantum of the liquor sold by them which is relevant only for the purpose of remission to be earned by them under the licence. An adjustment by way of reduction in the contractual liability of the contractor to the extent of specified and quantified portion of the issue price is purely a measure of concession or remission and is a method of calculation. The quantum of adjustment only arises when liquor is to be drawn otherwise formula of remission is out the picture.

Nature of Guarantee sum-Not Excise Duty- There is no levy of excise duty in enforcing the payment of the guaranteed sum or the stipulated lump sum mentioned in the licences, for these reasons-

(i) Firstly, the licences were granted after offer being accepted i.e. accepting tender or auction bid.

(ii) Secondly, the stipulated sum represents the consideration or price for the exclusive privilege of vending liquor.

(iii) Grantee agrees to pay the sum what he considers equivalent to the value of right.

(iv) It has no relation with the manufacture or production of any excisable article except that a licence to sell is provided.

(v) Excise duty is levied on manufacture and not on sale of liquor.

Thus stipulated price is not excise duty.[1]

1. Pannalal v. State of Rajasthan [(1975) 2 SCC 633: 1975 Tax LR 2005: AIR 1975 SC 2008

mportant Case **| Rajasthan High Court**

ANIL KUMAR SUNIL KUMAR
V.
STATE OF RAJASTHAN
[1993 (1) WLN 313]

— Grant of Exclusiue Privilage

❑ **No fundamental right of a citizen- Privilege of selling Liquor- Formalities :ompleted after tender-contract stood concluded**—*Neither unjust, nor unfair, nor arbitrary, ior malafide, nor against public interest Held, it does not contravene Art 14 of the 'onstitution-Scope of judicial secutiny in the matter of Government policy is, held, imited-*

In M/s Jagadale & Sons v.State of Karnataka (AIR 1990 Karnataka 251 (DB), he creation of monopoly in a Government agency in the matter of distribution of liquor vas challenged on ground of possibility of misuse of power of exclusive privilege by Governmental instrumentality as modalities of the functioning of distributor were not :numerated. This challenge was repelled and it was held that there is a strong presumption hat such instrumentality of the state would act fairly, reasonably and relevantly It was 'urther held that possibility of the abuse of the power of the privilege is not a ground o nullify the entrustment of powers and privileges to a Governmental Agency. It was 'urther held that:

Every kind of dealing in liquor is the exclusive privilege of the State. that retaining such a privilege in itself and withdrawal of the provisions which earlier enabled the grant of such a privilege to other do not require any explanation by the State and that creation of a State agency to exercise any aspect of the dealing in liquor by the State and thus 'etaining a monopoly in that aspect (such as exclusiveness of the distributorship) cannot be attached as arbitrary and monopolistic.

It was further held that it was a case where the State had reverted to its exclusive privilege of taking liquor as a distributor by withdrawing the provision regarding the grant of distributorship to others. It was also held that though the rules which make the State or its instrumentality an exclusive distributor, are liable to be tested by reference to Art. 14 of the Constitution but the Court should be slow to interfere with the policy laid down by the State for grant of licences for manufacture and sale of liquor by a State agency unless such State policy is unreasonable, arbitrary or against fair play.

In the case in hand, the channelisation of business of sale of country liquor through the Govt agency like the G.S.M., which is a Govt. Undertaking at Abu Road and Mount Abu, is in conformity with the State's declared policy of saving population of tribal/ scheduled area from exploitation at the hands of private contractors, who are free to fix any rate of country liquor, unlike the G.S.M., who vends country liquor by retail in these areas on fixed price, which is obviously much lower. The policy decision of the State Government of 1981 for granting such licence for exclusive privilege for sale of country liquor in respect of the shops at Abu Road and Mount Abu in favour of the G.S.M. is fully covered by Sub-R, 3 of R. 67-I of the Rules 1956. At the cost of the repetition, it is worthwhile to mention that since. 1.4 82. this policy is being consistently,

uninterruptedly and continuously followed and the licence for the sale of country liquor for the shops at Mount Abu and Abu Road have been regularly renewed in favour of the G.S.M . There is no prohibition in the Act or in the Rules 1956 against the grant of licence for exclusive privilege to a Govt. Company without inviting tenders form the private persons. The aforesaid policy decision of the State Government pertains to its economic policy as well as the social reforms covered by Art. 47 of the Constitution.

In Nandlal's case (supra), the pre-dominant purpose of the State policy decision dt. 30-12-84 was to ensure construction and setting up of new distilleries with major technologically advanced plant and machinery at new sites, where there would be no possibility of air and water pollution. In achieving thus purpose, the State Government considered the offers of the existing contractors and negotiated with them and ultimately decided to grant to them the licences for construction of new distilleries on terms and conditions set out in the recommendations of the Cabinet Sub-committee. The Apex Court upholding the said State policy, held that it was not at all necessary for it to have invited and advertised offers for setting up such industries and that the State Government was entitled to negotiate with those, who had come with an offer to set up such industry The Hon'ble Supreme Court, therefore, set aside the judgement of the M.P. High Court.

In M/s kasturilal Laxmi Reddy v. State of Jammu & Kashmir [AIR 1980 SC 1992], it. was observed that when the Govt. is dealing with the public whether by way of giving shops or entering into contracts or granting other forms of largess, it cannot act arbitrarily at its sweet will. That there are two limitations imposed by law which structure and control the discretion of the Govt, in this behalf. The first is in regard to the terms on which largess may be granted and the other in regard to the person which may be recipients of such largess and that like a private individual, the State can not act as it pleases in the matter of giving largess and it can not choose to deal with any person it pleases in its absolute and unfettered discretion. The Apex Court emphasized that every activity of the Govt. has a public element in it and it must, therefore, be informed with reason and guided by the public interest. If the Govt. awards a contract or leases out or otherwise deals with its property or grants any other largess, it would be liable to be tested for the validity on the touchstone of the reasonableness and public interest and if it fails to satisfy either test, it would be unconstitutional and invalid The Apex Court however emphasised that one basic principle which must guide the Court in arriving at its determination about the State action is that there is always a presumption that the Govt. action is reasonable and in public interest and it is for the party challenging its validity to show that it is wanting in reasonableness or is not informed with public interest. It has been further emphasised by the Apex Court that such burden is a heavy one and it has to be discharged to the satisfaction of the Court by proper and adequate material. Thus the Court can not lightly assume that the State policy in this regards in unreasonable and not in public interest. In my considered opinion, the State excise policy as envisaged in Annexs. R. 1/4-A, B.R. 1/5 & R. 1/6, which is continuously in operation since 1.4.1982 by granting licences in favour of G.S.M. for such scheduled area is neither unreasonable, nor arbitrary nor against the public interest. In M/s Shri Sita Ram Sugar Co Ltd v. Union of India [AIR 1990 SC 1277], it has been stressed that the judicial review is not concerned with matters of economic policy, that the Court does not substitute its judgment for that or the legislature or its agents and that the Court does not supplant the feel of

the expert.' In that case, the price of levy sugar fixed by the Central Govt. by grouping of sugar factories on the basis of their geographical analysis, was not interfered with.

In M/s Jagdal's case (supra) surveying the case law, it has been held that the scope of judicial scrutiny in the matter of Govt. policy is limited.

The State policy for granting exclusive privilege of vending country liquor by retail in Abu Road Tehsil including the areas of Mount Abu and Abu Road in favour of the G.S.M. is neither unjust, nor unfair, nor arbitrary, nor malafide, nor unreasonable, nor against the public interest. On the other hand, it is conductive in protecting the weaker sections of the Society from exploitation at the hands of the private contractors, who are at liberty to fix the sale price of the country liquor according to their whims.

The State Policy for granting/renewing licence in favour of the G.S.M. for vending the country liquor in the Abu Road Tehsil does not violate, offend or contravene the equality clause enshrined in Art. 14 of the Constitution. The State action in renewing the licence in question in favour of the GSM for Mount Abu and Abu Road areas for the financial years 1991-92 and 1992-93 is also not illegal or unauthorised.[1]

15. Excise Revenue (clause (8)]-means-"Revenue" derived, or derivable—from

(i) any payment,
(ii) duty,
(iii) fee
(iv) tax
(v) fine (other than a fine imposed by a court of law) or
(vi) confiscation,

imposed or ordered under the provisions of this Act or of any other law for the time being in force relating to liquor or intoxicating drugs.

There are six type of excise revenue, under this definition, as enumerated in points (i) to (vi) above Whatever amount or payment received under legal sanction under the Act, is cumulatively termed as "excise revenue" which is part of the "General Revenue" of the State.

Meaning of "Excise Revenue"—The expression "excise revenue" is genus of which excise duty is the specific. Excise revenue includes the expression duty in addition to the other sources of income such as duty i.e. (excise duty) fee, fine, confiscation imposed or ordered relating to liquor or intoxicating drugs under any law in force and includes any tax also.

The expression "any payment" is so comprehensive that it includes all residuary sources income known or unknown for the present. The expression any payment includes the sum of money consideration derived through auction of licence. The grantee is given licence on payment of auction price. Auction price represent the consideration for lease or privilege.[2]

Licence fee or Fixed Fee- Excise Revenue- By licence fee or fixed fee is meant the price or consideration which the Government charges to the licensees for parting

1. Anil Kumar Sunil Kumar v. State of Rajasthan, 1993 (1) WLN 313.
2. Nashirwar vs State of M.P (1975) 1 SCC 29 Pannalal vs. State of Rajasthan, 1975 UJ (SC) (Notes) 181: (1975) 2 SCC 633: AIR 1975 SC 2008.

with the privilege or consideration in granting them to the licensees. As the State can carry on the trade or business, such a charge is the nominal incident of a trading or business transaction. The licence fee or fixed fee in instant case does not have to conform to one of the three elements is reasonable relationship with the services rendered to the licensee. Some times high licence fee are executed to discourage trade in liquor.[1]

Auction System-Meaning of "Fixed Fee" (case from U.P.)—The term "fixed fee" is a fee determined by the Excise Commissioner in lieu of "licence fee".[2]

Fee or Tax- Auction Price of Licences—Auction of licences is neither fee nor the tax, the highest bid for licence is a consideration for the licence. The State has the exclusive right or privilege in the matter of manufacture or sale of liquor which can be granted as a right or privilege to the citizens, by public auction. The grantee is given the licence on payment of auction price.[3]

Recovery of loss from Licencee—The licencee is bound to comply with the terms & conditions of Bond and cannot back out from the responsibility and liability thereof. The provisions requiring licencee to pay an amount by way of charge divided in equal instalment in a year are binding. Any default in such payment of instalments, state is justified to recover the same together with resulting loss if any from the defaulter. Such charge is not an excise duty or tax, even part of the liquor not lifted or purchased can be validly charged and the amount is recoverable from the licensee.[4]

Recovery of Excise dues as arrears of land revenue—The Excise dues are recoverable as an arrears of land revenue under section 256 of the Rajasthan Land Revenue Act. The Rajasthan Public Demand Recovery Act is not applicable.[5]

Part of Excise Revenue- Trade in Liquors not a fundamental right—It is not trade or business but a privilege granted under a licence alone. Licence fee in fact is neither a tax nor a fee for services rendered, but a consideration for granting such privilege which forms part of excise revenue.[6]

Meaning of words "any payments " therein—Wide enough to include payments under these licences and held that State Government is perfectly justified in recovering such payments in accordance with the terms of contract. (See. S 40, also).[7]

Fee v. Tax-Distinction pointed out—It is now well settled that it is not an essential element of fee that it has to be credited to a separate fund and not to the Consolidated fund of the State or mixed with the general revenue of the local body concerned. It is also now well established that the element of quid pro qua in the strict sense is not

1. Harshanker vs. Dy. Excise Commissioner, (1975) 1 SCC 739:
   Guru Swami & Co. vs. State of Mysore, AIR 1967 SC 1512
2. State of U.P. v Sheopat Raj, 1994 Supp(1) SCC e8.
3. Nashirwar vs. State of M.P. 1975 (1) SCC 29.
   Lakhan Lal vs. State of Orissa, 1975 UJ (SC) 133.
4. State Bank of Haryana v Jageram (1980) 3 SCC 599: AIR 1980 SC 2018: 1980 Tax LR 362.
5. Suraj Prakash vs State, 1980 RRD (NUC) 42 : (1977 RRD (NUC) 113 followed)
   Subhash Chandra vs. State of Raj. 1980 RRD (NUC) 78
6. Paradise Barcum Restaurant v. Govt. of Andhra Pradesh (1979) 2 Andhra WR 293.
7. State v. Bal Mukand ILR (1974) 24 Raj. 910: 1974 WLN 367 (DB)

always a sine qua non for the validity of charging a fee and that fee cannot be construed in a rigid narrow sense. The charging of fee may not lead to the conferment of a special advantage on the person from whom the fee is charged as the primary motive of charging a fee may be regulated in public interest or rendering service to the specified area or class of persons.[1]

(C) Definitions relating to movement & transactions in Excisable Articles.

16. Export [Clause (9)]—means to take out of those parts of the state of which this Act Rajasthan to which this Act extends.

17. Import [Clause (13)]—means to bring into those parts of the State to which this Act extends.

"Export" means taking out of th State of Rajasthan while "Import" means bringing into the State of Rajasthan and "transport" means moving within the State.

"Import, Export &Transport" have been dealt with in Chapter III of the Act read with the Rajasthan Excise Rules, 1956.

Expression "those parts of the State of Rajasthan to which this Act extends"- used in this section-rendered useless- This expression was inserted in 1957. Thereafter the Act has been extended to whole State of Rajasthan w.e.f. 1-9-78, but this expression was not omitted, may be due to oversight.

18. Transport-[Clause 25)]—

means—

— to move from one place to another-

— within [those parts of the State of Rajasthan to which this Act extends.]

This is movement of excisable articles "within the State of Rajasthan". Now the Act is applicable to whole State of Rajasthan. Thus "Transport" does not include import or export as discussed above.

"To move from one place to another"—means movement by any means of transportation i.e. vehicles and it includes movement on foot or animals also.

Transportation includes element of possession in it.[2] While two drivers found in possession of liquor without licence in the jeep, held they were transporting liquor and were in possession of such liquor within their knowledge.[3]

19. Manufacture [Clause (17)]—Definition analysed-

(a) includes—

— every process-

— whether natural or artificial-

— by which any **EXCISABLE ARTICLE**

— is produced or | wholly or

— prepared] partly.

1. Ramesh Chandra v. State 1985 RLR 45
2. Nathu Lal v. State ILR (1976) 26 Raj. 996: 1977 RLW 23. 1976 WLN 681. 1977 Cr LR (Raj) 1027
3. State v. Uttam Chand 1981 Cr. L.R. (Raj.) 717.

AND

(b) includes also-

(i) redistillation, and

(ii) every process for

1. rectification,
2. reduction
3. flavouring
4. blending or
5. colouring

of Liquor

The word "manufacture" itself has not been defined, but an inclusive definition has been given. It includes every process of production or preparation of an excisable article, as defined in clause (4) above, Such process may be either natural or even artificial but it must result in production of an excisable article. It also includes redistillation and other processes mentioned above (from 1 to 5) which are used in production of different preparations of liquor, as defined in clause (15) of section 3 of the Act]

20. To bottle [Clause(23)]—

means—

— to transfer from a cask or other vessel to a bottle, jar, flask or other receptacle-

— **For the purpose of sale,** whether any process of manufacture or rectification be employed or not, and

— bottling includes rebottling.

Section 16 read with section 21 prohibits "bottling" of liquor without licence and Section 54 (f) makes it an offence. Forms of Licences have been appended to the Rajasthan Excise Rules 1956 at S. Nos. 9 and 10. of the List. Also refer to Rule 68 (11), 69 (2) & 92 & 93 of these rules for details.

Bottling of Liquor- Affixation of adhesive label-Freedom of Trade- (Arts. 19 (1) (g) or 301—

No fundamental right to trade in liquor. It is grant of a privilege and not a right. Not offending Arts, 19(1)(g) or 301 of the Constitution.

In Bottling of liquor affixing adhesive label is not unreasonable or arbitrary, but it is a recognised mode of safeguarding the interest of revenue and to prevent evasion of tax.[1]

"Bottling" is a process of sale—

Section 16(1)(a) and (d) of the Act says that no excisable article (intoxicable liquor) shall be manufactured and no liquor shall be bottled for sale, except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Excise Commissioner or by an Excise Officer duly empowered in that behalf, and, therefore, the liquor has to be bottled under a licence and such a licence has been obtained by the petitioners for the purpose of sale of liquor meant for human consumption, whereby it has been prescribed what will be the strength of a particular quality of wine and what

1. M/s Jagdab & Sons. v. State of Karnataka AIR 1990 Karnt 251 (DB)

vill be its colour and in what quantity it will be sold and what will be its price. The Distilleries Rules, 1976, under which licence has been granted to petitioner also provide hat in what conditions, the liquor is to be sold. (Para 21)

Alcoholic Liquor for human consumption

Bottling Fee- Not unconstitutional—

The concept of *"quid pro quo"* has undergone a definite change in Sreenivas General Traders v. State of AP (AIR 1983 SC 1246). It was held that it is now increasingly realized that merely because the collection for services rendered or grant of a privilege f licence are taken to the consolidated fund of the State and not separately appropriate towards the expenditure for rendering the services is not by itself decisive.

Before the liquor becomes marketable, it must be saleable i.e. it must be fit for uman consumption and that has to be ensured by the Excise authorities and, therefore, he levy of bottling fee cannot be said to be Ultravires of the Constitution or the Act nd the Rules. (Para 28) [1]

Cases followed:—

1. M/s Geeta Enterprises v. State of Raj. (1993(2)RLR 183: 1994 (3) WLC 304; 1993 (1) RLW 308: 1993 (2) WLN 564
2. M/s India Cable Co. Ltd. v. Collector, Central Excise, AIR 1995 SC 64.
3. Khoday Distilleries Ltd. V. State of Karnataka, 1985 (1) SCC 574.
4. State of Karnataka v. Narayan Swamy, 1991(4) SCC 268.

21. Sale [Clause (20)]–

—With its grammatical variations

—includes–

—any transfer

—otherwise than by way of gift.

Transfer by way of sale involves exchange of price-money of the article concerned. a case where bottles of liquor were given in lieu of wages held it was n't a sale.[2] milarly suppy of liquor without profit motive is also held not to be a sale. The expression Otherwise than by way of gift" indicates that gift of excisable article is not a sale.[3]

(d) Definitions relating to Officers, Places & others

22. Excise Commissioner [Clause (5)]— means- "the Excise Commissioner appointed the State Government under this act."

In Chapter II of the Act, under Section 8, the control of the administration of e Excise Department vests in the Excise Commissioner who is appointed by the State overnment under S. 9 of the Act. State Government shall prescribe the duties and powers the Excise Commissioner and may delegate its power under the Act to the Excise mmissioner.

Udaipur Distillery Co. Ltd v State of Raj. 1996 (2) WLC (Raj) 413 (DB)

Queen v. Appau (1885) ILR 9 Mad. 141.

Ahkway v. Emperior, 51 Indian Cases 269.

[Please refer to Sections 8 and 9]

The Excise Commissioner as Chief Excise Authority has power to make rules under Section 42 of the Act.

Section 74 empowers the Excise Commissioner to exercise the power conferred by this Act on him from time to time.

The Excise Commissioner may issue warrant for search or arrest under Section 46 of the Act.

Negotiations for Tender—[Rr. 11.1267 of Raj. Excise Rules] The Excise Commissioner is held competent to enter into negotiations and the petitioner has a right to participate in such negotiations.[1]

Location of Shop to be decided by Licencing Authority (District Excise Officer)— The Excise Commissioner is not authorised to interfere in the decision of the District Excise Officer unless there are exceptional circumstances. Held any interference by the Excise Commissioner in absence of such exceptional circumstances is arbitrary and liable to be set aside.[2]

Executive Orders of Excise Commissioner- Effect of—Such orders does carry the effect of law, although may be used as guidelines for the subordinate officers. Held, the Courts are required to judge the legality according to law.[3]

Renewal of Licence- Speaking Order necessary—

No formal order refusing renewal of licence was passed by the Excise Commissioner, but he wrote a letter to Dy.Commissioner not to renew licence. Held, the Excise Commissioner must pass express speaking order. Held that R 73 A was not properly followed.[4]

No claim of renewal as right—Petitioner failed to apply for renewal of licence in time. Held the licencees have no claim as right for the renewal of their licences or for the compensation in lieu of non-renewal. held the Excise Commissioner has not violated the Rules.[5]

Consideration of Prohibition Law while granting licence—Probhibition is a State policy for the welfare and health of the Society. The licencing authority must consider the provisions of prohibition statute while graning the licence or renewal thereof.[6]

Powers of Excise Commissioner—The Excise Commissioner has power to grant licence as well as to cancel it. On submitting application for renewal of licence, the Excise Commissioner cancelled the licence or refused renewal there-of due to breach of R. 77B(a) and condition 12 of the licence. Held, Excise Commissioner is the final sanctioning authority.[7]

M/s Malu Khan & Party v.State 1989 (2) WLN 337.

2. Amerjit Singh v. State of Rajasthan 1973 RRD 173; 1973 RLW (RS) 32
3. Refer to AIR 1937 All 735:39 Cri. L.J. 18: 171 IC 915
4. Babu Lal v. Assistant Excise Officer, Sirohi 1981 RRD 425
5. Tejan Lal & Magan Behari Lal v. State 1978 WLN 651
6. The Gidney Club, New Delhi v. Chief Secretary, Delhi AIR 1980 Delhi 33.
7. M/s Nandraj Wines v. State 1980 RRD 178.

23. Excise Officer [Clause (7)]—means-

(i) any officer or person appointed under Section 9, or

(ii) invested with powers of an excise officer under this Act

Excise Commissioner has been excluded by this definition.

References to Provisions of the Act—

(a) For Appointment of Excise Officer- (Refer to Section 9)

(b) For empowering to perform acts & duties under chapter VIII (S.10)

(c) Powers & Duties of officer. [Chapter VIII of the Act)

(1) Power to enter and inspect place of manufacture and sale (under S. 43)

(2) Power to investigate offences under the Act- (S.44)

(3) Power to arrest, seizure and detention- (S.45)

(4) Power of Excise Officer to search without warrant (S.47)

(5) Power to file a complaint or report before Magistrate - [S.67 (i) (a)]

(6) Power to compound offences- (S.70)

(d) Powers of officers under the Rules— (Chapter XIII of the Rajasthan Excise Rules, 1956)-

Rule 86- Powers under Ss 43, 44 & 47— All Excise Officers of the Government of Rajasthan not below the rank of Excise Inspector and Patrolling Officers in the Excise Preventive Force may exercise the powers referred to in Ss. 43,44, 45 and 47.

Rule 89- Power under S. 45— (i.e. Power of arrest, seizure & detention)- All Excise Officers of the Government of Rajasthan including Excise Guards may exercise the powers mentioned in Section 45 :

Provided that when power is exercised by an Excise Officer other than an Excise Inspector of the circle concerned, such officer shall immediately hand over the person arrested and the articles seized to the Excise Inspector of the Circle concerned.

Rule 96- Powers conferred by Notification under S. 10—All Excise officers may exercise the powers conferred upon them by any notification under 10 for the time being.

Rule 91- Powers Conferred by Notification under S. 9—All Excise officers may exercise the powers conferred upon them by any notification under S. 9 or by any order issued under such notification. for the time being in force.

Meaning of expression "Excise Officer—Excise Inspectors are Excise Officers within meaning of S 3(7) read with Rr. 88 and 89 and Notification No. 3- They are competent to make complaint or report under S. 67 (1) (a) to the Magistrate.[1]

Excise Officer—Inspectors of Excise Department have been invested with the powers of Excise Officer within meaning of S. 3(7) of the Act. As such they are competent to make a complaint or report for offence under S.67 (i) (a) of the Act to the Magistrate.

In this case, held that the acquittal was not proper and was set aside, but as the case was more than ten years old. the chargesheet was closed.[2] Another case was eleven years old as such acquittal of accused was not set aside. [1979 Cr. LR (Raj.)

1. State v. Laxman Singh 1980 WLN 433; 1980 RLW 495; 1980 Cr. LR 557 (Raj.) (DB).
2. State v. Narain 1987 RCC 78.

159 was reversed by D.B. in 1980 WLN 433.- AIR 1971 SC 1725 and 1978 SC 933 relied on].[1]

Powers to file complaint in Court- Excise Officer—Excise Inspector is invested with powers of Excise Officer under the Act and as such he is competent to file complaint.[2]

Excise Officer—Powers not invested on Incharge Railway Police Station, Jodhpur- Held, cognizance on his report cannot be taken by Special Railway Magistrate.[3]

Excise Inspector is Excise Officer—He can submit charge, sheet and Magistrate can take cognizance of offence on it- View in Bhagwana v. State was followed. whereas D.B. decision in State v. Lachman took different view (Case remanded for fresh trial).[4]

Excise Officer under S.67 (1) (a)—An Excise Inspector was an Excise Officer for the purpose of filing a complaint or a report under S. 67 (1) (a) of the Excise Act. [1980 WLN 433 (DB) followed]. Held that in the instant case the complaint was competent (Acquittal set aside, case sent back for trial).[5]

Filling of Complaint under—Excise Inspector held competent to file a complaint or challan under the Excise Act. In the instant case, the trial Court has wrongly acquitted the accused on this ground (Appeal accepted.)[6]

24. Magistrate [Clause (16)]—

"Means any Magistrate of the first class".

Under section (3) (a) of Cr. P.C 1973, any reference in any enactment to a Magistrate of the first class shall be construed as a reference to a Judicial Magistrate of the first class.

A Judicial Magistrate of First class therefore shall try all criminal cases of excise offences mentioned in Chapter IX of the Act.

[Please refer to Commentary of Chapter IX, infra.]

25. "Abu Area" (Clause 12)—This definition was included in the Act, when the Act was not made applicable to "Abu area" in 1957. Now with effect from 1-9-78, the Rajasthan Excise Act, 1950 has been extended to Abu Area also, by Rajasthan Amending & Extending Act, 1978 (Act No. 15 of 1978) and as such this definition is now redundant This Act was not applicable to Abu Area 1-11-55 to 31-8-78. The Abu Area was comprised of the Abu Road Taluka of Banaskantha District of the State of Bombay as existed on 1st November 1956.

[Please refer to Commentary of S.1. Notes (2) & (3) for details]

26. "State" or "State of Rajasthan [Clause (21 A)]"—Means the new State of Rajasthan as formed by section 10 of the State Reorganisation Act, 1956 (Central Act 37 of 1956).

Section 10 is reproduced hereunder for ready reference —

1. State v. Banwari Ram 1990 (1) RLR 597.
2. State v. Chhoga Lal 1986 WLN (UC) 7.
3. State v. Rama ILR (1968) 18 Raj. 111; 1967 RLW 559.
4. State v. Gokul 1982 R. Cr. C. 199
5. State v. Madhumal 1981 Cr. LR 379.
6. State v. Vardha Ram 1981 (6) R. Cr.C 198

10. "Formation of a new Rajasthan State... (1) As from the appointed day there shall be formed a new Part A State to be known as the State of Rajasthan comprising the following territories, namely:—....

(a) the territories of the existing State of Rajasthan, except Sironj sub-division of Kotah District;
(b) the territories of existing State of Ajmer;
(c) Abu Road Taluka of Banaskantha District in the existing State of Bombay; and
(d) Sunel Tappa of Bhanpura tehsil of Mandsaur District in the existing State of Madhya Bharat; and thereupon the said territories shall cease to form part of the said State of Rajasthan, Ajmer, Bombay and Madhya Bharat, respectively.

(2) The territories comprised in the existing State or Rajasthan shall form a separate district to be known as Ajmer District, and the territories referred to in clause (c) and (d) of sub-section (1) shall be included in and become part of Sirohi and Jhalawar Districts, respectively, in the new State of Rajasthan."

[Please refer to the Commentary of section 1 for details.]

27. Place [Clause(19)]—

Includes—

(i) a house, (ii) building, (iii) Shop, (iv) room (v) booth, (vi)tent, (vii) vessel, (viii) boat, (ix) raft and (x) enclosure.

This definition is exhaustive which includes all kinds of places and even enclosures and means of transportation (i.e.vessel, boat & raft.) used in relation to the excisable articles under this Act

Place & Location of Shop to be decided by Licencing Authority (District Excise Officer)—The excise Commissioner is not authorised to interfere with the decision of the District Excise unless there are exceptional circumstances Held, any interference by the Excise Commissioner in absence of such exceptional circumstances is arbitrary and liable to set aside.[1]

28. Tola तोला [Clause(24)]—

—Means a weight of 180 grains troy or 11.638 grams.

This is the old measurement of weighing things. Now "grams" are being used in new decimal system of weighing.

4. Power of [2][State Government] to declare what is to be deemed "liquor"—(1) The [2][State Government] may, by notification in the [2][Official Gazette] declare any substance to be 'liquor' for the purposes of this Act or any portion thereof.

(2) The [2][State Government] may, in like manner and for the like purposes, declare what shall be deemed to "country liquor" and "foreign liquor" respectively.

1. Amerjit Singh v State of Rajasthan 1973 RRD 173: 1973 RLW (RS) 32.
2. Substituted by S. 4 of Raj. Act No 38 of 1957, published in Rajasthan Gazette IV-A E.O dated 5-12-1957.

COMMENTARY
SYNOPSIS

1. Scope
2. Procedure
3. Validity of Notification
4. Meaning of "State Government
5. An act of the State Government
6. Liquor-Meaning of
7. Power to declare-Not to be arbitrary
8. Notifications issued-
9. References to Rules

1. Scope—This section is an enabling provision which empowers the State Government to declare any substance to be "liquor"for the purpose of this Act and to declare any substance to be deemed to be-

(i) Country liquor &
(ii) Foreign liquor.

2. Procedure—Such declaration is to be made by a notification published in the Official Gazette i.e. Rajasthan Gazette (Rajpatra) for the purposes of this Act or any portion of the Act.

3. Validity of a Notification—(a) The term "notification" has to be considered in the light of the statutory dictionary of words provided by the Rajasthan General Clauses Act and a Government order will, in law, becomes a notification when it fulfils the two requisite conditions namely-

(i) its publication in the Gazette, and
(ii) its publication under proper authority.

These conditions can be fulfilled only when the notification published and not when it is a drafted and approved in the Secretariat, hidden from public gazette and when the date is put by some officer of Government.....the date of notification should be taken to be the date when it was published in the gazette for the first time.[1]

(b) Notification v. Circular-Validity examined-The expression "by notification in the official Gazette"—These words are significant and they indicate the manner in which the State Government shall exercise its powers. A circular letter is not a notification at all unless it is published in Rajasthan Gazette for knowledge of general public. Without such publication it cannot be held legally binding.[2] Administrative circular cannot be treated a notification and it cannot claim precedence over statutory provisions of law.[3]

(c) Publication of Rules & Notification (section 72)—Section 72 of the Act provides the rule for commencement in the following manner-

"72. Publication of rules and notifications—All rules made and notifications issued under this Act shall be published in the Official Gazette and shall there-upon have effect as if enacted in this Act from the date of such other date, as may be specified in that behalf".

1. AIR 1957 SC 271.
   Jaswant Sugar Mills Ltd. v P.O Industrial Tribunal AIR 1962 All 240 (FB.) Bhikamchand v. State AIR 1966 Raj. 142.
   Harla v. State of Rajasthan. AIR 1951 SC 467
2. M s J.K Synthetics v. M C.Kota, 1979 RRD 156
3. Harbans Lal v. State & Tharumal, 1982 RRD 507. Paras V.State 1982 RRD 435

4. Meaning of "State Government"—The term is often used in the Act but not defined in it and its meaning should, therefore, be understood in its true legal sense.

The term "State Government" has been defined under the Rajasthan General Clauses Act, 1955 as follows:-

Section 32 **clause (33);"Government"** shall include both the Central Government and any State Government.

Section 32 **clause(75):"State Government"** shall mean in relation to anything done or to be done, (i) on and from the commencement of the Constitution until the first day of November, 1956, the 'Rajpramukh', and (ii) On the and from first day of November, 1956, 'the Governor.'

Clause (65): **Rajpramukh'** shall as respects any period before the first day of November 1956, mean the person who is for the time being the 'Rajpramukh of Rajasthan.

Clause (34): **'Governor'** means as respect the periods on or after the first November 1956, the Governor of Rajasthan".

From the above definitions it is clear that the State Government means "Governor of the State" w.e.f. 1st November, 1956 and onwards. So all powers of the State Government vests in the Governor. The Ministers and the Chief Minister are dejure not the State Government, but they are advisers to the Governor who is the State Government under the Business Rules, the powers of the State Government i.e. Governor are delegated to the ministers or officers concerned and they carry out the administration"in the name of" or "By the order of " the Governor.

The legislatures in a State does not include the Government of the State [1] So also it does not include a District Board or a local authority.[2]

5. An Act of the State Government—The Constitution requires that in order to make an act of the State Government, the action must be taken by the authority concerned in the name of the Governor. It is not till this formality is observed that the action can be regarded as that of the state Constitutionally speaking the minister is no more than an advisor and that the head of the State, the Governor is to act with the aid and advice is accepted by the Governor whatever the Minister or the Council of Ministers may say in regard to a particular matter doesn't become the action of the state until the advice of the Council of Minister is accepted or deemed to be accepted by the Head of the State.[3] The decision of any minister under the rules of Business made under. Art. 77 (3) of the Constitution is the decision of President (or Governor). Any reference to the President under any rule made under the Constitution must be read to be the President as the Constitutional head, as envisaged in the Constitution acting with aid and advice of the Council of Minister.[4] This equally applied in case of the Governor of the State.

1. Ramjidas v. State of Raj. 1954 RLW 357.
2. Mahalingham v. Raghunath AIR 1940 Mad. 916.
3. Bachittar Sinch v. State of Punjaab AIR 1968 SC 395.
   State of Punjab v. Sodhi Sukhdev Singh AIR 1961 SC 493
   Ramanandam v. State AIR 1959 All. 101 (F.B.)
4. Samsher Singh v. State of Punjab AIR 1974 SC 2192 1974 Lab IC 1380: 1974 SCC (L & S) 550.

6. Liquor-Meaning of—The word "Liquor" has been defined under S. 3 (15) and is to be notified by the State Government under S.4 (1) of the Act.

"Country Liquor" and "Foreign liquor" are to be also declared by the Government under S. 4(2) of the Act

The word "Liquor" covers not only beverages, but also all liquids containing "alcohol" Effect of intoxication is an ingredient of liquor.

"Intoxication" generally means effect of alcoholic stimulants on brain or nervous system of human being . As the term has not been defined in the Act, it refers only to the excessive use of intoxicating drugs or liquor.[1]

Licence for Beer Bar, when Illegal—(S.4.41 and Rule 75 (2) Notification dated 15.2.57) Licence for Beer Bar granted. Beer is included in foreign liquor There is prohibition under R.75(2) for running a retail shop of country or Foreign liquor within area of 200 meters of schools or institutions. Held grant of licence for Beer Bar was illegal and was, therefore, quashed.[2]

"Charas" & "Ganja"- "Charas " is not cannabis plant, but is resin obtained therefrom, whereas "Ganja" is flowering or fruiting tops of cannabis plant excluding seeds and leaves when not accompanied by tops. (Para 7)[3]

7. Power to declare any substance to be "liquor"- Rule of ejusdem generis-Clause (15) of Section 3 and Section 4- Not to be arbitrary in its exercise—The last part of clause (15) of section 3 runs as under " ....as also any substance, which the State Government from time to time by notification in the official Gazette declare to be liquor for the purpose of this Act". This provision along with section 4(1) empowers the State Government to declare any substance as liquor

This provision is very wide, but cannot be applied arbitrarily to declare any substance to be 'liquor' which infect not having the attributes of liquor There must "alcoholic contents" in the liquid or substance which has effect of intoxication. Thus a substance which is similar to liquor can only be declared to be liquor for the purpose of the Act.

8. Notification issued-(a) Spirituous Preparations

[No.F 1(2) FD/Ex/89,S O.25- dated 8.5.1990]

In exercise of the powers conferred by sub-section (15) of section 3 and sub-section (1) of section 4 of the Rajasthan Excise Act, 1950 (Raj. Act No. 2 of 1950), read with rule 3 (g) of the Rajasthan Intoxicating Spirituous Preparations, Import, Export, Transport, Possession and Sales Rules, 1989 and in continuation of Notification No. F.49(8) SR-53 dated 15-2-57, RGGI (B) dated 28-2-57, the State Government is pleased to declare all medicinal and toilet preparations and other spirituous preparations containing more than 20^0 proof alcohol to be liquor for the purpose of the said Act and Rules.

[Published in Raj. Gaz. EO.4 (Ga) (II) dated 8.5.1990. Page 29(2).]

[1990(1) RLT 213]

1. A. Narayan Nair v. State AIR 1952 T.C. 239: 53 Cr. L.J. 1095
2. St. Soldiers Public School v. State & Ors. 1996 WLC (UC) 340 (Raj.)
3. Manjee v. State of Rajasthan, 1996 (2) WLC 405.

(b) Lanced Poppy Heads—

[No.F.1(3) FD/Ex/85, SO 172, Jan. 24, 1986]

In exercise of the powers conferred by clause (v) of sub-section (4) of Section 13 of the Rajasthan Excise Act. 1950 (Raj. Act II of 1950), the Government of Rajasthan is pleased to order that Lanced Poppy Heads shall be deemed to be an excisable article w.e.f. 14-11-85

[Published in Raj. Gaz. EO, 4 (Ga) II dated 25-1-86, Page 335- [1986 I, RLT 79]

(c) Country Liquors & Foreign Liquors declared—

[Notification No. F-49(8) dated 15-2-57][1]

S.R.53- In exercise of the powers conferred by sub-section (2) of section 4 of the Rajasthan Excise Act, 1950 (Rajasthan Act II 1950) the Government of Rajasthan is pleased to declare that for the purpose of the act the following substances shall be deemed to be country liquor and foreign liquor respectively:-

1. **Country liquor**—Any plain or specified spirit which has been manufactured in India and which is not foreign liquor as defined below.

2. Foreign liquor—

(a) All liquor imported into India;

(b) Liquor made in India and sophisticated or coloured so as to resemble in flavour or colour liquor imported into India.

(c) Liquor made in India which has been blended or compounded with liquor imported into India;

(d) Beer made in India, or imported beer;

[2][(e) All absolute alcohol, rectified or perfumed, or medicated spirit wherever made.]

(d) Indian Made Foreign Liquors declared—

(i) Maharaja

[Notification No. F.3/(10)FD/Ex/74, dated 8-10-1974]

S.O.183.- In exercise of the powers conferred by sub-section (2) of section 4 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) the State Government hereby declares that for the purposes of the said Act, the variety of liquor known or termed as "Maharaja" shall be deemed to be Indian made foreign liquor.

[Published in Raj. Gaz. Part-IV-C dated 19-12-74, page 17]

(ii) Cremede Flare

[Notification No. F.1 dated July 16,1970]

S.O.49 - In exercise of the powers conferred by sub-section (2) of section 4 of the Rajasthan Excise Act. 1950 (Rajasthan Act II of 1950) the State Government hereby declares that for the purposes of the said Act. the variety of country liquor known or termed as "Cremede-Flare" shall be deemed to be Indian made foreign liquor..

(iii) Jagmohan

[Notification No. F 1(32) E & T/60-3332, dated 27-9-65]

In exercise of the powers conferred by sub-section (2) of Sec. 4 of the Rajasthan Excise Act. 1950 (Rajasthan Act II of 1950), the State Government is pleased to declare

1. Published in Raj. Gaz-Part I (B) dated 28-2-1957.
2. Substituted by Notification No. S.O. 26, dated 22-3-1971

that for the purposes of the said Act, the variety of country liquor hitherto known or termed as "jagmohan" shall be deemed to be Indian made foreign liquor.

[Published in Raj Gaz.- EO-Part IV-C, dated 11-11-65].

(a) Malta

[Notification No. F 1/(114) FD/Ex/5, dated 15-2-1966]

In Exercise of the powers conferred by sub-section (2) of section 4 of the Rajasthan Excise Act. 1950 (Rajasthan Act No. II of 1950), the State Government is pleased to declare that for the purpose of the said Act new variety of liquor termed as 'Malta' liquor of the strength of 25 UP based on rectified spirit shall be deemed to be country liquor.

[Published in Raj. Gaz-EO-IVC-dated 15-2-66]

(b) Sont and Pineapple

[Notification No. F 1(20)-FD/Ex/67, dated 29-5-67]

In exercise of the powers conferred by sub-section (2) of section 4 of the Rajasthan Excise Act, 1950, the State Government is pleased to declare that for the purpose of the said Act, two new varieties of liquor named as "Sont" liquor on gur base and "Pineapple" liquor on rectified spirit base with the strength of 30 UP and 45UP respectively shall be deemed to be country liquors.

[Published in Raj Gaz.-EO- IVC- dated 2-5-1957 Page 185].

(f) Heritage Liquor declared as Excisable Article

S.O.112- In exercise of the powers conferred by sub-clause (v) of clause (u)) of section 3 of the Rajasthan Excise Act, 1950 (Rajasthan Act No 2 of 1950). the State Government hereby declares the heritage liquor as an **excisable article** for the purpose of the said Act.

[No. F. 4 (30) FD/EX/ 98 dated 9 7.98, Published in Raj. Gaz. -EO-4 Ga) (II)- dated 9.7.1998 Page 165(12)]

S.O.113. In exercise of the powers conferred by clause (15) of section 3 and sub section (1) of Section 4 of the Rajasthan Excise Act, 1950 (Rajasthan Act No 2 of 1950). the state Government hereby declare the heritage liquor to be liquor for the purpose of the said Act.

[No. F. 4(30) FD/EX/98 dated 9.7.1998, pub. in Raj. Gaz. EO-4 (Ga) (II) dated 9.7.1998. page 165(13)]

9. References to Rules—In the following rules the provisions for different liquors have been made-

(1) Rajasthan Excise Rules, 1956—

(a) Country Liquor—

1. Import, Export, Transport, & possession of Country Liquor- [See-Chapter II.]
2. Licences for [See-Chapter VI]

(b) Foreign Liquor—

1. Import and Export of Indian-made foreign liquor, foreign liquor and Beer- [See-Chapter III]
2. Licences - [See- Chapter V]

(c) **Denatured Spirit**—

Import, Export, Transport, Possession & Sale of Denatured spirit and licences thereof - [See- Chapter IV-A]

(d) **Intoxicating Drugs**—

Transmission & Possession of [See-Chapter IV]

Licences for-(See-Chapter VI]

(2) Rules Relating to Country Liquor—Closure of 'Country liquor shop by local ɔtion Rules, 1975.

Country Liquor (Fixation of Strength) Rules. 1963.

Issue & Sale Price of Country Liquor Rules, 1964.

(3) Rules relating to Foreign Liquor—

The Foreign Liquor (Grant of Whole Sale Trade and Retail off licences) Rules,)82.

[Please refer to these Rules appended in Part II and notification in part III of this ɔok.]

5. Power of [1][State Government] to declare limit of sale by retail—

:) The [1][State Government] may, by notification in the [1][Official Gazette] eclare with respect either to [2][all the territories of the State of Rajasthan › which this Act extends] or to any local area comprised therein and as ›gards purchasers, generally or for any specified class of purchasers and generally ʳ for any occasion, what quantity of any excisable article shall, for the purposes f this Act be the limit of sale by retail.

(2) The sale of any excisable article in any quantity in excess of the ıantity declared in respect thereof under sub-section (1) as the limit of sale ʸ retail shall be deemed to be sale wholesale.

COMMENTARY

1. Sale by retail-Limit to be fixed-procedure—The State Government has power fix up limits for retail sale of liquor. A notification for this purpose is necessary to : published in the Official Gazette.

2. Meaning of State Government—

[Refer to Commentary of S 4- Note 4, infra.

3. Notification- Validity—[Refer to Commentary of S.4- Note 3, infra- Also refer section 72 of the Act.]

4. Scope of declaration of limit—Such limit of sale by retail may be fixed-

(a) for all the territories of the State, or for any local area.

(b) as regards purchasers in general, or as regards to specified class of purchasers, and

Substituted by S.4 of Raj. Act No. 38 of 1957, published in Raj. Gaz-EO-IVA dated 5-12-1957

Substituted S.8. ibid.

(c) as regards any occasion (e.g.-any festival or function).

(d) The quantity of excisable articles (defined in clause (4) of S. 3 of the Act) is also to be fixed accordingly.

Thus the limit of Sale by retail may be fixed area-wise or place-wise, person (purchaser) wise or class wise, article wise and occasion wise, as the State Govt. deem proper.

5. Excess of limit of sale to be treated as whole sale [sub-section(2)]—Where sale of any excisable article in retail exceeds the prescribed limit under sub-section (1), it shall be treated as sale by whole sale. This will amount to breach of provision of the Act and condition of licence and shall be also punishable.

6. Limit of Retail Sale declared by Notifications:—

(1) For All Purchasers

[Notification No. F. 1 (87) E &T/59, J dated 30-11-1961]

In exercise of the powers conferred by sub-section (1) of section 5 of the Rajasthan Excise Act, 1950 (2 of 1950), and in supersession of this Department Notification No. F. 1 (58) E & T/51/1, dated the 23rd January, 1959 (published in the Rajasthan Rajpatra, Part IV-C, dated the 12th February, 1959), the State Government hereby declares with respect to all the territories of the State of Rajasthan to which the said Act extends and to all purchasers that the limit of sale by retail of the following excisable articles shall for the purpose of the said Act be, as specified against each, namely:-

[1][1. Country Liquor	3 litres]
2. (a) Foreign Liquor other than Beer, fermented liquor and rectified spirit	[2][6] litres.
(b) Beer and fermented liquor	9 litres.
3. Bhang	200 grams.

[Published in Raj. Gaz. IVC dated 28-12-1961]

(2) For Foreign Tourists

[Notification No. F. 3 (2) SR/54-1 (Pt.II), dated 30-10-1962]

In exercise of the powers conferred by sub-section (1) of section 5 of the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950), and in partial modification of the Excise and Taxation Department Notification No. F. 1 (81) E &D 59-1 dated the 30th November, 1961, the State Government hereby declares that with respect to all the territories of the State of Rajasthan to which the said Act extends and as regards the purchasers who are foreign tourist holding all India liquor permits issued by the Indian Missions abroad or by the Directors/Assistant Directors in the Governments of India tourists offices abroad or by the Director or Assistant Director of the Government of India tourists Office, Bombay, Calcutta, Delhi or Madras (six) units of liquor a month shall for purpose of the said Act be the limit of sale by retail subject to the condition that the sale during any one week shall not exceed [one and half] units.

Note— One unit of liquor for purpose of this notification shall be construed as equal to any of the following or to metric equivalents thereof, namely-

1 Substituted vide Notification No. F.1 (6) FD/EX/87 SO.108 dated 31-7-87, for "2.25" litres.

2 Substituted vide Notification No. F.4 (28)FD/Ex/02-Pt.-I dated 1-4-2003 w.e.f. 1-4-2003 for 3 liters

(i) One quart bottle of spirit, or

(ii) Two quart bottles of wines, or

(iii) Nine quart bottles of fermented liquors of a strength exceeding two percent alcohol by volume, or

(iv) Twenty-seven quart bottles of fermented liquors of a strength not exceeding two percent of alcohol by volume.

[Published in Raj. Gaz-EO-IV-C dated 31-10-1962 and as amended by Notification dated 7-1-1965]

[3] Denatured Spirit to All Purchasers

[Notification S.O. 27, dated, March 22, 1971]

In exercise of the powers conferred by sub-section (1) of section 5 of the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950), the State Government hereby declares with respect to all the territories of the State of Rajasthan which the said Act extends and to all purchasers, that the limit of sale by retail of denatured spirit shall, for the purpose of the said Act; be three litres.

[Pub. in Raj Gaz. 4 (Ga) (1), dated 20-4-71 Page 38].

7. Latest limits given in Licence Forms:

The State Government has issued the latest forms for various licences in which the limit of sale by retail has been mentioned as a condition, as follows:

1. Country Liquor-4 bottles - (Condition No. 6.8)
2. Foreign Liquor- 8 bottles or 6 liters (Condition No. 5.9)
3. Beer- Not more than 9 Liters (Condition No. 5.9)

[Please refer to the Forms of Licences in the Rules]

6. Possession by wife, clerk or servant—When any excisable article is in the possession of a person's wife, clerk or servant on account of that person, it shall, for the purpose of this Act, be deemed to be in the possession of that person.

Explanation:—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant is a clerk or servant within the meaning of this section.

COMMENTARY

1. Scope- Possession of Excisable Articles- Doctrine of Constructive Possession incorporated --This section deals with the possession of excisable articles "on account of a person" by his wife, clerk or servant. The excisable article when found in possession of his wife or clerk or servant, it shal be deemed to be in possession of such person himself and he shall be liable to prosecution or other consequences. This deeming provision is based on the Doctrine of Constructive or Implied Possession, and Vicarious liability of Master.

Similar provision is there in Section 27 of the Indian Penal Code also.

2. Temporary/Occasional employee—Even if the clerk or servant has been employed by any person on temporary basis or only for a particular time or occasion, he shall be treated as clerk or servant of that person within meaning of this section and the possession of excisable article on behalf of that person by such clerk or servant shall be treated as possession of that person.

3. Possession must be conscious—A rickshaw driver carried Repst. No. 2 in his rickshaw. On search, some ballons containing illicit liquor in the bag were found from the passenger in the Rickshaw. As the closed bag containing balloon of illicit liquor was not so clearly visible so as to lead to the inference that the rickshaw driver has to knowledge tantamounting to conscious knowledge of contraband goods. The appellant was merely Rickshaw driver, he cannot be imputed with the knowledge of the possession of the articles in the dicky. (Conviction set aside and accused acquitted).

4. Possession to be exclusive—Recovery of contraband goods was made from open varanda which was accessible to every one including the accused person too. Such recovery cannot be held to be one from the exclusive possession of an accused person. Held that the case is doubtful. (Revision allowed and accused aquitted)[2]

5. Responsibility of Licence Holder—Certain incriminating excisable articles were recovery from the Shop of licence holder while his servant was incharge of the Shop and the licence-holder was absent. Held, it would render the licence holder responsible for it.[3]

7. Saving of enactment relating to customs—Nothing contained in this Act shall affect the provisions of any law relating to customs for the time being in force or any rule or order to be made thereunder.

COMMENTARY

The Law relating to Customs was kept in tact from effect of this Act which was prevalent in the various princely states at the time of enactment of the Excise Act. The Central custom law is also not to be affected by this Act, as it operates in the different field altogether.

1. Jawar Arjun vs. State of Gujarat, AIR 1979 SC 1500.
2. Kara Ram vs. State of Rajasthan, 1979 RCC 156
3. 1962 RLW 5(7) (RS)

Chapter [II]

Control And Establishment

❑ Introductory Note

This Chapter is very important for its statutory provisions relating to administrative ontrol and establishment of machinery for carrying out the purpose of the Act. There e sections in this Chapter dealing with. Five.

1. Section 8- Control of Excise Department
2. Section 9- Appointment of Commissioner and Excise Officer.
3. Section 9A- Appeals and Revision.
4. Section 9B- Bar of Jurisdiction of Civil Courts.
5. Section 10- Appointment of officers and conferring powers

This Chapter is the source of power, authority, functions, duties etc. of the officers f the Excise Department and for this purpose proper appointment by proper notification necessary.

❑ **Notifications**— The latest notifications under these section have been compiled in Part III of the book- NOTIFICATIONS.

8. Control of the Excise Department— (1) The control of the dministration of the Excise Department shall, subject to the direction of the [State Government] vest in the Excise Commissioner

9. Appointment of Commissioner and Excise Officers— [2][(1) The [1] State Government] shall appoint an Excise Commissioner and may appoint s many Additional Excise Commissioners as may be deemed necessary, for ne whole of [1][those parts of the State of Rajasthan to which this Act extends.]

(1A) The [1][State Government] may also appoint such and so many other erson, as it thinks fit and necessary to be:—

(i) Deputy Excise Commissioners incharge of divisions

(ii) [1][District Excise Officer incharge of district, and]

(iii) Other inferior Excise Officers.

Substituted by section 4 of Rajasthan Act No.38 of 1957. Published in Raj. Gaz. Part iv-A Extraordinary, dated 5-12-1957.

Substituted by section 2 of Rajasthan Act No. VIII of 1951, published in the Rajasthan Gaz, Part IV-A, Page 146 dated 10-3-1951.

(1B) The [1][State Government] may prescribe duties and powers to be performed and exercised by each officer or class of officers appointed under sub-section (1) and (1A).

(2) The [1][State Government] may delegate to the Excise Commissioner such powers of the [1][State Government] conferred by this Act, as it may specify, except the power to make rules there-under.

(3) The [1][State Government] may also authorise the Excise Commissioner to delegate to any of his subordinate officers such of his powers under this Act, as may be specified

COMMENTARY
SYNOPSIS

(I) Control of Administration (Section 8)
- (a) Control-Meaning
- (b) Excise Commissioner--Status
- (c) Power exercisable from time to time (S. 74)
- (d) Rule making power (S. 42)
- (e) Power to issue warrant (S. 46)
- (f) Power to negotiate Tenderers
- (g) Executive orders Value of
- (h) Action when arbitrary
- (i) Grant of Licence

(II) Appointments (Section 9)
- (1) Excise Commissioner & Additional E.C.
- (2) Appointment of Excise Officers
- (3) Duties & Powers of Officers
- (4) Delegation of Powers
- (5) Notifications Appointment of Excise Officers incharge of area

I Control of Administration of Excise Department (Section 8)—

(a) "Control"-Meaning—The word "Control" used here has not been defined in this section or the Act. According to dictionary meaning, the word "Control" means-

(i) power to check or restrain, superintendence.

(ii) to regulate, to govern, to have under command.[2]

(b) Excise Commissioner-Status of—The "control" is supervisory as well as governing or commanding power over the Excise Department vesting in the Excise Commissioner for its administration, but it is subject to the directions of the State Government. Thus the Excise Commissioner is the Chief Executive Officer of the Department to execute the directions of the State Government and to carry out the provisions of the Act as per policy of the States Government.

(c) The powers exercisable from time to time by Excise Commissioner- Section 74 provides that any power conferred by this Act on the Excise Commissioner may be exercised by him from time to time as occasion requires.

(d) Rule Making Power (Section 42)—The Excise Commissioner may, after prior sanction of the State Government, make rules to give effect to the provision of the Act under S. 42 on the subjects enumerated therein.

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1. Substituted by section 4 of Rajasthan Act No 38 of 1957. Published in Raj Gaz Part iv-A Extraordinary, dated 5-12-1957.
2. Legal Glossary, Govt. of India, 1979. Page 56

(e) Power to issue warrant—Under S. 46 of the Act. the Excise Commissioner y issue warrant for search or arrest in appropriate cases. as the case may be.

(f) Power to negotiate tenderers—Under Rules 11, 12 & 67 of the Rajasthan Excise es, 1956, the Excise Commissioner is held to be competent to enter into negotiations h the tenderers and the petitioner has a right to participate in such negotiations.[1]

(g) Executive Orders passed by Excise Commissioner–Value of—Executive orders sed by the Excise Commissioner do not carry the effect of law, although such orders y be used as Guidelines for the subordinate Officers. Held that the courts are required judge the legality according to law.[2]

(h) Action of Excise Commissioner held arbitrary— The District Excise Officer licensing authority has to decide about place or location of liquor shop The Excise mmissioner is not authorised to interfere in such a decision unless there are exceptional cumstances. Held, the order interfering the decision of D.E.O was arbitrary in absence such exceptional circumstances. (Order set aside).[3]

(i) Powers of Excise Commissioner Grant of Licence— The Excise Commissioner empowered to grant a licence as well as to cancel the same. On application of petitioner renewal of licence, the Excise Commissioner cancelled the licence and refused renewal e to breach of condition 12 of the Licence Held, the Excise Commissioner was competent do so.[4]

II. Appointments (Section–9)

(1) Excise Commissioner-and Additional Excise Commissioner—Sub-section (1) section 9 provides for appoint of—

(a) Excise Commissioner—This appointment is obligatory as expression 'shall point" has been used. The Excise Commissioner is the Chief Controlling Authority the Excise Department of the State.

(b) Additional Excise Commissioners—Addlc. Excise Commissioner "may be pointed" as many in number as deemed necessary for the whole of Rajasthan. The pression 'those parts of the State of Rajasthan to which this Act extends" used here is lot its value as the Act is now applicable to whole of the State of Rajasthan.

At present there are three Additional Excise Commissioners in Rajasthan at Jaipur, dhpur & Udaipur.

(2) Appointment of Excise Officers—[Sub-section (1-A)] As per necessity the State overnment may appoint other officers, viz—

(i) Depty Commissioners incharge of divisions.
(ii) District Excise Officers incharge of Districts and
(iii) Other inferior officers

Service Rules—These appointments of the inferior officers of the Excise Department re to be made as per Service Rules of these services

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M/s Malu Khan & Party v. State 1989 (2) WLN 337
Refer to AIR 1937 All 735 39 CRLJ 18 171 Indian Cases 915
Amerjit Singh v State of Raj 1973 RRD 173 1973 RLW (RS) 32.
M/s Nandraj Wines v State 1980 RRD 178.

3. Duties & Powers of Officers—[S.9(1-B)] The State Government under S.9 (1-B) may prescribe duties and powers of each officer or class of officers, viz—

(1) Excise Commissioner
(2) Additional Excise Commissioner.
(3) Dy. Excise Commissioner
(4) District Excise Officers &
(5) Other inferior officers.

In Chapter VIII of the Act, the powers and duties of officers have been mentioned in sections 43 to 53 of the Act.

4. Delegation of powers [Sub-Section (2) & (3)]—The Excise Commissioner may exercise any powers of the State Government under this Act delegated to him under S. 9(2) and may delegate his powers under the Act to his Subordinate officers under S.9(3) on being authorised to do so by the State Government.

In Chapter XIII of the Rajasthan Excise Rules, the Powers of officers have been enumerated vide Rule 88 to 91 of these rules.

Rule 91 of these rules run as under—

91. Powers conferred by Notification under Section 9—All Excise Officers may exercise the powers conferred upon them by any Notification under Section 9 or by any order issued under such notification, for the time being in force"

5. Notifications

Appointment of Excise officers incharge of areas.
[Please refer to Part III- Notifications, infra.]

[1]**[9A. Appeals and Revision**—(1) An appeal shall lie-

(a) to the Excise Commissioner from any order passed by an Excise Officer under this Act, and

[2]["(b) to the Division Bench of the Board of Revenue established under the provisions of Rajasthan Land Revenue Act, 1956 (Act No 15 of 1956), from any order passed by the Excise Commissioner under this Act otherwise than on appeal:";]

(2) Any appeal under sub-section (1) may be preferred at any time within sixty days from the order complained of.

(3) The decision of Excise Commissioner or the [3][Division Bench of the Board of Revenue], as the case may be, on such appeal shall, subject to the result of revision, if any, under sub-section (4), be final

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1. Inserted by S 3, Rajasthan Act No 28 of 1952, published in Raj Gaz. - IV-A dated 13-12-52.
2. Section 9A(b) Substituted by the Rajasthan Finance Act 2001 (Act No. 5 of 2001) Published in Raj. Gazatted EO Part IV A dated 26-5-2001 w.e.f from 26-5-2001.
3. Expression substituted for "Divisional Commissioner" by the Rajasthan Finance Act 2001 (Act No 5 of 2001) Published in Raj Gazette EO Part-IV A dated 26-5-2001 w.e.f. from 26-5-2001.

(4) The [1]["Division Bench of the Board of Revenue"] may revise any order passed on appeal by the Excise Commissioner (XXX)]

[2][Provided that no appeal shall be entertained unless it is accompanied by a satisfactory proof of payment of 75% of the amount of the demand created by the order appealed against]

[3][(5) Any revision under sub-section(4) may be preferred at any time within thirty days from the date of the order complained of]

COMMENTARY
SYNOPSIS

1. Nature of Appeals
2. Administrative Appeals-Civil Procedure Code not applicable
3. Scope of Revision
4. Procedure not provided. Principles of natural justice to apply
5. Review- Not possible
6. Appellate Revisional Authorities
   (a) Table
   (b) Appeal
   (c) Revision
7. Pre-Condition for Appeal-Payment of 75% of demand
8. Limitation for appeal
9. Finality to decision in Appeal
10. A defective piece of Legislation
11. Remedy-Writ Petition
12. Statement of object & reason (Raj. Act No 14 of 1989)
13. (Raj Act. No 4 of 1987)
14. Section when cannot be invoked
15. Question of direct revision.
16. Limitation for revision [sub 5(5)]

1. Nature of Appeal- A Creature of Statute—A right of appeal is not a mere matter of procedure, but is a substantive right[4] and is a creature of statute

Practically speaking, the system of appeal from one administrative authority to another higher administrative authority seems generally no better than "an appeal from Caesar to Caesar".[5]

2. Administrative Appeal- Civil Procedure Code not applicable—An appeal under S. 9A is also an administrative appeal to the higher authorities who are bound by their official bias and prejudices in most of the cases. These appellate authorities are purely administrative authorities and not courts. The Act does not declare them to be Courts. The provisions of the Civil Procedure Code have not been made applicable to the appeal or revision under this Act. Even the scope of appeal or revision has not been defined or given in details in this section. How ever the principles of procedure under Civil Procedure Code may be applied in spirit but not in words

1. Expression Substituted by Rajasthan Finance Act 2001 (Act NO. 5 of 2001) Published in Raj Gaz EO part IV A dated 26-5-2001 w.e.f. 26-5-2001.
2. Added by S.2 of the Rajasthan Act No. 14 of 1989, published in Raj Gaz Ex. Ordi 4(Ka) dated 31-7-89, Page 51
3. Added by 5.9 of the Finance Act, 2000
4. Garikapati v Subbiah Choudhary AIR 1957 SC 540
5. Indian Administrative Law: Kagzi (1973) Edn. III. Page 133
   Dutt's Law & Procedure of Disciplinary Proceedings- Edn.I. 1978 Page 180

3. Scope of Revision—Sub-section (4) provides for revision against the appellate order passed by the Excise Commissioner to the Division Bench of the Board of Revenue. No direct revision of order of original nature is possible. It is ruled out altogether by this sub-section.

4. Procedure not provided for–Principles of Natural Justice to apply—No procedure for appeal or revision has been provided for under this section and the C.P.C. is also not made applicable as stated above. Hence in absence of statutory procedure, the principles of natural justice would be applicable while deciding an appeal or revision under this section. This is the basic concept of the Administrative Law. The discretion vested in the authorities shall be exercised judicially as the administrative proceedings are the quasi-judicial proceedings. However the spirit or principles of C.P.C. may be applied.

[Please refer to Note (14) & (15) of the Commentary of "Preamble" for principles of Natural Justice & use of discretion.

5. Review–Not possible when not provided for—The Review is not a right but a right created by law. It is not an inherent power of the Court or tribunal, but is bestowed upon by a provision of law.[1] When no such right is provided for by this Act, there is no right of review created and no review shall be open to the aggrieved person. The provisions of Civil Procedure Code are not made applicable under this section. The officers are administrative bodies and are not courts, hence C.P.C is not applicable to the proceedings before these authorities and no review is competent.

After a brief exposition of the jurisprudence of Appeals, Revision & Review as remedies under the Act, let us now proceed to examine the provisions of this Section.

6. Appellate Authorities & Revisional Authority under Section 9-A

(a) TABLE

Reference	Original Order of	Appeal to Appellate order of	Revision from appellate order only.
S.9A(1)			
(a)	Excise Officer	Excise Commissioner	Division Bench of Revenue Board
(b)	Excise Commissioner	Division Bench of Revenue Board	

(b) Appeal—(i) An appeal against the (original) order passed by-

Any Excise Officer under this Act shall lie to the Excise Commissioner, [S.9A(1)(a)].and

An appeal against the (original) order passed by the Excise Commissioner shall lie to the Division Bench of the Revenue Board. [S.9A(1)(b)]

(c) Revision—When the order of an Excise Officer is challenged in an appeal before the Excise Commissioner under S.9A(1)(a) and an appellate order is passed by the Excise Commissioner, a revision before the Division Bench of the Revenue Board would lie against such appellate order. No direct revision of any original order is available under S-9-A(4) of the Act.

1. AIR 1979 All 110, AIR 1978 Mad. 221

7. Pre-condition for Appeal–[Proviso to S. 9A]–Payment of 75% demand necessary—Before filing appeal, the Appellant has to deposit 75% of the amount of demand created by the order under appeal and a satisfactory proof of such payment is to be attached with the memo of appeal. Such proof may be either a copy of Treasury challan or cash receipt of the Department. This proviso has been newly added by the Rajasthan Act No. 14 of 1989 w.e.f. 31-7-1989.

[Refer to Note (12) for Statement of Object & Reasons of the Act]

8. Limitation for Appeal–[Sub-section (2)]—An appeal may be preferred at any time with in SIXTY DAYS from the date of order complained of. Thus an appeal shall be barred by limitation on expiry of 60 days from the date of order.

There is no provision in this section for condonation of delay on sufficient ground. The period of limitation of 60 days is to be computed from the date of order, but when order is served on the party on some later date, no provision to extend period of limitation has been made in this section. The limitation Act, 1963 would not be applicable as the appellate authority is not a court.

The provision is unsatisfactory and does not fall in line with the basic norms of law. It can be challenged as arbitrary in an appropriate case. However on principles of equity, the period may be extended on showing sufficient cause of delay.

9. Finality of Decision in Appeal–[Sub-Section (3)]—The appellate order of Excise Commissioner or Divisional Bench of Revenue Board shall be final and no second appeal would lie, but a revision under S.9 A (4) would lie against the appellate order of the Excise Commissioner passed under Section 9 A(1)(a) of the Act. No revision would lie against the order of Divisional Bench of Revenue Board passed under S. 9 A (1) (b) of the Act in appeal against original order of the Excise Commissioner.

10. A Defective piece of Legislation—From the close study of the provision of S. 9A, it is found that it is a defective piece of Legislation. In all other fiscal Acts such as Rajasthan Sales Tax Act and Land & Building Tax Act etc, there are detailed provisions of appeal and revision. The Scope and procedure of appeal or revision have not been brought out clear by this section. Provision of limitation is not complete in itself. The Procedure of Appeal and revision has not been given in the section or in the Rules. For procedure, provision of C.P.C are not made applicable. It is a piece of legislation which vests wide and arbitrary discretion in the authorities to be used or misused. It is submitted that is requires proper amendments in the interests of justice.

11. Remedy under Writ Jurisdiction—

[Please refer also to Note (16) in the commentary of Preamble, Supra]

(i) Appeal before Commissioner under S 9A- Not absolute bar to Writ Jurisdiction — Where the Excise Commissioner/State Government has acted arbitrarily in not renewing licence of petitioner whereas it has renewed the licences of other two firms. Held, alternative remedy is not absolute bar and the High Court can invoke the jurisdiction under Art. 226. (Para 5). If the State and its Officers have acted arbitrarily and in discriminatory manner, held the writ lies. No bar.[1]

1. M/s R.N.Products, Jodhpur v. State 1989(2) RLR 741.

(ii) If the State acts arbitrarily, it acts discriminatory-Art. 226 invoked—A preliminary objection has been raised by the learned counsel for the respondents that an appeal lies under Section 9A of the Act to the Divisional-Commissioner and that it is alternative, efficacious remedy and therefore, this Court should not exercise its powers under Article 226 of the Constitution of India. It has also been contended by Mr. Singhvi, learned counsel for the respondents that the matter arises out of a contract, therefore, the writ jurisdiction should not be exercised. Lastly it was contended by him that nobody has a fundamental right to issue of a licence for bottling of liquor even if the licence should have been renewed and has not been renewed because the Excise Commissioner has powers to cancel the licence, no case for interference is made out. (Para 4).

There is no dispute that so far as an excisable article is concerned, no body has a right to trade in it and it is also true that as provided under Sec. 37 of the Act. There is no right of renewal of a licence. But the law is settled that the State must act reasonably and not arbitrarily. So far as the existence of alternative remedy is concerned we may state that it is not absolute bar to exercise the powers under Article 226 and despite the fact that an alternative remedy exists this Court can in a proper case whether the alternative remedy has been availed or not availed, in case it is satisfied that the State or its Officers have acted arbitrarily and we may state that if the State acts arbitrarily, it acts discriminatorily, this Court does invoke its powers under Article 226 of the Constitution of India. (Para-5)[1]

(iii) Appeal under S. 9-A not adequate remedy-Writ lies—In the present case, since the demand of excise duty is not backed by a valid law, it gives a right to the petitioner to move the High Court under Art.226 of the Constitution. The Excise Commissioner could not be expected to give any adequate remedy to the petitioner under S. 9-A in the appeal on the face of the notification issued by the State Government.[2]

(iv) Contract for Grant of Licence for Liquor—Where remedy by way of appeal not availed, the plea of alternative remedy can be raised as no fundamental right to trade in liquor is available. Mere admission of writ is not a sufficient ground to ignore such plea.[3]

(v) Writ held not maintainable- S.9-A and Raj. Public Demand Recovery Act, 1952—There is weight in the contention that by cancellation of licences on 13-1-66, the respondents have prevented the petitioners from lifting and selling liquor and thereby making up the guaranteed amount- But alternative remedy bars the writ jurisdiction under amended Art. 226 of the Constitution. (Writ dismissed)[4]

(vi) Appeal available under- Section 9A—Order under S.34 violating rules of natural justice- Held, writ lies, no bar.[5]

12. Statement of Object & Reasons. (Raj. Act No. 14 of 1989)—Appeals under S. 9-A of the Rajasthan Excise Act 1950 are sometimes preferred even in cases in which the appellants themselves are convinced about the reasonability of the demands created

1. M/s Samrat Bottlers v. State 1988(2) RLR 577 (DB)
2. J.K.Synthetics Ltd. Kota v. State of Rajasthan 1976 WLN 277 1976 RLW 338
3. Champalal v State 1984 WLN (UC) 178.
4. Haru v. State 1977 WLN (UC) 381 (383)
5. Mangi Lal v. District Excise Officer AIR 1971 Raj 46.

In order, therefore, to discourage the misuse of the existing provision of appeal for the purpose of delaying the payments, an amendment of the Section was shought necessary so as to provide for ensuring the payment of 75% of the amount of demand created by the order appealed against.

13. Statement of Object and Reasons (Raj. Act No. 4 of 1987)—Under the Rajasthan Excise Act, 1950, the Board of Revenue had been empowered to hear and decide appeals and revisions. It was deemed expedient, after creation of the posts of Divisional Commissioners in the State, to empower them in place of the Board to hear such appeals and revisions so that the burden of work on the Board was lessened and the cases could be disposed of expeditiously. Section 9-A of the said Act was, therefore, to be amended.

Since the Rajasthan Legislative Assembly was not in session and the circumstances existed which rendered it necessary to take immediate action the Governor of the State of Rajasthan promulgated the Rajasthan Excise (Amendment) Ordinance. 1987 (Ordinance No. 7 of 1987) on 31st January, 1989.

14. Section when cannot be invoked-Reference to Excise Rules in R. 10(2) of Rajasthan Opium Rules -Effect of—As a perusal of the section 9-A of the Rajasthan Excise Act. 1950, it provides for appeals & revisions from orders passed under the Rajasthan Excise Act, 1950. It is apparent that the reference to Chapter VIII of the Rajasthan Excise Rules in Rule 10(2) of the Rajasthan Opium Rules has been made by way of convenience and can by no stretch of interpretation deemed to confer jurisdiction on the Board of Revenue in the matters relating to the Opium Act, as such the revision petition is misconceived and is not maintainable in the absence of a statutory provision.[1]

No Writ lies- When alternative remedy by way of appeal to Excise Commissioner available, no writ lies Direction given to Excise Commissioner to entertain appeal if filed within 30 days from to day.[2]

15. Question of direct Revision—Held, a direct revision (i.e. revision against original order of Excise Officer) is neither competent, nor maintainable under S 9A of the Act.[3]

16. Limitation for Revision-[Sub-sec.(5)]-(New amendment 2000)—A revision under sub-section may be filed befare the Divisional commissioner any time within thirty days of the order complained of.

[4][9-B. Bar of jurisdiction of Civil Courts :

No civil court shall have jurisdiction to entertain any suit or proceeding to set aside or modify.-

(a) any original order passed by an officer competent to do so under the provision of the Act, or.

(b) any order passed under, or referred to in Section 9-A.

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1. Heralal Vs. Commissioner Excise, Udaipur, 1970 RRD 26
2. Vimal Kumar V State 1990 (UC) 434.
3. Hussain V. State 1974 RRD 64, Mangilal Vs State 1975 RRD NUC 137 (Page 81)
4. Substituted for the following by the Rajasthan Finance Act. 1998 (Act No. 8 of 1998)-Chapter VII - Ss 25 to 27 Pub. in Raj. Gaz.-EO-IVA dated 3-17-98. Page 5(22) ["**9.B. bar of Jurisdiction of Civil courts**—No civil court shall have jurisdiction to entertain any suit or other proceeding to set aside or modify any order passe under, or referred to in, section 9-A"]

❑ COMMENTARY

(a) Amendment introduced—The provision under S. 9-B was inserted vide Act No. 24 of 1992- No.F.2(36) Vidhi/2/92 dated 11-11-92, published in Raj. Gaz-EO-Part 4(Ka) dated 11-11-1992 which is being reproduced below in footnote no 4 on Page No. 100. This was substituted looking at the situation in 1998 as above.

There is also a provision under Section 73 which provides protection to the State Government and its officers from suits and other proceedings while acting under the Act.

(b) Jurisdiction of Civil Court eliminated—Section 9-B eliminates the jurisdiction of a civil court in two cases viz-

(a) Original order of a competent officer passed under the provisions of the Act. or,

(b) Any order passed under or referred to in Section 9A (i.e. order in appeal or revision). Such order are not to be set aside or modified by a civil court in a suit or proceedings.

This provision is meant to expedite the action in the cases or proceedings under the Excise Act and to stop unnecessary delay in disposal of such cases. Now the orders mentioned in clauses (a) & (b) in the text would attain finality. But still in appropriate case, the writ petition would lie in the High Court and the Supreme Court for redress. In other words, the jurisdiction of the Civil Court though barred, but the extra ordinary jurisdiction of High Court is still open in appropriate cases.

By this finality clause, finality has been given to the action of authorities functioning under the Act only (i) where the officer is competent to do so and (ii) has complied with the statutory provision. This provision does not exclude the jurisdiction of the Civil Court where it has not complied with the statutory provisions or has not acted in conformity with the fundamental principles of judicial procedure. Various propositions have been summaried by the Supreme Court in the following cases : Please refer-

1. Dhulabhai v. State of M.P. AIR 1969 SC 78
2. Bata Shoes v. Jabalpur Corporation. AIR 1977 SC 955.
3. Shiv Kumar Chadda v. D.M.C. (1993) 3 SCC 161.
4. सरस्वती ब. लचत्रा, (1994) 3 उम.नि.प.-669.
5. श्रीकान्त काशी नाथ जितूरी ब. बेलगांव नगर निगम, 1994 उच्चतम न्यायालय निर्णयसार 541.

It is to be noted here that "a body which is creature of statute, must act either in accordance with the statute which created it or must act not at all".[1] Every arbitrary action of an authority is liable to be challenged under Art.14 of the Constitution.[2]

❑ **Note :** M/s Swaimadhopur Oil and Pulse Industries V/s State of Raj. & Others-Similar Pattern में 9B को D.B. द्वारा उचित ठहराया गया। (RLW 2001 (4) Raj. Page 56.)

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1. Jaipur Nagar Grah Nirman Sahakari Samiti Association v. State of Rajasthan 1992(2) WLC (Raj) 366.
2. Ajay Hasia (1981) 2 SCR 79 : 1981 Um. N. S. 175 (in Hindi).
   Menka Gandi v. Union of India. AIR 1979 SC 597.

10. Appointment of officers and conferring powers—(1) The [1][State ;overnment] may-

(a) empower any officer to perform the acts and duties mentioned in Chapter VIII, and

(b) order that all or any of the powers and duties assigned to an officer of the Excise Department under this Act shall, subject to the provisions thereof, be exercised and performed by any officer other than an Officer of the Excise Department or by any other person.

COMMENTARY
SYNOPSIS

Scope
Powers under Chapter VIII
Powers under sub-sec. (b)
4. Notifications issued
5. Investigation when not vitiated.
6. Raj. Excise Rules- R 90

1. Scope—Section 10 enables the State Government to confer powers under this ct on any officer or even on any person. These are wide powers meant to execute e provisions of this Act.

2. Powers under Chapter VIII of the Act—These powers and duties may be :rformed by any officer to whom the State Government empowers to do so. (Section (a).

3. Powers under Sub-section (b)—Sub-Section (b) enables the State Government order that the powers and duties of an Excise officer under the Act are to be exercised-

(i) by any officer (other than an officer of the Excise Department) or
(ii) by any other person so authorised.

4. Notifications issued—

(a) Officers & Guards of the Customs & Excise Department-
[Notification No. F. 49 (1) SR/50. dated 30-11-1951]

In exercise of the powers conferred by section 10 of the Rajasthan Excise Act, '50, the Government of Rajasthan is pleased to order that all officers of the Customs d Excise Department including Guards, shall exercise the powers and perform the duties ıder section 45 of the Act.

[Published in Raj. Gaz-(1)-dated 8-12-51, Page 775]

(b) Officers of Police & Revenue Departments
[Notification No. F. 1 (52) E & T/61, dated 9-9-61]

In exercise of the powers conferred by section 10 of the Rajasthan Excise Act. '50 (Act No. II of 1950), and in supersession of this Department Notification No. F. '(1) SR/50, dated the 15th May, 1951 published in the Rajasthan Gazette Vol. III Pt. of 1951 the State Government hereby orders that the Officers of Police and Revenue

[1] Substituted by Rajasthan Act 38 of 1957.

Department not below the rank specified hereunder shall exercise the powers and perform the duties under the sections mentioned against them.

1.	Naib Tehsildar, Revenue and above.	Section 47,
2.	Sub-Inspector of Police.	Section 44, 47 and 67(1) (a) except in respect of the retail licences granted for sale of liquor under the Act.
	All Officers of Police and Revenue including Constable Chowkidars and Patwaris.	Section 45 except in respect of the retail licences granted for sale of liquor under the Act.

[Published in Raj. Gaz (1) IVC, dated 26-10-61]

(c) Collector & S.D.O. Jaisalmer
[Notification No. F. 36 (1)- SR/53, dated 31-8-54]

In exercise of the powers conferred by section 10 (b) of the Rajasthan Excise Act. 1950 (Rajasthan Act No. 11 of 1950), the Government of Rajasthan is hereby pleased to order that the Collector, Jaisalmer and the Sub-Divisional Officers of Jaisalmer and Pokaran, shall exercise and perform in their jurisdiction all the powers and duties assigned to the Deputy Excise Commissioner and the Assistant Excise Commissioners respectively under the aforesaid Act.

[Published in Raj. Gaz-1 (b) dated 11-9-1954, Page 390]

(d) Powers conferred on Officers of U.P. State-
[Notification No. F. 37 (1) SR/53. dated 7-5-57]

In exercise of the powers conferred by section 10 (b) of the Rajasthan Excise Act, 1950 (Act No. II of 1950, the Government of Rajasthan does hereby order that with effect from the date of publication of this notification in the Rajasthan Gazette. the following officer of the State of Uttar Pradesh shall exercise within the district of Bharatpur the powers under section 45 and 47 of the said Act in respect of intoxicating drugs and liquor as defined in section 3 (14) and (15) thereof on the condition that the persons arrested and things seized shall be immediately handed over to the Excise Inspector of the Circle concerned, namely-

1. Assistant Excise Commissioner, Agra charge.
2. Assistant Excise Commissioner, Excise Intelligence Bureau, Allahabad
3. Excise Inspector of-
(a) Agra and
(b) Mathura Districts.
4. Excise Inspectors, Excise Intelligence Bureau. Allahabad.

[Published in Raj. Gaz- IV C dated 30-5-57]

(e) Power conferrfed on Officers of Uttar Pradesh
[Notification No. F. 37 (1) SR/53/C, dated 27-1-58]

In exercise of the power conferred by section 10(b) of the Rajasthan Excise Act. 1950 (Act II of the 1950), the Government of Rajasthan does hereby order that with effect from the date of publication of this notification in the Rajasthan Gazette. the following officers of the State of Uttar Pradesh shall exercise within the district of Bharatpur, the

under section 45 and 47 of the said Act in respect of intoxicating drugs and liquor ined in sections 3(14) and (15) thereof on the condition that the persons arrested ings seized shall be immediately handed over to the Excise Inspector of the circle rned, namely:-

1. Assistant Excise Commissioner, I/C Charas and Ganja Squads, U.P. Allahabad,

2. Superintendent of Excise, Ganja Squad, Western Zone, Aligarh.

[Published in Raj. Gaz-IV C dated 11-12-58]

(f) Powers conferred on Officers of State of Punjab

[Notification No. D. 6774/58 F. 37(1) SR/53-11, dated 23-11-59]

In exercise of the powers conferred by section 10(b) of the Rajasthan Excise Act, Act II of 1950), and in supersession of the Notification No. F. 37(1) SR/53/II dated th January, 1958, the Government of Rajasthan does hereby order that with effect he date of publication of this notification in the Rajasthan Gazette the following 's of the State of Punjab shall exercise within the districts of Rajasthan shown a them respectively, the powers under section 45 and 47 of the Act in respect oxicating drugs and liquor as defined in sections 3(14) and (15) thereof on the ion that the persons arrested and things seized shall be immediately handed over Excise Inspector of the circle concerned namely:-

Officers	District of Rajasthan
xcise and Taxation Officer, the ssistant Excise & Taxation Officer, xcise Inspector and Excise Sub-spector posted in—	
) Hisar District.	(a) Ganganager, Churu and Jhunjunu District.
) Gurgaon District.	(b) Alwar and Bharatpur District
) Firozpur District.	(c) Ganganager District.
) Mahendargarh District.	(d) Sikar, Jhunjunu and Alwar District.
aff of the Excise Intelligence ureau not below the rank Excise Sub-Inspector and olice Sub-Inspector,	Ganganagar, Churu, Alwar, Sikar, Jhunjhunu and Bharatpur Districts.

[Published in Raj. Gaz-IV(C) dated 18-2-60, Page 1234-5]

(g) Notification dated 17-4-64 cancelled—

[Notification No. F. 1(34)-FD/RT/65, dated 13-11-64]

In exercise of the powers conferred by clause (b) of section 10 of the Rajasthan Act, 1950 (Raj. Act II of 1950) the State Government hereby cancels this Department ation of even number dated the 17th April, 1964, Published in the Rajasthan Rajpatra, '-(C), dated 23-7-64.

[Published in Raj. Gaz-IV-C-EO-dated 7-1-1965]

5. Investigation when not vitiated—Head Constable cannot investigate excise cases without authority- His investigation is held invalid-But on report of Headconstable seizing liquor, investigation commenced by SHO- Cognizance on report of SHO held not without jurisdiction- No prejudice caused to accused has been shown- Held, trial court's view was erroneous- Trial held not vitiated.[1]

6. Power conferred by Notification under S. 10- (Rule 90 of the Rajasthan Excise Rules, 1956)—All Excise Officers may exercise the powers conferred upon them by any notification under S. 10 for the time being.

[Please refer to such notifications in Part III of the Book- NOTIFICATIONS

1. State v. Masita 1974 WLN 895 : 1974 RLW 541.
Also refer–State v. Rana 1967 RLW 559 ILR (1968) 18 Raj. III.

Chapter [III]

Import, Export and Transport

❑ Introductory Note

Chapter III of the Act deals with "Import, Export & Transport" of Excisable Articles ıder Ss. 11 to 15 of the Act and Chapter IV deals with " Manufacture, Possession Sale" of Excisable Articles under Ss. 16 to 27 of the Act

To give effect to these provisions the Rajasthan Excise Rules. 1956 provide for follows:-

S.No.	Chapter	Subject	Reference to Rules
1.	II	Import, Export, Transport and possession of..... Country Liquor.	Rr 3-16 Rr.17-18A
2.	III	Import & Export of – (a) Indian Made Foreign Liquor. (b) Foreign liquor. (c) Beer.	Rr.19-42.
3.	IV	Transmission & Possession of Intoxicating Drugs.	Rr.43-46
4.	IV-A	Import, Export, Transport possession & Sale of- Denatured Spirit & Licence thereof	Rr.46A to 46E.

The provisions of these Rules are exhaustive and they provide for details relating the provisions of the sections concerned of the Act and are, therefore, to be read gether for complete knowledge of the relevant point of law.

★ ★ ★ ★ ★

I Reference of Definitions—

(1) Excisable Articles— This expression has been defined in Section 3(4) of Act ; follows:

"(4) "Excisable Article " means and includes-

(i) Spirit, fermented liquor or any alcoholic liquor for human consumption or denatured spirit or denatured spirituous preparation, or

(ii) any intoxicating drugs, or

(iii) Still or other appliance for distillation, or

(iv) fermented wash or other material for distillation or

(v) any other article which the State Government may, from time to time, declare to be an excisable article for the purpose of this Act."

The word "Liquor" has been defined under- S.3(15) and is to be notified by the State Government under S.4 (1) of the Act.

(2) "Country liquor" and Foreign liquor"—are to be also declared by the Government under S. 4(2) of the Act.

The word "Liquor" covers not only beverages but also all liquids containing "alcohol" Effect of intoxication is an ingredient of liquor.[1]

"Intoxication"generally means effect of alcoholic stimulants on brain or nervous system of human being. As the term has not been defined in the Act it refers only to the excessive use of intoxicating drugs or liquor.[2]

(3) Denatured Spirit—Refer to clauses (3), (3-A) & (4) of section 3, which are as follows:

(3) "denatured" means mixed with such substance and by such process as may be prescribed under section 42 in order to render any spirit unfit for human consumption whether as a beverage or as a medicine or in any other way whatsoever

(3-A) "Denatured spirituous preparation" means any preparation of denatured spirit or alcohol and includes lacquers. French police and varnish prepared out of such spirit or alcohol.

(4) "Intoxicating drugs"—Refer to S.3 (14) which runs as follows:

(14) "Intoxicating Drug" means—

(i) the leaves, small stalks and flowering or fruiting tops of the hemp plant. (cannabia sativa) including all forms known as Bhang, Sidhi or Ganga.

(ii) Charas, that is, the resin obtained from the hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport.

(iii) Any mixture, with or without neutral materials of any of the above froms of intoxicating drug, or any drink prepared therefrom, or

(iv) Any other intoxicating or narcotic substance which the State Government may declare, by notification in the official Gazette, to be an intoxicating drug, such substance not being opium, coca leaf or a manufactured drug as defined in the Dangerous Drugs Act, 1930 (Central Act II of 1930).

"Sulfa"- Not excisable article— The definition of an intoxicating drug in sub-section (4) of section 3 does not show that it means Sulfa also. Where there is nothing in the evidence to show that Sulfa is charas that is the resin obtained from the Indian hemp plant which has not been submitted to any manipulations other than those necessary for packing and transport, it cannot be held that sulfa is an excisable article within the

1 State of Bombay v. F.N. Balsara AIR 1951 SC 318 (325).

2 A. Narayan Nair vs. State AIR 1952 T.C. 239: 53 Crl.J 1065

ning of sub-section (4) of section (3) of the Act. Hence a person possessing Sulfa not be convicted under section 54 (a) of the Act.[1]

[Please refer to Commentary of section 3 for details of these definitions.]

Excisable Article-wise List of Rules
[Reference Index]

Rajasthan Excise Rules, 1956—

(a) **Country Liquor—**

1. Import, Export. Transport & possession of Country Liquor-[See-Chapter II]
2. Licences for [See-Chapter VI

(b) **Foreign Liquor—**

1. Import and Export of Indian-made foreign liquor and Beer-[See-Chapter-III]
2. Licence-[See Chapter V]

(c) **Denatured Spirit—**

Import, Export, Transport, Possession & Sale of Denatured spirit and licences thereof-[See Chapter IV-A]

(d) **Intoxicating drugs—**

- Transmission & possession of - [See-Chapter IV]
- Licences for-[See-Chapter VI]

(2) **Other Special Rules relating to Country Liquor—**

- Closure of Country shop by local option Rules. 1975
- Country Liquor (Fixation of Strength) Rules. 1963
- Issue & Sale Price of Country Liquor Rules. 1964 and now 1997

(3) **Other Rules relating to Foreign Liquor—**

- The Foreign Liquor (Grant of whole Sale Trade and Retail off licences Rules, 1982

  Hotel Bar & Club Bar Rules, 1973.

[Please refer to these Rules appended in Part II of this Book]

11. Import of excisable article—No excisable article shall be imported ss-

(a) the [2][State Government] has given permission, either general or special, for its import;

(b) such conditions (if any) as the [2][State Government] may impose, have been satisfied, and

(c) the duty (if any) imposed under section 28 has been paid or a bond has been executed for the payment thereof

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Shabir ali vs. State of Rajasthan. 1957 RLW 625; ILR (1957)7 Raj. 1082

Substituted by section 4 of Rajasthan Act No. 38 of 1957. Published in the Rajasthan Gaz. Part IV-A Extraordinary, dated 5.12.1957.

COMMENTARY
SYNOPSIS

1. Meaning of 'Import'
2. Pre-conditions.
3. Other Conditions
4. Provisions of Rules

1. Meaning of "Import"—In clause (13) of Section 3, the word "Import" has been defined "to mean bring into" the State of Rajasthan . Thus when any excisable article (as defined in clause (4) of Section 3) is brought into the territory of the State of Rajasthan, it is called "import" of excisable articles in Rajasthan.

2. Pre-Conditions for Import—(S.11)- There are three conditions in clauses (a) to (c) of Section 11 to be complied with before import of an excisable article-

(i) General or special permission of the State Government to import such article.

(ii) The conditions imposed by the Government to be satisfied and

(iii) Excise duty under S. 28 is paid or a bond executed.

Thereafter such excisable article can be imported or brought into the State of Rajasthan

3. Other Condition (Ss. 13, 14 and 15)—Section 13 empowers the State Government to prohibit import and transport of excisable article by Notification. Passes or permits can be granted under Ss.14 and 15 of the Act on conditions or restrictions imposed by the State Government.

4. Provisions of Rules—In the Rajasthan Excise Rules, 1956, there are following provisions relating to Import of various excisable articles:

(a) **Import of Country Liquor (Rule 3)**

(1) Import to be in accordance with rules (Rule 4)

(2) Import to be subject to the rules of the Exporting State (R 5)

(3) Marking be made on casks (Rule 6), consignment to be accompanied by pass and Accounts (Rule 7) and verification of consignment on arrival (Rule 8).

(b) **Import of Indian-made Foreign Liquor, Foreign Liquor & Beer**—Rule 19 deals with Methods of Import. Rules 20 to 23 have been now deleted w.e.f. 26-3-87 Import on pre-payment of duty in Rajasthan has been explained in Rules 24 to 29 of these rules.

(c) **Import of Denatured Spirit**—has been dealt with in Rules 46-A of these Rules.

(d) **Import etc. of Spirituous Preparations**- has been dealt with the separate Rules called "the Rajasthan Spirituous Preparation. Import. Export. Transport. Possession & Sale Rules. 1989.

[Refer to these Rules in Part II of this book for Text of Rules and also refer to Commentary of S. 71 infra for details]

12. Export and Transport of excisable article—No excisable article shall be exported unless-

(a) the duty (if any) imposed under section 28 has been paid or a bond has been executed for the payment thereof, and

(b) such conditions (if any) as the [1][State Government] may impose, have been satisfied.

[2]**Notification.**–Under clause (b) of Section 12.-Transport of excisable ticles by a retail licencee within the territorial limits of his licence, the state govt. :reby prohibits transport of excisable articles by retail licencee within the territorial nits of his licence without accompanying "Transport declaration form" as prescribed ' Excise Commissioner.

COMMENTARY
SYNOPSIS

Meaning of "Export".
Meaning of "Transport".
3. Pre-Conditions for export & transport
4. Provisions of Rules

1. Meaning of "Export"-- In definition of "Export" in clause (9) of Section 3, it means take out of" the territory of the state of Rajasthan so when an excisable articles [as fined in S. 3(4)] is taken out or sent out of Rajasthan, it is called export of that excisable icle from Rajasthan.

2. Meaning "Transport"—In Section 3(25) the definition of "Transport" has been en. It means "to move from one place to another within" the territory of the State of jasthan. Thus it is different from import and export defined above.

3. Pre-Conditions for Export and Transport—Section 12 provides for two pre-nditions to be satisfied before exporting and transporting of an excisable articles, i.e.-

(a) Duty imposed under S. 28 is to be paid or bond for payment to be executed, and

(b) The conditions (if any) imposed by the State Government are to be satisfied.

4. Provisions of Rules—In the Rajasthan Excise Rules, 1956, there are following visions relating to Export and Transport of the various excisable articles--

Country Liquor—

(a) Export of Country Liquor—It has been dealt with in rules from Rr.9 to 14. Rule ıys down certain conditions, whereas rules 10 & 11 deals with application for permission. :e Rule 12 casks to be marked. Excise Commissioner may extend time of pass or bond under 13. Discharge or enforcement of bond is dealt with in R. 14 of these Rules.

(b) Transport of Country Liquor --It has been dealt with in Rules 15 and 16 putting ıe restrictions.

Indian-made Foreign Liquor, Foreign Liquor & Beer--

Export in General—

(i) R. 31 deals with duty how paid.

(ii) Export from Distilleries in Bond to other States in India has been explained in Rr.32 to 37,

(iii) Export from Distilleries on payment of duty has been given in Rr. 38 to 40 of these Rules

(iv) Export from wholesale Shops by pass (R.41).

(v) Book Transfer of duty is mentioned in R. 42.

Substituted by S. 4 of Rajasthan Act No. 38 of 1957 dated 5-12-1957.
Notification No. F. 4 (62) FD/Ex/96 dated 31-03-1997 w.e.f. 1-4-1997

(C) Denatured Spirit—In Chapter IV-A, import,export, transport, possession sale of Denatured Spirit has been dealt with. Rule 46-B deals with Export of Denatured Spirit, whereas Rule 46-C deals with transport thereof.

(D) Import, export etc. of Spirituous Preparations--The Rajasthan Spirituous Preparations, Import, Export, Transport, Possession & Sale Rules, 1989 deals with these subjects.

[Refer to these Rules in Part II of the Book- Also refer to Commentary of S. 71, infra]

13. Power of [1][State Government]—to prohibit, import and transport of excisable article- The [1][State Government] may, by notification in the [2][Official Gazette]-

(a) prohibit the import or export of any excisable article into or from [1][the territories to which this Act extends or any part thereof];

(b) prohibit the transport of any excisable article.

COMMENTARY
SYNOPSIS

1. Definition of Excisable Article.
2. Validity of Notification
3. Prohibitory Powers of State Govt.
4. Notifications under (S. 13)

1. Definition of "Excisable Article"—

[Refer to Section 3, clause (4) and Introductory Note of this Chapter].

2. Validity of Notification—

[Refer to Commentary of Section 4, Note (3), supra]

3. Prohibitory Powers of State Government—Section 13 empowers the State Government to prohibit import, export and transport of any excisable article by issuising notification in the Official Gazette. This is enabling section in the Act.

4. Notification (under S. 13)—

(1) Charas, Bhang, Ganja & all Intoxicating drugs prohibited—

[Notification No. F 19(8) SR /53, dated 15-2-56 Raj Gaz., I(B), dated 28-2-57]

In exercise of the powers conferred by section 13 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the Government of Rajasthan is hereby pleased—

(1) to prohibit the import into, export out of, or transport within Rajasthan of Charas;

(2) to prohibit the import into Rajasthan of [3][xxx] Bhang except---

(a) when brought by a passenger in his personal possession in a quantity not exceeding the limit of possession of substance concerned prescribed by section 19 of the aforesaid Act read with sub-section (1) of section 5 thereof, or

(b) on behalf of the Government of Rajasthan; and

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1. Substituted by S. 10 of Raj. Act No. 38 of 1957
2. Substituted by S. 4. ibid.
3. Word-Ganja and' deleted w.e.f. 1-4-1959 by Notification No. F. 1 (6) E & T/56-1, dated 17-12-1958, Pub. in Raj. Gaz. Part IV-C, dated 8-1-1959.

(3) to prohibit the export out of Rajasthan of all intoxicating drugs as defined by sub-section (14) of section 3 of the aforesaid Act, except on behalf of the Government of Rajasthan or except by a bonafide passenger as part of his personal luggage in a quantity not exceeding the limit of possession of drug concerned under the aforesaid Act.

(3) Prohibition of "Ganja"—

[No.F 1(6) ET/5-I, dated 17-12-58, Pub. in Raj. Gaz. IV-C dated 8-1-59]

In exercise of the powers conferred by section 13 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the Government of the State of Rajasthan does hereby-

(a) direct that the words "Ganga and " occurring in the Notification No. F. 49(8) SR/53, dated the 15th February, 1957 shall be deleted, and

(b) prohibit the import into, export from and transport within Rajasthan of Ganja by any person except by or on behalf of the Government for scientific purposes.

This shall take effect on and from the 1st April, 1959.

Charas & Ganja—"Charas" is not cannabis plant, but it is resin obtained therefrom, whereas "Ganja" is flowering or fruiting tops of cannabis plant excluding its seeds and leaves when not accompanied by tops (Para7)[1]

(3) Export or Import of Foreign Liquor Prohibited—

[Notification No. F. 3(3) FD/EX/77, dated March 14, 1978]

S. O.207- In exercise of the powers conferred by Section 13(a) of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government hereby prohibits with immediate effect the export or import of foreign liquor out of territory of Rajasthan to which the said Act extends.

[Published in Raj. Gaz. Ex. ord, 4(Ga)(II)- Dt. 15-3-1978 Page 377].

(4) Notification during Period of operation of Rajasthan Prohibition Act—

The following Notifications issued during period of Prohibition in view of the Rajasthan Prohibition Act, 1969 have been rescinded in view of the Rajasthan Prohibition Act Repealing Act, 1981 as these were thereafter rendered useless.

[2][Notification No. F.2(7) FD/EX/81 dated August 21, 1981]

G.S.R.53- In exercise of the powers conferred by sub S (4) of S. 19 of the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950) read with section 15 thereof, the State Government hereby rescinds with immediate effect, the following Notifications issued by the State Government under the said sections from time to time, namely-

1. Notification No. F. 1(62) FD/EX/67/3012 dated 29-9-1967. Pub. in Raj. Gaz. Extra ordy, Part IV-C dated 29-9-1967.
2. Notification No. 2(1) FD/EX/68 dated 20-3-68 Pub. in Raj. Gaz. Extra ordy. Part IV-C dt. 20-3-68.
3. Notification No 2(1) FD/EX/68 Dated 28-2-70 Pub Gaz. Extra ordy IV-C dt. 8-2-1970.

1. Manjee v. State, 1996(2) WLC 405.
2. Published in Rajasthan Gaz,. Extra ordi,. Part IV-C dated 21-8-1981 page 131 (7).

4. Notification No. F.(4) FD/EX/74 dated 11-12-74. S G.205 Pub. in Raj Gaz. Extra ordy. Part IV-C dt. 11-12-1974.
5. Notification No. F. 2(4) FD/EX/74 dated 12-9-77 vide S O.19, Pub. in Raj. Gaz. Extra ordy, Part IV-C dt. 22-9-1977 Page 169
6. Notification No. F. 2(4) FD/EX/77 dated 20-10-77 vide S.G.108, Pub. in Raj. Gaz. Extra ordy. part IV-C dt. 20-10-70 page 199.
7. Notification No. F 2(4) FD/EX/77-I dated 14-5-1978 S.O 301, Pub in Raj. Gaz. Extra ordy. Part IV-C (II) dt 14-3-1978 page 368.
8. Notification No. F 2(5) FD/EX/79-I dated 31-3-79, S.O 238. Pub in Raj Gaz. Extra ordy. IV-C (II) dt. 31-3-79 page 472
9. Notification No. 2(5) FD/EX/79- IV dated 31-3-1979. S.O. 241. Pub in Raj. Gaz extra ordy Part IV-C (II) dt. 31-3-79 page 476.
10. Notification No. F 2(5) FD/EX/79 VII dated 31-3-79 S O 244. Pub. in Raj. Gaz. Extra ordy. part IV-C(II) dt 31-3-79 page 479.

14. Passes necessary for import, export and transport— No excisable article exceeding such quantity as the [1][State Government] may prescribe by notification in the [1][Official Gazette] either generally for [2][All the territories of th State of Rajasthan to which this Act extends] or for any local area comprised therein shall be imported, exported or transported except under a pass issued under the provisions of the next following section.

[3][X X X]

Provided also, unless the [2][State Government] shall otherwise direct, that no pass shall be required for transport of any excisable article or intoxicating drug exported under a pass issued by an officer duly authorised in this behalf from any place beyond the limits [2][those parts of the State of Rajasthan to which this Act extends] to any other place beyond the said limits

15. Grant of passes for import, export and transport- (1) Passes for the import, export or transport of excisable article may be granted by the Excise Commissioner [4][or by an Excise Officer duly empowered in this behalf subject to such restrictions as the [2][State Government] may impose in this behalf from time to time

(2) Such passes may either be general, for definite periods and kinds of articles or special for specified occasions or particular consignments only

1. Substituted by section 4 of Rajasthan Act No. 38 of 1957, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 5th December, 1957
2. Substituted by section 11 ibid.
3. Omitted by section 2 of Rajasthan Act No 22 of 1958 published in the Rajasthan Gazette Extraordinary, Part IV-A, dated 22-5-1958.
4. Inserted by section 4 of Raljasthan Act No.XXVIII of 1952, published in the Rajasthan Gazette Part IV-A dated 13 December, 1952.

COMMENTARY (Ss.14 & 15)
SYNOPSIS

Meaning of
Necessity of Pass
Quantity to be prescribed
Notification issued
5. Grant of Passes
6. Rules relating to Pass/Permit
7. Permit when not valid.

1. Meaning of—

(a) Import [See-S. 3(13)
(b) Export [See-S. 3(9)
(c) Transport [See-S. 3(25)
(d) Excisable Article [See-S. 3(4)

2. Necessity of Pass— Excisable articles in excess quantity cannot be imported, ;ported and transported by any person in Rajasthan without a pass (or permit, as used the Rules) issued by the Excise Authority. Grant of pass has been delt with under 15, infra.

Please see Notification No. 40 Page 657 for exemption of Retail Licence of Foreign iquor & Beer.

3. Quantity to be prescribed—The State Government may prescribe any quantity ' any excisable article which may be imported, exported or transported by a person. or this purpose a notification in the official Gazette shall be published prescribing the uantity in general or in any local area.

4. Notifications issued under Section 14—

(1) Maximum Quantity prescribed for personal Use-
(to be imported or exported without pass)

[Notification No. F. 1(87) E & T/ 59-II, dated 30-11-61]

In exercise of the powers conferred by section 14 of the Rajasthan Excise Act, 950 (II of 1950), and in supersession of this Department Notification No. F. 1(58) E &T/ 1-I, dated the 22nd January, 1959, the State Government hereby prescribes-

(1) In relation to be following excisable articles, the maximum quantities specified gainst them hereunder which may be imported or exported without a pass for personal se throughout the territories of the State of Rajasthan to which the said Act extends-

(a) Country liquor	0.75 litres
(b) (i) foreign liquor (other than Beer, fermented liquor and rectified spirit)	1.50 Litres
(iii) Beer and fermented liquor	4.50 Litres
(c) Bhang	100 gms

(2) The maximum quantities of all excisable articles which may be transported without pass for personal use to be those as declared under sub-section (1) of section 5 of ıe said Act as the limit of sale by retail.

[Published in Raj. Gaz- IV-C- dated 28-12-61]

. Published in Raj. Gaz-EO-IVC- dated 31-10-1962 and as amended by Notification. dated 5-10-1964, published in Raj. Gaz.- IVC- dated 7-1-1965.

(2) For Foreign Tourists

[1] Notification N. F 3/(2) SR/51-II (Part II) dated 31-10-1962]

In exercise of the powers conferred by section 14 of the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950), and in partial modification of Excise and Taxation Department Notification No. F. 1(87) E &T/59-11, dated the 30th November, 1961 the State Government hereby prescribes, generally for all the territories of the State of Rajasthan to which the said Act extends.

(a) two units to be maximum quantity for import, and

(b) four units to be the maximum quantity for export or transport.

Without a pass issued under section 15 of the said Act, for personal use by foreign tourists holding all India liquor permits issued by Indian Missions abroad or by the Directors/Assistant Director in the Government of India Tourist Offices abroad or by the Director or Assistant Director of the Government of India Tourist Office. Bombay, Calcutta, Delhi or Madras.

Note–One unit for the purpose of this notification shall be construed as equal to any of the following or the metric equivalents thereof, namely-

(i) One quart bottle of wines, or
(ii) Two quart bottles of wines, or
(iii) Nine quart bottles of fermented liquors of a strength exceeding two percent of alcohol by volume, or
(iv) Twenty seven quart bottles of fermented liquors of a strength not exceeding two percent of alcohol by volume.

(3) Limit of Retail Sale prescribed by Notification (under S.5) Notification No. F. 1(87) E & T/59-J dated 30-11-61- The following limit of retail sale has been prescribed for all purchasers -

1. Country Liquor ....[3 Litres][1]
2. (a) Foreign Liquor other than Beer, Fermented liquor & rectified sprit.... ....[6 litres][2]
   (b) Beer & Fermented Liquor..... ....9 liters
3. Bhang ....200 gms

[For Foreign Tourists- Please See Notification dated 30-10-1963 in the Commentary of Section 5 of the Act]

5. Grant of Passes- (Section 15)—Section 15 provides that-

(1) Passes for the import, export or transport of excisable article which may be granted by-
   (a) Excise Commissioner, or
   (b) Excise Officer duly empowered in this behalf.
(2) Restrictions may be imposed by State Government from time to time.

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1. Substituted for 2-25 litres vide S.O. 108 dated 31-7-87.
2. Substituted for "three liters" vide No. F. 4 (28) Ex. O2-Pt.-I dated 1-4-2003 w.e.f. 1-4-2003.

(3) Kinds of passes—(i) general. (ii) for definite periods, (iii) for Kinds of articles ıgs or (iv) Special passes for - (a) specified occasions. or (b) particular consignments

6. Rules relating to Pass/ Permit—In the Rajasthan Excise Rules. 1956. there ollowing provisions relating to pass/Permit.-

(1) **Rules 24 & 25**—Procedure for Permit for import of Indian Made foreign Liquor, Foreign Liquor & Bear in Chapter III of these Rules.

(2) **Rule 32**--Export in bond under pass & Rule 33- Application to be made to D.E.O. or Assistant E.O.

(3) **Rule 34**—Permit granted by District Excise Officer or Assistant Excise Officer of exporting district.

(4) **Rule 39**—Application for pass.

(5) **Rule 41**—Pass-for export from whole sale shops

(6) In chapter IV-A relating to Denatured Spirit- Rule 46 A (iii)- Issue of permit for Import, Rule 46-B (ii) Permit for Export, (iii) Application for pass and (v) Issue of pass

7. Permit when not Valid- Under the provisions of the Rajasthan Excise Act and ıules made thereunder, the Assistant Excise Officer was not competent to grant any it, held that such permit was not a valid permit in the eye of law [1]

[Please see for more notifications in Part III of the Book]

State v. Taj Mohammed 1981 WLN 231 . 1982 Cr. LR (Raj.) 408

Chapter [IV]

Manufacture, Possession and Sale

❑ Introductory Note

Chapter III of the Act deals with "Import, Export & Transport" of Excisable Articles under Ss. 11 to 15 of the Act and Chapter IV deals with "Manufacture, Possession & Sale" of Excisable Articles under Ss. 16 to 27 of the Act

To give effect to these provisions of the Act, the Rajasthan Excise Rules 1956 provides for as follows:-

S.No.	Chapter	Subject	Reference to Rules
1.	II	Import, Export, Transport & possession of Country Liquor	Rr. 3-16 Rr.17-18A
2.	IV	Transmission & Possession of Intoxicating Drugs.	Rr 43-46
3.	IV-A	Import, Export, Transport possession & Sale of-Denatured Spirit & Licence thereof	Rr.46A to 46E

The above mentioned provisions of Rules are exhaustive and provide for details on the provision of the sections concerned and are, therefore, to be read together with these sections of the Chapter.

There are Special Rules on various topics of this chapter, we are enlisting these Rules hereunder for ready reference.-

(a) Special Rules—The following special rules have been made for the purposes of this Act—

1. Rajasthan Excise (Grant of Hotel Bar/ Cub bar licences) Rules. 1973
2. The foreign Liquor (Grant of whole sale Trade and Retail off Licences) Rules. 1982
3. The Rajasthan Intoxicating Spirituous Preparations Import, Export, Transport, Possession & Sales rules. 1989
4. The Rajasthan Country Liquor (Fixation of Strength) Rules. 1963
5. The Rajasthan Issue & Sale Price of Country Liquor Rules. 1964 (Now 1997)
6. The Rajasthan Issue & Sale Price of Bhang Rules. 1964
7. The Rajasthan Fixation of Retail Sale Price of Denatured Spirit Rules 1987
8. The Rajasthan Molasses Rules 1985.

[Please refer to Part II of the Book for the Text of these Rules]

(b) Establishment of Distilleries, Brewery or Ware Houses.

Special Rules—The following rules have been made under section 42 of the Act Excise Commissioner with prior sanction of the State Government-

1. The Rajasthan Brewery Rules, 1972
2. The Rajasthan Distilleries Rules, 1976
3. The Rules regulating stock taking and wastage of Liquor at Distilleries & Ware Houses, 1959.
4. The Rules regarding the Wastage in transit, issue and storage of Hemp Drugs in a Ware House, 1959
5. Conditions & Restrictions on Bonded Ware House

|For Text of these Rules, please refer to Part II of this book|

16. Manufacture of excisable article prohibited except under the ovisions of this Act.—(1) (a) No excisable article shall be manufactured,

(b) no hemp plant (Cannabis Sativa) shall be cultivated,

(c) no portion of the hemp plant (Cannabis Sativa) from which intoxicating drug can be manufactured shall be collected,

(d) no liquor shall be bottled for sale,

(e) No Tari producing tree shall be tapped,

(f) No Tari shall be drawn from any tree, and

(g) no person shall use, keep or have in his possession any materials, still, utensil, implement, instrument or apparatus whatsoever for the purposes of manufacturing any excisable article.

except under the authority and subject to the terms & conditions of icence granted in that behalf by the Excise Commissioner [1][or by an Excise ficer duly empowered in this behalf].

(2) No distillery, brewery or pot-still shall be constructed or worked cept under the authority and subject to the terms and conditions of a licence anted in that behalf by the Excise Commissioner.

COMMENTARY

SYNOPSIS

Meaning
Manufacture etc. Prohibited
Restrictions on licence
Violation is offence (Section 54)
5. Principles laid down by courts
6. Benefit of Probation
7. Latest cases

1. Meaning of—Refer to the definitions of -

(a) Manufacture |Section 3(17)|

(b) Excisable Article |Section 3(4)|

Inserted by section 5 of Rajasthan Act No. XXVIII of 1952, published in the Rajasthan Gazette, Part IV-A, dated 13-12-52.

(c) To bottle i.e. bottling -|Section 3(23)|

(d) Tari-|Section 3 (22)|

(e) Still- |Section 3 (21-B)|

2. Manufacture etc. prohibited—This section is prohibitory one, which prohibits certain activities mentioned in clauses (a) to (g) of the Section. The Excise Commissioner or an Excise Officer duly empowered in this behalf has been empowered to grant a licence for these activities with certain terms & conditions.

Please refer to S. 17 for this purpose.

3. Restrictions on & Licence for Manufacturing units of Excisable articles-Sub-Section (2)—Construction or working of manufacturing units known as—

(a) distillery, or

(b) brewery, or

(c) Pot-still

—is also prohibited under sub-section (2), but it is restricted or regulated by a licence granted by the Excise Commissioner. Please refer to S.17, infra, for further details.

4. Violation of restrictions is offence—The contravention of provision of S. 16 are punishable under S. 54 and S. 54-A of the Act, which is very exhaustive.

5. Principles laid down by Court (Illustrative Cases)

Calculation of Excise Compensation—Excise compensation on basis of excise income of jagirdars was taken into consideration for determination of total amount of compensation payable under c. (h) of Para 2 of second schedule Directions given by High Court in D.B. Civil Writ Petition No 1743 of 1964 have been followed by Jagir Commissioner- Held, not open to petitioner to take a stand country to the above decision. (Writ petitions dismissed). *Rao Takhat Singh v. State 1979 WLN (UC) (281) (DB).*

Excise compensation to Jagirdars–Held payable—The Rajasthan Land Reforms and Resumption of Jagir Act shall override all the laws in force. We do not think that the Rajasthan Excise Act was any exception and, therefore, for the purposes of compensations we shall have to give effect to sec. 47 and clause 2(h) of Schedule 11 of the Rajasthan Land Reforms and Resumption of Jagirs Act notwithstanding Sec 16 of the Excise Act *State of Rajasthan v. Rao Takhat Singh ILR (1972)22 Raj 1102, 1973 WLN 958; 1973 RLW 23.*

Private distillation by Jagirdars—Not a right to property, but only a privilege granted by Ex-Ruler Such privilege withdrawn by Rajasthan State by Notification- Notification held valid, *Rao Manohar Singh v. State ILR (1954) Raj 113; 1955 RLW 98, AIR 1954 Raj 85 (FB).*

The privilege of private distillation allowed to the petitioner under the order of the Ruler of Udaipur was not a licence granted to the petitioners within the meaning of section 16 of the Rajasthan Excise Act, or such as would be preserved under the saving section 2 of that Act. The scheme of the Act did not and, could not contemplate the grant of any permanent licence such as were claimed by the petitioners to have been granted to them by the Maharana of Udaipur. The privilege of private distillation

of liquor or even the possession of any materials for the purposes of manufacturing liquor by the petitioners was directly hit by section 16, Rajasthan Excise Act and could not be exercised or enjoyed after the commencement of the Act. The so-called right of private distillation was not a right at all in any strict or legal sense of the term but a privilege enjoyed during the good pleasure of the Ruler. *Rao Manohar Singh v.State ILR (1954) 4 Raj. 113 AIR 1 954 Raj. 85 (FB).*

Section 16 of the Rajasthan Excise Act, 1950 prohibits distillation without proper licence. Driving any income from which it was prohibited by section 16 of the Act was violation of the law and the Jagirdar cannot claim any compensation on that score. The prohibition came into force on 1-7-1959. The court was not prepared to attribute such ignorance of law to the legislation. The court was also not prepared to hold that the provisions of the Rajasthan Land Reforms and Resumption of Jagirs Act repeals the provisions of the section 16 of the Rajasthan Excise Act, 1950.

Section 16 of the Rajasthan Excise Act, 1950 prevailed and the compensation for income derived from illegal distillation in violation to the Act was disallowed. *State of Rajasthan v. Rao Thakat Singh, 1973 RLW 23 : 1973 WLN 958.*

Ss. 16/54- Conviction & Release on Probation—Accused first offender, poor man, belongs to scheduled caste, remained in jail for 5 days- Released on probation. Ram Kalyan v. State 1984 (1) Crimes 465.

Ss. 16/54- Probation allowed- Further Prosecution when not justified—Accused a youngman of 25 found in possession of one bottle of illicit liquor and has remained in jail for few days. No workable still and quantity of wash found in his possession. Held, his further prosecution for manufacturing illicit liquor is not justified. Benefit of Probation granted. *Godhu v. State 1985 WLN (UC) 640.*

Ss. 16/54-Cr. P.C 361–Probation allowed- Accused aged 30–Not a preconvict–Fine deposited—Case pending for last 10 years S. 361 Cr. P.C is mandatory and 'special reasons' for not allowed probation are to be given. *Rameshwar v. State 1985 (1) Crimes 53.*

Ss. 16 &54–Probation—Accused 60 years old- Incident of 1978- Manufacturing of illicit liquor was not in large scale- Already remained in jail for ten days. Benefit of probation given and released. *Mandniya v. State 1985 WLN (UC) 641*

Ss. 16 and 54- Sentence reduced—Inordinate delay in sending the sealed samples for chemical analysis is a relevant consideration, but each case would depend on its own facts. Offence was committed in 1971 and the accused petitioner has already remained in jail for two months, - Sentence was reduced to term already undergone by him. *Dhanraj v. State 1981 Cr. LR 376*

Ss 16 &54 and CrPC S 360 and Rajasthan Excise Act, Ss 16/54- Illicit liquor was recovered from possession of accused who was not a previous convict and was aged 32 years. Held, a fit case to release him on probation under S 360 Cr P.C. (1978 R. Cr. C 224 relied on) *Kakka Singh v State 1981 (6) RCrC 267 : 1981 CrLR 588*

Ss. 16/54 Criminal Practice- Ex-parte hearing in Criminal Appeal- Rehearing allowed- In a Criminal Case, unless an advocate engaged by the accused has been formally disengaged or otherwise instructions are withdrawn from him, he has to appear in the case. In the instant case advocate T did not appear and advocate S could not appear as his name

did not appear in cause list. State-Appeal was heard ex-parte and was allowed. Held, in interest of justice rehearing of appeal was allowed. *State v. Uttam Chand & Het Ram 1981 CrLR 637 and 717.*

Conviction—When case was not found to be doubtful or ground of want of independent witness, the conviction was upheld In sample 90 14% of Ethy Alcohal was found. *Sugan Singh v. State 1989 (2) WLN 324.*

Acquittal—Where only two bottles of illicit liquor were recovered & Accused remained in custody for 13 days, acquittal was maintained, *State v. Machhar Singh 1987 WLN (UC) 549.*

No offence or charge was held made out, where three bottle of liquor recovered from accused. It is not violation of law. *Pritam Lal v. State 1988 WLN (UC) 471, 1988 CrLR (Raj) 724.*

In one case, the prosecution failed to show that the sample of liquid was sent to Chemical Examiner in sealed condition, conviction not proper. *State v. Pritam Singh 1989 WLN (UC) 528.*

6. Benefit of Probation

Benefit of Probation can be given even in the cases where minimum sentence is provided under S. 54 of the Act- Duty of the Court pointed out—These provisions (of S. 4 Probation of Offenders Act and S. 360 Cr. P.C) are mandatory and it was duty of the lower courts to have collected material about the character, antecedents, family back-ground of the offenders and, if the Court, after considering the material came to the conclusion that the offender is of such a character that he cannot reform or rehabilitate only then after recording the "special reasons" it could refuse to deal with the case under the provisions of Section 4 of the Act, 1958. Nothing like this was done in either of the three cases and the concerning courts refused to give benefit of the provisions of Section 4 without material on record, which should have been collected. *Sona Singh v. State 1990 (I) RLR 278 (Paras 5 & 6); 1990 RCC 596*

Probation—Accused convicted, but incident was nine year old and the accused remained in jail for ten days. Benefit of probation granted. *Matu Singh v. State 1987 (I) RLR 311: 1987 (I) WLN 658 : 1987 RCC 241*

Accused belonging to Scheduled Caste committed a pretty trival offence, when one bottle of liquor containing 400 M.L. liquor only was recovered from him. He was senteneed to till rising of the Court, but the effect would be that the accused would be deprived of his service. He was therefore released on probation. *Sultan Singh V State 1987(2) RLR 505: 1987 WLN 467.*

Illustrations–When benefit of probation extended— Accused first offender, remained in jail for ten days and the incident was of 1978. *Nathu Singh v. State 1987 WLN (UC) 220.*

Where the appellate court granted benefit of probation, it tentamounted to setting aside sentence passed by the Trial Court The Trial Court was directed to release the accused on bond with surities. *Ram Chandra v. State 1988 (I) WLN 610: 1988 Cr. LR (Raj.) 78.*

Old incident of 1983. Accused an old man of 50 years. He remained in Jail for 4/15 days. Period of six years lapsed. Now it is unjust to send him back to Jail. Probation ranted. *Chhotu Ram v. State 1989 WLN(UC) 83; 1989 CrLR (Raj) 731.*

Accused 17-18 years old and is running a regular shop. He is not involved in nanufacture of illicit liquor. Still was recovered from open space and not from his house. le is not a previous convict and now expected to stick to his shop. Benefit of probation xtended. *Parvat Singh v. State 1989 (2) RLW 36; 1989 (2) WLN 305.*

Probation when cannot be refused—"Special reasons" are to be recorded for refusal recovery of 140 bottles is held not such a reason to refuse benefit of probation. *Nanua . State 1988(1) WLN 55. 1988 Cr. LR 256 (Raj).*

Sentence, when reduced to period already undergone—Incident seven years old. 44 bottles of liquor recovered, but only six samples were taken. Accused remained in ustody for 12 days. Karam Singh v. State 1987(2) WLN 434. Accused was senteneed o R I for three months with fine of Rs. 300/ period of more than 7 years lapsed. Already emained in custody for 19 days. Poonam Chand v. State 1987 (I) WLN 393: 1987 Cr. .R 160. Some 12 years ago, two pitchers of wash recovered from accused. Sentence educed. Sugan Singh v. State 1989(2) WLN 342. Accused not previous convict and has iot committed such offence after the incident of 12 years . He remained in custody for . month or so. *Jangir Singh v. State 1989 Cr. LR 258 (Raj.)*

Benefit of Probation when given—Minimum sentence has been provided, yet benefit f probation may be given. Provisions of Probation of Offenders Act are mandatory. t was duty of lower court to collect material about accused Special reasons are to be ecorded for refusal of probation. Petitioner is 60 years old. Incident of 1982- No previous onviction- Benefit of probation given to accused.[1]

Benefit of Probation when allowed—incident of years 1981- Accused is 70 years ld with no previous conviction. Benefit given to accused.[2]

Benefit of Probation when allowed—Where accused was 21 years without any revious conviction, benefit of probation given to the accused.[3]

Probation granted—All relevant facts and past conduct of accused well considered y session Judge. (Probation affirmed).[4]

Probation granted by Session Court—Bonds could not be furnished in time. High Court extended period for furnishing personal bond and security bonds and for depositing he amount till 15.4.1992.[5]

Recovery of 17 bottles of Illicit liquor conviction - Probation granted—Case 9 ears old. Trial court has not considered for benefit of probation to be given to accused- Conviction affirmed- But benefit of probation given to accused in revision.[6]

Probation when granted—In appeal against conviction, prayer for release of accused n probation was accepted as there was no previous history of conviction of accused

. Sona Singh v. State, 1990 RCC 596: 1990 (1) RLR 278
2. Amra Ram v. State of Raj, 1990 (2) WLN 222
3. Malkiyat Singh v. State of Raj. 1991 (1) WLN 327
4. Puran Singh S/o Makhan Singh v. State 1992 CrLR (Raj) 243: 1992 RCC 453
5. Puran Singh v. State of Rajasthan 1992 RCC 453: 1992 CrLR (Raj.) 243.
6. Prakash v. State of Raj., 1993 RCC 453

appellant. He has already under gone imprisonment for six days appellant was released on probation.[1]

Benefit of Probation when cannot be denied—Revision filed against order giving benefit of probation to accused in excise case. Held, benefit of probation cannot be denied to a convict on ground of recovery of large quantity of liquor, even when he was not a previous convict for such offence. (Revision dismissed).[2]

7. Latest Case- Law

Cultivation of Bhang without licence punishable under Excise Act and not under NDPS Act—No evidence could be collected during investigation that the petitioner was engaged incultivating and selling the Ganga Petitioner is aged about 72- Not a previous convict-[3]

Increase of Bottling Fee—

Validity Upheld—Held that the provisions of Section 16(1) (a) and (d). 21 and 24 of the Act as also R. 68(2) of ;the Excise Rules are not Ultra-vires the constitution and are not beyond the competence of the state Legislature. Even the increase of bottling fee from 3 paisa to 10 paisa also cannot be said to be excessive (writ petitions dismissed.)[4]

No conscious Possession–Acquittal—22 bottles of liquor recovered from house of accused from a room frequently visited by others Accused is deaf and dumb and was not able to communicate. Held, the accused was, therefore not in conscious possession of 22 bottles of liquor. Accused acquitted.[5]

Seizure & Seal–Acquittal upheld—When prosecution failed to prove that seal was infect held. accused was rightly acquitted. [1950 CLR (Raj.) 509 referred to][6]

Sentence when reduced—Accused 24 years of age on date of incident and suffered imprisonment for 66 days old incident- lapse of 14 years- Held, it is not proper to send accused to jail. Sentence was reduced to period already undergone.[7]

Recalling of witnesses when allowed—Accused was not allowed to cross examine a material witness. Held, serious prejudice was called to accused Prayer of accused for recalling such witness for cross examination was allowed.[8]

Appreciation of evidence–conviction when set asides—No proof that the field from which illicit liquor recovered belonged to appellant accused. No site-plan was prepared and no motbirs were called on. No proof on record whether articles reached chemical examiner in duly sealed condition. conviction and sentence set aside.[9]

1. Ashwini Kumar v. State of Rajasthan, 1995 CrLR (Raj.) 560 1995 RCC 564]
2. Panna Lal v. State, 1997 WLC (Raj.) 428 (UC).]
3. Dharam Chand v.State of Rajasthan, 1995(2) WLN 248]
4. Udaipur Distillery Co. Ltd v. State of Raj. 1996 (2) WLC (Raj) 413 (DB)]
5. State of Raj. v. Bhanwar, 1982 CrLR (Raj.) 740]
6. State of Raj. V. Ladu S/o Maindu, 1990 (2) RLW 520 1990 (2) WLN 80; 1990 (2) RLR 4219.]
7. Ram Singh v. State of Rajasthan, 1991 CrLR (Raj) 342]
8. Jagjeevan Ram v. State of Raj., 1991 Cr LR (Raj.) 172.]
9. Prabhu Singh v. State of Raj., 1991 Cr LR (Raj) 766]

Delivery on Supurdginama—Foreign liquor seized was lying in custody of police. Stuff likely to deteriorate. Liquor delivered to petitioner-owner on supurdginama.[1]

Change when set aside under S. 482, Cr. PC—Petitioner was not arrested on spot. No evidence of identification connecting him with crime, in as much as, none of three witnesses has identified the petitioner to be one of occupants of premises statement of co-accused is not an evidence. Held, no option but to quash the charge framed against petitioner. (Para 6) Order framing of charge is set aside (Petition allowed).[2]

Sentence when reduced—Illicit liquor i.e. a drum of full wash found in the house of accused- Conviction not challenged - Accused petitioner remained in custody for two months. He is first offender. Sentence, therefore, reduced to the period already undergone by him.[3]

Interested Witnesses—No particular number of witnesses be required for proving a fact under S. 134, Evidence Act- Conviction can safely be based on testimony of a single witness. Witnesses cannot be discarded on the sole ground that they were interested in success of the remit of the discharge of their official duties.[4]

Sentence when reduced—An old incident of 14 years. Offence was committed in 1982, The petitioner has undergone about 4 months sentence. In circumstances of the case it appears to be just and proper to modify the sentence of imprisonment for the period already undergone and fine enhanced to Rs. 200/-[5]

Sentence when reduced (sub-section 16/54)—Illicit liquor recovered with workable still from house of accused-petitioner-convicted and sentenced to one year's imprisonment by the trial court conviction confirmed in appeal-Revision–sentence reduced to six months in interest of justice after considering the facts and circumstance of the case (Revision accepted)[6]

Recovery of 150 bottles of illicit liquor–Conviction upheld when samples reached laboratory in sealed condition.[7]

17. Establishment or licensing of distilleries and ware house—Subject to such restrictions or conditions as the [8][State Government] may impose, the Excise Commissioner, may-

(a) establish a distillery or pot-still in which spirit may be manufactured under a licence granted under this Act;
(b) discontinue any distillery or pot-still so established;
(c) license the construction and working of a distillery or pot-still or brewery on such conditions as the [7][State Government] may impose;
(d) establish or license a warehouse wherein any excisable article may be deposited and kept without payment of duty; and
(e) discontinue any warehouse so established.

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1. Shiv Charan v. State of Rajasthan, 1993 CrLR (Raj.) 508.
2. Nagar Mal v. State of Raj, 1993 (3) WLC 941: 1993 RCC 213: 1993 CrLR (Raj.) 175.
3. Gurdeep Singh v. State, 1996 CrLR (Raj.) 5: 1996 (1) RCD 464 (Raj.)
4. Charan Singh v. State of Raj, 1997(1) RLW 514.
5. Surjeet Singh S/o Shyam Singh v. State, 1997 CrLR (Raj.) 28: 1997(1) RCD 74.
6. Nita Singh & Anr. v. State of Rajasthan, 2003(2) CrLR (Raj.) 1414 : 2003(3) RCrC 1640 (Raj.) : 2003(3) RCrD 325 (Raj.)
7. Bhagwan Sahai v. State of Rajasthan 2001(1) RLR 255.
8. Substituted by S. 4 of Raj. Act No. 38 of 1957—Published on 5-12-1957.

COMMENTARY
SYNOPSIS

1. Scope
2. Restrictions etc in the Rules
3. Refusal to renew licence of ware house Important Case M/s R.N Products (89)

1. Scope—Section 17 is like a proviso to Section 16 which empowers the Excise Commissioner to establish or grant licence to or to discontinue the manufacturing units of liquor known as distillery, brewery or pot-still and to regulate the functioning of such units. It also empowers the Excise Commissioner to deal with any warehouse also.

(Refer to Clauses (a) to (e) above).

2. Restrictions & Conditions for Establishment of Distilleries, Brewery or Ware Houses etc.

(a) Special Rules—The following rules have been made under section 42 of the Act by Excise Commissioner with prior sanction of the State Government-

1. The Rajasthan Brewery Rules, 1972
2. Rajasthan Distilleries Rules, 1976
3. The Rules regulating stock taking and wastage of Liquor at Distilleries & Ware Houses, 1959
4. The Rules regarding the wastage in transit, issue and storage of Hemp Drugs in a Ware House, 1959.

(b) Conditions & Restriction for Licence of a Bonded Ware House.

[Please refer to these conditions etc. at the end of Rules -under heading (21) Bonded Ware House.]

[For Text of these Rules, please refer to Part II of this book]

3. Important Case–

M/s R.N. PRODUCTS, JODHPUR v. STATE OF RAJASTHAN

[1989(2) Raj. LR 741]

S. 17- Refusal of Renewal of Licence for establishment of Bonded Ware House & Bottling Plant- Action held arbitrary—

The case of the petitioner is that in respect of M/s. Agro Alwar Mart, Alwar, M/s Shivalik-Ka-Nema, Jaipur and M/s Ajanta Chemicals Alwar, the licences have been renewed even though the aforesaid licensees had failed to start construction within six months from the date of issue of licence. Upon such averment, it was prayed that an order, direction or a writ including a writ in the nature of mandamus or any other writ be granted and respondents be ordered to renew the licence of the petitioner immediately (Para 3)

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[Preliminary objections as to alternative remedy under S. 9A of the Act and involving complicated questions of facts rejected-(Paras-4 to 12)

Please refer to this aspect of Commentary to "Preamble"- Note (16) Supra]

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The matter may be looked at yet from one more angle. The order of the Excise ɔmmissioner is based on the sole ground that since the petitioner failed to establish bottling plant in accordance with term no. 13 of the licence granted to him, hence, was not possible to renew his licence. It doesn't appear that the Commissioner, at l considered, the various grounds constituting the basis of the petitioner's inability establish the bottling plant within the period fixed by the licence Had the Excise ɔmmissioner considered such grounds and would have passed a speaking order rejecting ose grounds, then the petitioner could have very well approached the Divisional ɔmmissioner by way of appeal and could have shown that the order of refusal was d. But this was not done in this case and, hence, the remedy of appeal would have en only illusory and meaningless. (Para 13).

The next submission of Shri Maheshwari was that the petitioner does not have fundamental right to carry on trade or business in liquor. We have no quarrel with is proposition. In our opinion, this too would not be a ground for rejecting the present tition. A similar objection was raised in the case Samrath Bottlers[1] and was negatived. was next contended that S. 37 of the Act did not confer a right to renew of a licence ı the petitioner (Para 14). [Section 37- Quoted]

True, that there is no inherent right of renewal of a licence in favour of the petitioner it, in this case, the petitioner has complained of a hostile and discriminatory treatment ısed on an unreasonable and arbitrary refusal. In our opinion in such a case, this objection so does not disentitle the petitioner from coming to this Court. This aspect of the atter was also considered in Samrath Bottlers Pvt. Ltd.'s case[1] (supra) and this objection o was negatived. We are of the view that where the officers of the State act unreasonably arbitrarily, this Court has always jurisdiction to intervene because executive authorities e expected to act in a fair and reasonable manner.

Learned counsel for the respondents has repeatedly urged before us that even a licence would have been issued to the petitioner, the Excise Commissioner could ıve cancelled the same by virtue of clause 23 of notification Ex 1 and as such, the .se of the petitioner cannot stand on a better footing. Clause 23 of the relevant notification ads as under:-

"23 If the licensee infringes or abets the infringement of any of the conditions his licence, the Excise Commissioner may revoke, cancel and determine the licence ıd forfeit to Government the whole or any part of the security deposited;-

Provided that if the infringement is of a minor nature, the Licence may be restored ıd the order forfeiting, the security may be set aside on payment of a sum not exceeding s. 1000/-".

In our opinion, this clause is wholly inapplicable to the present case because the esent case is not one of cancellation but of refusal to renew a licence and this argument eserves to be stated only for sake of rejection (Para 15)

Case considered on Merits–

Now, having cleared the deck of the preliminary objections/ submissions, we may ɔnsider the case of the petitioner on merits. It is established before us that M/s Agro

1988(2) RLR 577.

Alwar Mart, Alwar had been granted a similar licence on 23-5-87. Likewise, M/s Ajanta Chemicals, Alwar, had been granted a similar licence on 14-5-87. M/s Samrath Bottlers Pvt. Ltd. were granted a similar licence on 15-11-87. The petitioner was granted his licence on 6-10-87. Now, none of the above parties could start a bottling plant by the time the period of the respective licence expired M/s Agro Alwar Mart, Alwar and M/s Ajanta Chemicals, Alwar, moved for renewal of their licences and their licences were renewed even though till the expiry of their licences, both of them had not started bottling of liquor. M/s Samrath Bottlers Pvt. Ltd. also applied for renewal but in its case, the renewal was refused on the ground that it was not in a position to start bottling the liquor Samrath Bottlers Pvt. Ltd., therefore, approached this Court by way of D.B.Civil Writ Petition No. 3427/88 complaining of hostile and arbitrary discrimination. The Bench agreed with the contention of the petitioner in that case that the State or the Excise Commissioner cannot be allowed to pick and choose between similarly situated persons It was held that inspite of the fact that nobody had a right to trade in liquor and nobody had a right to renewal of a licence of an excisable article yet everybody had a right to be treated equally with others, who were similarly situated. In the present case, we find that the petitioner stood in the same position as the aforesaid other persons or concerns who had been granted a renewal. Learned counsel for the respondents tried to distinguish the case of the petitioner on the ground that while at the time of renewal in favour of M/s Agro Alwar Mart, Alwar and M/s Ajanta Chemicals, Alwar, they were in a position to start bottling the liquor and hence their licences had been renewed, but in the case of the petitioner, the petitioner was not in a position to start bottling of the liquor by the date the order Annex. R.1. had been passed. In this connection, much emphasis was laid on the fact that the petitioner had not even acquired land prior to 14-7-88 when Ex. 10 had been issued in favour of the petitioner. It is urged that when the petitioner did not have even land for setting up a bottling plant prior to 11-7-88 there was no occasion for granting a renewal in his favour on 29-7-88. Annex R.1.does not show that the Excise Commissioner at all considered the question from this angle. This is a ground which is being raised in reply to this writ petition for the first time We doubt if this ground is available to the respondents at all. Union of India V Mario Cabralesa (AIR 1982 SC 691), a question arose whether the Govt. could be permitted to shift the ground of refusal to grant accreditation to the respondent. It was held that legality of the governmental action must be adjudged on the reasons stated in the impugned order, and it was impermissible for the Govt. to take a new ground. Reliance in this connection was placed upon Commissioner of Police, Bombay V. Gordhandas Bhanji (AIR 1952 SC 16) and following observations were quoted with approval:-

> "Public orders, publicly made in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officers making the order of what he meant, or what was in his mind, or what he intended to do Public orders made by public authorities are meant to have public effect and are intended to affect the acting's and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

It was held that it was not permissible for the Govt to offer a justification for refusal to grant accreditation to the respondent on grounds other than those given in

mpugned order. This very view has been taken in Mohinder Singh V Chief Election umissioner, New Delhi (AIR 1978 SC 851) and it was observed as follows:-

"....when a statory functionary makes an order passed on certain grounds its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the begining may, by the time it comes to court on account of challenge, get validated by additional grounds latter brought out".

No new ground for refusal open—We are, therefore, of the opinion, that it is not ı to the respondent to rely upon any other ground of refusal other than what had ı stated in Annex. R.I. The sole ground given in this order was that since the licensee failed to establish a battling plant within the prescribed period, renewal could not nade in his favour. At any rate, the petitioner had obtained the land prior to the ing of the order Annex R.I. which was passed on 19-7-88 and, therefore, this ground petitioner was not possessed of land for establishing a bottling plant was not available ıe Excise Commissioner on the date he passed the said order. At the cost of repetition nay mention that petitioner had obtained allotment of land for (sic from) RIICO on '-88 vide Ex 10. (Para 16)

Learned counsel for the respondents urged that the petitioner had failed to submit an for approval to the Excise Commissioner as envisaged by clause 2 of the licence. ıis connection, the petitioner has made a specific averment that the plan of the bonded ehouse had been filed alongwith the original application and it was on receipt of documents that the licence was granted in favour of the petitioner. This contention not been controverted. Moreover, for the reasons already stated, it was not permissible the respondents to raise this ground in their reply, when the Commissioner did not : his order Annex. RI on such a ground Moreover, there was a substantial compliance ıis condition, when the plans had been submitted with the original application itself. :a 17)

Learned counsel for the respondents, strenuously urged that the expression that petitioner 'had failed to establish a bottling plant' and comprehensive enough to : within its sweep the twin grounds, namely, (i) the petitioner had failed to submit an for approval to the Excise Commissioner; and (ii) the petitioner had not acquired l and had not established factory till 19-7-88. In our opinion, such an approach is permissible and the respondents cannot be permitted to raise new grounds, when / were not relied upon while passing order annex R.I. (Para 18)

Nature of power & duty of Authorities--

We may state that an authority vested with statutory powers in under a duty ct reasonably after taking into consideration all relevant material, having bearing on decision to be made by it. It cannot act arbitrarily or capriciously particularly when ıtizen is likely to be affected adversely by its decision. The power to grant or refuse ewal of a licence is a very important power and was to be exercised by the Excise umissioner in a reasonable manner. We do not find that the Excise Commissioner at took into consideration the various representations and the correspondence made the petitioner with the Excise officials. The order does not show that he took into ısideration the reasons advanced by the petitioner, which disabled him from establishing

a botting plant within the prescribed period. The power of refusing a licence is not an unbridled power and therefore, must have been exercised upon consideration of all relevant and material factors. (Para 19)

In the present case, we find that the Excise Commissioner has acted unreasonably and in an arbitrary manner in refusing to renew the licence of the petitioner. it has also acted in a highly discriminatory manner when we compare the case of the petitioner with the case of M/s. Agro Alwar Mart, Alwar and M/s. Ajanta Chemicals, Alwar. (Para 20)

In our opinion, the present case is squarely covered by the Bench decision of this court in Samrath Bottlors Pvt. Ltd. and the learned counsel for the respondents has tried to distinguish that Bench decision without there being any good ground for the distinction. (Para 21)

In the facts and circumstances of the case, we are of the view that the writ petition must succeed. We accept the writ petition. We direct that the licence of the petitioner shall be renewed for the period ending with 31.3.90 provided the petitioner starts bottling liquor within a period of one month from the date of the grant of renewal. We direct the Excise Commissioner/State Govt. to renew the licence of the petitioner for the period ending 31-3-90, within ten days. (Writ accepted) (Para 22)

18. Removal of excisable article from distillery etc.-- No excisable article shall be removed from any distillery, pot-still, ware house or other place of storage established or licensed under this Act unless the duty (if any) payable therefore under this Act has been paid or a bond has been executed for the payment thereof.

COMMENTARY

Scope- Removal of any excisable article from distillery etc. is prohibited and condition has been laid down that-

(a) Duty (if any) has been paid, or

(b) Bond has been executed for payment of duty

Thus the collection of duty is the main purpose behind this provision

Movement or removal of excisable articles from distillery, Warehouse etc. shall be regulated by the special rules mentioned in Commentary of S. 17.

19. Possession of excisable articles in excess of the quantity prescribed by the [2][State Government] prohibited except under permission.—(1) No person not being licensed to manufacture, cultivate, collect or sell any excisable article, shall have in his possession any quantity of such article in excess of such quantity, as the [2][State Government] has, under section 5, declared to be the limit of sale by retails, except under a permit granted by the Excise Commissioner [1][or by an Excise Officer duly empowered] in that behalf.

: Inserted by section 6-ibid.

2 Substituted by section 4 of Rajasthan Act No. 38 of 1957, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-12-1957.

(2) Sub-Section (1) shall not extend to-

(a) any foreign liquor (other than denatured spirit) in the possession of any common carrier or warehouse man as such, or

[(b) XXX]–[Omitted by S.3 of Raj. Act No 22 of 1958- dated 22-5-58]

(3) A licensed vendor shall not have in his possession at any place other than that authorised by his licence, any quality of any excisable article in excess of such quantity as the [2][State Government] has under section 5 declared to be the limit of sale by retail, except under a permit granted by the Excise Commissioner [1][or by an Excise officer duly empowered] in that behalf.

(4) Notwithstanding anything contained in the foregoing sub section, the [State Government] may by notification in the [2][Official Gazette] prohibit or restrict the possession by any person or class of persons, or subject to such exceptions as may be specified in the notification by all persons in [2][those parts of the State of Rajasthan to which this Act extends] or any specified area or areas thereof, of any excisable articles either absolutely or subject to such conditions as it may prescribe.

COMMENTARY
SYNOPSIS

1. Scope
2. Provisions in Rules
3. Limit of Retail Sale Notification u.s.5
4. Notifications u.s. 19(4)
5. Case Law Summarised
6. Expression rendered useless

1. Scope This Section is prohibitory as well as regulatory. The restrictions on possession of quantity of excisable articles have been given in this Section.

The quantity is to be regulated by Notifications, Rules and permits.

2. Provisions in the Rajasthan Excise Rules, 1956

(a) Possession of Country Liquor

(Rules 17 to 18A of Rajasthan Excise Rules, 1955)-

Rule-17 Possession of Country liquor obtained or manufactured unlawfully Prohibited.

Rule-18—Permit for possession beyond limit of retail sale-Application for permit under S. 19(1) of the Act for the possession of Indian-made foreign liquor or Country liquor in excess of the limit for retail sale is to be made to District Excise Officer to grant the permit

Rule-18-A—Possession of liquor beyond certain strength-as specified under S. 2(b) (iii) of the Act by the Excise Commissioner

Inserted by section 6 of Rajasthan Act No. XXVIII of 1952, published in the Rajasthan Gazette, Part IV-A, dated 13-12-1952

Substituted by section 4 of Rajasthan Act No. 38 of 1957, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-12-1957.

(b) Intoxicating Drugs

Rule-45—Possession of drugs unlawfully obtained- Not allowed.

Rule-46—Admixure of drugs-Limit of possession under S. 19 read with S. 5- Notification to be read.

(c) Denatured Spirit

Rule 46-D–(i) Possession by any individual Not to be possessed in excess of the limit of retail sale with out permit from the District Excise Officer or Assistant Excise Officer.

(ii) Permit for possession to be granted for the purposes mentioned thereof.

(iii) Possession for specified purposes on licence granted by District Excise Officer with previous sanction of Excise Commissioner.

[Please refer to the Text of Rules for details]

[For list of Special Rules, please refer to "Introductory Note" of this Chapter and contents of the book].

3. Limit of Retail sale prescribed by Notification—(Under. S. 5)

[Notification No. F. 1(87) E & T/59-I dated 30-11-61]

The following limit of retail sale has been prescribed for all purchasers-

1.	Country Liquor-	[3 Liters][1]
2. (a)	Foreign Liquor other than Beer, fermented liquor & rectified spirit	[6 liters][2]
(b)	Bear & Fermented Liquor-9 liters.	9 liters
3.	Bhang-	200 gms.

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[**For Foreign Tourists**- Please see Notification dated 30-10-1963 in the Commentary of section 5 of the Act in commentary of S.15, supra]

(4) NOTIFICATIONS [under S. 19 (4)

I. Notification No. F. (40) E & T/56, dated 18-6-1956

In exercise of the powers conferred by section 19(4) of the Rajasthan Excise Act, 1950 (Act No. II of 1950) the Government of Rajasthan does hereby direct that in the whole of Rajasthan no person, not being licensed to manufacture, collect or sell, shall at any one time keep in his possession more than four quart bottles of foreign liquor excepting beer.

[Published in Raj. Gaz- Part 1 (b) dated 30-6-1956, Page 291]

II. Notification No. F. 1(58) E & T/58 III dated 22-1-1959

In pursuance of the provisions of sub-section (4) of section 19 of the Rajasthan Excise Act, 1950, (Act No. II of 1950) and in supersession of notification No.F. 3 (II) SR 50 dated the 20/30th June, 1951, the Government of Rajasthan hereby directs that notwithstanding anything contained in sub-sections (1), (2) and (3) of the said section, no person shall take into or keep upon, any premises used as restaurant in the whole of the State of Rajasthan except Abu area any quantity of liquor unless such premises have been licensed for the consumption of liquor thereon under the said Act or the Rules made thereunder.

1. Substituted vide S.O. 108 dated 31-7-87 for "2.25 Liters."
2. Substituted w.e.f. 1-4-2003 for "3 Liters"

Explanation—'Restaurant' means any place to which the public are admitted for the consumption of food or drink, for consideration.

[Pub. in Raj. Gaz- Part IV-C dated 12-2-1959]

(5) Case Law Summarised

Meaning of "Specified Area" used in S. 19(4)—Restaurants included by Notification No. F3 II SR/50 of 20/23 June 1951 in it and keeping liquor in restaurants prohibited- 'restaurants" defined in Notification- Held, Notification not ultravires the State Government [AIR 1961 SC 652, distinguished]

It is obvious that an area can be specified by its name or geographical limits or in any other way. Where the notification gives of the definition of restaurant as a place used for the purpose of the consumption of food or drink by the public for consideration, it is sufficient to particularise that area and all the restaurants situated in the whole of the State of Rajasthan where the Act applied, are thus specified areas within the meaning of section 19(4) of the Act. Under the circumstance, the notification which prohibits the keeping of liquor in restaurant in whole of the State of Rajasthan is not ultravires of the State Government.[1]

Retail Sale of Country Liquor—Tenders invited- Earnest money deposited- Petitioner withdrawn the tender- Tender accepted- Security Deposit not deposited. Held, the forfeiture of earnestmoney was valid as per clauses of the tender.[2]

Validity of Permit [under Ss. 18 and 54 and Excise Rules R.18]—District Excise Officer and his superior officers are competent to grant the licence and permits and Assistant Excise Officer was not competent to grant any permit under the provisions of law. **Held,** alleged permit granted by AEO was not a permit in eye of law. (Acquittal set aside- accused convicted).[3]

❑ Latest Case Law

Cancellation of whole sale IMFL/bear licence and forfeiture of Security and Licence fee—Validity examined—order quashed—Refund to be made—[Section 19/54 & 58 (c)]—

Allegation of unauthorised storage and breach of conditions of licence levelled against the contractor. No enquiry was conducted on defence take by the contractor that he did not get possession of the room in which IMFL/bear issued to previous contractor was stored and it was stock of the previous licence—Link of acquisition of stocks of previous licensee by the current licence—not established, Action taken by search party in Searching and seizing only premises in dispute casts serious doubt on the turthfulness of the Search Report.

In absence of such link evidence having been established that there was conscious transfer of excisable articles in favour of subsequent licensee he cound not have been held liable for the recovery of said articles from the premise which were approved in favour of the previous licensee for conduct of his busniess.

The single Judge was, thus, justifies in holding that the order of cancellation of license by the commissioner of wholesale IMFL/bear License and country Liquor cannot be sustained and deserves to be quashed.

1. Mahaveer Prasad v. State ILR (1967) 17 Raj. 469: 1967 RLW 211.
2. Bhanwar Lal v. State ILR (1976) 26. Raj 462: 1976 WLN (UC) 129: 1976 RLW 354:
3. State v. Taj Mohd., 1982 WLN 231: ILR (1982) 32 Raj. 692: 1982 CrLR (Raj.) 408: 1982 Raj LR 232.

Held that as cancellation of licenses in both the cases have found to be illegal consequently, the order of forfeiture of security and license fee in each case can not be sustained and they are required to be refunded to the contractor. If the contractor is entitled to interest there on under the law, he is also entitled to such interest.

Further held that damages can not be granted in this writ petition. (Appeal dismissed) [Case of Chief conservator of forest, Govt. of A.P. v. Collector & Ors., 2003 (3) SCC 472 referred][1]

6. Expression "those parts of the State of Rajasthan to which this Act extends"- used in Section 19(4) rendered useless—This expression was inserted in 1957. Thereafter the Act was made applicable to "Abu Area" w.e.f. 1-9-78 and is now applicable to whole of the State of Rajasthan. So this expression is of no use.

20. Sale of excisable article without licence prohibited—No excisable article shall be sold without a licence from the Excise Commissioner [2][or any Excise Officer duly empowered in that behalf]; provided that—

(1) a person licensed under this Act to cultivate or collect the hemp plant (Cannabis Sativa) may sell without a license those portions of the plant from which any intoxicating drugs can be manufactured to any person licensed under this Act to deal in the same or to any officer whom the Excise Commissioner may prescribe;

(2) a licence for sale in more than one district of [3][those parts of the State of Rajasthan to which this Act extends] shall be granted with the previous approval of the [3][State Government], and

(3) nothing in this section applied to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.

21. Sale of excisable article—No liquor shall be bottled for sale, and no excisable article shall be sold, otherwise than in accordance with the terms and conditions of a licence granted in that behalf.

22. Prohibition of sale, etc. to certain persons or in certain manner or circumstances—(1) No licenced vendor and no person in the employ of [4][Such vendor or acting] on his behalf shall sell or deliver any liquor or intoxicating drug-

(a) to any person apparently under the age of 18 years, or
(b) to any person of unsound mind or
(c) to any soldier on duty and in uniform except with the permission of the proper officer of the unit to which the soldier belongs.

1. State of Rajasthan V. Manoj Ali, 2006 (6) Rajasthan Daily Decisions 3363 (Raj.-DB)
2. Inserted by section 7- ibid.
3. Substituted by section 4 of Raljasthan Act No. 38 of 1957, published in Rajasthan Gazette, Extraordinary Part IV-A, dated 5-12-1957.
4. Substituted by section 3 of Rajasthan Act No. 28 of 1961, published in Rajasthan Gazette, Part Iv-A, Extraordinarey dated 21-10-1961.

planation:—The provisions of this sub-section apply whether the liquor or intoxicating drug is sold or delivered to a person for consumption by himself or by any other person and whether the sale or delivery is for consumption on the premises of the vendor or otherwise.

(2) No such vendor or person as aforesaid shall sell or deliver any liquor intoxicating drug in exchange whether wholly or in part, for jewellery, clothes, ns or household utensils.

23. Prohibition of employment of children under the age of 18 years, women and of certain other persons—(1) No person who is licensed sell liquor for consumption on his premises shall, during the hours in which h premises are kept open for business, employ or permit to be employed, ner with or without remuneration, any person under the age of 18 years or liper or any person suffering from an infectious disease in any part of h premises in which such liquor or spirit is consumed by the public.

(2) No person who is licensed to sell foreign liquor for consumption on premises shall, without the previous permission in writing, of the Excise mmissioner, [1][for an Excise Officer duly empowered in that behalf] during hours in which such premises are kept open for business, employ or permit be employed either with or without remuneration any women in any part such premises in which liquor is consumed by the public.

(3) Every permission granted under sub-section (2) shall be endorsed on license and may be modified or withdrawn.

COMMENTARY

SYNOPSIS

Prohibition on Sale
Provision in Rules
Violation is offence under Section 55
4. Expression rendered useless
5. Case Law Summarised

Sale of Excisable Articles [Ss. 20 to 23]

1. Prohibition on Sale of Excisable Articles without licence—

For Sale of excisable articles, a licence is necessary (See Ss. 20 and 21 in the above)

For licences—[See Commentary of S. 31 also.]

2. Provisions in the Rajasthan Excise Rules 1956—

(i) Sale of Denatured Spirit-Rule 46-E—deals with (i) whose Sale vend, (ii) Retail l and (iii) Limit of retail vend.

(ii) Sale of Foreign Liquor and Beer-Rule 47—deals with whole Sale vend licences Rules 48 to 56 deal with various licences for retail Sale-

(a) Shop licences (Rule 49)
(b) Hotel and Dak bunglow (R.50)
(c) Restaurant or Hotel bar (R.51)
(cc) Club bar (R.51-A)

Inserted by section 8 of Rajasthan Act No. XXVIII of 1952, Published in the Rajasthan Gazette, Part IV-A, dated 13-12-1952.

(d) Railway Refreshment Room & Dining Car (R. 52)
(e) Canteen Tenant (R. 53)
(f) Occasional Licences (R.54)
(g) Licences for the Sale of Tonic & medicated wine (R.55)
— Rectified Spirit (R. 56)

District Excise Officer is the Licencing Authority for these licences.

[Please refer to the Text of Rules for details]

[For "Special Rules" please refer the List in Introductory Note of this Chapter.]

3. Violation of Prohibitions mentioned in Section 22 and 23 are punishable under S. 55—[Please refer to section 55 infra.]

4. Expression "those parts of the State of Rajasthan to which this Act extends" used in Section 20(2) rendered useless—This expression was inserted in 1957. There after the Act was made applicable to "Abu Area" w.e.f. 1-9-78 and is now applicable to whole of the State of Rajasthan. So this expression is of no use.

5. Case law Summarised —

—Refund of security deposit- When demand of licensee could not be met out, he is entitled to refund of deposit, but when interest was not claimed in notice under section 80 CPC- Held, plaintiff is not entitled to interest on amount of deposit.[1]

—Contract for Sale of liquor- Short Supply where liquor not available at Warehouse. Held, suit of plaintiff deserves to be decreed where State was responsible for short supply of liquor.

— Sale of liquor- Where the liquor was not supplied inspite of payment of full amount of price- Held, suit is liable to be decreed.

—Validity of Rules (Amendment of 1985) Challenged- Rule making power under S. 42 (c) & Rajasthan Issue & Sale Price of Country Liquor Rules, 1964 as amended in 1985—

(a) Source of rule making power not flowing from S. 42 (c), but from S. 42(a)- mention of wrong provision not to invalidate the Rules, when justified under Other provision- Rules Valid, (Paras 31, 35 & 36)

(b) Meaning of word "regulating" used in S. 42(a) examined. (Para 35)—

(c) No discrimination-No violation of Art. 14 of the Constitution (Para 37)

(d) S. 42 (e) not ultra vires the Constitution- No unfettered, uncanalised or arbitrary powers vesting in the Excise Commissioner where rules made after prior sanction of State Government.[4]

Exercise of Jurisdiction by Excise Commissioner—Grant of Licence for Exclusive Privilege— (S.24)

Writ petition filed for seeking directions for declaration that (i) respondent was not eligible for consideration of tenders and (ii) finalization of tenders in favour of respondent. Held that exercise of discretion by Commissioner is neither unreasonable nor, is against public interest. Highest bidder has been accepted. Excise Commissioner, thus, has rightly

1. Dhanraj v. State of Rajasthan 1986 WLN (UC) 392.
2. Mangi Bai v. State 1986 WLN (UC) 183.
3. M/s Ajaib Singh and Co. v. State 1985 WLN (UC) 66.
4. Lekh Raj. V. State 1987 (1) RLR 661: 1987 (1) WLN 774

rcised the jurisdiction (Para 6) (Writ petition dismissed)

[AIR 1984 SC 1030 and 1980 SC1992 relied on].[1]

Termination of Licence by District Excise Officer—Date of expiry of licence wrongly ntioned in licence as 31-5-1979 instead of 31-3-1979. As per rules it was due to be ninated by 31-3-1979 i.e. at end of the financial year. Held, the date wrongly entered licence gives no right to petitioner to make a claim. Petitioner committed default in ns of the licence and not deposited balance of amount in time despite notice and view of this, the cancellation was justified.[2]

24. Grant of exclusive privilege of manufacture, etc—Subject to the ovisions of section 31, the Excise Commissioner may order the grant to any rson of a licence for the exclusive privilege-

(1) of manufacturing or of supplying by wholesale, or of both, or

(2) of selling by wholesale or by retail, or

(3) of manufacturing or of supplying by wholesale, or of both, and of selling by ail, any country liquor [3][Foreign liquor] or intoxicating drugs within any local area [4][those parts of the State of Rajasthan to which this Act extends].

COMMENTARY
SYNOPSIS

Exclusive Privilege System- -
Legal Provisions
Procedures of collecting of Excise duty
Three fact situations (Section 24)
4. In view of Courts (Case Law)
5. Expression "those parts of the State.....
6. Subject to provisions of Sec. 31
7. Negotiations for tender

1. Exclusive Privilege System-Legal Provisions—Licence for the exclusive privilege y be granted by the Excise Commissioner under section 24 of the Act.

Rules 67 I to 67 L in Chapter VII-B of the Rajasthan Excise Rules 1956 deal with licence payment of lumpsum amount instead of or in addition to pay duty.

Section 30 deals with payment for exclusive privilege.

Grantee of exclusive privilege is authorised to let or assign the whole or part of his vilege under S. 26 of the Act. Section 27 provides for recovery by grantee of exclusive vilege of sums due to him.

2. Procedures of Collection of Excise Duty—In the Rajasthan Excise Rules, 1956, re are three methods or procedures for granting licences and collection of excise duty as ows-

(1) By Auction- [Chapter VII-Rr. 60-67]

(2) By Guarantee System [Chapter VII-A-Rules 67-A to 67H]

(3) By Payment of Lump sum instead of & in addition to pay duty.
[Chapter VII-B Rules 67-I to 67L]

M/s Shiv Dayal & Party & Ors. v. State of Rajasthan (Four writ petitions) 1991 (2) Raj Lr 559.

M/s Amar Kumar v. Board of Revenue, 1996 (1) WLC 156.

Substituted by section 4 of Rajasthan Act No. 38 of 1957, published in Rajasthan Gazette Extraordinary Part IV-A, dated 5-12-1957.

Inserted by S.7 of Rajasthan Finance Act 1982 (No. 8 of 1992), Published in Raj. Gaz. EO-4 Ka, dated 30-3-82. Page 119.

3. Exclusive Privilege–Three fact-situation—(Section 24)- There are three fact-situations in which the Excise Commissioner may order the grant of a licence for the exclusive privilege, which is subject to the provisions of section 31 relating to grant of licences-

(1) Manufacturing or
Supply by whole sale, or
both

(2) Selling by whole sale or
by retail, or

(3) Manufacturing, or Supplying by whole sale or both and selling by retail.
—relating to (a) Country liquor, or
(b) Foreign liquor, or
(c) Intoxicating drug
—within any local area of the State of Rajasthan

Thus , the exclusive privilege can be given in any of the fact- situations mentioned above in (1),(2) and (3) and such privilege can be given for any of the excisable articles mentioned above in (a), (b) or (c). This exclusive privilege be given in any local area of the State i.e. not for the whole of the State but area wise.

4. Exclusive Privilege System (Ss.24,28&30) in view of the Courts-(Case Law) Guarantee & Exclusive Privilege Systems- Grant of licences thereunder for country liquor- Liability of Licensee to pay stipulated sum-Enforcing payment of guaranteed sum not recovery of Excise duty—The license fee stipulated to be paid by contractors is the price of consideration for rental charge- Neither a tax nor an excise duty. [AIR 1975 SC 360, 1975 SC1121 & ILR (1969)2 Ker 7[foll] These licenses are contracts and lumpsum amount voluntarily agreed to pay to the State are not levies of excise duty, but are in the nature of lease money or rental or lumpsum amount for exclusive privilege of retail sales granted by the state to the licensees. The lump sum amount stipulated is not to be equated with Issue price also. [1974 WLN 367 (DB) Affirmed][1]

Ss.24.28 and 30- Rajasthan Excise Rules, 1956, Rr. 6 A, 90 Chapters VII A and VII B Rajasthan Issue and Sale Prices of Country Liquor Rules 1964, R.2—Licence for sale of country liquor Guarantee system and exclusive privilege System- "Value Price" and "Licence Fee" include excise duty-Excise duty chargeable only on liquor drawn from Government Warehouse at time of purchase and not on undrawn quantity of liquor.[2]

Exclusive Privilege of Sale of Country Liquor—Section 24 read with section 30 authorises the Excise Commissioner to grant a licence for the exclusive privilege of selling by retail country liquor in the State of Rajasthan and under Commissioner may accept payment of a sum in consideration of the grant of the licence for exclusive privilege under S. 24- Contractor is bound to pay guaranteed amount even when liquor is not sold in agreed quantity.

Constitution of India- Art. 47—Contracts to sale liquor not void being opposed to Directive Principles of State Policy contained in Art 47.[3]

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1. Pannalal v State of Rajasthan (1956) 2 SCC 633: 1975 Tax LR 2005: AIR 1975 SC 2008
2. Bal Mukand v. State ILR (1972) 22 Raj. 84 : 1971 WLN 373: 1972 Tax LR 2453.
3. State v. Balmukund, 1974 WLN 367: ILR (1974) 24 Raj. 910 (DB)

When and how excise duty can be levied in Rajasthan—Constitution of India, . 265- Interpretation of Statutes- Intention to tax should be by express words in Notification- levy of duty under the Act could not be in any other manner excepting the one vided by the Act. The excise duty could not be imposed either by means of a contract by executive order or direction. It is a well settled proposition of law that intention ax cannot be assumed to otherwise than by express words. If a new burden by way ax is to be imposed it must be stated in plain language and direct reference however inent the source is not adequate to impose a tax. No tax can be levied by inference analogy.[1]

Guarantee System availed for full term- Challenge to its Validity not allowed—er excluding his competitor and taking the licence and enjoying the monopoly, the itioner could not challenge the validity of the Guarantee System.[2]

Auction- Highest bid-Not necessary for Government to accept it—The power given the Government by the Act to sell the exclusive privilege in such manner as it thinks is a very wide power. The power is unrestricted. It includes the power to sell by vate negotiation.[3]

Licence for whole -Sale & retail Sale of liquor—Where the highest bidder backed t, it s not obligatory to accept second highest tender when he was only surviving iderer. Commissioner of Excise entered into negotiations with third party offer of third rty was higher than the writ petitioner. Held, licence given to third party was not arbitrary ion of Commissioner. [AIR 1983 SC 1956 followed].[4]

Highest bid—Cancelling the highest offer and giving it to the next highest offer is held to be not proper.[5]

Guarantee System & Exclusive Privilege System- Distinguished—Under the uarantee system' the licensee guarantees the payment of the specified value of the quor in a particular financial year which is called under that system the amount of guarantee, ereas under the Exclusive privilege system' the licensee guarantee the payment of ch lump sum instead of, or in addition to the excise duty as is determined by the cise Commissioner and subject to such other terms and conditions as may be laid wn by him.

Under the guarantee system the licensee is required to pay the 'value' of the quor to the extent to which he guarantees the payment the value of the liquor contains rtain portion which can easily be attributed towards the payment of excise duty as licensee pays that amount by drawing liquor from the warehouse of the State Government id paying the issue price thereof. Under the "Exclusive privilege system" that component the issue price which is attributable to payment of excise duty is adjusted towards e guaranteed amount which a licensee is required to pay during a financial year under e licence issued under chapter VII-B of the rules which means that the licensee under e exclusive privilege system guarantees the payment of the excise duty to the extent

State v. Balmukund, 1974 WLN 367; ILR (1974) 24 Raj. 910 (DB)
State v. Balmukand ILR (1974) 24 Raj. 910; 1974 WLN 367 (DB)
State of Orissa v. Hari Narain Jaiswal 1973 UJ (SC) 8 (Notes).
Malu Khan v. State AIR 1990 Raj. 112; 1989 (1) RLR 890; 1989(2) WLN 337
Bhooma Reddy v. State of Mysore 1969 (1) SCC 68; 1969 (2) SCJ 114.

the lump sum is determined by the Commissioner and for the payment of that guaranteed amount he has to purchase from the bounded Ware-house of the State Government liquor of such value which may go to pay the entire amount guaranteed by him under that system.

A close comparison of the two systems reveals that the "exclusive privilege system" is nothing but an old wine in a new bottle. Under the guarantee system the licensee is required to pay the amount guaranteed by him in the shape of the value of the liquor whereas under the exclusive privilege system he is required to pay the excise duty as lump sum fixed by the Commissioner under section 30 of the Act read with Rules 67-I of the rules by drawing liquor of the value which may be sufficient to pay off the guaranteed amount from the component part of the issue price which is attributable to the payment of excise duty.[1]

Licence for Sale of Country Liquor-Guarantee System & Exclusive privilege systems distinguished—"Value Price" and "Licence Fee" include excise duty - Excise duty chargeable only on liquor drawn from Govt. Warehouse at time of purchase and not on undrawn quantity of liquor.[1]

Exclusive Privilege of Sale of Country Liquor—S.24 read with S. 30 authorises the Excise Commissioner to grant a licence for the exclusive privilege of selling by retail country liquor in the State of Rajasthan and under S.30 instead of or in addition to any duty leviable under this Chapter Excise Commissioner may accept payment of a sum in consideration of the grant of licence for exclusive privilege under S. 24. Held, the contractor is bound to pay guaranteed amount even when liquor is not sold in agreed quantity. (ILR (1972) 22 Raj. 84, reversed).[2]

Guarantee & Exclusive Privilege System- Grant of Licences for country liquor thereunder- Liability of Licensee to pay stipulated sum-Enforcing payment of guaranteed sum not recovery of excise duty- The licence fee stipulated to be paid by contractors is the price or consideration rental charges- Neither a tax nor an excise duty. [AIR 1975 SC 360, 1975 SC 1121 and ILR (1969) 2 Ker. 71 foll]. These licences are contracts and lumpsum amount voluntarily agreed to pay to the State are not levies of excise duty, but are in the nature of lease money or rental or lumpsum amount for exclusive privilege of retail sales granted by the State to the licencees. The lumpsum amount stipulated is not to be equated with Issue price also. [1974 WLN 367(DB) affirmed].[3]

Decision of Excise Commissioner upheld being just and fair where the Highest bidder backed out.[4]

Nature of Contract—S. 30 & Rajasthan Excise Rules, 1956—R. 67—No concluded contract where tender was temporarily accepted Non-compliance of concluded contract where tender was temporarily accepted Non-compliance of Conditions—Held, open to non-petitioner to withdraw the acceptance of tender.[4]

1. Balmukand v. State ILR (1972) 22 Raj. 84; 1972 WLN 373; 1972 Tax LR 2453
2. State v. Balmukund ILR (1974) 24 Raj. 910; 1974 WLN 367 (DB)
3. Pannalal v. State of Rajasthan (1975) 2 SCC 633; 1975 Tax LR 2005; AIR 1975 SC 2008
4. Champa Lal v. State 1986 WLN (UC) 178

Contract of sale of Liquor–suit when decreed—Short supply by Government ware house—where liquor was not avaiable in the ware house, held the suit of plaintiff deserves be decreed when the State was responsible for shourt supply of liquor.[1]

Where the liquor was not supplied inspite of payment of full amount of price held–the suit is lable to be decreed.[2]

Refund of Security Deposit—When demand of licensee could not be met out, he is entitled to refund of deposit, but where the interest was not claimed in the notice under S. 80, CPC, held that plaintiff is not entitled to interest of deposit.[3]

Question of Lack of Supply or Short Supply of Country Liquor raised by contractors-petitioners before High Court in Writ petitions :

Each writ petitioner was asked to establish that how much quantity of liquor was not supplied due to lack of supply. No details could be furnished. Held, no cause of action in favour of petitions survives for consideration of the High Court. (Petitions dismissed).[4] *State of Rajasthan v. Shri Nand Lal, etc. J.T. 1992 (5) SC 655 relied on.*

Increase of Bottling Fee—

Validity Upheld—Held that the provisions of section 16(1)(a) and (d), 21 and 24 of the Act as also R. 68(2) of the Excise Rules are not ultravires the Constitution and are not beyond the competence of the State Legislature. Even the increase of bottling fee from 3 paisa to 10 paisa also cannot be said to be excessive (Writ petitions dismissed).[5]

5. Expression "those parts of the State of Rajasthan to which this Act extends" used in section rendered useless—This expression was inserted in 1957. Thereafter the Act has been extended to whole State of Rajasthan w.e.f. 1-9-78, but this expression was not omitted may be due to oversight.

6. "Subject to the provisions of Section 31"—Section 31 read with relevant rules provides for various kinds of licences for excisable articles for various purposes. Exclusive privilege System can be resorted to by Excise Commissioner in appropriate cases.

[Please refer to Section 30 and 31 for further details]

7. Negotiations for Tender—The Commissioner Excise is held competent to enter into negotiation and petitioner has a right to participate in such negotiations.[6]

25. Manufacture and sale of liquor in military cantonments—Within the limits of places in which any military forces are stationed and within such distance from those limits as the [7][State Government] in any case may prescribe, no licences for the manufacture or sale of liquor, or for an exclusive privilege in respect of liquor under section 24 shall be granted unless with the consent of the Commanding Officer.

1. Mangi Bai v. State 1986 WLN (UC) 183.
2. M/s. Ajaib Singh & Co. v. State 1986 WLN (UC) 66
3. Dhanraj v. State 1986 WLN (UC) 392.
4. Ram Gopal v. State. 1995 (1) RLW (Raj.) 609; 1995 (4) WLC 621.
5. Udaipur Distillery Co. Ltd. v. Stae of Raj. 1996 (2) WLC (Raj) 413 (DB).
6. M/s Malu Khan & Party v. State 1989 (2) WLN 337
7. Substituted by section 4 of Rajasthan Act No. 38 of 1957, published in Rajasthan Gazette Extraordinary Part IV-A, dated 5-12-1957

COMMENTARY

Scope—Section 25 imposes restriction on manufacture and sale of liquor in Military Cantonments. The State Government may prescribe limits of such area in which-

(i) No licence for manufacture or sale of liquor, or.
(ii) No Exclusive privilege in respect of liquor as enumerated under S. 24 of the Act—

—Shall be granted without the consent of the Commanding Officer—

This Prohibition is in the interest of the military establishment & employees.

26. Grantee of exclusive privilege may let or assign—Subject to the conditions of his licence, the grantee of any exclusive privilege may let or assign the whole or any portion of his privilege; but no lessee or assignee of such privilege or portion of a privilege shall exercise any rights as such unless and until a licence has been granted to him by the Excise Commissioner on application made by the grantee.

COMMENTARY

Scope–Rights of Grantee of exclusive privilege—Section 26 extends the "right to let or right to assign" the whole or any portion of exclusive privilege to the grantee but this will be subject to the conditions of his licence.

On application made by the grantee, when the Excise Commissioner has granted a licence to a lessee or assignee of such privilege, he shall thereafter be entitled to exercise any rights let or assigned to him by the grantee, but not before granting such licence.

27. Recovery by grantee of exclusive privilege of sum due to him–Any grantee, lessee or assignee as aforesaid may recover from any person holding under him any money due to him in his capacity of a grantee, lessee or assignee, as if it were an arrear of rent recoverable under the law for the time being in force with regard to land holder and tenant:

Provided that nothing contained in this section shall affect the right of any such granteee, lessee or assignee to recover by civil suit any such amount due to him from any such person as aforesaid.

COMMENTARY

Right to recover sums due to grantee, lessee or assignee–Section 27 is enabling provision which authorises any grantee, lessee or assignee of exclusive privilege (refer to S. 26, supra) to recover from any person holding under him any money due to him in his such capacity. For this purpose such amount shall be treated as "arrears of rent" which is recoverable under the law relating to landholder and tenant. (i.e. Rent Control Act).

But this section will not affect the right of any such grantee, lessee or assignee to recover any such amount by way of civil suit.

Chapter [V]

Duties and Fees

❑ Introductory Note

Chapter V of the Act under Sections 28 to 30-AA deals with duties and fees. he word'duty' refers to excise duty, while word 'fees' refers to fees for licences, permits r passes.

In the Rajasthan Excise Rules, 1956, the provisions relating to mode of payment f duty have been given in Chapter XII-Rules 85 to 87.

The detailed provisions as to "Licence Fees" have been enumerated in Chapter VIII-of these rules under Rules 66 to 71

28. Duty on excisable articles—An excise duty [1][or a countervailing luty as the case may be] at such rate or rates as the [2][State Government] hall direct, may be imposed either generally or for any specified local area, on any excisable article imported or exported, or transported or manufactured, ultivated or collected under any licence granted under this Act, or manufactured n any distillery, pot-still or brewery established or licensed under this Act.

Explanation– Duty may be imposed under this section at different rates according to the places to which any excisable article or intoxicating drug is to be removed for consumption or according to the varying strength and quality of such article.

29. Manner of levying duty—Subject to such rules regulating the time, place and manner of payment, as the [2][State Government] may prescribe, such duty may be levied in such one or more ways as the [2][State Government] nay by notification in the [2][Official Gazette] direct.

COMMENTARY (Ss 28 & 29)
SYNOPSIS

1. Excise duty
2. Excise Revenue
3. Intoxicating drug
4. Excisable articles

1. Inserted by Section 9 of Rajasthan Act No. 28 of 1952 published in the Rajasthan Gazette, Part IV-A, dated 13-12-52.
2. Substituted by section 4 of Rajasthan, Act No. 38 of [illegible], published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 5-12-1957

5. Nature of Excise duty
   (a) General law
   (b) Excise duty under the Act (S.28)
   (c) Manner of leving duty (S.29)
   (d) Mode of Payment of duty
   (e) Notifications
   (f) Rectified spirit not excisable article
6. Countervailing duty
7. Rajasthan Excise Rules, 1956
   (a) provisions relating to Excise duty
   (b) Provisions relating to fees, licence fees
8. Procedure or Systems of granting licences.
9. Special Rules- List of
10. Notifications.
11. Latest Trend.

1. Excise duty [As defined in S 3(6)]—means-

"Any duty of excise imposed by or under this Act (i.e. under S 28) on-

—excisable articles—

--manufactured or

—produced in the STATE OF RAJASTHAN

2. Excise-Revenue [As defined in S. 3 (8)] means---

— revenue derived or derivable from-

(i) payment, (ii) duty, (iii) fee, (iv) tax (v) fine (Other than imposed by a court of law), or (vi) Confiscation.

— imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs.

Thus, the excise duty is part of excise revenue

3. "Intoxicating Drug" [S.3(14)] means—

(i) the leaves, small stalks and flowering or fruiting tops of the hemp plant. (Cannabia Sativa) including all forms known as Bhang, Sidhi or Ganja.

(ii) Charas, that is, the resin obtained from the hemp plant, which has not been submitted to any manipulation other than those necessary for packing and transport.

(iii) Any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom, or

(iv) Any other intoxicating or narcotic substance which the State Government may declare, by notification in the official Gazette, to be an intoxicating drug, such substance not being opium, coca leaf or a manufactured drug as defined in the Dangerous Drugs Act, 1930 (Central Act II of 1930).

4. Excisable Article—

[Refer to Clause (4) of Section 3 for full details]

[For details of these words, please refer to Commentary of section 3- Definitions]

5. Nature of Excise duty—

(A) General Law—The Excise duty may be construed as a duty leviable upon the manufacturer or producer of excisable articles or at least at the stage of or in connection with manufacture thereof [AIR 1963 SC 791, 1939 FC 1, 1942 FC 33, 1945 P.C 18, 1962 SC 1281, 1967 SC 1512 relied on][1]. A duty of excise is primarily a duty levied on a manufacturer or producer. If is a tax on goods, not on sale.[2]

1. British India Corpn. Ltd. v. Collector, Central Excise, AIR 1963 SC 104
2. Cooverjee B. Bharucha v. Excise Com. 1954 SCR 873

(B) Excise duty under the Act—

(i) According to definition of Excise duty under clause (6) of Section 3 [See Note(1), supra], the Excise duty is to be imposed-

(i) on excisable articles only (see-clause (4) of S.3 for details)

(ii) on manufacturing or producing in Rajasthan, and

(iii) as imposed by or under this Act.

(ii) Section 28 imposes (a) excise duty or (b) countervailing duty, as the case may be,-

(a) On the rate or rates directed by the State Government, according to place generally or for local area to be specified.

(b) On the excisable articles-

(i) imported or exported, or

(ii) transported, or

(iii) manufactured, cultivated or collected.

— under any licence granted under this Act, or

(c) On excisable article-

— manufactured in-

— any distillery, Pot-still, or brewery

— established or licensed under this Act.

(C) Manner of Leving duty—(Section 29)- Section 29 gives outline only . The excise duty shall be levied in the manner prescribed by the Rules as follows:

(D) Mode of Payment of Duty—In the Rajasthan Excise Rules, 1956, the Chapter XII deals with "Mode of Payment of duty" in the following rules-

Rule 85- Duty on foreign liquor and country liquor payable before issue.

Rule 86- Duty on Ganja and Bhang payable before issue.

Rule 87- Bonds & their effect.

(E) Notifications relating to imposing of excise duty—We are reproducing only the most important notification hereinafter in Note (10). These notifications are subjected to frequent amendments, please refer to latest notification from Rajasthan Gazette Please also refer to Part III of the book for further notifications.

(F) Excise duty on Rectified Spirit imported for Industrial Use—[Constitution of India- Schedule VII-List II-Entry 51 (a)] **Beyond Competence of State Legislature**–Rectified Spirit is also alcohol which is not meant for human consumption and no excise duty can be charged by the State Government.

The reason is that, it is at the stage of manufacture that the excise duty can be and is leviable and only such rectified spirit which is alcoholic liquor fit for human consumption, can be excisable within the expression of Section 3(4) of the Act and the State legislature can be competent to impose and levy duty under Section 28 of the Act in view of entry 51(a) of List II (State List) of the Seventh Schedule to the Constitution of India, and it may be stated that rectified spirit is also alcohol which is not meant for human consumption and no excise duty can be charged by the State Government under the aforesaid entry of List II (State List) of the Seventh Schedule of the Constitution of India and it is beyond the competence of the Legislature.[1]

1 M/s Hindustan Copper Ltd. V State 1989 (1) RLR 632 [For details of the case,please refer to Commentary of Section 3(4), Supra. Also refer to AIR 1990 SC 1927

6. Countervailing duty—It is excise duty to be prepaid before import or if import is under bond to be paid when the bond is broken.

7. Rajasthan Excise Rules 1956—(a) Provisions relating to Excise duty–Rule 27-– Import on pre-payment of duty in the State of export.

Rule 29—Import Free of duty or at a reduced rate.

Rule 31—Export duty how paid

Rule 32 to 42—deal with Export from distilleries on payment of duty.

(b) Provisions relating to fees–Licence and Permit Fees—(Chapter VIII of the Rules) Rules 68 to 71)

(c) Various kinds of licences under S. 31 of the Act have been dealt with in the following chapters of the Rules in details:-

(i) General Provisions on licences- Chapter IX Rules 72 to 77A

(ii) Licences for Foreign Liquor and Beer licences for whole sale vend. (Chapter V- Rr.47-56)

(iii) Licences for Country liquor and Intoxicating Drugs (Chapter VI- Rr.57-59).

[For licences, please also refer to the Special Rules of particular liquor in Part II of this book and the licence forms prescribed by the Government.

(iv) Licence & Permit Fees- (Chapter VIII-Rr. 68 to 71)

8. Procedure or Systems of Granting Licences under the Rajasthan Excise Rules 1956—

(1) Procedure by Auction (Chapter VII- Rr. 60-67)

(2) Licence under Guarantee System-(Chapter VII-A-Rules 67-A to 67-H)

(3) Licence on payment of lumpsum instead of or in addition to pay duty- (Exclusive privilege System)- Chapter VII-B-Rules 67-I to 67-L).

9. Special Rules- List of—

*1. Rajasthan Excise (Grant of Hotel bar/Club bar Licences Rules, 1973

*2. The Foreign Liquor (Grant of Whole sale Trade and Retail off Licences) Rules, 1982

3. Rajasthan Intoxicating Spirituous Preparations Import, Export, Transport, Possession & Sales Rules 1989.

4. Rajasthan Distilleries Rules, 1976

5. Rajasthan Brewery Rules, 1972.

[For text of these Rules, please refer to in Part II of the Book]

[Also refer to Commentary of S. 31 for Introductory Note on the abovemarked (*) rules]

10. Notifications imposing Excise duty–

❑ Introductory Note

There are three sets of Notifications:–

I. Notification S.O. 252 No. F. 4 (22) FD/Gr IV/77-14 dated 30th March 1977.

This famous notification of 30.3.1977 was amended from time to time and has been reproduced in Part III of the Book for reference. It was superseded by S.O.232 dated 9.12.1996 and has become a dead latter now.

II. Notification No. S.O.232 dated 9-12-96—This notification of 9-12-96 continued as main notification in place of above notification till 31-3-97, when it was superseded by S.O.15 dated 31-3-97. It has also been reproduced in Part III of the book for reference.

It is a surprize that it has been amended by S.O. 52 dated 7-5-98 even after 31-3-97 when it was not in operation. So this amendment suffers from mistaken reference. [Please refer to Explanatory note, infa, appended to S.O. 15 dated 31-3-97 for comments.]

III. Notification No. F. 4(62) FD/EX/96—S.O.15—dated 31-3-1997—At present this notification is in operation w.e.f. 1-4-1997 and is being reproduced herein after with amendments upto 1-4-1999 for ready reference.

वित्त (आबकारी) विभाग

[1][अधिसूचना 1-4-1999 तक यथा संशोधित]

एस.ओ. 15—दिनांक मार्च 31, 1997—राजस्थान आबकारी अधिनियम, 1950 (1950 का राजस्थान अधिनियम सं. 2) की धारा 28 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस विभाग की अधिसूचना सं. एफ. 4(72) वित्त/आब/96 दिनांक 9-12-96 को अतिष्ठित करते हुए, राज्य सरकार, पूर्वोक्त अधिनियम या उसके अधीन बनाये गये नियमों के अधीन मंजूर की गयी किसी अनुज्ञप्ति के अधीन राजस्थान में, या पूर्वोक्त अधिनियम या उसके अधीन बनाये गये नियमों के अधीन स्थापित या अनुज्ञप्त किसी आसवनी, मद्य निर्माणशाला ब्रेवरी बोटलिंग संयत्र में विनिर्मित निम्नलिखित आबकारी कर योग्य वस्तुओं के निर्यात, आयात और उपभोग पर आबकारी शुल्क और राज्य में आयातित ऐसी आबकारी कर योग्य वस्तुओं पर प्रतिशुल्क नीचे विनिर्दिष्ट दरों पर, इसके द्वारा 1-4-97 से अधिरोपित करती है, अर्थात्:—

1. आबकारी शुल्क

(क) जब राज्य से बाहर निर्यात किया जाये।	
(i) भारत में निर्मित विदेशी शराब	[2][5.00 रु.] प्रति एल.पी. लीटर।
(ii) देशी शराब	10.00/- रु. प्रति एल.पी. लीटर
[3][(iii) बीयर	
(क) बोतल में (Bottled) बीयर	2.00 रु. प्रति बल्क लीटर
(ख) ड्राट बीयर	2.00 रु. प्रति बल्क लीटर
(iv) चिरे हुए पोस्त डोडे	3.00 रु. प्रति किग्रा.
[4][(v) परम्परागत शराब (Heritage Liquor)	10.00 प्रति एल.पी. लीटर
(ख) जब राज्य के भीतर उपभोग किया जाये	
(i) शराबों को सम्मिलित करते हुए	100.00/- रु. प्रति एल.पी. लीटर
भारत में निर्मित विदेशी स्पिरिट	
(ii) रक्षा सेवा, भूतपूर्व सेना कार्मिकों और राजस्थान में आस्थित सीमा सुरक्षा बल के लिए भारत में निर्मित रम जो निम्नलिखित शर्तों के अधीन अभिप्राप्त और प्रदायित की गयी हो, अर्थात् प्रदाय	50.00/-रु. प्रति एल.पी. लिटर

1. Published in Raj. Gaz. EO 4 (Ga) (II) dated 11-4-1997, page 25(1) to 25(3) (w.e.f. 1-4-1997
2. Substituted for "Rs. 3/-" by S.O. 107 dated 9-7-98 - Pub. in Raj. Gaz. EO-IV (Ga)(II) dated 9-7-98, page 165(7) [1998 RSCs II 447/365]
3. Substituted for "1.00 p.b.l" by S.O. 107 dated 9-7-98 ibid.]
4. Added by S.O. 107 dated 9-7-98, ibid.

विहित मापमान के अनुसार और केन्टीन स्टोर विभाग (भारत) के माध्यम से हो न कि किसी अन्य स्रोत से। प्रदाय बोतलों में हो जिन पर अक्षर "सी. एस. डी." उभरे हुए हों और ऐसे लेबल लगे हों जिन पर लाल अक्षरों में शब्द क्रमशः "केवल सेना कार्मिकों के लिए", "केवल राजस्थान में सीमा सुरक्षा बल के लिए" सहजदृश्य रूप में मुद्रित हो और प्रदायों के लिए पृथक् लेखा रखा जायें।	
(iii) बीयर और भारत में निर्मित किण्वित शराब—	
(क) यदि शक्ति, प्रुफ स्पिरिट के 8.75% तक हो।	10.00/-रु. प्रति बल्क लीटर
(ख) यदि शक्ति, प्रुफ स्पिरिट के 8.75% से अधिक हो	15.00/-रु. प्रति बल्क लीटर
[1][(ग) ड्राट बीयर	[2][साधारण बीयर पर लागू दर पर
(iv) चिरे हुए पोस्ट डोडे	[3][35-00] रु. प्रति कि.ग्रा.
[5][(ivA) परम्परागत शराब (हेरिटेज लिकर)	50/- रु. प्रति एल.पी. लीटर
(v) सामान्यतः प्रचलित पद्धति के बाहर अर्थात् अनन्य विशेषाधिकार के लिए इस रूप में प्राधिकृत खुदरा अनुज्ञप्तिधारियों से निम्नलिखित वस्तुओं पर आबकारी अधिभार-	
(क) भारत में निर्मित विदेशी शराब	25.00/- प्रति बल्क लिटर
[4][(ख) बीयर—	
(i) राजस्थान पर्यटन विकास निगम और राजस्थान राज्य होटल निगम द्वारा उसके खुदरा बिक्री केन्द्रों पर विक्रय पर	रु. 9.62 प्रति बल्क लीटर
(ii) [खुदरा विक्रय लाइसेंसदारों पर]	रु. 5.00 प्रति बल्क लीटर
[5](ग) ड्राट बीयर	साधारण बीयर पर लागू दर से 25% उच्चतर (अधिक) पर
[6][(vi) निम्न वस्तु पर उपरोक्त आबकारी शुल्क के अतिरिक्त आबकारी प्रभार—	
[चिरे हुए पोस्ट डोडे का चूर्ण	रु. 10 प्रति किलो.—विलोपित]

1. Added by S.O. 107 dated 9-7-98, ibid.
2. Substituted for expression "25% higher than the rates applicable to normal beer", by Notification No. F. 1(4) FD/EX 199 dated 22-3-99.
3. No. F. 4(12) FD/Ex/2001/Pt. II dated 13-2-01 w.e.f. 1-4-2001.
4. Substituted for—"Beer–Rs. 5/- p.b.l." by Notification No. F. 4(12) FD/EX/99 dated 21-04-1990 and as amended by No. 4(12)FD/Ex/2002 dated 1-04-2002.
5. Added S.O. 107 dated 9-7-98, ibid.
6. Added by S.O. 10 – No. F. 1(5) FD/Ex/99 dated 1-4-99–Pub. in Raj. Gaz. EO–IV (Ga)(II) dated 1-4-1999, page 13(1)(2) & deleted vide No.F.4(12) FD/Ex/2000/Pt.II dated 13-2-01 w.e.f. 1-4-2001.

2. प्रतिशुल्क

आयात होने के पूर्व संदत्त किया जाये या यदि आयात बोण्ड के अधीन हो तब संदत्त किया जाये जब बोण्ड समाप्त हो।	आबकारी कर योग्य विभिन्न वस्तुओं पर आबकारी शुल्क के लिए दर्शित दरों पर जैसी कि भाग 1 के अधीन प्रत्येक के सामने वर्णित है।

3. आयात शुल्क

आयात होने के पूर्व संदत्त किया जाये या यदि आयात बोण्ड के अधीन हो तो तब संदत्त किया जाये जबकि बोण्ड समाप्त हो।

(क) भारत में निर्मित विदेशी शराब-	
(i) बोतल बन्द की गयी भारत में निर्मित विदेशी शराब पर	[1](8.00) रु. प्रति एल.पी. लिटर
(ii) भारत में निर्मित विदेशी शराब के बल्क पर	4.00/- रु. प्रति एल.पी. लिटर
[1](ख) बीयर	[1](5.00) रु. प्रति बल्क लिटर
[2](ग) शीरा	20.00/- रु. प्रति क्विंटल
[2](घ) चिरे हुए पोस्ट डोडे	5/- प्रतिकिलो

[सं. एफ. 4(62) वित्त/आब/96 दिनांक 31 मार्च 1997]

Notification (dated 31-3-97)

[As amended on w.e.f. 1-4-2006]

[Noti. No. F. 4(62) FD/EX/96, dt. 31-3-97]

In exercise of the powers conferred by Sec. 28 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950), and in supersession of this department notification No. F. 4(72)FD/EX/96, dated 9-12-96, the State Government hereby imposes Excise Duty on [××] consumption on the following excisable articles manufactured in Rajasthan under licence granted under the aforesaid Act or Rules made thereunder or in any distillery, Brewery, Bottling Plant established or licensed under the aforesaid Act or Rules made thereunder and Countervailing duty on such excisable articles imported into the State at the rates specified below with effect from 1-4-97, namely:—

1. Excise Duty—

[5][(A) ××× deleted]

(B) ×××–deleted]

Substituted Rs. 8.00 for Rs. 5.00 and Rs. 5.00 for Rs. 3 respectively by S.O. 107 dated 9-7-98, ibid.

Amended by S.O. 52 dated 7-5-98.

Added by S.O. 118 dated 23-6-1997, Pub. in Raj. Gaz.–EO–4(Ga)(II)dated 4-7-97, page 167.

Words "export, import and" deleted vide No. 1(10) FD/Excise/99 dated 2-11-1999.

Deleted by Noti. No. F. 1(10)FD/Ex./99 dated 2-11-99.

1	2	3
[2][(i)	**Indian Made Foreign Liquor/Spirit (including Heritage liquor)**	Excise duty
	For liquor having price per carton of quart bottles as declared by manufacturers and as accepted by Rajasthan State Beverages Corporation Ltd. (RSBCL):	
	(a) Up to Rs. 400/-	Rs. 170/-per LPL
	(b) above Rs. 400/-but upto Rs. 600	Rs. 210/-per LPL
	(c) above Rs. 600/-but upto Rs.900	Rs.250/-per LPL
	(d) above Rs. 900/-but upto Rs. 1500	Rs.280/-per LPL
	(e) above Rs. 1500/-but upto Rs. 3000	Rs. 350/-per LPL
	(f) above Rs. 3000/-	Rs. 500/-per LPL]
(ii)	Indian made Rum for Defence Service, Ex-Military Personnel and Border Security Force stationed in Rajasthan, obtained and supplied under the follwoing conditions, namely--	Rs. 50.00 per L.P. litre
	The supply is according to the prescribed scale and through the canteen Stores Department (Indian) and not through any other source. The supply is in bottles with letters "CSD" embossed on them and bearing labels with the words "For Ex-Military personnel only", "For Border Security Force in Rajasthan only" respectively conspicuously printed on them with red letters; and separate account is maintained for such supplies.	
[2][(iii)	Beer	140%ad valorem]
[1][(iii-A)	Additional Excise Duty on IMFL and Beer (Note: This levy shall not be applicable to supplies meant for CSD/Defence Service Personnel)	5% of a sum of ex-manufacturing unit price, CST & Export Fee, Excise Duty and Actual cost reimbursed by RSBCL to the manufacturer.]
(iv)	Lanced Poppy Heads	Rs. 35/-per Kg
[2][(iv-A)	Deleted by S.O. 4, dated 1-4-2005.]	
[2][(v)	Excise surcharge on following articles from following retail licensees:	
	For CSD/Defeance Service personnel	
	(a) Indian Made Foreign Liquor	Rs. 25/-per B.L.
	(b) Beer	Rs.5/-per B.L.
	For all retail on linensees:	
	Indian Made Forign Liquor & Beer	25% of excise duty]

1. Deleted by Noti. No. F. 1(10)FD/Ex./99 dated 2-11-99.
2. Substituted by S.O. 4, Notification No. 4(17) FD/Excise/2004 dated 1-4-2005.
3. Added by Notification No.4 (44) FD/Excise/2005 dated 1-4-2006.

Country Liquor	Rs. 116.67/- Per LPL]
2. Countervailing Duty— To prepaid before import or if its import is under bond to be paid when the bond is broken	On the various excisable articles at the rates shown for excise duty as mentioned against each under Part I.

[2]**3. Import duty—** (deleted ×××)

GOVERNMENT OF RAJASTHAN
FINANCE DEPARTMENT
(EXCISE DIVISION)

[No.1(10)FD/Excise/99 Dated 2-11-1999]

NOTIFICATION

In exercise of the powers conferred by section 28 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 11 of 1950), the State Government hereby makes the following amendment with immediate effect in this department notification No. F.4(61)FD/Excise/96 dated 31-3-1997, (as amended from time to time), namely :

Amendment

In the said notification :

1. In the Preamble, the existing words "export, import and" appearing between the words "Excise Duty on" and "consumption" shall be deleted.
2. Under the head "1. EXCISE DUTY", the existing sub head when exported out of the State and items thereunder shall be deleted.
3. Under head "1. EXCISE DUTY", the expresssion "(B)" appearing in sub-head "when cons" med in the State" shall be deleted.
4. The existing head "3. IMPORT DUTY" and items thereunder shall be deleted.

❑ **Explanatory Note- Import duty on शीरा (Molassess)- A mistake of reference- But order/amendment would be valid-**

[(c) Molasses:--

If monthly consumption by a unit is—

(i) up to 20,000 Qtls.	Rs.20/-(per qtl.)
(ii) More than 20,000 Qtls. but less than 30,000 Qtls.	Rs. 16/- (Per qtl.)

Substitute for Rs. 2/-per bulk litre, vide No.F4 (44) FD/Excise/2005 dated 1-4-2006.
Deleted the following items – Vide No. 1(10) FD (Excise)99 dated 2-11-1999.

3. **Import Duty—**
To be paid before import or if its import is under bond to be paid when the bond is broken

(a) Indian Made Foreign Liquor	
(i) On Bottled I.M.F.L.	Rs. 8.00 per L.P. litre
(ii) On Bulk I.M.F.L.	Rs. 4.00 per L.P. litre
(b) Beer	Rs. 5.00 per bulk litre
(c) Molasses	Rs. 20.00 per Quintal
(d) Lanced Poppy Heads	Rs. 5/- per Kg.

Published in Raj. Gaz.–EO--IV.C(II) dated 23-5-98.

(iii) More than 30,000 Qtls. but less than 40,000 Qtls.	Rs 10.66 (Per Qtl.)
(iv) More than 40,000 Qtls.	Rs. 8/- (Per qtl)]

The above rate of Import duty was substituted by S.O 52 dated 7.5.98[2] in S.O 333 dated 12.3.97 and S.O.232 dated 9.12.96, but the main notification S.O. 232 dated 9.12.96 has been superseded by Notification S.O. 15 dated 31.3.1997 (Main Notification in Hindi-Quoted). Hence above amendment after 31.3.97 by S.O. 52 dated 7.5.98 suffers from mistake of reference; which may be ignored and the rates of Import duty on Molassess may be treated as valid- No corrigendum has yet been issued by the Government. Now Import duty has been deleted by notification no. 1(10) FD/Excise/99 dated 2.11.99.

11. The Latest Trend—

Levy of Bottling Fee not unconstitutional

Rule 91(3) of the Distilleries Rules, 1976 says than the Excise Commissioner may specify wherever possible that mechanical arrangements may be made for all operations upto the stage of bottling and may also lay down that bottling operation must be carried on under proper supervision in conformity with high standard of hygine and the product should not be touched by human hand at this stage... Thus, certain conditions are prescribed as to how the liquor is to be bottled. So that the liquor may not become hazardous to the public. These services thus, are being rendered by the State Government and, therefore, it cannot be said that the levy of bottling fee is unconstitutional because no services are being rendered by the State. (Para 22)

The concept of "quid pro quo" has undergone a definite change in Sreenivas General Traders V. State of AP (AIR 1983 SC 1246). It was held that "it is now increasingly realized that merely because the collection for services rendered or grant of a privilege of licence are taken to the consolidated fund of the State and not separately appropriate towards the expenditure for rendering the services is not by itself decisive.

Before the liquor becomes marketable, it must be saleable i.e it must be fit for human consumption and that has to be ensured by the Excise authorities and, therefore, the levy of bottling fee cannot be said to be ultravires of the Constitution or the Act and the Rules.[1] (Para 28)

Cases Referred to :

1. M/s Geeta Enterprises v. State of Raj. 1993(2) RLR 183 . 1994(3) LC 304 1993(1) RLW 308 : 1993(2) WLN 564.
2. M/s India Cable Co. Ltd. V. Collector, Central Excise, AIR 1995 SC 64.
3. Khoday Distilleries Ltd. V. State of Karnataka, 1983(1) SCC 574
4. State of Karnataka v. Narayan Swamy, 1991(4) SCC 268 (Followed).

Excessive Wastage—Import of I.M.F.L. from other distilleries resulting in excessive waste and the District Excise Officer demanding sum on account of excess wastage Sum demanded is neither duty nor tax. It is compensation or price agreed to be paid as part of consideration under agreement with Government reimbursing Government for loss of revenue computed in terms of excise duty which State would have earned had their been no excessive wastage.[2]

1. Udaipur Distillery Co. v. State of Raj. 1991(2) WLC (Raj.) 413 (DB).
2. M/s Sona Distilleries Ltd. v. Excise Commissioner 1984 RLR 773 1984 WLN 489.

● **The Latest view of the Supreme Court- Scope of power of State as to regulatory neasure- Demand of Excise duty-** The power of State to demand excise duty is limited by the provisions of the Constitution and the Act. Demand for excise duty is not a regulatory measure. Held, the power of the State to levy excise duty cannot be expanded with reference to its power to regulate manufacture of liquor [1]

30. Payment for exclusive privilege- Instead of or in addition to any duty leviable under this chapter, the Excise Commissioner may accept payment of a sum in consideration of the grant of the licence for exclusive privilege under section 24.

COMMENTARY
SYNOPSIS

1. Procedure or Systems under Rules, 1956/ Exclusive Privilege.
2. Guarantee System & Exclusive Privilege System distinguished.
3. Licence for Sale of Country liquor.
4. Exclusive Privilege of sale of County liquor.
5. Liability of Licensee to pay stipulated sum.
6. Decision of EC upheld.
7. Nature of Contract.
8. Suit when decreed
9. Refund of security deposit.
10. Exclusive Privilege in Bihar and Orissa States.
11. Contract for lifting particular quantity of liquor every month.
12. Exercise of Jurisdiction by Excise Commissioner
13. Short supply of liquor by State

1. Procedure or Systems of Granting Licences under the Rajasthan Excise Rules, 1956--

(1) Procedure by Auction (Chapter VII-Rr 60-67)

(2) Licence under Guarantee System (Chapter VII-A- Rules 67 A-67-H)

(3) Licence on payment of lumpsum instead of, or in addition to pay duty -- Exclusive privilege System- (Chapter VII-B-Rules 67-I to 67L)

[Refer to Section 24 also for Exclusive Privilege System].

Exclusive Privilege System--Licence for the exclusive privilege may be granted by the Excise Commissioner under Section 24 of the Act

Rules 67 I to 67 L in Chapter VII-B of the Rajasthan Excise Rules 1956 deal with licence on payment of lumpsum, amount instead of or in addition to pay duty.

Section 30 deals with payment for exclusive privilege.

Grantee of exclusive privilege is authorised to let or assign the whole or part of his privilege under S. 26 of the Act Section 27 provides for recovery by grantee of exclusive privilege of sums due to him. [Also refer to Proviso to S 40 of the Act]

2. Guarantee System & Exclusive Privilege System-Distinguished—Under the 'guarantee system' the license guarantees the payment of the specified value of the liquor in a particular financial year which is called under that system the amount of guarantee, whereas under the Exclusive privilege system' the licensee guarantee the payment of such lump sum instead of, or in addition to the excise terms and conditions as may be laid down by him.

1 State of U.P. v. Modi Distilleries (1995) 5 SCC 753.

Under the guarantee system the licensee is required to pay the 'value' of the liquor to the extent to which he guarantees the payment and the value of the liquor contains certain portion which can easily be attributed towards the payment of excise duty as a licensee pays that amount by drawing liquor from the warehouse of the State Government and paying the issue price thereof. Under the 'Exclusive privilege system' that component of the issue price which is attributable to payment of excise duty is adjusted towards the guarantee, amount which a licensee is required to pay during a financial year under the licence issued under Chapter VII-B of the rules which means that the licensee under the exclusive privilege system guarantees the payment of the excise duty to the extent the lump sum is determined by the Commissioner and for the payment of that guaranteed amount he has to purchase from the bounded warehouse of the State Government liquor of such value which may go to pay the entire amount guaranteed by him under that system.

A close comparison of the two systems reveals that the "exclusive privilege system" is nothing but an old wine in a new bottle. Under the guarantee system the licensee is required to pay the amount guaranteed by him in the shape of the value of the liquor whereas under the exclusive privilege system he is required to pay the excise duty as lump sum fixed by the Commissioner under section 30 of the Act read with Rule 67-I of the rules by drawing liquor of the value which may be sufficient to pay off the guaranteed amount from the component part of the issue price which is attributable to the payment of excise duty.[1]

3. Licence for Sale of Country Liquor- Guarantee System & Exclusive privilege systems distinguished- "Value Price" and "Licence Fee" include excise duty-Excise duty chargeable only on liquor drawn from Govt. Warehouse at the time of purchase and not on undrawn quantity of liquor.[2]

4. Exclusive Privilege of Sale of Country Liquor- S.24 read with S.30 authorised the Excise Commissioner to grant a licence for the exclusive privilege of selling by retail country liquor in the State of Rajasthan and under S. 30 instead of or in addition to pay duty leviable under this Chapter. Excise Commissioner may accept payment of a sum in consideration of the grant of licence for exclusive privilege under S. 24 Held, the contractor is bound to pay guaranteed amount even when liquor is not sold in agreed quantity (ILR) 1972) 22 Raj. 84, reversed)[3]

5. Guarantee & Exclusive Privilege system Grant of Licences for country liquor thereunder- Liability of Licensee to pay stipulated sum-Enforcing, payment of guaranteed sum not recovery of excise duty- The licence fee stipulated to be paid by contractors is the price or consideration rental charges- Neither a tax nor an excise duty [AIR 1975 SC 360,. 1975 SC 1121 and ILR (1969): 2 Ker. 71 foll.] These licences are contracts and lumpsum amount voluntarily agreed to pay to the State are not levies of excise duty, but are in the nature of lease money or rental or lumpsum amount for exclusive privilege of retail sales granted by the State to the licensees. The lumpsum amount stipulated is not to be equated with Issue Price also. [1974 WLN (DB) affirmed][4]

1. Balmukund Vs. State ILR (1972) 22 Raj. 84 : 1971 WLN 373 : 1972 Tax LR 2453.
2. Balmukund Vs. State ILR (1972) 22 Raj. 84 : 1971 WLN 373 : 1972 Tax LR 2453
3. State Vs. Balmukund ILR (1974) 24 Raj 910 : 1974 WLN 367 (DB).
4. Pannalal v. State of Rajasthan (1975) 2 SCC 633 : 1975 Tax LR 2005 : AIR 1975 SC 2008

6. Decision of Excise Commissioner upheld being just and fair where the Highest :r backed out.[1]

7. Nature of Contract—S. 30 & Rajasthan Excise Rules, 1956- R.67-No. concluded act where tender was temporarily accepted Non-compliance of Conditions- Held, to non-petitioner to withdraw the acceptance of tender.[1]

8. Contract of sale of Liquor-suit when decreed—Short supply by Government house- Where liquor was not available in the ware house, held the suit of plaintiff ves to be decreed when the State was responsible for short supply of liquor.[2]

Where the liquor was not supplied inspite of payment to full amount of price the suit is liable to be decreed.[3]

9. Refund of Security Deposit—When demand of licence could not be met out, entitled to refund of deposit, but where the interest was not claimed in the notice :r S. 80, CPC held that plaintiff is not entitled to interest of deposit.[4]

❑ Latest Case Law summarised

● 10. Exclusive Privilege to vend country liquor in Bihar & Orissa State—Such lege granted to more than one person in a zone— payability of licence fee by each em examined.

Held that the terms of tender and licence provide for collection of the total licence or the Zone from each of the contractor in that zone in equal proportion. Held further when the tender condition and conditions of the licence do not provide, the State not be able to collect the full licensee fee from each of the licensees/ contractors.[5]

● 11. Contract for lifting particular quantity of Liquor every month- [Orissa :ise Exclusive Privilege) Rules, 1970- R 6, 6A] Obligation to remit excise duty—

Since the licensees having entered into agreement voluntarily, containing the litions and having-done business under the licences obtained by them, cannot be wed either wriggle out of the agreement nor can they be allowed to challenge the dity of the Rules which constitute the terms of the contract. [AIR 1975 SC 2008 and : 1987 SC 933 follow].[6]

12. Exercise of Jurisdiction by Excise Commissioner- Grant of Licence for Exclusive vilege-

Writ petition filed for seeking directions for declaration that (i) respondent was eligible for consideration of tenders and (i) finalization of tenders in favour of respondent. d that exercise of discretion by Commissioner is neither unreasonable, nor is against lic interest. Highest bidder has been accepted Exercise Commissioner, thus has rightly rcised the jurisdiction (Para 6) (Writ petition dismissed). I AIR 1984 SC 1030 and 1980 1992 relied on][7]

Champa Lal v. State 1986 WLN (UC) 178.
Mangi Bai v. State 1986 WLN (UC) 183.
M/s. Ajaib Singh & Co. v. State 1986 WLN (UC) 66.
Dhanraj v. State 1986 WLN (UC) 392.
State of Bihar v. M/s Sheo Narain Jaiswal Pvt. Ltd. 1997 (9) Supreme 117.
State of Orissa v. Narain Prasad, 1997 AIR SC 211 : (1996) 8 J.T. 50.
M/s Shiv Dayal & Party & Ors. v. State of Rajasthan. (Four writ petitions) 1991(2) Raj. LR 559.

13. Short supply of liquor by State-Claim for grant of rebate–Liability of State and contractor pointed out—

The State to supply the liquor to the licensees as unless the State supplies them the liquor they cannot carry on their business and if there is any short supply the licensees are entitled for rebate as per the rules and terms and conditions of the licence But the question arises, who is responsible for the alleged short supply

In State of Rajasthan v Nandlal [JT 1992 (5) SC 655], the Supreme Court has observed that it is for the writ petitioner to establish their contention that in spite of their demand, the State could not supply the requisite quantity. The mere fact that there was a short fall in overall production of country liquor in the State of Rajasthan during the said year does not establishment the contention, if really the petitioners had asked for supply of certain quantity, there must be some evidence in support of such demand, whether in the shape of challan, indent or some other document. Further when the ware house could not supply the indented quantity, they must have made an endorsement to that effect on some document or must have issued a certificate to that effect All that material must be in possession of the licensee. It is true that the State cannot merely rely upon the theory of onus of proof and ought to assist the court in arriving at a fair decision by placing all the relevant material before it. But this obligation cannot be read to mean that the State is under an obligation to establish or make out the writ petitioner's case. The burden lies upon the petitioner, who seeks a particular relief on the basis of certain facts, to establish those facts.

According to the Condition No. 1(GA) of the licence either the licensee has to deposit the instalment of the exclusive privilege amount in 12 monthly instalments before expire of 10th of subsequent month every month and if in a particular month there is any deficiency then that is required to be fulfilled by cash deposit and if in a particular month, more than the requisite liquor is lifted, then that cannot be adjusted towards any other month for the purpose of rebates.

It is not necessary for the respondents to supply liquor as and when demand is made but it can be supplied at any time/times during the entire month as some times due to non-availability of liquor in the warehouse or sometimes due to non-availability of loading/unloading & transportation facility with the licensee, or for any other reason, liquor is not lifted and what is the reason at the point of time for non-supply of liquor either on the part of State or on the part of licensee is material for fixing the responsibility for non-supply or non-lifting of the liquor.[1]

[2]30-A. Interest payable on failure to pay excise revenue—If the amount of any duty, fee or other demand due against any person under this Act or the rules made thereunder is not paid till the due date as prescribed, he shall be liable to pay on the amount due simply interest at the rate of

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1. Son Singh v. State of Rajasthan, 1996 (1) WLC (Raj.) 285
   See also Ram Gopal v. State of Rajasthan 1995(1) RLW 609
2. Substituted by S.3 of the Rajasthan Act No. 8 of 1985 published in Raj. Gaz. EO. 4 (Raj dated 6-8-85. Page 73 (1985 (1) RLT 399).

[1][at such rate, as may be notified by the State Government from time to time] from the day next following the day on which the payment of such duty, fee or demand became due:

Provided that where as a result of any order of the competent authority, the amount on which the interest was payable under this section has been reduced,the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.]

[2][**Explanation**—Where both the excise revenue and interest are outstanding, the part payments made shall be appropriated first towards excise and then towards interest."]

Rate of Interest—As per amended provision, the State Government has now notified the interest rate of 18% per annum (i.e. 1.5% per month) instead of 24% per annum (i.e. two percent per month) vide order No. F4(28) F/Ex./03 dated 07-06-03 w.e.f. 01-04-2003.

COMMENTARY
SYNOPSIS

1. Amendment 2003
2. Meaning of 'Month'
3. Interest when commences.
4. Reduction of Interest & refund.
5. Recovery of Interest.

1. Amendment 2003—Wide powers conferred on State Government–Section 30-A has been amended and expression two percent per month "has been substituted by expression" at such rate, as may be notified by the State Government from time to time." This amendment empowers the State Government to notify the interest rate from time to time and provides wide discretion.

2. Meaning of "Month"—The word 'month' has been defined in clause 46 of Section 32 of the Rajasthan General Clauses Act, 1955 as under :

(4) "Month" shall mean a month according to the British Calendar.

It denotes a period terminating with the day of the succeeding month numerically corresponding to the day of the succeeding month, if it terminates with the last day thereof.[3]

3. Interest when commences—The interest commences from the day next following the day on which the payment of such duty, fee or demand becomes due.

4. Reduction of Interest—In case the amount of demand is reduced by the competent authority, the interest shall also be reduced and the excess amount of interest so paid shall be refunded by the Government. It is duty cast on the department to refund the excess amount paid as interest.

5. Recovery of Interest- Contract not violative of provisions of the Constitution of India. If contract is restored under S. 30 A, the recovery could be made. When petitioner failed to deposit requisite amount, held, the Government was entitled to interest.[4]

[5][**Applicability of Section 30-A, Liablity of Interest under conditions of Government Contract for delayed payment.—Principles of Natural Justice not followed-Bank Gurantee**

1. Substituted by Rajasthan Finance Act, 2003-Chapter-III, S.4 for "two percent per month.
2. Added by Rajasthan Finance Act 2001 (Act No 5 of 2000) Published in Raj. Gaz. EO part IV-A dated 26-5-2001 w.e.f. 26-5-2001.
3. Mark & Sahu v. Lala Sadanand Singh AIR 1952 Orissa 279.
4. Shyam Lal & Party v. State, 1992 WLN (UC) 87
5. Chandan Singh V. State of Rajasthan & others, 2003(3) WLC (Raj.) 584

delayed—Held, liability of interest is as per terms of the contract and not as per Section 30-A of the Act. After availing benefit, Petitioners, held can not assail condition No. 175 of the contract providing for interest for delayed period. However, as the demand notice issued without giving opportunity of hearing, is liable to be quashed and is hence set aside-principles of natural justice violated (Paras 17-19) (Petition partly allowed)

[1][**30-AA. Power to reduce or waive interest in certain cases-** Notwithstanding anything contained in this Act, the Excise Commissioner may, on an application made in this behalf, by a licensee and after recording his reasons for so doing, reduce or waive the amount of interest payable by the licensee under this Act, if he is satisfied that-

(a) to do otherwise would cause genuine hardship to the licensee; and
(b) the licensee has co-operated in any proceeding for the recovery of any amount due from him.]

COMMENTARY
SYNOPSIS

1. Statement of Objects & Reasons.
2. Notwithstanding anything contained in this Act.
3. Power of Excise Commissioner & Procedure to reduce interest.
4. Satisfaction of the Excise Commissioner-Reasons.

1. Statement of Objects & Reasons—Section 30-A of the Act provides for payment of interest on failure to pay excise revenue. In certain cases, however, the amount of interest have increased enormously and a situation has arisen in which the recovery even of the due revenues has become difficult. It has, therefore, been decide that, by inserting new Section 30AA in the Act, the Excise Commissioner be empowered to reduce or waive the amount of interest in case of genuine hardship. Such a provision already exists in the Rajasthan Sales Tax Act.

★ ★ ★ ★

2. "Notwithstanding anything contained in this Act"-Effect—This non- obstante clause gives overriding powers to the Excise Commissioner. The provisions of Section 30AA would not be affected by any provision elsewhere contained in this Act.

3. Powers of Excise Commissioner & Procedure to reduce interest—On an application of a licensee, the Excise Commissioner may reduce or waive the amount of any interest to be paid by the licensee after recording reasons for doing so.

4. Satisfaction of the Excise Commissioner—If the Excise Commissioner is satisfied on the following two grounds, he may reduce or waive the interest payable in any case:

(i) In the circumstances of the case there is a genuine handship caused to the licensee, and
(ii) The licensee is cooperative in nature for the recovery of dues against him.

Thus, there is wide discretion given to the Excise Commissioner to deal with cases of genuine hardship and to reduce or waive the amount of interest, Such a wide discretion is to be exercised in genuine cases and no arbitrariness should prevail as it is quasi-judicial function and not purely administrative one.

□□□

1. Inserted by S.3 of the Rajasthan Act No. 14 of 1989, published in Raj. Gaz-Ex. Ordi.-4(Ka) dated 31-7-1989. Page 51.

Chapter [VI]

Licences, Permits and Passes

❑ Introductory Note

In Chapter VI of the Act, section 31 to 38 deal with "Licences. Permits & passes" · be issued under the Act read with various rules.

(a) The Rajasthan Excise Rules, 1956—In the Rajasthan Excise Rules, 1956 the :ences of various kinds have been described in the following Chapters.-

Chapter	Licence for
V	Foreign Liquor & Beer for whole sale vend
VI	License for Retail Sale of —Country Liquor & Intoxicating Drugs.

Licences are to be given after following any of the following procedure enumerated ı the rules—

(a) Licences by Auction- Chapter VII (Rr. 60 to 67)

(b) Licence under the Guarantee System-Chapter VII-A- (Rr 67-A to 67H).

(c) Licence on payment of lumpsum instead of or in addition to duty (Exclusive Privilege System)- Chapter VII-B (Rr.67-I to 67L)

Chapter VIII of the Rules provides for "Licence & Permit Fees" under rules 68 ı 71 The latest notifications have been included in this Chapter

General provisions as to Licences have been given in Rules 72 to 77 A in Chapter X of the Rules.

(b) Special Rules-List of—

1 Rajasthan Excise (Grant of Hotel bar/Club bar licence) Rules. 1973

2 The Foreign Liquor (Grant of whole Sale Trade and Retail off Licence) Rules. 1982

3. Rajasthan Intoxicating Spirituous Preparations Import. Export. Transport. Possession & Sales Rules. 1989

[For text of these Rules please refer to in Part II of the Book.]

(1) Introductory Note on Grant of Hotel bar/Club bar Licences Rules, 1973—

These rules are applicable to licences for Hotel bars or Club bars as defined under : 2 of these rules.

Rule 3 enumerates the persons who are eligible for grant of such licences and rovides for procedure of granting such licence in details

In case of default in payment of licence fee or failure to start sale the sanction ıay be cancelled by the Excise Commissioner vide rule 4 Even on grounds of disqualifications

mentioned under R.3(8) or in case of fraud and questionable method of obtaining sanction. the licence may be cancelled after giving opportunity of hearing.

Renewal of licences is dealt with in R. 7 A. These rules have been given over riding effect over the Rajasthan Excise Rules, 1959 vide Rule 8 of these Rules.

(2) Introductory Note on-The Rajasthan Foreign Liquor (Grant of wholesale trade & retail off licences) Rules, 1982—

1. Background—Prior to these 1982 Rules, the Rajasthan Foreign Liquor Rules. 1972 was in force. In 1982, these Rules were made and published on 20-2-1982 in the Rajpatra and came into force w.e.f. 20-2-1982.

2. No absolute right to sell liquor—Arts. 14,19 & 304 A not attracted.[1]

3. Grant of Licence-Procedure—Rule 3 deals with eligibility and procedure of grant of whole sale trade and retail off licences for sale of foreign liquor [Refer to Rr 47 (f), 49 read with 48 of the Rajasthan Excise Rules also]- The following procedures may be used-

(i) be auction (as per procedure prescribed under rule 4 of these rules) or

(ii) on commission basis. or

(iii) by negotiation with the existing licencees. or

(iv) by any other system sanctioned by Govt.

4. Grant of licence for exclusive privilege is to be regulated by Rule 3 A of these rules.

5. Group of Shops—(Rule 4 A) may be given licences under these rules.

6. Cancellation of Sanction of licence (Rules 5)—Licence may be cancelled on any of the following grounds-

(i) Non-deposit of prescribed fee as per Rule 69 (1) of the Rajasthan Excise Rules. with in 15 days of the date of receipt of sanction

(ii) For not starting the shop within 15 days of the receipt of licence.

(iii) Where the licensee suffers from any of disqualifications mentioned in R 4(3). or

(iv) Where sanction of grant of licence was obtained by fraud or questionable method.

In these cases. the Excise Commissioner shall give a reasonable opportunity of being heard. In these cases deposited amount may be also forfeited.

7. Exemptions—(Rule 6) These rules are not applicable to-

(1) Canteen Stores Department (India)

(2) Commanding officers of Armed Forces of the Union of India. or

(3) The Border Security Force Personnel Stationed in Rajasthan.

8. Licence fee & Renewal Fee—(Rule 7)–Application for renewal of licence shall be made as per Rule 72-A of the Rajasthan Excise Rules accompanied by a treasury receipt of renewal fees and usual fees payable under R 69(1) of the Rajasthan Excise Rules.

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1 Ram Krishna Vijay Vargiya v. State 1981 WLN (UC) 267

No claim to renewal of such licence or compensation on non-renewal could be le by any person.

The question of renewal of licence can arise only when there exist an existing ice and there is no gap in between the expiry of the licence and grant of new licence.[1]

9. Overriding effect of these Rules—In case of conflict between the provisions ice rules and the Rajasthan Excise Rules and the former (i.e. these rules) shall prevail le 8) Thus these rules being special rules shall prevail over the general rules (i.e. Raj. Excise Rules, 1956).

Introductory Note on the Rajasthan Intoxicating Spirituous Preparations Import, ort, Transport, Possession & Sale Rules, 1989

These rules came into force w.e.f. 6-11-89 which deals with the above mentioned sactions relating to "Spirituous Preparations"

"Spirituous Preparations" means such preparations declared by the Government e "liquor" from time to time. The Government of Rajasthan declared all medicinal toilet preparations and other spirituous preparations containing more than 20 proof hol to be liquor for the purpose of the Act and the Rules vide Notification S.O. lated 8-5-1990.

The Government has approved the list of 26 intoxicating preparations to be for purposes of R 26. incapable of being misused for potable purposes and therefore npted from the operation of these rules vide S.O. 31 dated 23-1-1990.

Rule 5 provides for the following spirituous preparations which may be possessed iout licence by various persons and registered practitioners of various pathies within cribed limits without a licence or permit-

(1) Allopathic Preparations
(2) Homeopathic Preparations
(3) Ayurvedic Preparations
(4) Toilet Preparations
(5) Essences and
(6) All kind of Intoxicating Spirituous Preparations.

Rules 6 to 9 deal with issuing permit or pass for import, export and transport of e preparations.

Sale of these preparations are to be regulated by licences, permits or passes issued he authorities in pursuance of Rules 10 to 23 of these rules

Infringement of the provisions of these rules would be an offence under S. 54 he Rajasthan Excise Act, 1950 as provided by Rule 24(ii)

The District Excise Officer may also revoke the licence or permit on such infringement, in cases of minor nature the District Excise Officer may restore such licence or permit payment of an amount not exceeding Rs. 500/-

Duty (Rule 25)—Where the duty is not leviable under the Medicinal & Toilet parations (Excise Duties) Act, 1955, the provisions of the Rajasthan Excise Act, 1950 l apply and the duty may be imposed accordingly.

Ram Krishna Vijayvargiya v. State 1981 WLN (UC) 267

Exemption (Rule 26)—The Excise Commissioner will issue a list of preparations incapable of being misused for potable purposes and these Rules shall not apply to those preparations. Vide S.O. 31 dated 23.1.1990 a list of 26 such intoxicating preparations has been exempted from operation of these rules.

[Please refer to the list and Notifications along with the text of Rules in Part II of the Book.]

Forms—The following forms have been prescribed and appended to these Rules-

1. Application for issue of I.S.P. licence for the sale of Ayurvedic Drugs.
2. Form of Application for the grant of licence for the sale of Intoxicating spirituous Preparations.
3. Licence for the sale of Intoxicating spirituous preparations (Form I.S.P.I)
4. Permit for the possession of Intoxicating spirituous preparations. (Form. I.S.P 2A)
5. Form of Permit for import/transport of Intoxicating spirituous Preparations (Form I.S.P.3)
6. Pass for the Export/ Transport of Intoxicating Spirituous Preparations (Form I.S.P.-4)
7. Register Showing stock of each kind of Intoxicating spirituous Preparations (Form I.S.P.5)

31. Form and condition of licences etc.—Every licence, permit or pass granted under this Act, shall be granted-

(a) by such authority,
(b) on payment of such fees (if any),
(c) subject to such restrictions and on such conditions.
(d) in such form and containing such particulars, and
(e) for such periods.

as the [1][State Government] may prescribe by rules either generally or for any class of licences, permits or passes or as the [1][State Government] may direct for any particular licence, permit or pass

32. Saving of licences in force at the commencement of this Act- Every licence which was granted under any provision of the Excise Acts or Laws repealed by this Act, shall be deemed to have been granted under the corresponding provision of this Act and shall (unless previously cancelled, suspended, withdrawn or surrendered under this Chapter) remain in force for the period for which it was granted

33. Power of authority granting licence to require execution of counterpart agreement etc.—Any authority granting a licence under this Act may require the grantee to execute a counterpart agreement in conformity with

1. Substituted by Raj. Act No. 38 of 1957

e tenor of his licence and to give such security for the performance of such greement or to make such deposit in lieu of security, as such authority may ink fit.

COMMENTARY (Sections 31-33)
SYNOPSIS

Meaning of Licence
Licenes dealt with in Excise Rules. 1956 (Section 31)
Terms & Conditions of licence-Various Forms- List of
4. Saving of old licences (S.32)
5. Counter Agreement (S.33)
6. Case Law summarised

1. Licence-Meaning of—The dictionary meaning of the word "licence" is "an authority do something which would otherwise be inoperative wrongful or illegal. a formal permission om a constituted authority to do some thing.[1]

There is several prohibitory provisions in this Act in relation to trade in liquor d dealing with excisable articles and to regulate these prohibitions. the licences of rious kind are to be issued under. S. 31 read with various Rules

2. Licences dealt in Rajasthan Excise Rules, 1956.

(i) General Provisions on licences Chapter IX-Rules 72 to 77A
(ii) Licences for foreign Liquor and Beer licences for whole sale vend. (Chapter V-Rr. 47-56)
(iii) Licences for Country liquor and Intoxicating Drugs (Chapter VI-Rr 57-59)
(iv) Licence & permit fees. (Chapter VIII-Rr 68 to 71)

[For licences. please also refer to the special rules of particular liquor in Part II this book.

3. Terms & Conditions of Various licences issued by the Excise Commissioner-orms reproduced at the end of the Raj. Excise Rules, 1956—

1. देशी मदिरा की खुदरा बिक्री के लिए लाइसेन्स (नियम 57, 67 (झा) तथा 93 के अन्तर्गत)
2. भारत निर्मित विदेशी मदिरा (बीयर को छोड़कर) थोक विक्रय अनुज्ञापत्र की शर्तें (नियम 47)
3. भारत निर्मित विदेशी (बीयर को छोड़कर) रिटेल आफ (खुदरा बिक्री) अनुज्ञा पत्र की शर्तें
4. बीयर के खुदरा (रिटेल आफ) विक्रय का अनुज्ञा पत्र
5. भांग की खुदरा बिक्री का लाइसेंस
6. बीयर के थोक विक्रय का अनुज्ञा पत्र
7. परिशोधित स्पिरिट, पूर्ण अलकोहल और विकृतिकृत स्पिरिट के विनिर्माण और थोक विक्रय के लिए अनुमति | नियम 68(7) के अन्तर्गत |
8. विकृत प्रासव (Denatured spirit) तथा विकृत प्रासवीय (Denatured spirituous prepration) पदार्थों के खुदरा विक्रय के लिए अनुज्ञप्ति | नियम 68 (8) |
9. देशी मदिरा की बोतलें भरने के लिए अनुज्ञा पत्र | नियम 68 (11) तथा 93)]

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10. आसवक के लिए भारत निर्मित विदेशी मदिरा की बोतलें भरने के लिए अनुज्ञा पत्र | नियम 69(2) तथा 92 |
11. औद्योगिक प्रयोजनों के लिए परिशोधित स्प्रिट या परिशुद्ध मद्यसार (अलकोहल) का कब्जा रखने एवं उसका उपयोग करने के लिए अनुज्ञप्ति | नियम 68(2) व 93 |
12. औद्योगिक प्रयोजन हेतु विकृत स्पिरिट रखने व प्रयोग करने हेतु अनुज्ञप्ति पत्र |

4. Saving of Old Licences (Sec.32)- -Old licences effective at time of the commencement of this Act were continued by S. 32

5. Agreement & Counter Agreement (Section33)—The terms & conditions given in the form of licence are to be treated as agreement and a counter-agreement is also signed at the end of the licence form under S. 33 of the Act Please refer to these forms at the end of Rajasthan Excise Rules. 1956 for perusal.

6. Case law- Summarised-(i) Validity of Conditions of Licence- - Conditions No. 1(Ga) & 22 (Kha) challenged- [Contract Act S.29 Raj. Excise Act. S.42 and Rajasthan Issue & Sale Prices of Country Liquor Rules, 1964- Rajasthan Excise Rules. 1956- Rr. 67-1 and 93]—

(a) Conditions not onerous, arbitrary or un-reasonable—No contravention of S. 29 of Contract Act- S. 29 only applicable to ordinary contracts and not to special contracts of Excise-Excise contracts or conditions are Statutory in nature-Amount of Exclusive privilege & issue price not to be confused- Power vested in the Excise Commissioner to vary the issue price cannot be said to be unreasonable or arbitrary. (Paras 46 to 55):

(b) Contract of Adhesion or Adhesive contract- -No person has an absolute right to trade in liquor - Act. 47 of Constitution of India leads towards complete prohibition- Doctrine of adhesive contract cannot be invoked in contracts for obtaining licence of Exclusive privilege to sell country liquor- Held. impugned conditions of licence not unfair arbitrary or unreasonable- Not void (Paras 56 to 60)

(c) Rise or fixation of the Issue Price—Challenged being arbitrary and unjustified- cost of production & rate of Issue Price- Disputed facts- Material not placed by parties before the High Court- Government has not examined this aspect- Left for Govt to decide- Govt. expected to be fair and just (Para 61) (writ petitions dismissed)[1]

(ii) Licence for sale of Country Liquor Guarantee system & Exclusive privilege systems distinguished-- "Value Price" and "Licence Fee" include excise duty- Excise duty chargeable only on liquor drawn from Govt. Ware house at time of purchase and not on undrawn quantity of liquor.[2]

(iii) Exclusive Privilege of sale of Country Liquor—S 24 read with S. 30 authorises the Excise Commissioner to grant a licence for the exclusive privilege of selling by retail country liquor in the State of Rajasthan and under S.30 instead of or in addition to any duty leviable under this Chapter. Excise Commissioner may accept payment of a sum in consideration of the grant of licence for exclusive privilege under S. 24. Held. the contractor is bound to pay guaranteed amount even when liquor is not sold in agreed quantity (ILR 1972) 22 Raj 84, reversed).[3]

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1. Lekhraj v State 1987 (1) RLR 661 1987 (1) WLN 771
2. Balmukand v State ILR (1972) 22 Raj 84 1971 WLN 373 1972 Tax LR 2453
3. State v Balmukand ILR (1974) 24 Raj. 910: 1974 WLN 367 (DB)

(iv) Guarantee & Exclusive Privilege systems- Grant of Licences for country liquor thereunder- Liability of Licensee to pay stipulated sum-Enforcing payment of guaranteed sum not recovery of excise duty—The licence fee stipulated to be paid by contractors is the price or consideration rental charges- Neither a tax nor an excise duty. [AIR 1975 SC 360, 1975 SC 1121 and ILR (1969) 2 Ker. 71 foll] These licences are contracts and lumpsum amount voluntarily agreed to pay to the State are not levies of excise duty, but are in the nature of lease money or rental or lumpsum amount for exclusive privilege of retail sales granted by the state to the licensees. The lump sum amount stipulated is not to be equated with Issue price also. [1974 WLN 367 (DB) affirmed].[1]

(v) Guarantee system availed for full term- Challenge to its validity not allowed—After excluding his competitor and taking the licence and enjoying the monopoly, the petitioner could not challenge the validity of the Guarantee System.[2]

(vi) Auction- Highest bid-not necessary for Government to accept it—The power given to the Government by the Act to sell the exclusive privilege in such manner as it thinks fit is a very wide power. The power is unrestricted. It includes the power to sell by private negotiation.[3]

(vii) Highest bid—Cancelling the highest offer and giving it to the next highest Offer was held to be not proper.[4]

(viii) Retail sale of Country Liquor—Tenders invited-Earnest money deposited-Petitioner withdrawn the tender-Tender accepted-Security Deposit not deposited-Held, the forfeiture of earnest money was valid as per clauses of the tender.[5]

(ix) Negotiations for Tender—[Rr 11,12 & 67 of Raj. Excise Rules] The Excise Commissioner is held competent to enter into negotiations and the petitioner has a right to participate in such negotiations.[6]

(x) Considerations of Prohibition Law while granting licence—Prohibition is a State policy for the welfare and health of the society. The licensing authority must consider the provisions of prohibition Statute while granting the licence or renewals thereof.[7]

(xi) Forfeiture of Earnest money valid-Effect of Withdrawal of offer—The petitioners submitted tender on form R for the retail sale of country liquor in pursuance of the notice for inviting tenders. They deposited the earnest money. The petitioners, however, intimated that their tender stood withdrawn and asked for refund of money. The tender was accepted and the petitioners were requested to deposit security money. The petitioners did not deposit the security amount and as such the earnest money deposited was forfeited. The question arose whether earnest money could be forfeited or not. The High Court considered the clauses of the tender. The petitioners were bound by the statutory condition that if they default in terms of their undertaking given in the tender they would be liable

1. Pannalal v. State of Rajasthan (1975) 2 SCC 633, 1975 Tax LR 2005, AIR 1975 SC 2008
2. State v. Balmukand, ILR (1974) 24 Raj. 910; 1974 WLN 367 (DB)
3. State of Orissa V. Hari Narain Jaiswal 1073 UJ (SC) 8 (Notes).
4. Bhooma Reddy v State of Mysore 1969 (1) SCC 68; 1969(2) SCJ 114
5. Bhanwarlal v. State ILR (1976) 26 Raj. 462; 1976 WLN (UC) 129, 1976 RLW 354, AIR 1976 Raj. 215
6. M/s Malukhan & Party v. State 1989(2) WLN 337.
7. The Gidhey Club New Delhi V. Chief Secretary, Delhi AIR 1980 Delhi 33

to have their deposit of earnest money amount forfeited. There is an obvious rational behind this compulsion on the tenderer not to withdraw his offer. The revenue earned by the vend of the country liquor is quite a substantial part of the State Budget, and it is naturally interested in dealing with it in a definite known manner. The whole procedure of tender and acceptance is provided by these statutory rules and conditions and the petitioners having given their tender subject to those conditions are bound by them.

Held, that the grievance of the petitioners that the earnest money has been forfeited illegally has no merit.[1]

Validity of Rules Ss.31,41,42(c) and 72—Powers of prescribing form of licences & to lay down conditions for licences delegated by State Government to Excise Commissioner-Held, Rules made by Excise Commissioner and duly published have the effect of law.[2]

Effect of mistake in Licence—District Excise Officer, designated as Licensing authority is held not incompetent to terminate licence and date of maturity shown wrong in the licence by mistake gives no right to licensee.[3]

34. Power to cancel and suspend licences—(1) Subject to such restrictions as the [4][State Government] may prescribe, the authority granting any licence, permit or pass under this Act may cancel or suspend it–

(a) if it is transferred or subject by the holder thereof without the permission of the said authority;or

(b) if any duty or fee payable by the holder thereof be not duly paid,or

(c) in the event of any breach by the holder of such licence, permit or pass or by his servant or by anyone acting on his behalf with his express or implied permission, of any of the terms or conditions of such licence, permit or pass; or

(d) if the holder thereof is convicted of any offence punishable under this Act or any other law for the time being in force relating to revenue or of any cognizable and non-bailable offence or any offence punishable under the [5][Dangerous Drugs Act, 1930 [6][Central Act 11 of 1930] or any law relating to merchandise marks or of any offence punishable under sections 482 to 489 (both inclusive) of the Indian Penal Code, [7](X X X) or

1. Bhanwar Lal v. State, ILR (1976) 26 Raj. 463, 1976 RLW 354, 1976 WLN (UC) 129, AIR 1976 Raj 215.
2. State v. Balmukund 1974 WLN 367 (DB)
3. M/s Amarkumar v. Board of Revenue 1996 (1) WLC 156
4. Substituted by section 4 of Rajasthan Act No. 38 of 1957, published in the Rajasthan Gazette Extraordinary, Part IV-A, dated 5-12-1957.
5. Substituted by section 12(i) (a)-ibid.
6. Now repealed by the NDPS Act
7. Omitted by section 12(i) (b)-ibid

(e) where a licence, permit or pass has been granted on the application of the grantee of an exclusive privilege under this Act, on the requisition in writing of such grantee; or

(f) if the conditions of the licence, permit or pass provide for such cancellation or suspension at will.

(2) When a licence, permit, or pass held by any person is cancelled ıder sub-section (1), the authority aforesaid may cancel any other licence, ·rmit or pass granted to such person under this Act or any other law for e time being in force relating to excise, revenue or under [1][The Opium Act, 78 [2](Central Act 1 of 1878)].

(3) The holder of a licence, permit or pass shall not be entitled to any ›mpensation for the cancellation or suspension thereof under this section nor a refund of any fee paid or deposit made in respect thereof.

35. Further power to cancel licences—(1) Whenever the authority hich granted a licence, permit or pass under this Act considers that such ence, permit or pass should be cancelled for any cause other than those ecified in section 34, it may, on remitting a sum equal to the amount of e fees payable in respect thereof for fifteen days, cancel the licence either-

(a) on the expiration of fifteen days' notice in writing of its intention to do so, or

(b) forthwith without notice

(2) When a licence, permit or pass is cancelled under this section any e paid in advance or deposit made by the license in respect thereof shall : refunded to him after deducting the amount (if any) due to the [3][State overnment]

(3) If any licence, permit or pass be cancelled under clause (b) of sub-ction (1) in addition to the sum remitted as aforesaid, there shall be paid the licensee such further sum (if any) by way of compensation as the Excise ommissioner many direct.

COMMENTARY (Ss. 34 & 35)
SYNOPSIS

Power to suspend and cancel	5. Effect of [sub-sec (2)]
Grounds for	6. No compensation [sub-sec (3)]
Procedure	7. Cancellation under S. 35
Rule 76, Excise Rules	8. Case Law summarised

Substituted by section 12 (ii)-ibid

Now repealed by the Narcotic etc Drugs Act.

Substituted by S.4 of the Raj. Act No. 35 of 1957

1. Power to cancel and suspend licence, permit or pass (Section 34)—Meaning and impact of these expressions is missing in the provisions of this section. Suspension can be temporary for the time being whereas cancellation is a final and permanent action But powder to suspend a licence pending enquiry has not been accepted by the Rajasthan High Court. Hence suspension or cancellation of licence cannot be distinguished in effect and as such both are almost same.

2. Grounds for cancellation or suspension of licence etc—Sub-section (1) enumerates six grounds in clauses (a) to (f)- Please refer to the text of the section In clause (f) cancellation or suspension at will as condition of licence has been included [See-Note (4) also].

3. Procedure—No procedure for cancellation or suspension of licence has been given in this Section. However, no such provision has been included in the rules also Hence the principles of natural justice are to be followed before suspending or cancelling a licence. Question of post-decisional hearing is also to be considered following Menka Gandhi's Case [AIR 1978 SC 597 (611)].

[Please refer to Note (14) in the Commentary of "Preamble" on "Principles of Natural Justice"]

4. Cancellation, modification and suspension of licences. (Rules 76 of the Rajasthan Excise Rules, 1956)—This rule runs as under-

Rule 76–Cancellation, modification and suspension of licences—The authority granting a licence under these rules may cancel, suspend or modify the licence-

(a) to rectify clerical mistakes,

(b) if the licence has been obtained by fraud, or

(c) if the licensee has been guilty of the violation of a condition of his licence or the contravention of the provisions of the Act or any notification, order or rule issued under the Act

5. Effect of Cancellation of a licence, permit or pass-Sub-section(2)—When a licence, permit or pass is cancelled under sub-section (1), the authority may also cancel any other licence etc. granted to such person.

6. No compensation for cancellation or suspension of Licence etc.–[Sub-sec.(3)] if a licence etc. is cancelled or suspended under this section, the holder thereof is not entitled to any compensation or refund of any deposit. This provision is very harsh and arbitrary. Also refer to section 37 of the Act for further provisions.

7. Cancellation of Licence etc. under S. 35—Where a licence etc. is to be cancelled on any other cause or ground, which is not covered by grounds mentioned in Section 34, the Authority may do so after comply with a condition that "it may on remitting a sum equal to the amount of the fees payable for it for fifteen days". This condition is mandatory in nature and is to be followed strictly, otherwise right of contractors (licensees) under licence will be saved by S. 76(b) (1) of the Act [1]

8. Case Law summarised—Where no procedure is prescribed an authority acting under a statute most comply with the substantial requirements of natural justice and

1 M/s Gehlot Wine Stores v. State 1978 RLW 53 1978 WLN 5 AIR 1979 Raj 54.

'd not worry about its form. The party being proceeded against. only get a fair opportunity presenting its case. What would be a fair opportunity would have to be determined ing regard to the particular facts of the case. No general test can govern all conditions.[1]

Transfer in contravention of Rules & terms of licence proved—Show cause notice ved and fair opportunity of defence given-transfer proved on basis of income tax irn. Excise Commissioner held rightly cancelled the licence.[2]

No violation of Principles of Natural justice—Show cause notice given. but licensee ed to submit reply on due date. Adjournment was not allowed by District Excise Officer l order of cancelling license was rightly passed.[3]

Cancellation of licence-Competent Authority—R. 58 empowers the Assistant nmissioner (now District Excise Officer) to grant licences for the sale of intoxicating gs. The question of authorisation to any other authority (i.e. Dy Excise Commissioner his case) by Excise Commissioner doesn't arise. Held. the Excise Commissioner cannot e away the powers of A.C. (i.e.D O) contravening the express provisions of rules. nce the Dy. E.C. has no jurisdiction to cancel such licence and such notification is irly void.[4]

Suspension of licence-Order held vitiated—Show cause notice issued for cancellation licence 30 days after the issue of order of suspension of licence-Even if it was an ninistrative order. the principle of natural justice to be followed. Held. the order of pension of the petitioner's licence stands vitiated due to the non-compliance of the iciples of natural justice.

The show cause notice for the cancellation of licence was issued 30 days after impugned order was passed and. therefore. there is no escape from the Officer to ict punishment under Section34 of the Act read with Rule 76 of the rules. In these umstances. I cannot accept the plea of the respondent that the suspension was ordered ding the enquiry for cancellation.

Even if it is admitted for the sake of arguments that the passing of an order suspending licence is an administrative order. it cannot be passed without following the rule natural justice. This principle has been given a recognition by the Courts of law that decision shall be given against a party without affording him a reasonable opportunity state his case (audi alterem partem). If any order is passed against a person that ets his rights without giving him an opportunity to state his case before the authority. definitely the non compliance with the principles of natural justice would result njustice to the person aggrieved and such a decision or order of the authority which passed in violation of the principles of natural justice cannot stand the scrutiny of judicial co. . In my opinion the order of suspension of the petitioner's licence ids vitiated due to the non-compliance of the principles of natural justice.[5]

No powers of Suspension pending enquiry—The power of suspension of a license er s 34 and r.76 has not been conferred to facilitate the Department to carry on

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1962 RLW (RS) 5 (8)
M/s Nandraj Wines v.State 1980 RRD 179.
Jagdish Prasad V. state 1973 RRD 225
1968 RRD 519
Mangila' v District Excise Officer. Ajmer 1970 WLN 159 AIR 1971 Raj 46; ILR (1970) 20 Raj 5 9

the enquiry for the cancellation of the license, but it has been given to the Department to inflict punishment and the order of suspension if passed under these provisions shall be dealt with as if the penalty has been imposed by the Department. It may be noted that the licences are generally granted for a period of one year and if this power of suspension of a license is taken as a power to afford facility to the Department. pending the enquiry for cancellation of the license, then in that event after the enquiry if the licence is found innocent, then the suspension during the course of enquiry for the cancellation of license would automatically act as a punishment because during the period of suspension, the entire business of the licensee shall be stopped [ILR (1959) 9 Rajasthan 1009, referred to].[1]

Cancellation of Licence & Natural Justice—Once a licence is granted to a licensee under the Excise Act, no order of cancellation can be passed without providing an opportunity of hearing. A reasonable opportunity of hearing and showing cause in an enquiry to be conducted, are the most essential requirements for consideration of the question of a licence under S. 34 of the Act, [1968 RRD 519, 1916 RLW 312 and AIR 1978 SC 597 relied on] [Writ accepted with costs- Enquiry left open].[2]

Cancellation of Licence-Ss 35 & 76 and Rajasthan Prohibition Act—licences can be cancelled under S. 35 by remitting the request amount as contemplated by the section-otherwise right of contractors under licence will be saved by S. 76 (1).[3]

Refusal of Renewal of Licence for establishment of Bonded Ware House & Bottling plant- Action held to be arbitrary—No new ground for such refusal was open (Paras 16, 17, 18) Nature of power and duty of Authorities pointed out.[4]

Termination of Licence by District Excise Officer—Date of expiry of licence wrongly mentioned in licence as 31.5.1979 instead of 31.3.1979. As per rules it was due to be terminated by 31.3.1979 i.e. at end of the financial year Held. the date wrongly entered in licence gives no right to petitioner to make a claim. Actually Petitioner Committed defaults in terms of the licence and not deposited balance of amount in time despite notice and in view of this, the cancellation was justified.[5]

36. Surrender of licence to sell by retail- Any holder of a licence to sell by retail under this Act may surrender his licence on the expiration of one month's notice in writing given by him to the Excise Commissioner of his intention to surrender the same and on payment of the fee payable for the licence for the whole period for which it would have been current but for such surrender.

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering such a licence, he may remit to the holder thereof, the sum so payable on surrender, or any portion thereof

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1. Mangilal v District Excise Officer, Ajmer 1970 WLN 159 AIR 1971 Raj 46 ILR (1970) 20 Raj 569.
2. Topan Dass v. State 1981 RLW 351
3. M/s Gehlot Wine Stores v. State 1978 RLW 53. 1978 WLN 5 AIR 1979 Raj 14.
4. M/s R.N.Products. Jodhpur v.State 1989(2) RLR 741- {See for details in commentary of Section 17, Supra}
5. M/s Amar Kumar v. Board of Revenue, 1996 (1) WLC 156

xplanation—The words "holder of a licence" as used in this section include a person whose tender or bid for a licence has been accepted, although he may not actually have received the licence.

37. No renewal of licence or compensation on determination or enewal of licence claimable—No person to whom a licence has been granted nder this Act shall have any claim to the renewal of such licence, or to any laim for compensation on the determination [1][or non-renewal thereof].

COMMENTARY

1. Scope—Section 37 postulates that-

(i) Renewal of licence cannot be claimed as if a right, by the licensee.

(ii) On determination or non-renewal of licence, no claim for any compensation can be made.

These two postulates are used as shield by the authorities against the licence older for action taken to determine (on coming to an end or expiry of period) a licence, r in case of refusal to renew a licence. Every arbitrary action by authority is amenable writ jurisdiction of the High Court and any harsh and arbitrary action can be challenged a writ petition

. Important case—

SAMRAT BOTTLERS Pvt. Ltd.
Vs.
STATE OF RAJASTHAN
[1988 (2) RLR 577 (DB)]

—Ss. 9A, 16 (d) & 37- Constitution of India, Art. 226-

(a) Writ lies, when State acts arbitrarily inspite of remedy of appeal under S 9A- (Paras-4 &5)

(b) Renewal of licence-Direction issued to renew licence as State Govt. acted arbitrarily and discriminately.

(Paras 5 & 6)

★ ★ ★ ★ ★

a) Facts of the case—

M/s Samrat Bottlers (P) Ltd. (for short the petitioner) has challenged Annexure-6 dated 18-7-1988, under which it was communicated to the petitioner that his licence or bottling plant cannot be renewed. The challenge as aforesaid is on the ground that t is arbitary and discriminatory in as much as two licences, viz of M/s Alwar Malt and Agro Food Manufacturing Company Pvt. Ltd. Alwar and M/s Ajanta Chemicals P. Ltd. Alwar which had been granted bottling licence for the period ending 31st March 1988, were granted renewal whereas the licence of the petitioner who is better situated was not renewed.

1. Substituted by Section 4 of Rajasthan Act No. XXVIII of 1961, published in Rajasthan Gazette-Part IV A- Extra Ordinary dated 21-10-61

2. The grant of the licence is regulated by the Raj. Excise Act, 1950 (for short the Act) and Raj. Excise Rules 1956 (for short the Rules). Under Sec. 16 of the Act, no excisable article shall be manufactured and under its clause(d), no liquor shall be bottled for sale except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Excise Commissioner (or by an Excise Officer duly empowered in this behalf). It appears that licence was issued to the petitioner on 15th Nov., 1987. In other words, the licence of the petitioner for bottling of liquor was effective only for a period of 4-1/2 months. Similar licences in Alwar for bottling liquor was given to Alwar Malt and Agro Food Manufacturing Company (P) Ltd. on 23-5-87, to M/s. Ajanta Chemicals P. Ltd. Alwar, on 14-5-85 and they too were to end on 31st March, 1988. It appears that the petitioner had started the construction of necessary sheds and had dug a well. It had placed orders for the machinery so that the work of bottling of liquor could be taken up. But the petitioner could not in terms of the licence start bottling of liquor by 31st March, 1988. He was called upon by the District Excise Officer under Annexure-10, dated 12-1-88 to deposit renewal fee by 20th Febuary, 1988. So that the licence may be renewed. The petitiner deposited a sum of Rs. 25 000/- being renewal fee vide-Annexure dated 26-2-1988, also requested for renewal of the licence. Under his letter dated 10-3-1988, the petitioner wrote to the District Excise Officer that electric connection has been taken, lease-deed for land has been executed godown has also been constructed and a boundary wall too has been constructed. A tube well has also been dug and electrict connection has been taken for the purpose. The construction of the remaining part of the building was going on and order has been placed for necessary machinery etc. But under the impugned order, the renewal of the licence of the petitioner for bottling of liquor was not done whereas the renewal of the licence, which was earlier granted to Alwar Malt and Ajanta Chemicals was done

3. Notice was (sic) given to non-petitioners and reply has been filed and so far as the alleged discrimination is concerned, a case has been set-up that the petitioner on the one had and Alwar Malt and Ajanta Chjemicals on the other hand were not similarly situate in as much as the petitioner was not in a position to start bottling of liquor, whereas the other two were in a position to start the isued to each of them that is case they do not start the bottling by 31-5-1988, their licence will be cancelled. Thus, the case of the non-petitioners is that, whereas the licence to Alwar Malt and Ajanta Chemicals have been renewed, because they were in position to start bottling the liquor licence of the petitioner was not renewed because he was not in such a position

[4 & 5-Preliminary objection of alternative remedy by way of appeal under S 9-A—] If the state arbitrarily acts discriminatorily, this Court does invoke its powers under Art. 226 of the Constitution of India .. ..

(b) Action refusing renewal of licence—

We shall presently show that there appears to be no jurisdiction (Sic-justification) for having renewed the licence of Alwar Malt and Ajanta Chemicals, shall also presently show whether they were similarly situated, rather were similarly situated, rather were not situate in a better way that the petitioner, their licence were renewal. Thus the Excise Commissioner/State Government has acted arbitrarily in not renewing the licence of the petitioner whereas renewed the licence of the above named two firms

We have already given about and we may that so far as licences of Alwar Malt l Ajanta Chemicals for bottling of liquor for the period ending 31st March 1983 are .cerned. they were issued on 23-5-87, respectively. The licence to the petitioner was ugh issued in October, but having been received by the petitioner on 15-11-87, we y take it to have been issued on that date. If Alwar Malt and Ajanta Chemicals, even r issue of licence to them in the month of 1987, could not complete the installation the machines etc, could not be in a position to undertake bottling of liquor by 31-988, how could it be expected that the petitioner, who had only received the licence 15-11-87 i.e. after almost about six months of the issue of licence to the other two ns, be in a position to have started bottling of liquor. The petitioner had applied for ewal and on being asked to deposit the request fee in February, 1988, therefore, if n on inspection, it was found that the two firms were in a position to undertake tling of liquor immediately, and they can be in a position, having been granted the nce in May, 1987, and the petitioner was not in a position to immediately start bottling liquor, having been granted licence in the month of Nov. 1987, as aforesaid, it can dly be said that the grant of renewal of licence to which undoubtedly the petitioner l no right like the two others, renewal of the petitioner when he was granted to two er (sic). The State or Excise Commissioner cannot be allowed to pick and choose l if such a practise is allowed then many questions may be raised or reasons which y not be stated herein. *Therefore, though as stated earlier, no body has right to de, no body has right to any licence for an excisable article which will include licence of bottling of liquor, but every body has a right to be treated equally with ers who are similarly situate.*

Action arbitrary- Directions issued—

6. The action of the Excise Commissioner/State Government in refusing the renewal the licence of bottling liquor to the petitioner, who had invested sufficient amount l it may be stated that even as per the report available with the respondent, it can said that in May, 1988, even the plant and machinery ordered by the petitioner were ıg ready was arbitrary, because two persons who were similarly situated, rather placed a weaker position, licences have been renewed. We are of the opinion that the licence the petitioner, who had deposited Rs. 25,000/- on the being asked to do so even January, 1988 should have been renewed. The petitioner thus has been dealt with criminatory. The Excise Commissioner doesn't appear to have acted fairly and has ed arbitrarily, therefore, we hereby allow this writ petition and direct that the licence the petitioner shall be renewed for the period ending 31st March, 1989, provided the itioners starts bottling liquor within a period of one month from the date of the grant renewal. We direct the Excise Commissioner/State Government to renew the licence the petitioner for the period ending 31st March, 1989, immediately (Writ allowed).

3. Case Law Summarised

Renewal of Licence-Speaking Order necessary—No formal order refusing renewal licence was passed by the Excise Commissioner, but he wrote Dy-Commissioner not renew licence. Held, the Excise commissioner must pass express speaking order. R. A was not properly followed.[1]

Babulal. v. Assistant Excise Officer, Sirohi 1981 RRD 425.

No Claim of renewal as right—Petitioner failed to apply for renewal of licence in time Held, the licenceees have no claim as right for the renewal of their licences or for compensation in lieu of non-renewal. Held the Excise Commissioner committed no violation of Rules.[1]

Legislative Function–Right of hearing—[Ss. 37 and 41- Rajasthan Foreign Liquor (Grant of whole sale trade & retail Licences) Rules, 1982, Rr.6 and 7]- Validity of Notification dated 31-3-82 amending Rr. 6 & 7 - The amendment of the Rules is a Legislative function of delegated legislature and the principles of natural justice or the right of hearing or opportunity to show cause cannot be extended to it. Rules cannot override the Act and therefore, in view of S.37 whatever promise might have been made or impressions given to the licensees for renewal, no legal right is created and the respondents can certainly reject the prayer for renewal and go ahead with the auction proceedings according to the amendment of 31st. March 1982. (Five writ petitions dismissed summarily).[2]

Renewal of licence–Not a Claim—[S. 37 and Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail Off Licence) Rules, 1972 R. 69- No person to whom a licence has been granted under the Act can claim the renewal of a licence or can claim for compensation on termination or non-renewal thereof. The question of renewal of a licence can arise only when there exits and existing licence and there is no gap in between the expiry of licence and grant of new licence. As the total prohibition was in force in the State of Rajasthan, by no stretch of imagination it can be said that the petitioner's old licence could be renewed from April 1, 1980. (Writ dismissed).[3]

Refusal to renew licence-Appeal before Commissioner under S. 9A- Not absolute bar to Writ Jurisdiction—Where the Excise commissioner/State Government has acted arbitraily in not renewing licence of petitioner whereas renewed the licence of other two firms. Held, alternative remedy is not absolute bar and the High Court can invoke the jurisdiction under Art. 226. If the State and its officer have acted arbitrarily and in discriminatory manner, held the writ lies. No bar.[4]

38. Technical irregularities in licence—(1) No licence granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or imission in the licence, or in any proceedings taken prior to the grant, thereof.

(2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

COMMENTARY

1. Scope—This section deals with technical irregularities or defects in licence. What is a technical defect, irregularity or omission in a licence- this question is to be decided by the Excise Commissioner and such decision shall be final. For such technical defect, irregularity or omission, no licence shall be treated to be invalid.

2. Rules—In rule 76 of the Rajasthan Excise Rules, 1956, a provision for modification of licence has been made, to rectify clerical mistake.

1. Gaurilal alias Magan Beharilal v. State 1978 WLN 651.
2. M/s Raju Wine Stores v. State 1982 Raj LR 466
3. RamKishan v. State 1981 WLN (UC) 267.
4. M/s R.N. Product, Jodhpur v. State, 1989(2) RLR 741

Chapter [VII]

General Provisions

❑ Introductory Note

There are three important provisions of law enumerated in this Chapter containing ;tions 39 to 42 of the Act.

(1) **Weight & Measure**—Prescribed Measures, weight and testing instruments to be kept by the licensee of excisable articles (S.39)

(2) Recovery of Excise Revenue (S. 40) and

(3) Rule making power of-

(a) State Government (S. 41) and

(b) Excise Commissioner with prior sanction of the State Government (S 42).

39. Measures, weights and testing instruments—Every person who ınufactures or sells any excisable article under a licence granted under this :t, shall be bound-

(a) to supply himself with such measures, weights and instruments, as the Excise Commissioner may prescribe and to keep the same in good conditions; and

(b) When such measures, weights and instruments have been prescribed, on the requsition of any Excise Officer duly empowered in that behalf, at any time to measure, weight to test any excisable article in his possession in such manner, as the said Excise Officer may require.

40. Recovery of Excise Revenue—All Excise revenue, including all ounts due to the [2][State Government] by any person on account of any ıtract relating to excise revenue, may without prejudice to any other mode recovery, be recovered from the person primarily liable to pay the same from his surety, (if any), as arrears of land revenue or in the manner provided the recovery of public demands by any law for the time being in force. case of default made by a holder of a licence the Excise Commissioner[1] an Excise Officer duly empowered in that behalf] may take th grant for ich the licence has been given under management at the risk of the defaulter, declare the grant forfeited and resell it at the risk and the loss of the defaulter ıen a grant is under management under this section, the Excise Commissioner

Inserted by section 10 of Rajasthan Act No XXVIII of 1952 published in the Rajasthan Gazette, Part IV-A, dated 13-12-54

Substituted by section 4 of Rajasthan Act No. XXXVIII of 1957, Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 5-12-1957

[1][or an Excise Officer duly empowered in that behalf] may recover as excise revenue any money due to the defaulter by any lessee or assignee:

Provided that no licence for an exclusive privilege granted under section 24 shall be forfeited or resold without the sanction of the authority granting the licence.

[2][Provided further that notwithstanding anything to the contrary contained in any law for the time being in force, the amount recoverable under this section, shall be the first charge on the property of such person liable for payment of said amount.]

COMMENTARY
SYNOPSIS

1. Meaning of Excise Revenue
2. "All amounts...."- Meaning
3. Methods of recovery
   (a) as arrears of land revenue
   (b) as "Public demand"
   (c) "without prejudice"
4. From whom to be recovered
5. Case of default-two alternatives
6. Grant taken under Management
7. Forfeiture & resale of Grant
8. Exception- Exclusive Privilege Grant (Proviso).
9. Amount recoverable as "First Charge" (Second Proviso).

1. Meaning of Excise Revenue—In clause (8) of the Act, the expression "Excise Revenue" has been defined as follows:

"(8)"Excise Revenue" means revenue derived or derivable from any payment, duty, fee, tax, fine (other than a fine imposed by a court of Law) or confiscation imposed or ordered under the provisions of this Act or of any other law for the time being in force relating to liquor or intoxicating drugs"

"Excise Revenue"-What amount to—Licence fee leviable under contract is held to be excise revenue & is recoverable under S. 40.[3]

2. "All amounts due to the State Government by any person on account of any contract relating to excise revenue"- Meaning of"—This expression empowers the authorities to recover contractual obligation of any person relating to excise revenue also.

3. Methods of Recovery of Excise Revenue & dues—

(a) "as arrears of land revenue"-Recovery of miscellaneous revenue & other money-(Section 256 of Rajasthan Land Revenue Act, 1956)—Under Clause (a) S. 256, all sums of money payable to the Govt. Department on account of (i) rates, (ii) duties, (iii) taxes, (iv) charges or (v) other dues may be recovered as arrears of land revenue

Under clause (c), all sums of money due to the State Government under any (i) grant or (ii) lease or (iii) contract which provides that they are recoverable as arrears of land revenue, can be recovered

1. Inserted by section 10 of Rajasthan Act No. XXVIII of 1952, published in the Rajasthan Gazette, Part IV-A, dated 13-12-54
2. Added by the Rajasthan Finance Act, 1998 (Act No 8 of 1998)- Chapter VII-Ss. 25 to 27 Pub. in Raj. Gaz-EO-IV-A dated 31-7-98, Page 5(22)
3. State v. Balmukund, 1974 WLN 367 (DB)

The procedure of recovery has been given in the Recovery Rules called "the Rajasthan Land Revenue(Payment, Credits, Refunds and Recovery) Rules, 1958*.

(b) "As Public Demand"—Expression "in the manner provided for the power recovery of public demands by any law for the time being in force" indicates that "public demand" may be recovered under the Rajasthan Public Demands Recovery Act, 1962 which is a law in force.

The public demand can be easily recovered under S. 256 of the Rajasthan Land Revenue Act, 1956, so the complicated procedure of the Raj. Public Demand Recovery Act, 1962, is not being followed. The Board of Revenue has held that the Raj. Public Demand Recovery Act is not applicable for recovery of excise dues.[1]

Recovery of Excise dues- Procedure under S. 9A Excise Act & Recovery Proceedings under Land Revenue Act, distinguished—District Excise Officer also exercises powers as Recovery Officer under Chapter X of Land Revenue Act. When the contractor as applicant challenges the assessment of dues made under Excise Act, and proceedings under Land Revenue Act are subsequent thereto and when a dealer questions the recovery of dues, he has to pay the due amount under protest under S. 257 B (2) of L.R. Act and thereafter the District Excise Officer as Recovery Officer will hear his objections. Held that in the instant case, order passed by D E O was perfectly correct.[2]

Excise dues under agreement recoverable under S. 256 as arrear of land revenue—Applicant filed protest or objection before the Collector without depositing amount, held, such a protest should have been ignored and recovery could have been proceeded with (Revision was dismissed.)[3]

Recovery of Excise dues—The excise dues are recoverable as an arrear of land revenue under S. 256 of the Raj. Land Revenue Act. The Rajasthan Public Demand Recovery Act is held not applicable.[4]

Recovery of Excise dues—A truck, registered in name of brother-in-law of applicant and wife of "S" was attached as recoveries were due from S. Held, vehicle is to be presumed to belong to persons in whose name it has been registered till contrary is proved. [1975 RLW 366 and 1974 RLW 438 applied]- Proceedings of recovery by attachment and sale were quashed & Non-action of D.E.O. in disposal of application was deplored.[5]

(e) "Without prejudice to any other mode of recovery"- Meaning—This expression reserves the right of recovery by other normal modes of recovery of excise revenue and as such the State Government is entitled to file civil suit for recovery of money due. This is a precautionary measure, to reserve the right of using all other modes of recovery.

4. From whom to be recovered—

".....to be recovered from-

(a) the person primarily liable to pay the same OR

(a) from his surety (if any)

5. In Case of Default- two alternatives are available—

(i) Grant is given under Management, or

(ii) Forfeiture of grant & Resale of the grant

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* Refer to "Commentary on Raj. Land Revenue Act By (i) S.K Dutt, or (ii) by Mathur & Mathur for details.

1. Subhash Chandra v. State 1980 RRD (NUC) 78.
2. Smt. Jatan Devi v. State , RRD 1978 NUC 65.
3. Chunni Lal v. State RRD 1977 NUC 113.
4. Suraj Prakash v.State 1980 RRD (NUC) 42.
   Subhash Chandra v.State 1980 RRD (NUC) 25
5. Basantnath v. State RRD 1977 NUC 25.

Both these alternative methods are to be adopted at the risk of defaulter i.e. contractor-grantee. This provision is also very harsh one.

6. Grant taken under Management—When the default (in payment of excise dues) is made by a holder of licence, the Management is set up on such grant (i.e. Administrator or manager is appointed) by the Excise Commissioner or competent authority at the risk of defaulter. In such a case, the Excise Commissioner or an Excise Officer duly empowered in this behalf may recover any moneys due to defaulter by any lessee or assignee of the defaulter.

7. Forfeiture & resale of Grant—As alternative method, the Excise Commissioner or Excise Officer so empowered may forfeit the grant and then can resell it at the risk and loss of the defaulter.

8. Exception- Exclusive Privilege Grant–(Proviso)—When a licence under S. 24 is granted for an exclusive privilege, such grant shall not be forfeited or resold without the sanction of authority granting such licence. This is a restriction against forfeiture of exclusive privilege grant only.

9. Amount recoverable as "First Charge"– [Second Proviso]—This special provision has been made to safe guard the interest of the Government by securing the payment of amount recoverable as FIRST CHARGE on the property of person liable to make payment of such amount i.e. excise revenue. Thus the amount due to the Government as excise revenue shall be chargeable out of the property of the person liable to it on first preference and after recovery made out of such property by the Excise Department, the residue amount shall be liable to be paid to other creditor.

[1]["**40A. Special mode of the recovery**—(1) Not withstanding anything contained in the Act any law, for the time being in force or contract to the contrary, the District Excise Officer may, at any time or from time to time, by notice in writing, a copy of which shall be sent to the defaulter at his address last known to the District Excise Officer, require,—

(a) any person from whom any amount is due or may become due to the defaulter who has failed to pay due amount on the demand by the District Excise Officer, or

(b) any person who holds or may subsequently hold any money for or on account of such defaulter,

to pay, into the Government Treasury or the bank authorised to receive money on behalf of the State Government, in the manner specified in the notice, either forthwith or upon the money becoming due from him or being held by him, within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount due from the defaulter or the whole of the money when it is equal to or less than [than][2] amount.

Explanation—For the purposes of this section "defaulter" means a person who is primarily liable to pay any excise revenue or any amount due to State Government from him on account of any contract relating to excise revenue and who does not pay such revenue or, as the case may be amount by due date and includes his surety.

(2) The authority issuing a notice under sub-section (1) may, at any time or from time to time, amend or revoke any such notice or extend the time upto three months for making any payment in pursuance of this notice.

New Section 40A inserted by The Rajasthan Finance Act, 2001 (Act No. 50 2001) published in Raj. Gaz. EO Part-IVA dated 26-5-2001 w.e.f. 26-5-2001.

2 Sic–should be "that"—See in Hindi Text. —Editor

(3) Any person making any payment in compliance with a notice issued under sub-section (1) shall be deemed to have made the payment under the authority of the defaulter, and the treasury receipt or the challan of the bank for such payment shall constitute a good and sufficient proof of discharge of the liability of such person to the extent of the amount specified in the receipt or the challan.

(4) Any person discharging any liability to the defaulter after service on him of the notice issued under sub-section (1) shall be personally liable to the State Government to the extent of the liability discharged, or to the extent of the amount of demand, whichever is less.

(5) Where a person to whom a notice under sub-section (1) is sent proves to the satisfaction of the District Excise Officer that the money demanded or any part thereof is not due to the defaulter or that he does not hold any money for or on account of the defaulter, then nothing contained in this section shall be deemed to be required such person to pay any such money or part thereof, as the case may be, to the District Excise Officer.

(6) The provisions of this section shall be without prejudice to any action that may be taken for the recovery of the arrears."]

41. Power of State Government to make rules—(1) The State Government may make rules for the purpose of carrying out the provisions of this Act or other Law for the time being in to force relating excise revenue.

(2) In particular and without prejudice to the generality of the foregoing provisions, the State Government may make rules-

(a) regulating the delegation of any powers by the Excise Commissioner;
(b) prescribing the powers and duties of officers of the Excise Department;
(c) regulating the manner in which appeals shall be made to the Excise Commissioner;
(d) regulating the import, export, transport or possession of any excisable article [or molasses or lanced poppy heads].[1]
(e) regulating the period and localities for which and the person to whom licences for the vend by wholesale or by retail of any excisable article may be granted;
(f) prescribing the procedure to be followed and the matters to be ascertained before any licence for vend is granted for any locality;
(g) for the prohibition of the sale of an excisable article to any person or class of persons.
(h) for the grant of expenses to witnesses and compensation for loss of time to person released under section 44 on the ground that they have been improperly arrested and to persons charged before a Magistrate with offences punishable under this Act but acquitted;
(i) regulating the power of Excise Officers to summon witnesses from a distance under the provisions of section 44;
(j) for declaring the Excise Officers to whom, and the manner in which information or aid should be given under section 50;
(k) for the prohibition of the employment by the licence-holder of any person or class of persons to assist in his business in any capacity whatsoever;
(l) for the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises, and the meeting or remaining of persons of bad character in such premised;
[1][(m) for the grant and distribution of rewards to informers and Government servants.]
[2][(n) prohibiting the printing, publishing or otherwise displaying or distributing any advertisement or other matter commending or soliciting the use of, or offering any intoxicant or calculated to encourage or incite any individual or the public generally to commit an offence under this Act, or to commit a breach or evade the provisions of any rule or order made thereunder, or the conditions of any licence, permit or pass obtained thereunder,
(o) prohibiting within the State the circulation, distribution or sale of any newspaper, book, leaf-let, or other publication printed and published outside the State which contains any advertisement matter of the nature described in clause (n), and
(p) declaring any newspaper, book, leaf-let, book-let, or other publication, wherever printed or published containing any advertisement or matter commending or selecting the use of or offering any intoxicant, to be forfeited to the State Government]

(3) The power conferred by this section for making rules is subject to the condition that the rules shall be made after previous publication

Provided that any such rule may be made without previous publication if the State Government considers that it should be brought into force at once

42. Powers of Chief Excise Authority to make rules—The Excise Commissioner may, subject to the previous sanction of the [3][State Government], make rules-

1. Words 'or molasses' inserted by S.4 of Rajasthan Act No. 8 of 1985 was substituted vide S. 3 of the Rajasthan Act No. 1. of 1986, published in Raj. Gaz-EO-4(Ka) dated 10-2-86. Page 85, w.e.f. 4-8-85.

1. Inserted by section 4 of Rajasthan Act No. XXII of 1958 published in the Rajasthan Gazette, Part IV-A. Extraordinary dated 22-5-58.
2. Added vide section 3 of Rajasthan Act No. 3 of 1966, published in the Rajasthan Gazette Part IV-A Extraordinary, dated 29-3-1966.
3. Substituted by section 4 of Rajasthan Act No. XXXVIII of 1957, published in the Rajasthan Gazette, Part IV-A. Extraordinary, dated 5-12-1957.

(a) regulating the manufacture, supply, storage or sale of any excisable article including-

(i) the erection, alteration, repair, inspection, supervision, management and control of any place for the manufacture, supply, storage or sale of such article or drug and the fittings, implements and apparatus to be maintained therein;

(ii) the cultivation of the hemp plant (Cannabis Sativa);

(iii) the collection of portions of the hemp plant (Cannabis Sativa) from which many intoxicating drugs can be manufactured and the manufacture of any intoxicating drug therefrom;

[1][(iv) the bottling of liquor for purpose of sale],

(b) regulating the deposit of any excisable article in a ware house and the removal thereof from any such warehouse or from any distillery pot-still or brewery;

(c) prescribing the scale of fees or the manner of fixing the fees payable in respect of any licence, permit or pass or the storing of any excisable article;

Explanation– Fees may be prescribed under this sub-clause at different rates for different classes of licence, permits, passes or storage, and for different areas.

(d) regulating the time, place and manner of payment of any duty or fee;

(e) prescribing the restrictions under and the conditions on which any licence, permit or pass may be granted including provisions for the following matters-

(i) the prohibition of the admixture with any excisable article of any substance deemed to be noxious or objectionable,

(ii) the regulation or prohibition of the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength,

(iii) the fixing of the strength, price or quantity in excess of or below which any excisable article shall not be sold or supplied or possessed and the quantity in excess of which denatured spirit shall not be possessed and the prescription of a standard of quality for any excisable article.

(iv) the prohibition of sale except for cash,

(v) the fixing of the days and hours during which any licensed premises may or may not be kept open, and the closure of such premises on special occasions;

(vi) the specification of the nature of the premises in which any excisable article may be sold and the notice to be exposed at such premises;

1. Inserted by section. 5(1) of Rajasthan Act No. XXVIII of 1961, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 21-10-1961

(vii) the form of accounts, to be maintained and the returns to be submitted by licence-holders, and

(viii) the regulation of the transfer of licences;

(f) (i) declaring [1][substance and the process] by which spirit manufactured in India shall be denatured;

(ii) for causing such spirit to be denatured through the agency or under the supervision of Excise Officer;

(iii) for ascertaining whether such spirit has been denatured.

(g) providing for the destruction or other disposal of any excisable article deemed to be unfit for use.

(h) regulating the disposal of confiscated articles.

COMMENTARY (Ss. 41 & 42)

SYNOPSIS

1. Scope of Ss. 41 & 42
2. Nature of Rule making Power
3. Subordinate Legislation
4. Judicial review of the Rules
5. The Rules-their place & construction
6. Rules when come into existence
7. Rules under the Act.
8. Rules making power of State Government (S. 41)
(a) General power
(b) Particular power
(c) New excisable articles added
(i) Molasses added
(ii) Lance Poppy Head added
(d) Previous Publication
9. List of Rules under S. 41
10. Rule making power of Excise Commissioner (S.42)
11. List of Rules framed by Excise Commissioner
12. No Provisions to lay the Rules before Legislature.
13. Case Law Summarised
14. Leading Case-
Lekh Raj. V. State (1987)
Validity of S. 42 challenged & upheld.
15. Latest Case Law

1. Scope of Sections 41 & 42—Rule making Power has been incorporated in these two Sections of the Act. Section 41 empowers the State Government make rules while section 42 empowers the Excise Commissioner to make rules after previous sanction of the State Government.

2. The Nature of Rule Making Power—"Delegated Legislation" - The Rule making power has been delegated by this section of the Act to the Executive i.e. the State Government and the Excise Commissioner. The Legislature has given these powers to Executive. This is, therefore, called the "Subordinate Legislation" or "delegated legislation". It is the fundamental principle of delegation that it should not be and must not be arbitrary, uncontrolled and ultra-vires the Act and the Constitution. It should not be excessive, but regulated, specific and within well-defined limits.

3. Subordinate Legislation- Two types of Rules- Enforceability & Validity examined- Reconciliation of Rules with provisions of the Act—There are two types of rules which are generally available in modern legislation. Some rules are found forming part of the schedule appended to the original enactment. If the rules concerned are in the original schedule, then they are part of the legislative enactment in every-sense of the word and in such cases they are as much part of the original enactment as the various sections of the Act. Then there are other rules framed by the Government or some other authority

1. Substituted by S. 5(2) of Raj. Act. No. 28 of 1961- Published in Raj Gaz-EO-Part IV-A dated 21-10-1961.

to whom power is delegated. Such rules are statutory although not a part of the main statute. An order made under a power given in a statute is the same thing as if the statute enacted what the order directs or forbids. Where it is provided that rules framed under an Act and duly published shall thereupon have effect as enacted in the Act itself. It is the duty of the court to construe an Act in such a manner as to give effect to its provisions if it is possible to do so, and this can be done by reading the rules, as part of the section under which they are framed and not as part of rest of the Act. Rules do not lost their character as rules even though they are to be of the same effect as if contained in the Act. However, there are cases when some rule made by a subordinate authority is found to be repugnant to the provisions of the main enactment. The rule of interpretation in such cases is that if subordinate legislation is directly repugnant to the general purpose of the Act which authorises it, or indeed is repugnant to any well established principle of statute. It is either ultra vires altogether or must, if possible, be so interpreted as not to create on anomaly. The rule must be read and interpreted in reconciliation with the main enactment. If reconciliation is found to be impossible, or if the exercise of the delegated authority appears to be excessive, the rules must give way to the main provisions of the Act, but before doing so, we shall have to struggle against such a construction and will have to make an effort within the bounds of reason to bring the rules within the ambit of the rule making authority. This is so because when a competent authority entrusted with the task of making the rules exercises that power, the rules made by it should be as far as possible supported even by a benevolent interpretation and conflict of jurisdiction should be avoided. **In other words, if the Act is plain the rules must be interpreted so as to reconcile with it or if it cannot be reconciled the rule must give way to plain term of the Act.**

The scope of the subordinate legislation also deserves a passing reference. The statutory rules if validly made within the powers conferred by the Act must be regarded as part of the Act itself and made with full authority of the legislature. The statutory rules are to be held as part of the parent Act and if made within the limit prescribed by the rule making power in the Act, can do anything. in Saligram Singh Vs. Emperor [ILR-23-Patna-22, 24], it has been held that it is the business of the court to observe laws,however unreasonable, if validly made. Hence if validly made within the scope of the delegated authority rules have as much force and effect as the main enactment.[1]

Importance of Rules—The Act and the Rules form past of a composite scheme. In the absence of rules, the Act cannot be enforced as many provisions of the Act be put into operation only after something prescribed in the Rules. Held that the Rules made under a statute area legitimate aid to construction of statute as contemporance expositio.[2]

4. Judicial Review of the Rules—The delegation (or the Rules) does not fall beyond the reach of the judicial review power of the Supreme Court and the High Courts.[3] The reason for the ground of voidness of delegated legistation is that the rule that what limits the Competence of the Legislature limits the competence of the administrative authority as well, and the former cannot delegate, if delegation implies giving away of the essential legislative function and results in the legislative abdication.[4]

1. M/s Shiv Lal Kajorilal v. C.T.O Gangapur, 19079 RRD 43 (LB-5 members).
2. P. Kashilingam v. P.S.G. College of Technology, AIR 1995 SC 1395.
3. Refer "The Indian Administrative Law" M.C.J.Kagzi, III Edn 1973, Page 250.
4. Shamarao V. Union Territory of Pondicherry AIR 1967 SC 1480
   Devi Das Gopal Krishna V. State of Punjab AIR 1967 SC 1895 Hundard Dawakhana v Union of India AIR 1960 SC 554. Raj Narain V. Patna Adm.Committee AIR 1954 SC 569

Subject to the wide, permitted limits of delegation and the established presumption of validity of the Statute the delegation may be attacked on the following grounds-

(a) That the Rules are ultra-vires the enactment itself under which these are made. i.e. these Rules are against the policy and purpose of the Act enumerated in the various sections of the Act itself.[1]

(b) The Rules have been framed without following the prescribed procedure complying with the mandatory conditions.[2]

(c) The Rules contravene any provision of the Constitution of India e.g. is against the fundamental rights enshrined in the Constitution. and.[3]

(d) The delegation of Rule making power is arbitrary, uncontrolled and excessive.[4]

"The initial difference between subordinate legislation and Statute law lies in the fact that a subordinate law-making body is bound by the terms of its delegated or derived authority and that courts of law, a general rule, will not given effect to the rules, etc thus made unless satisfied that all the conditions precedent to the validity of the rules have been fulfilled. The validity of the statutes cannot be canvassed by the courts the validity of delegated legislation as a general rule can be. The Courts, therefore; will require due proof that (1) the rules have been made and promulgated in accordance with the statutory authority, unless the statute directs them to be judicially noticed; (2) in the absence of express statutory provisions to the contrary, may enquire whether the rule-making power has been exercised in accordance with the provisions of the Statute by which it is created, either with respect to the procedure adopted, the form of substance of the regulation or the sanction, if any, attached to the regulation, and if follows that court may reject as invalid and ultravires a regulation which fails to comply with the statutary essentials" [5]

5. The Rules- their place and construction—The Rules made under a statute must be treated for all purpose of construction obligation exactly as if they were in the Act and are to be the same effect as if contained in the Act, and are to be judicially noticed for all purpose of construction and obligation.[6] It must be *legifidel fidei rationi coasona* and therefore, all regulations which are contrary repugnant to statutes under which they are made, are ineffective and void.[7] Thus the Rules cannot override the provisions of the Act itself, else these are to be treated ultra vires the Act.

1. Venkatanarayan v.State of AP. AIR 1961 AP 171. Darshan Singh v.State of Punjab AIR 1954 SC 88, Daya v. Joint Chief Controller AIR 1962 SC 1796 Venkateswara v. Govt of AP. AIR 1966 SC 629.
2. P.V.Shivrajan V.Union of India AIR 1959 SC 556 : Raza Buland Sugar Co V Rampur Municipality AIR 1965 SC 895;
   Harla v. State of Rajasthan AIR 1951 SC 467
3. Narendra Kumar V. Union of India AIR 1960 SC 430 Refer also-AIR 1954 SC 190 and AIR 1954 SC 224.
4. Liberty Cinema V. Commissioner of Police AIR 1955 SC Vasanlal Magan Bhai V Union of India AIR 1961 SC 4; Makhan Singh V. State of Punjab AIR 1964 SC 381 (400-401).
5. Craies on Statute Law (VI Edn) Page 297-Refer 1975 RRD 496 (503).
6. State of Uttar Pradesh V. Babu Ram AIR 1961 SC 751.
7. Newspaper Ltd. V. State Industrial Tribunal, AIR 1957 SC 532

Similarly the Rules cannot save an Act. They are made by a sub-ordinate authority vhich is not the legislature and validity of an Act cannot be made to depend upon vhat some subordinate authority chooses to do or not to do.[1]

The Rules cannot travel beyond the Act and must be read subject to its provisions [2] Similarly the Rules cannot enlarge the meaning of the section if the rule goes beyond vhat the section contemplates; the rules must yield to the statute.[3] Once the old rule ias been substituted by the new rule, if ceases to exist and if does not automatically get revived when the new rule is held to be invalid.[4]

Where there is any conflict between a rule framed under an Act and a section of the Act itself this must be dealt with, in the same spirit as a conflict between two sections of the Act would be dealt with, and if reconciliation is impossible, the subordinate provisions (i.e.Rules) must give way.[5]

In some statutes, powers is given to frame rules and when so framed they are nade part of the statute. In such case it may, be permissible to supplement the provisions of statute itself within limits.[6]

6. (a) Rules when come into existence-Commencement of Statutory Rules—It is he date of publication in the official Gazette from which the rules framed commencence or come into existence and not from the date of Notification.[7] To determine this point ve have to consider the basic principles of the Interpretation of statute Maxwell in his reatise on "Interpretation of Statutes" has on page 15(12th Edition) observed as follows:

"According to a decision of Baithoche J., Statutory instruments do not come into operation on the day on which they are first made, but on the day on which they are nade available or known to the public or the person whom it is sought to effect by hem.[8]

(b) Publication of Rules & Notification—Section 72 of the Act provides the principle for Commencement of the Rules or a notification in the following manner—

"72 Publication of rules and notifications—All rules made and notifications issued under this Act shall be published in the Official Gazette and shall there upon have effect as if enacted in this Act from the date of such publication or from such other date. as may be specified in that behalf."

7. Rules under the Act—The Rajasthan Excise Act is a fiscal law providing structure for making rules. It enables under section 41 and 42 to the State Government and the Excise Commissioner respectively to frame various rules to fill up the structure of the Act. This power to make rules is known as "subordinate Legislation", which is beyond

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1. The State of Bombay V. The United Motors (India) Ltd. AIR 1953 SC 252.
2. Pratap Singh V.S.K.Gupta AIR 1950 SC 150.
3. The Central Bank of India v. Their Workmen AIR 1960 SC 12.
4. Firm A.T.B.M.M. & Co.V. State of Madras, AIR 1963 SC 928
5. AIR 1961 Calcuta 217.
6. AIR 1954 Calcuta 436.
7. Harla v.State of Raj AIR 1951 SC 467.
8. Sheoji V. Moti 1982 RRD 470 (475). Also refer AIR 1957 SC 271; Jaswant Sugar Mills9V. Indu. Tribunal AIR 1962 All 240 (FB), Bhikamchand V. State AIR 1966 Raj. 142.

the scope of principles of natural justice,[1] but can be challenged in a writ peltition as arbitrary and discriminatory under Art. 14 or being ultravires the Act and Constitution of India.

8. Rule making Power of State Government (S. 41)—There are three sub-sections in this section:

(a) General Power—Sub-section(1) empowers the State Government to make Rules for the purpose of carrying out the provisions of—

(i) this Act, or

(ii) Other law in force. Thus under this general power State Government can make rules relating to excise revenue under this Act as well as under any other Act relating to excise revenue.

Meaning of "Excise Revenue"–

[Please refer to Commentary of Section 3, clause (8), supra]

(b) Particular Powers—Sub-section(2), without affecting the general powers under sub-section(1) provides a list of particular subjects in clauses (a) to (p) on which rules may be framed by the State Government. Please refer to the clauses in the text of S. 41, above.

(c) New excisable articles introduced—By amendments inthis section, two new excisable articles have been added in clause. (d) of sub-section (2), i.e., Molasses or Lanced poppy Heads. The Statement of objects & Reasons for these Amending Acts are being reproduced hereunder so as to make clear the object and meaning of these amendments.

(i) "Molasses"—added to the list.

Statement of Objects & Reasons (Raj. Act No. 8 of 1985)

Molasses is the mother Liquor produced in the final stage of the manufacture of sugar. The Central Government has made the Molasses Control Order 1961 with regard to molasses. The Rajasthan Excise Act. 1950 does not, however, contain any provision in respect of molasses. It appeared necessary to check unauthorised use of molasses, to prevent its loss in transit and storage and to control the production of spirit.

In view of the above, it appeared necessary to define the expression "Molasses" by adding a new clause (17-A) in S.3 and to empower the State Govt. to make rules by inserting clause (d) of sub section (2) of S.41 of the Rajasthan Excise Act. 1950.

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(ii) Lanced poppy Heads- added to the list.

Statement of Objects & Reason (Act No 1 of 1986)

The Parliament recently enacted a law called the Narcotic Drugs & Psychotropic Substances Act, 1985 (Central Act 162 of 1985)

The earlier enactments namely the Opium Act. 1957, the Opium Act 1878, and the Dangerous Drugs Act, 1930 have been repealed by S. 82 of the said Central Act

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1. M/s Raju Wine Stores V. State 1982 RLR 466.

162 of 1985. After the aforesaid Acts, various rules made by the State Government under those Acts were also rendered ineffective and, thereafter, it become necessary to make new rules under the new Central Act and also to empower the State Government to make rules regarding lanced poppy heads under the Rajasthan Excise Act, 1950. Earlier, lanced poppy heads were being dealt with under the Rajasthan Opium Rules, 1960.

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(d) Previous Publication (Sub-sec.(3)- Provision nullified by provisio— Sub-section (3) puts a fetter on the Rule making power that the rules shall be made after previous publication.

But this restriction has been relaxed by adding a proviso to this sub-section that if the State Government considers that it should be brought into force at once, such rule may be made without previous publication of such rule

This proviso has been used almost in all cases of making rules under the Act and this may be challenged as arbitrary and indiscriminate use of this power in any appropriate case.

9. List of Rules made by the State Government (under S. 41)

1. Rajasthan Excise Rules, 1956.
2. Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975
3. Rajasthan Excise (Grant of Hotel bar/Club bar Licences) Rules, 1973.
4. The Foreign Liquor (Grant of whole sale Trade and Retail off Licences) Rules, 1982.
5. The Rajasthan Liquor Prohibition Rules, 1967
6. Rajasthan Intoxicating Spirituous Preparations Import, Export, Transport, possession & Sales Rules, 1989.
7. Rajasthan Molasses Rules, 1985.

[For the Text of these rules, please refer to Part II of this Book.]

10. Rule making power of Excise Commissioner (under Section 42)—

Section 42 empowers the Chief Excise Authority i.e., the Excise Commissioner to make rules. This power is to be used subject to the previous sanction of the State Government. This is statutory and mandatory restriction on the rule making power of the Excise Commissioner. No provision of Previous Publication of these rules incorporated in S. 42 as has been done in S.41 of the Act.

A list of subjects has been given in the Section containing items (a) to (h) on which the Excise Commissioner can make rules. This power is meant to regulate the affairs of the excise revenue in the State.

11. List of Rules framed by the Excise Commissioner (under S. 42 of the Act)—

1. The Rajasthan Brewery Rules, 1972.
2. The Rajasthan Distilleries Rules, 1976
3. The Rajasthan Country Liquor (Fixation of Strength) Rules, 1963
4. The Rajasthan Issue & Sale Price of Bhang Rules, 1964

5. The Rajasthan Issue & Sale Price of Country liquor, 1964 and 1997
6. The Rajasthan Sacramental Wine Rules, 1970
7. The Rules regulating Stock-taking and wastage of Liquor at Distilleries.
8. The Rules regarding the wastage in transit, issue and storage of Hemp drugs in a Ware House, 1959
9. The Rajasthan Neera (unfermented Juice of Palm) Rules, 1960.
10. The Rajasthan Fixation of Retail sale of Denatured Spirit Rules, 1987
11. Bonded Ware House-Conditions & Restrictions.
12. Registration of Contractors. [Please see these Rules in Part II of the Book]

12. No provision to lay the Rules before the Legislature—In democratic set up the delegated legislation is to be regulated by the theory of check and balances and the original legislative body has to be informed about the subordinate legislation (i.e. Rules) made under its delegated authority. For this purpose a provision is being usually made in the section delegating the Rules making power to lay the rules on the table of the house of the Legislature while in next session, so that such rules may be modified by the Legislature or may have the stamp of authentication by the Legislature.

Such provision may be seen in various enactments. [for example,S 31(2) of the Rajasthan Land & Building Tax Act, 1964] No such provision has been made in the Excise Act and as such the delegation of rule making power may be challenged on ground of arbitrary and uncontrolled delegation in an appropriate case.

[For plea of delegation, please refer to note (12) of the Commentary of Preamble of the Act].

13. Case law Summarised—Validity of Rules Ss. 31, 41, 42(c) and 72- Powers of prescribing form of licences & to lay down conditions for licences delegated by State Government to Excise Commissioner- Held, Rules made by Excise Commissioner and duly published have to effect of law[1]

Rule making power—S. 42 and Constitution of India Arts. 14 & 19 and Raj. Distillery Rules 1977-R. 4& Raj. Stock taking & Wastage of liquor Rules 1959- R.4(1) & (5)]

The power to make such rules vests in the Excise Commissioner under section 42(a) of the Act By making such rules, the Excise Commissioner was exercising his power to regulate the manufacture, supplies, storage or sale of an excisable article within the purview of sub-clause(1) of clause (a) of section 42.[2]

Validity examined-S.41 and Rajasthan Excise Rules, 1956,Rr.67-KK R. 67(3), (5), (10) and 93—Licence for exclusive privilege of selling by retail country liquor at a shop to be granted amongst others by inviting tender- Earnest money deposited with tender-Withdrawal of tender-Acceptance of tender- Failure to deposit security money-Forfeiture of earnest money-Validity examined.[3]

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1. State V. Balmukund 1974 WLN. 367 (DB).
2. M/s. Sona Distilleries Ltd. V. Excise Commissioner 1984 WLN 489 (490); 1984 RLR 773
3. Bhanwarlal V. State ILR (1976) 26 Raj. 462.

14. Leading Case-

LEKHRAJ
Vs
STATE OF RAJASTHAN
[1987(1) RLR 661: 1987(1) WLN 774]

SECTION 42–RULE MAKING POWER

(A) Art 226, Construction of India-Maintainability of writ petition—

Preliminary Objections raised (Paras 17 to 20)–Estoppel—

(i) Petitioners cannot be allowed to avoid contractual obligations after enjoying licence for entire period (Paras 20 & 46).

(ii) Validity of Rules and licence challenged-Petitioners are not precluded from challenging the amendment in rules. (Para 20)

(iii) Question of disputed facts- material not made available-High Court not to enter into detailed enquiry as to justification of rise in price (Paras 38 & 41 and 61)

(b) Validity of Rules (Amendment of 1985) challenged- Rule making power under S. 42 (e) & Rajasthan Issue & Sale Price of Country Liquor Rules, 1964, as amended in 1985—

(a) Source of rule making power not flowing from S. 42 (c), but from S. 42(a)- Mention of wrong provision not to invalidate the Rules, when justified under other provision- Rules are Valid (Paras 31, 35 & 36).

(b) Meaning of word "regulating" used in S. 42 (a) examined. (Para 35)

(c) No discrimination - No violation of Art. 14 of the Constitution of India. (Para 37)

(d) S. 42 (e) not ultravires the Constitution- No unfetterred, uncanalised or arbitrary powers vesting in the Excise Commissioner where rules made after prior sanction of State Government. (Para 45)

(c) Validity of conditions of Licence-Conditions No. S. 1 (Ga) & 22 (Kha) challenged-Contract Act, S. 29 Raj. Excise Act 5. 42 and Rajasthan Issue & Sale Prices of Country Liquor Rules, 1964- Rajasthan Excise Rules, 1956- Rr. 67-I and 93—

(a) Conditions not onerous, arbitrary or un-reasonable No contravention of S. 29 of Contract Act-S. 29 only applicable to ordinary contracts and not to special contracts of Excise- Excise contracts or conditions are Statutory in nature. Amount of Exclusive privilege & issue prince not to be confused- Power vested in the Excise commissioner to vary the issue price cannot be said to be unreasonable or arbitrary. (Paras 46 to 55)

(b) **Contract of Adhesion or Adhesive Contract-** No person has an absolute right to trade in liquor- Art-47 of Constitution of India leads towards complete prohibition-Doctrine of adhesive contract cannot be invoked in contracts for obtaining licence of Exclusive privilege to sell country liquor. - Held, impugned conditions of licence not unfair, arbitrary or unreasonable- Not void. (Paras 56 to 60).

(c) **Rise or fixation of the Issue Price–Challenged being arbitrary and unjustified-** Cost of production & rate of Issue Price–Disputed facts–Material not placed by parties before High Court- Government has not examined this aspect- Left for Govt. to decide- Govt. expected to be fair and just. (Para 61) (writ petitions dismissed).

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15. Latest Case Law—

(1) No unjust enrichment–No refund of Excise Duty Collected—When in normal commercial transaction duty is passed on to the consumers then the petitioner is not entitled to refund of excise duty. Not averted in writ petition that the excise duty was not collected from the consumers (Para 6) (Writ petition dismissed).[1]

(2) All powers necessary by implication–Framing of Rules—By framing of the said Rules, the Government has not contravened any provisions of the Act including Section 42. The State Government has power under S. 41 (2) (d) to frame rules regarding permit fee also while framing rules for regulating the import, export, transport or possession of an y excisable article. This clause (d) is a very wide import. Held, grant of jurisdiction implies the grant of all powers necessary for its exercise. When statute confers power in general terms, all powers incidental and necessary to make such law effective are included by implication.[2]

(3) Provisions not unconstitutional–S. 42 (a), (b) & (c) Commissioner authorised to frame rules—S. 42 (a) of the Act authorises the Commissioner to make the rules regulating the manufacture, supply storage or sale of any excisable article. Regulatory functions are covered by Entry 33 of List III of Schedule VII of the Constitution. S. 42(b) also authorises the Commissioner to make the Rules regulating the deposit of any excisable article in a ware house and the removal thereof from any such warehouse or from any distillery pot-still or brewery and S. 42(c) empowers the Excise Commissioner to make the Rules prescribing the scale of fee or the manner of fixing the fees payable in respect of any licence, permit or pass or the storing of any excisable article. These powers are within the legislative competence of the State Government and therefore, the provisions of Ss. 41 and 42 of the Act are neither ultra vires to the Constitution nor they are against th provisions of Entry 84 of List I of Schedule VII of the Constitution. R. 69-B of the Rules pertains to the fees for certain permits. We have already held that the prescription of fee for obtaining permits is also within the legislative competence of the State Government and, therefore, the provisions of R. 69-B of the Rules are not ultra vires to the provisions of the Constitution.[3]

(4) Vires of Molasses Rules-Rules held to be ultra-vires—[Molasses Rules, 1985-Rr-8, 9, 11 & 17 and Rajasthan Excise Act, 1954-Ss 3(17A), 41]-When the regulation is controlled by section 41 and molasses have been included in the definition clause of S. 3(17A) and it has also been included under S.41, then the State Government has

1. Satish Kumar V. State of Raj 1992(1) RLW 710.
2. M/s Pesticides India v.State of Raj. 1994(1) WLN 239, 1992 (3) WLC 582
3. M/s Geeta Enterprises v State of Rajasthan 1993(2) WLN 564; 1993(1) RLW 308 (DB)

ıll powers to frame rules and regulations. The State Government is authorised to frame ıles about molasses in the parameters that are prescribed by S 41. (Para 9) (Petition ismissed).[1]

(5) Licence for Beer Bar, when becomes illegal—Ss.4,41 and Rule 75 (2)- Notification ated 15-2-57}–Licence for Beer Bar granted. Beer is included in foreign liquor. There ; prohibition under R. 75(2) for running a retail shop of country or Foreign liquor within rea of 200 meters of schools or institutions. Held grant of licence for Beer Bar was legal and was. therefore, quashed.[2]

Ss. 9-A 17,41,42–Rajasthan Excise Rules 1959- R.5(5) Rajasthan Stock taking & Wastage of Liquor Rules, 1959–Levy of Excise duty on Rectified spirit and India Made foreign Liquor (IMFL) wasted during transit-Contractual Obligation—

Licence was granted to petitioner under the Excise Act and Rules thereunder. Condition No. 33 of the Licence provided for levy of excise duty on wastage of IMFL as per rules. Nature of contract is held to be statutory and petitioner having accepted licence cannot wriggle out from contractual obligations arising out of the conditions of licence. Held, he State is entitled to realise excise duty on wastage of IMFL during transit in accordance with terms of contract. Rules of 1959 held not applicable in the instant case. Hence enquiry under R. 5(5) was out of question and contractual obligation alone to prevail(Special Appeals dismissed).[3]

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1. Bal Kishan Moondra v.State of Rajasthan, 1996(1) WLC (Raj) 376 (DB)
   Sita Ram v.State of Rajasthan, AIR 1995 SC 356: (1995) 1 SCC 257 followed
2. St. Soldiers Public School v. State & Ors, 1996 WLC (UC) 340 (Raj).
3. M/s Udaipur Distillery & Co v. State of Rajasthan 1996(1) WLC (Raj) 385 (DB)

Chapter [VIII]

Powers and Duties of Officers

❑ Introductory Note

1. Scope—Chapter VIII deals with powers and duties of Officers in relation to the prohibitions and restrictions placed on the dealings of excisable articles and their regulation through licensing system. Further Chapter IX deals in the punitive regulation of the defaults as offences under the Act. Both Chapter VIII(from Ss 43 to 53) and Chapter IX (from Ss. 54 to 70) are to be read together to understand the Scheme of regulating nature incorporated in this Act. The provisions of the Rajasthan Excise Rules. 1956 (Chapter XIII from Rr. 88 to 91) are also to be referred to for confirmation of powers under the Act.

2. Powers of Officers—(Chapter XIII of the Rajasthan Excise Rules. 1956)—

Rule 88- powers under Ss. 43, 44, 45 & 47—All Excise Officers of the Government of Rajasthan not below the rank of Excise Inspector and Patrolling Officers in the Excise Preventive Force may exercise the powers referred to in Ss. 43,44. 45 and 47.

Rule 89–Powers under S. 45 (i.e. Power of arrest, seizure & detention)—All Excise Officers of ;the Government of Rajasthan including Excise Guards may exercise the powers mentioned in Section 45:

Provided that when power is exercised by an Excise officer other than an Excise Inspector of the circle concerned, such officer shall immediately hand over the person arrested and the article seized to the Excise Inspector of the circle concerned.

Rule 91–Powers Conferred by Notification under S. 10—All officers may exercise the powers conferred upon them by any notification under section 10 for the time being.

Rule 91–Powers Conferred by Notification under S. 9—All Excise officers may exercise the power conferred upon them by any notification under S.9 or by any order issued under such notification, for the time being in force

3. Regulatory Provisions & Applicability of Criminal Procedure Code—As the process & procedure of investigation, search, arrest and seizure etc in the cases under the Act are to be carried out, the provision of the Criminal Procedure Code. 1973 would apply for these offences being of criminal nature.

(a) Procedure Contained in the Act—There are following provision in the Act itself relating to various procedural aspects—

In section 43. power to enter and inspect a place of manufacture and sale has been explained while S.44 deals with investigation into offences which is to be conducted under the provisions of Cr. P.C. S.45 deals with arrest. seizure and detention while S. 46 authorises the Excise Commissioner or Magistrate or an authorised excise officer to

issue warrant of search or arrest. S. 47 further deals with power of excise officer to search without warrant Section 48 lays down the procedure relating to arrest. search, search warrant, production of persons arrested and investigation into offences to be in accordance with provisions of Cr. P.C. with certain modifications contained in proviso to S 48. Section 49 deals with bail in offences as per provisions of Cr. P.C.

(b) General Provisions–(Ss. 50 to 53)—There are following sections in the Act to deal with various fact-situations in the excise cases.

Section 50– Duty of officers of certain departments to report offences and to assist Excise Officers.

Section 51– Duty of Land holders and others to give information.

Section 52– Duty of Officer-in-charge of Police Station to take charge of articles seized.

Section 53– Power to close shops for the sake of Public-Peace.

Thus, it is clear that the provisions of the Criminal Procedure Code are to be followed with the certain modifications mentioned in these sections.

43. Power to enter and inspect place of manufacture and sale—

The Excise Commissioner or and Excise Officer not below such rank as the [1][State Government] may prescribe may-

(a) enter and inspect at any time by day or by night any place in which any licenced manufacturer carries on the manufacture of or stores any excisable article;

(b) enter and inspect at any time within the hours during which sale is permitted, and at any other time during which the same may be open, any place in which any excisable article is kept for sale by any person holding a licence under this Act;

(c) examine any book, account, or registers or examine, test, measure or weigh any materials, stills, utensils, implements, apparatus or excisable article, found in such place; and

(d) seize any measures, weights, or testing instruments which he has reasons to believe to be false.

COMMENTARY
SYNOPSIS

1. Scope
2. Meaning of Excisable Article
3. Reason to believe"-Meaning
4. Authorities to exercise power
5. Nature of Power

1. Scope—Section 43 authorises certain officers to enter and inspect a place of manufacture or sale of excisable articles as enumerated in clauses (a) to (d). This section is exhaustive and full of details.

1. Substituted by S.4 of the Rajasthan Act No. 37 of 1957

2. Meaning of Excisable Article—[See under S.3(4)

3. "Reason to believe'- Meaning—in section 26 of Indian Penal Code, the definition of expression "reason to believe" is given as follows

"26" Reason to believe'—A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing but not otherwise."

4. Authorities to exercise Power under S.43—Rule 88 of the Rajasthan Excise Rules 1956 runs as under:

"All Excise Officers of the Government of Rajasthan not below the rank of Excise Inspector and Patrolling Officers in the Excise Preventive Force may exercise the powers referred to in Sections 43, 44, 45 and 47".

Thus the following officers are authorised to take action under this section-

(1) Excise Commissioner, or

(2) Excise officer not below the rank of Excise Inspector or Patrolling Officers of Excise Preventive Force.

5. Nature of power—There are four clauses explaining the scope and nature of power under this section, which may be summarized as follows

(a) Entry and inspection of place of manufacture or stores of any excisable article at any time by day or by night.

(b) Entry and inspection of place of sale of excisable articles during such hours when sale is permitted or any time when the shop is open.

Both these actions can be taken in case of licence holder.

(c) At such place, the following records and things can be examined and tested-

(i) Any book, account or registers.

(ii) Any material, stills, utensils, implements, apparatus or excisable articles found at such place can be examined, tested, measured or weighed.

(d) When any measures, weights or testing instruments are found to be false, such article may be seized by such officer.

This is a preventive measure to regulate the manufacturing, storage or sale of excisable articles kept by licence holders at any place

44. Power of certain officers to investigate into offences punishable under this Act.—(1) Any officer of the Excise Department not below such rank as the [1][State Government] may prescribe, may investigate into any offence punishable under this Act committed within the limits of the area in which such officer exercises jurisdiction,

(2) Any such officer may exercise the same powers in respect of such investigation as an officer-in-charge of a police station may exercise in a cognizable

1. Substituted by section 4 of Rajasthan Act No. XXXVII of 1957, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-12-1957.
2. Substituted by section 5 (2) of Rajasthan Act No. 28 of 1961, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 21-10-1961

case under the provisions of [1][Chapter XII of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974)].

[2][XXX] and, if specially empowered in that behalf by the [3][State Government], such officer may without reference to a Magistrate, and for reasons to be recorded by him in writing, stop further proceedings, against any person concerned or supposed to be concerned in any offence punishable under this Act into which he has investigated.

COMMENTARY
SYNOPSIS

1. Scope
2. Investigating officers
3. Powers of Investigating officers [Sub S. (2)]
4. Power to stop proceedings

1. Scope—Section 44 deals with investigation of offences under the Act.

2. Investigating officers [Sub Sec-(1)]—(a) Vide Rule 88 of Rajasthan Excise Rules, 1956, all Excise Officers not below the rank of Excise Inspector and Patrolling Officers of Excise Preventive Force may investigate into the offences under this Act.

(b) Sub Inspector of Police may investigate into such offences vide Notification No. F.1(52) E & T/61 dated 9-9-61. [Please refer to the Notification in Commentary of S. 45, infra].

3. Powers of Investigating officer [sub-sec. (2)]—These officers may exercise the same powers in respect of such investigation as an officer-in-charge of a police station may exercise under provisions of Chapter XII of the Code of Criminal Procedure, 1973. Chapter XII runs from S. 154 to 176. Only relevant sections are to be followed.

4. Power to stop proceedings [sub-section (2) Para two 2]—Investigating Officer specially empowered in this behalf (i.e. District Excise Officer) may stop further proceedings against any person after recording reasons in writing.

Notification

No.F.1(43) E & T/63, dated 21-12-1964]

In pursuance of sub-section (2) of Section 44 of the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950), the State Government hereby specially empowers every Excise officer not below the rank of a District Excise Officer to stop without reference to a Magistrate, for reasons to be recorded by him in writing, any further proceedings against any person concerned or supposed to be concerned in any offence punishable under the said Act into which he has investigated.

[Published in Raj. Gaz.- Part IV-C dated 4-3-75]

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1. Substituted by S 3 of Rajasthan Act No. 30 of 1976 published in the Rajasthan Gazette E-O- Part IV-A dated 28-4-76
2. Ommitted by S 13 of Rajasthan Act No 38 of 1957
3. Substituted by section 5 (2) of Rajasthan Act No 28 of 1961, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 21-10-1961

45. Power of arrest, seizure and detention—Any officer of the Excise, Police, Salt, Customs [1][Narcotics] or Land Revenue department, not below such rank and subject to such restrictions as the [2][State Government] may prescribe, and any other person duly empowered in this behalf may arrest without warrant, any person found committing an offence punishable under this Act and may seize, and detain any excisable article or other article which he has reason to believe to be liable to confiscation under this Act or other law for the time being in force relating to excise revenue, and may detain and search any person upon whom and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which, he may have reasonable cause to suspect any such article to be.

COMMENTARY
SYNOPSIS

1. Who can exercise power
2. Notification dated 9-9-61
3. Head Constable of Police authorised.
4. Who may be arrested.
5. Seizure & detention
6. Detention & search
7. Procedure

1. Who can exercise the Power of arrest, seizure and detention—The following officers are authorised by this section-

(i) Any officer of Excise, Police, Salt, Customs, Narcotics or Land revenue Department.

Notification dated 9-9-1961 specifies the ranks of these officers who have been empowered to arrest etc. under S 45 of the Act The notification is reproduced in note (2) infra.

(ii) Any other person duly empowered in this behalf

(iii) Rules 88 & 89 of the Rajasthan Excise Rules, 1956 provide as follows:-

Rule 88—All Excise Officers of the Government of Rajasthan not below rank of Excise Inspector, and Patrolling Officers in the Excise Preventive Force may exercise powers referred to in sections 43,44,45 and 47.

Rule 89—All Excise Officers of the Government of Rajasthan including Excise guards may exercise the powers mentioned in section 45

Provided that when power is exercised by an Excise Officer other than an Excise Inspector of the circle concerned, such Officer shall immediately hand over the person arrested and the articles seized to the Excise Inspector of the circle concerned.

2. Notification No. F.1(52) E & T/61 dated 9-9-1961-Published in Raj. Gaz. (1)-V.C. dated 26-10-1961— In exercise of the powers conferred by section 10 of the Rajasthan Excise Act, 1950 (Act II of 1950) and SR/50 dated the 15th May 1951 published in the

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1. Substituted by section 4 of Rajasthan Act No. XXXVIII of 1957 published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-12-1957.
2. Substituted by section 6 of Rajasthan Act No. XXVIII of 1961 published in Rajasthan Gazete, Extraordinary, Part IV-A, dated 21-10-1961

ajasthan Gazette Vol.III, Pt. I of 1951, the State Government hereby orders that the officers f police and revenue department not below the rank specified hereunder shall exercise ie powers and perform the duties under the sections mentioned against them-

1.	Naib Tehsildar, Revenue and above	Section 47
2.	Sub Inspector of Police-	Sections 44, 47, and 67(1)(a), except in respect of retail licences granted for sale of liquor under the Act.
3.	All officer of police & revenue including constables, chowkidars and patwaris.	Section 45, except in respect of the retail licences granted for sale of liquor under the Act.

3. Head constable of police authorised to arrest, search and seizure in excise cases—A bare reading of section 45 of the act shows that the power of arrest is to be given by the state to any such officer, when it deems fit and in exercise of its powers conferred under S. 10 of the Act, the notifications mentioned above were issued in which item No. 3 shows that all officers of Police including Constables were authorised the powers given under S. 45 of the Act.

In this case, the search, seizure of the illicit liquor and arrest was done by Head constable who was evidently authorised to do so as clear from the notification mentioned above. The trial court placed reliance on the authority reported in 1965 ALJ 20, in which it has been observed that the power of search, seizure and arrest is to be exercised by an officer not below the rank of Sub-Inspector of Police. However, this is not the position in State of Rajasthan as is evident from the law discussed above. Held that the Head Constable'M" was fully authorised to search, seize the illicit liquor and arrest the respondent who were found n possession of the same The trial court has also held that it is proved from the evidence of the prosecution that the accused respondents were found to be in possession of illicit liquor when the search was conducted by the Head Constable 'M". The trial court acquitted the accused respondents only on the technical ground that the Head Constable was not authorised to conduct search, seize the illicit liquor and arrest the persons found in possession thereof.[1]

Sentence reduced—The offence is said to have been committed as early as Feb., 16, 1976 i.e. nearly 12 years from to day. In the facts and circumstances of the case, I am, therefore, of the opinion that the ends of justice shall met if the accused respondents are sentenced to the imprisonment already undergone. (Appeal allowed).[1]

4. Who may be arrested—Any person found committing an offence under this Act may be arrested under this section as an accused.

5. Seizure & detention—Any excisable article or other articles liable to confiscation under this Act- (Refer to S. 69) or under any other law relating to excise revenue may be seized and detained by such officers.

6. Detention & Search—Where any person and any vessel, raft, vehicle, animal, package, receptacle or covering are suspected to carry or contain any excisable article

1. State of Raj. V. Madan Singh & Others, 1989(1) RLR 939: 1988 WLN(UC) 329: 1988(2) RLW 591: 1988 CrLR (Raj.) 360

and there is reasonable cause to suspect as such, such person and vehicles etc. can be detained and a search can be made.

7. Procedure—Section 48 provides for procedure relating to arrest, search etc. and says that the provisions of the Code of Criminal Procedure, 1973 shall be applicable, subject to some modifications mentioned in proviso to S. 48 of the be applicable, subject to some modifications mentioned in proviso to S. 48, of the Act.

[Please refer to Commentary of S. 48, infra for details.]

46. Power of Excise Commissioner or Magistrate to issue warrant for search or arrest—The Excise Commissioner or a Magistrate, [1][or an Excise Officer duly empowered in this behalf], having reason to believe that an offence under this Act has been, is being, or is likely to be, committed, may–

(a) issue a warrant for the search of any place in which he has reason to believe that any excisable article or any utensil, implement, apparatus or materials, in respect of which such offence has been, is being or is likely to be committed are kept or concealed, and

(b) issue a warrant for the arrest of any person who he has reason to believe to have been engaged in the commission of any such offence.

COMMENTARY

1. Warrant Issuing Authorities—The following officers have been empowered to issue warrants of arrest or search under this section:

(1) Excise Commissioner, or

(2) Magistrate, or

(3) Excise officer duly empowered in this behalf.

Following Notification dated 15.12.69 empowers **Assistant Excise Officers** under this section—

[Notification No. GSR 13 dated 15.12.69]

In exercise of the powers conferred by Finance (Excise) Department Notification No. 1(58) FD/EX 67(2) dated 18th Sept. 1969, I here by delegate to the Assistant Excise Officers, my powers under Section 46(a), Section 67(1) (b) in so far as complaint or report is not for offences under sections 60,61 and 69(3) of the Rajasthan Excise Act, 1950 (Raj. Act No. II of 1950) to be exercised within their jurisdiction.

[Published in Raj. Gaz-Part IV C- dated 13.4-1970, Page 33]

2. Warrant of Search–Clause (a)—A search warrant may be issued for search of any place, if there are sufficient grounds to believe that–

(i) Any excisable article or

(ii) Utencils Implement, apparatus or materials etc. are kept or concealed in respect of which an offence under the Act has been committed or is being committed or is likely to be committed.

2. Inserted v. section 11 of Rajasthan Act No. XXVIII of 1952, published in the Rajasthan Gazette Part IV-A dated 13-12-1952.

3. Warrant of Arrest-clause(b)—A warrant of arrest may be issued against a rson, if there are sufficient reasons to believe that such person has been engaged commission of any such offence under the Act.

4. For Search Warrant—[Refer to Ss. 93 to 101 of Cr. P.C.]

47. Power of Excise Officer to search without warrant—(1) Whenever ı Officer of the Excise Department not below such rank as the [1][State iovernment] may prescribe has reason to believe that an offence punishable nder this Act has been, is being or is likely to be committed in any place, nd that a search warrant cannot be obtained without affording the offender n opportunity of escape or of concealing evidence of the offence, he may, t any time by day or right enter and search such place;

Provided that such officer shall before entering such place record the rounds of his belief as aforesaid.

(2) Every Excise Officer as aforesaid may seize any thing found in such lace which he has reason to believe to be liable to confiscation under this Act and may detail and search and if he thinks proper, arrest any person ound in such place whom he has reason to believe to be guilty of such offence ıs aforesaid.

COMMENTARY

1. Search without warrant—Section 47 empowers the Excise officer not below he rank of Excise Inspector and Patrolling officer of Excise Preventive Force [Refer to Rule 88 of the Raj Excise Rules, 1956] to search without warrant as per provisions of his section

2. Powers Under Section 47 conferred on Officers of Police & Revenue Department-Notification No. F. 1(52) E & T 61 dated 9.9.1961-Published in Raj. Gaz.(1)-V.C: dated 26.10.1961—

In exercise of the powers conferred by Section 10 of the Rajasthan Excise Act, 1950 (Act II of 1950) and SR/50 dated the 15th May 1951 published in the Rajasthan Gazette Vol. III, Pt. I of 1951, the State Government hereby orders that the Officers of Police and Revenue Departments not below the rank specified hereunder shall exercise the powers and perform the duties under the sections mentioned against them-

1.	Naib Tehsildar Revenue and above	Section 47
2.	Sub Inspector Police-	Section 44,47, and 67 (1) (a), except in respect of retail licences granted for sale of liquor under the Act.
3.	All officers of Police & Revenue including constables, chowkidars and Patwaris.	Section 45, except in respect of the retail licences granted for sale of liquor under the Act.

1 Subs by sec. of Raj. Act No. 28 of 1961, pub in Raj. Gaz. Ext ord. Part IV-A dt 21.10.1961

3. Case Law—

Search-Irregularity-Possession of Illicit liquor—Conviction Under S. 54 would not be affected by any irregularity committed in search under S. 47, where no prejudice is caused. Held, recovery of articles will not be rendered illegal due to such irregularity in search [AIR 1929 All 337 relied on; AIR 1960 SC 210 distinguished].[1]

Contravention of provision of S. 47- Four bottles of liquor recovered from accused by S.H.O. without complying with the provisions of S. 47 Grounds of belief not recorded, hence search was vitiated [AIR 1960 SC 210 followed and AIR 1979 SC 711 relied on] Held, acquittal was right (Appeal dismissed).[2]

S. 47 and Penal Code-Ss.147, 333 & 350- When search was illegal-Conviction set aside—When the search was made without complying with the provisions of sec. 47 of the excise Act, the search itself was illegal and the inmates or owners of the house i.e. Nanda and Kundan and their companions had every right to resist that search and to cause grievous injuries to the persons who were playing with their liberty. A search against the provisions of sec. 47 is definitely illegal. Hence it cannot be held that the Excise Inspector was acting in bonafide discharge of his duty. Even the evidence regarding the occurrence is totally contradictory. On the strength of such an ocular evidence it is not possible to fasten the guilt on the accused persons (Appeal Accepted).[3]

No urgency shown—It is true that in an urgent case a sub-inspector may conduct search for an offence against the Excise law without obtaining a warrant from the competent Excise Officer. But he can not wield the same power to search without warrant where it is not shown that there was a great urgency and where the sub-inspector could have obtained the requisite warrant from the Excise officer within no time or within very short time.[4]

Search by officer not competent-effect of—Where the officer making search was not competent as police officer to make any search but in course of the search certain prohibited excisable article was found in his possession and was seized. The conviction was upheld.[5]

Duty of officer conducting search—It is the utmost duty of the officer conducting search is to conduct the same in a highly regular, lawful and in a manner set by procedure, so as to minimize the defensive objection as to its legality, and bonafides of the search in prosecution stage. Any procedural irregularity or search without authority or search without warrant would always create doubt and demands strict scrutiny. When court comes to the conclusion that some excisable articles are recovered from the illegal possession of the accused on search the pleas of defective search do not remain very material and the conviction is not vitialted.[6]

1. State V. Shrinarain ILR (1962) 12 Raj. 815, 1962 RLW 628 (DB)
2. State V. Poonamchand 1981 (6) R. Cr.C. 401.
3. Kundan V. State 1986 WLN(UC) 678, 1986 RLW 483, 1986 RCC 376.
4. Ramchandra Vs. State AIR 1935 All 520; 36 Cr LJ 551
5. Emperor vs. Hussaini, AIR 1934 Oudh 506; 36 Cr. LJ 6; 152 IC 310
6. Mohammad Bashir Khan v. Emperor AIR 1932 All 185, 1932 All LJ 104, 33 Cr. LJ 94; 140 Indian Cases 246.

Effect Illegal Search–Conviction when set aside-In the instant case the search as illegal as it was in violation of provisions of Section 47 of the Act. Held that when arch itself was illegal, conviction cannot be based on such search.[1]

When no warrants were obtained for search, but bags constraining illicit liquor ttles were seized. Held, conviction is not justified due to illegal search.[2]

48. Procedure relating to arrest, searches, etc- The provisions of e Code of Criminal Procedure, [1973(Central Act 2 of 1974)] [3][XXX] relating arrests, searches, search warrants, production of persons arrested and vestigation into offences shall be held to be applicable, so far as may be, all action taken in these respects, under this Act.

Provided that–

[4][(i) any offence punishable under this Act may be investigated into without the order of a Magistrate and any warrant issued by the Excise Commissioner or an Excise Officer duly empowered in this behalf under section 46 may be executed by any officer selected for that purpose by the authority issuing the warrant,]

(ii) whenever an excise officer makes any arrest, seizure or search he shall within 24 hours thereafter make a full report of all the particulars of the arrest, seizure or search to his immediate official superior, and shall, unless bail be accepted under section 49 take or send the person arrested and the article seized with all convenient despatch to a Magistrate for trial.

[5][(iii) no search shall be deemed to be illegal by reason only of the fact that witnesses for the search were not inhabitants of the locality in which the place of search is situated]

COMMENTARY

1. Procedure-'as far as may be"—Procedure of the Code of Criminal Procedure, 973 is made applicable, so far as it is possible with the modifications provided in proviso), (ii) & (iii) of this section. Please refer to the text above for details.

2. Reference to Provisions of the Code of Criminal Procedure, 1973

(a) Investigation-Chapter XII-Information to police and their powers to investigate—ccording to S. 44(2) of the Excise Act, Investigating officer of Excise Department may

Mool chand & Qrs. v. State of Raj. 1990(2) RLR 626 1990(2) RLW 668 : 1991 RCC 89

Jagdish Prasad Bishnoi v. State of Raj. 1991(1) RLW 23

Omitted by section 14 of Rajasthan Act No. 38 of 1957, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-12-1957

Substituted by section 7(1) of Rajasthan Act No. 28 of 1961, published in the Rajasthan Gazete, Extraordinary Part IV-A, dated 21-10-1961.

Inserted by section 7(2)-ibid.

exercise the same powers in respect of such investigation as an officer-in-charge of a police station may exercise in a cognizable case under the provisions of Chapter XII of the Code of Criminal Procedure, 1973 (Popularly called as Cr. P.C.). Further section 48 also refers to the provisions of Cr. P.C. to be applied in Excise Cases.

The following sections of Cr. P.C. are important and relevant here-

S. 154– Information in cognizable cases
S. 156– Police officer's power to investigate cognizable case
S. 157– Procedure for investigation
S. 158– Report how submitted
S. 160 816 calling and examination of witnesses
S. 172– Diary of Proceedings in Investigation
S. 173– Report of Police Officer on Completion of Investigation.

Illegality in Investigation-Effect thereof—An illegality committed in the course of investigation does not affect the competence and jurisdiction of the court for trial.[1]

Validity of Recovery of Search—Calling of the same person to witness several searches or recoveries, is objectionable and would render the search or the recovery doubtful and suspect, if not invalid.[2]

Duty of Investigating officer is to bring out the real unvarnished truth.[3]

Evidence-Statement of accused to the investigating officer at time of investigation is not admissible in evidence.[4]

Confession—recorded by the Excise Inspector is inadmissible in evidence.[5]

(b) Chapter V- Arrest of Persons[Sections 41 to 60, Cr.P.C.]

Section 41, 42, 43, 45, 46, 47 are important.

(c) Search during Investigation-Section 165—Search by Police Officer.

Section 51-search of arrested person.

Sections 93 to 101 deal with search warrants and general provisions relating to searches.

(d) Production of person arrested-section 56, Cr.PC.—Person arrested to be taken before Magistrate or Officer in charge of Police Station.

Section 57—Person arrested not to be detained more than twenty-four hours.

[6]**[49. Provision regarding bail in offences**—(1) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall apply to bail in respect of the offences under this Act.

1 H.N.Rishbud v.State of Delhi AIR 1965 SC 196 (204)
2 Himachal Pradesh Adm. V Om Prakash (1972) 1 SCC 249 (260)
3. Jamuna Chowdhary V. State of Bihar AIR 1974 SC 1822 (1826)
4 Pritam Singh V. State of Raj. (1969)3 SCC 884 (888)
5. Raja Ram Jaiswal V.State of Bihar AIR 1964 SC 828 (830)
6. Substituted by S.5 of the Raj. Act No. 30 of 1976 pub. in Raj Gaz-EO. Part IV-A dated 28-4-76.

(2) Except the offences punishable under sections 54 and 56, which hall be non-bailable, all other offences under this Act shall be bailable within ıe meaning of the said Code.].

COMMENTARY

1. Bail in Excise offences—Section 49 makes provisions of the Code of Criminal rocedure, 1973 applicable to cases of bail in offences under this Act.

Chapter XXIII of Cr. P.C. deals with bails, particularly sections 436 and 437 Cr :C. are relevant.

2. Bail when granted—Only six bottles of illicit liquor recovered from accused, ıe was allowed bail.[1]

3. Latest trend—Liquor Tragedy Cases-(Ss. 54, 61, 63 & 31C and Cr. PC—ı.439)-Bail granted—31 persons lost their lives and 105 were seriously injured- Sales nan on retail shop "VK" was the master mind who prepared illicit liquor. "VK" is, held, ıot entitled to bail (Application dismissed). Three other salesmen ordered to be released ın bail as their detention is no more required for investigation Direction for proper nvestigation given (Bail Granted) [AIR 1979 SC 1456 relied on].[2]

Bail when refused-Liquor Tragedy—31 lives lost while 105 injured- First bail application was rejected after considering all aspects. No new ground available- Charge already framed-Trial to be expedited by Trial Court. (Second Bail Application disposed of.)[3]

[Please also refer to Note 4(h) of commentary of S. 54, infra for further case law.]

50. Duty of officers of certain departments to report offences and to assist Excise Officers—Every officer of the Police, Salt, Customs [4][Narcotics] and Land Revenue Department shall be bound to give immediate information to an officer of the Excise Department of all breaches of any of the provisions of this Act which may come to his knowledge, and to aid, any officer of the Excise Department in carrying out of the provisions of this Act upon request made by such officer.

51. Duty of landholders and others to give information– (1) Every owner or occupier of land and the agent of any such owner or occupier of land on which, and

[5][(2) Every Sarpanch or Panch of a Panchayat established under the Rajasthan Panchayat Act, 1953, [6](Rajasthan Act 21 of 1953), lambardar],

1. Dwarka Prasad v. State 1987 Cr LR (Raj.) 320
2. Naram Singh & 4 others v.State, 1994(2) WLC 182. 1993(2) RLW 145 1993 CrLR (Raj) 302.
3. Vijay Kumar v. State. 1994 (3) WLC 718.
4. Substituted by S.8 of the Raj. Act No. 28 of 1961
5. Substituted by section 9 of Rajasthan Act No. XXVIII of 1961. published in the Rajasthan Gazette, Extraordinary Part IV-A, dated 21-10-1961.
6. Now see Rajasthan Panchayati Raj. Act, 1994.

village headman, village accountant or village policemen in whose village, there shall be any manufacture or illegal import or collection of any excisable article not licensed under this Act, or any unlawful cultivation or collection of any plant from which an intoxicating drug can be produced shall be bound, in the absence of reasonable excuse to give notice of the same to a magistrate or to an officer of the excise, Police, Customs or Land Revenue Department, immediately the same shall have have come to his knowledge

52. Duty of officer in -charge of police station to take charge of article seized— Every officer-in-charge of a police station shall take charge of and keep in safe custody, pending the orders of a magistrate or of the Excise Commissioner [1][or an Excise Officer only empowered in that behalf] all articles seized under this Act which may be delivered to him; and shall allow any officer of the Excise Department who may accompany such articles to the police station or may be deputed for the purpose by his superior officer, to affix his seal to such articles, and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer-in-charge of the police station.

53. Power to close shops for the sake of public peace—(1) The District Magistrate by notice in writing to the licensee may require that any shop in which any excisable or intoxicating drug is Cold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

(2) If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, a Magistrate of any class or any police officer above the rank of a constable who is present, may require such shop to be kept closed for such period as he may think necessary.

Provided that where any such riot or unlawful assembly occurs the license shall, in the absence of such Magistrate or police officer, close his shop without any order.

COMMENTARY

1. Scope—Section 53 deals with public peace in relation to the liquor shops. There are two fact-situation for closing of liquor shops dealt with under sub-sections (1) & (2)

2. Two Fact-situations— (1) District Magistrate has been empowered by sub-section(1) to regulate the timings of the liquor shops etc in interest of preservation of the public peace in any place in the district.

1. Inserted by section 11 of the Rajasthan Act No. XXVIII of 1952. published in the Rajasthan Gazette, Part IV-A, dated 13-12-1952.

(2) In case of riot or unlawful assembly the shop in vicinity of occurrence may closed for certain/time by-(i) Magistrate or(ii) Police officer above the rank or constable :sent at sight. Or, in case no such Magistrate or Police officer is present at sight, : licensee shall close such shop without any order.

These are temporary situations for closer of liquor shops based on preservation public peace, but a liquor ship may be closed from an area due to option of the :al inhabitants as detailed below-

3. A Special Provision-Closure of Country Liquor shop by Local option in Panchayat rcle—There are Rules entitled, 'Rajasthan Excise (Closure of Country Liquor shops local option) Rules, 1975. The procedure given in R. 3 to R. 15 may be usefully quoted re for reference :

4. Option of closure by voters of Panchayat—A liquor shop in any Panchayat rcle shall be closed if the voters in the Panchayat Circle opt for such closure with ıt less than 2/3 of the total number of voters of the Panchayat [Circle]2 voting for c closure of the shop in the manner hereinafter laid down, from the commencement the year immediately followings the one in which such voting takes place.

5. Application for closure—An application in Form 1 may be made by voters of ıy Panchayat circle to the concerned Sub-divisional Officer for ascertaining public opinium ı the question of closure of any or all liquor shops or sub-shops, functioning in the ınchayat circle;

Provided that no such application shall be entertained unless not less than one-nth of the total number of the Panchayat circle have signed/affixed their thumb-impressions ı the application in support of the demand.

6. Enquiry by SDO on application and Report—On receipt of such an application, e Sub-divisional Officer shall make on the spot enquiry and if he is satisfied that the ımber of applicants who are voters of the Panchayat circle and who have actually signed/ fixed their thumb-impressions on the application is not less than one-tenth of the total ımber of voters of the Panchayat Circle, he shall send the application to the Excise ommissioner with his endorsement thereon to this effect.

7. Excise Commissioner to consider SDO's Report—On receipt of the application ong with the report of the Sub-divisional Officer under Rule 5. the Excise Commissioner ıall, unless he considers that the application is not in accordance with the provisions f these rules or he deems it necessary to call for further report from the sub-divisional ıfficer, ask the Collector concerned to ascertain the public opinion in the Panchayat ırcle on the question of closure of the liquor shop as demanded in the application by olding a poll:

Provided that if in the opinion of the Excise Commissioner the application is not ı a accordance with the rules, he shall send a report to the Government whose decision ill be final and will be communicated to the Panchayat for informing the applicants.

8. Issue of public notice by Collector—The Collector shall there-upon issue a public otice of intended poll in Form 2 and shall publish it on the notice Board of the Panchayat nd such other places in the Panchayat Circle as he deems firt. The Collector shall allow period of at least fifteen days to intervene between the date of publication of the ublic notice in the Panchayat circle and the date of the poll.

9. Appointment of Presiding Officer—The Collector shall appoint a Presiding Officer not below the rank of the Tehsildar for conducting the poll and polling officers to assist him in the conduct of the poll.

10. Polling -Mode of—The polling shall be conducted in the manner laid down for election of Panchas in the rules prescribed under the Rajasthan Act. 1953 mutatis mutandis.

11. Ballot papers—The ballot paper used for the purpose of poll shall be printed in Form 3.

12. Counting—After the polling is over, the Presiding Officer shall count number of votes polled for and against the closure of the liquor shop, declare the result and send a report in duplicate to the Collector in Form 4 alongwith the record of the poll.

13. Report of the result of polling—The Collector shall forward one copy of the report to the Excise Commissioner with his remarks, if any

14. Excise Commissioner's duty on receipt of report—On receipt of the report of the Presiding Officer, the Excise Commissioner shall if not less than two-third of total number of voters of the Panchayat Circle had voted for the closure of the shop, order the closure of the said shop in the Panchayat circle from the commencement of the year next following the year in which the voting taken place.

15. Strength of voters favouring closure—If the any poll organised in the manner laid down above, not less than 2/3rd of the total number of voters in the Panchayat circle do not vote for a closure of any liquor shop or sub shop, no application for ascertaining the public opinion in the Panchayat Circle for closure of the same shop or sub-shop shall be entertained before expiry of a period of twelve months fro the date on which such poll was last held.

16. Record of polling—The record of the poll including the electoral rolls and ballot papers used and unused shall be preserved for a period of twelve months after the date of poll unless otherwise directed by the Government or any competent court.

4. Repeal of Licence- Matter of Policy of State–

When the State has received complaints that consumption of liquor in Bars resulted in law and order problems, women folk being harassed, certainly, in public interest it could take a decision to repeal the grant of bar licences. There is nothing unreasonable. It is, held, not necessary that a committee ought to have been appointed and a report obtained before such a repeal. It is matter of policy which the Government alone is competent to formulate. The State Government knows how best to augment its revenue.[1]

5. Declaration of Dry-days for sale of liquor during election-contract of Liquor-Order enforceable–

No breach of contractual obligation where specific conditions incorporated in the notice inviting tenders. There is no inherent power to sell liquor. Restriction is, held, just and rearnable. State Government competent to issue directions under Rule 41 and 92. The Governor can also pass such order under Art. 161 and of liquor cannot be equated with contract in other cases, nor the issue of reasonableness and fairness be agitated in liquor contract (Petition dismissed.)[2]

1 Madras City Wine Merchants Association V. State of Tamil Nadu, (1994) 5 SCC 509.
2. Murlidhar v. State of Raj. & Ors. RLW 2000(2) Raj 744

Chapter [IX]

Offences and Penalties

❑ Introductory Note

SYNOPSIS

(1) List of offences under the Act
(2) Reference to Provisions of Cr. P.C.
  (1) Investigation
  (2) Arrest of Persons.
  (3) Search during Investigation
  (4) Production of person arrested
(3) Special Provisions in the Chapter
(4) Provisions of the Rajasthan Excise Rules

(1) List of Offences Under the Act

S.No.	Section	Offence	Punishment	Nature
(1)	54	Penalty for unlawful import, export, transport, manufacture, possession etc.	Three years & fine upto Rs. 2000/-	Non-bailable
(2)	Proviso to S. 54	Possessing workable still or selling or possessing any excisable article contravention of the Act etc.	Minimum six months & Fine Rs. 200/-	Non-bailable
(3)	55	Penalty for unlawfully selling to person under eighteen or employing children or women.	Fine upto Rs. 500	Bailable
(4)	56	Penalty for rendering denatured spirit fit for human consumption	Not be less than 6 months & upto Three years & Fine not less than Rs. 200/- and upto Rs.1000/-	Non-bailable
(5)	57	Penalty for possession of excisable article unlawfully imported	Upto three months or fine up to Rs, 1000/- or both	Bailable

(6)	58	Penalty for certain acts by licensee or his servants	Fine upto Rs. 500/- for each offence	Bailable
(7)	59	Penalty for consumption in chemist's shop (a) shop keeper (b) Any person not employed who consumes	Three months and Fine upto Rs 1000/- Fine upto Rs. 200/-	Bailable Bailable
(8)	60	Penalty for excise officer refusing to do duty	upto 3 months or with fine upto Rs. 500/- or both	Bailable
(9)	61	Penalty for Excise officer making vexatious search etc.	upto 3 months with fine upto Rs. 500/- or both	Bailable
(10)	62	Penalties for offences not otherwise provided for.	with fine upto Rs. 200/-	Bailable
(11)	63	Penalty for fraud by licensed manufacturer or his servant	upto 3 months and with fine upto Rs 500/-	Bailable
(12)	65	(a) Attempt to commit above offence & (b) Abetment of any above offence	Punishment provided for the offence. above.	

(2) Reference to Provision of the Code of Criminal Procedure, 1973 made applicable to Excise Cases:

(1) Investigation

Chapter XII-Information to police and their Powers to investigate—According to S. 44(2) of the Excise Act, Investigating officer of Excise Department may exercise the same power in respect of such investigation as an officer-in-charge of a police station may exercise in a cognizable case under the provisions of chapter XII of the Code of Criminal Procedure, 1973(Popularly called as Cr. P.C.). Further Section 48 also refers to the provisions of Cr. P.C. to be applied in Excise Cases The following section of Cr. P.C. are important and relevant here:—

S.154– Information in cognizable cases (F.I.R.)
S.156– Police officer's power to investigate cognizable case
S.157– Procedure for investigation

S.158– Report how submitted
Ss.160 & 161– Calling and examination of witnesses
S.172– Diary of Proceedings in Investigation
S.173– Report of Police officer on completion of Investigation

Illegality in Investigation-Effect thereof—An illegality committed in the course of investigation does not affect the competence and jurisdiction of the Court for trials.[1]

Validity of Recovery or search—Calling of the same person to witness several searches or recoveries, is objectionable and would render the search or the recovery doubtful and suspect, if not invalid.[2]

Duty of Investigating officer is to bring out the real unvarnished truth.[3]

Evidence-Statement of accused to the investigating officer at time of investigation is not admissible in evidence.[4]

Confession recorded by the Excise Inspector is inadmissible in evidence.[5]

(2) Chapter V- Arrest of Persons
[Sections 41 to 60, Cr.P.C]

Sections 41,42,43,45,46,47 are important.

(3) Search during Investigation

Section 165- Search by Police officer

Section 51-Search of arrested person

Section 93 to 101 deal with search warrants and general provisions relating to searches.

(4) Production of person arrested

Section 56. Cr.P.C.-Person arrested to be taken before Magistrate or officer in charge of Police station.

Section 57- Person arrested not to be detained more than twenty-four hours.

[for details, please refer to any book on **Code of Criminal Procedure, 1973"**]—

(3) Special Provisions in the Chapter

There are special provisions as to deal with excise offences in this chapter from sections 66 to 70. These provisions prescribe the procedural principles to be followed in these cases-

S.66– Enhanced punishment after previous conviction.
S.66 A– Security for abstaining from commission of offences
S.67– Cognizance of offences
S.68– Presumption as to commission of offence in certain cases.
S.69– What things are liable to confiscation.
S.70– Power of excise officers to compound offences.
S.64– Manufacture, sale or possession by one person on account of other.

1. H.N Rishbud v. State of Delhi AIR 1955 SC 196 (204)
2. Himachal Pradesh Adm. v. Om Prakash (1972) 1 SCC 249 (260)
3. Jamuna Chowdhary v. State of Bihar AIR 1974 SC 1822 (1826)
4. Pritam Singh v. State of Raj (1969) 3 SCC 884 (888)
5. Raja Ram Jaiswal v. State of Bihar AIR 1964 SC 828 (830)

(4) Provisions of the Rajasthan Excise Rules, 1956

(a) **Chapter X-** Rr. 78 to 82 deal with disposal of confiscated articles. (See-under S. 69)
(b) **Chapter XI-** Witnesses-Expenses etc.
(c) **Chapter IX-B-** Rule 77-D- Compounding offences (under S. 70 of the Act).

* * * *

54. Penalty for unlawful import, export, transport manufacture, possession, etc. Whoever, in contravention of this Act or of any rule, or order made or of any licence, permit or pass granted there under-

(a) imports, exports, transports, manufactures, collects, sells or possesses any excisable article; or
(b) cultivates any hemp plant (Cannabis sativa); or
(c) constructs or works any distillery, pot-still or brewery; or
(d) uses, keeps or has in his possession any materials, still, utensil, implements or apparatus whatsoever for the purpose of manufacturing any excisable article other than tari;or
(e) removes any excisable article from any distillery, pot-still [1][brewery] or warehouse established or licenced under this Act; or
(f) bottles any liquor for the purposes of sale; or
(g) taps or draws tari from any tari producing tree;

shall be punishable with imprisonment for a term which may extend to [2][three years] [3][and] with fine which may extend to [4][twenty thousand] rupees [1][XXX];

[1][Provided that if a person is so found in possession of a workable still for the manufacture of any excisable article [3][or is found to be guilty of selling or possessing for sale any excisable article in contravention of the provisions of this Act or of any rule or order made or of any licence, permit or pass granted thereunder he shall be punished with the minimum sentence of imprisonment for six months and fine of two hundred rupees.]

[5]["Provided further that if the quantity of liquor" found at the time or in the course of detection of the offence exceeds fifty bulk litres, the person guilty for such offence shall by punished with the minimum sentence of imprisoment for one year and fine of ten thousand rupees."]

1. Inserted, substituted omitted and added by section 3 of Rajasthan Act No. 11 of 1956, published in the Raj. Gaz. Extraordinary, Part IV-A, dated 31-12-1956.
2. Substituted by section 6(i) of Rajasthan Act No 30 of 1976, published in the Rajasthan Gazette, Extraordinary, Part IV-A dated 28-4-1976.
3. Inserted by section 6 (ii)-ibid.
4. Substituted for "two thousand" by SS. 25 & 26 of the Raj. Finance Act, 2005 (Act No. 15 of 2005) Pub. in Raj. Gaz. Ordy-4 (ka) dated 25-5-2005. Page 37 (19).
5. Added by S.25 of the Raj. Finance Act 2005

COMMENTARY
SYNOPSIS

Nature of offence
Punishment
Minimum Sentence prescribed
Scope of the Act
(a) Ganja Case
(b) Bhang Case
Principles laid down (Case law)
(a) Mensrea in Excise offences
(b) Possession-meaning & Nature
(c) Appreciation of Evidence
(i) Samples & Report of Chemical Examiner Recovery of Articles
(ii) Recovery of Utencils
(d) Testimony of Excise Inspector
(e) Witnesses testimony of
(f) Burden of proof (S. 68)
(g) (Miscellaneous Cases) Practice & Procedure
(h) Proof of Alcoholic Contents
(i) Latest trend
(j) Bail
(6) Illustrative Cases.
(a) Conviction cases
(b) Acquittal cases
(c) Sentence reduced
(7) Benefit of Probation-
(a) Important Case— Sona Singh (1990)
(b) Not to be deprived of Service
(c) Probation when allowed (Illustrative Cases)
(i) Excise cases
(ii) Prohibition cases

(1) Nature of offence--Contravention of -"(i) this Act, or (ii) of any rule, or (iii) order made, or (iv) of any licence, permit or pass granted thereunder."—

--is the offence under Section 54, where activities or acts mentioned in clauses to (g) [Please refer to the text of section] are undertaken by any person. Without h contravention, these activities are not offences simpliciter.

Therefore Contravention mentioned above is the main ingredient of the offence, ich must be alleged and proved by the prosecution.

(2) Punishment—Imprisonment for a term upto three years and with fine upto 20,000/- Both penalties are to be imposed as word "and" has been used which was stituted in 1956.

(3) Minimum Sentence prescribed—(a) There are two offences in which minimum tence of imprisonment for six months and fine of Rs. 200/- has been prescribed by viso to S. 54. These offences are-

(i) Possession of a workable still for the manufacture of any excisable article,

OR

(ii) Selling or possessing for sale any excisable article.

—in contravention of the provisions of this Act, or of any rule or order made, of any licence, permit or pass granted thereunder.

(b) If during detection of offence, more than fifty bulk liters of liquor is recovered, minimum sentence of imprisonment shall be for ONE YEAR and Rs. Five or Ten ousnad and shall be imposed.

(4) Scope of the Act—(a) Possession of Ganja without licence—

—Section 37 of NDPS Act held not applicable as offence is punishable for six nths only under the Excise Act.[1]

Shantilal v. State of Rajasthan 1995(2) WLN 98.

(b) Cultivation of Bhang without licence--

It is punishable under the Excise Act and not under NDPS Act.[1]

(5) Principles laid down

CASE LAW

(a) Mensrea in Excise Offences

S. 54 (a)—Offence under- Mensrea—Held that dealing in illicit liquor without a licence or a valid permit implies mensrea and as such proof of mens rea not necessary. (Acquittal set aside-accused convicted) State v. Taj Mohd. 1982 Raj. LR 232; 1982 Cr LR 408: 1982 WLN 231: ILR(1982) 32 Raj. 592.

(b) Possession–Meaning & Nature

(1) Meaning of "Possession"—

"Possession" means conscious possession. Neither mere possibility nor remote probability nor vague doubts which are not reasonable, can without danger to the administration of justice, be the reliable and cogent to the administration of justice, be the foundation of discrediting the reliable and cogent evidence.

In the instant case, carrying of 30 bottles of liquor (in vehicle) was held not possible without each of them taking the other in confidence. [Nathulal v. State of Rajasthan 1976 WLN 681.]

(2) Two elements of "Possession"—

(a) Possession must be conscious as well as
(b) exclusive of the accused.

[See-cases, infra]

(3) No. Conscious Possession- (a) Burden of proof—

The mere fact that the accused Nos. 1 and 2. were found sitting in the house at the time of raid alone is not sufficient. the burden of proving that the accused were in conscious possession of the contraband articles in question lay on the prosecution. The possibility of the accused having casually gone to the house and not being aware of the existence of the contraband material in question can not be ruled out. Further the prosecution has failed to establish the identity of the liquid seized from the house with the sample sent to the chemical analyser. The accused were held to be entitled to the benefit of doubt. The prosecution failed to prove guilt beyond doubt. *State of Maharashtra v. Vishwanath Namdeo Kolge 1977 Cr LR (MS) 422.*

No Conscious Possession (b) Acquittal

22 bottles of liquor recovered from house of accused from a room frequently visited by others. Accused is deaf and dumb and was not able to communicate. Held, the accused was, therefore, not in conscious possession of 22 bottles of liquor. Accused acquitted. *[State of Raj. v. Bhanwar. 1982 CrLR (Raj.) 740.]*

(4) Conviction set aside—meaning of "possession"- S. 27 IPC held does not apply- Mere fact that the petitioner was the head of the family is not sufficient for a finding that he must have been in conscious possession or control of liquor contained in the bottles which were found in his house. (Sentence set aside). *Chela Ram V State 1983 RLR 579: 1983 WLN (UC) 135: 1983 RCC 305: 1983 RLW 392: 1984 CR LJ 1143.*

(5) "Ganja"--When exclusive possession could not be proved-finding of trial Court correct and appeal of State fails. *[State v. Mohan 1978 Cr. LR (Raj) 566.]*

(6) Exclusive Possession must be proved--Recovery from open verandah being accessible to all & one, no exclusive possession held proved Accused, a police constable

1. Dharam Chand v. State of Raj. 1995(2) WLN 218.

selling liquor, but no evidence except one solitary witness. Held, not safe to rely on such witness even when exclusive possession of accused not proved (Revision accepted, conviction set aside). *[Kana Ram v. State, 1979 (4) R. Cr. C 156.]*

(7) No exclusive possession of accused proved when "Bodha" was open place where any person can have access without knowledge of accused—*Acquittal affirmed. [State v. Ram Karan, 1978 WLN (UC) 408 (410).]*

(8) Transportation of liquor—Element of conscious possession necessary- Scope and applicability of S. 68 indicated- Circumstance, when burden of proof on accused, explained. *[Nathulal v. State ILR (1976) 26 Raj., 996.]*

(9) Sentence reduced—Five litres of illicit liquor recovered from the room, the key of which was with accused. When exclusive possession of accused proved, no interference in conviction is called for. However as the case is of 1973 and quantity of liquor recovered was also not much, sentence reduced to period already undergone (i.e.8 day) and fine of Rs. 500/- was imposed. (Revision partly allowed.) *[Vasudev v. State 1982 R. Cr. C 10.]*

(10) Meaning of "conscious possession"—22 bottles of liquor recovered from the house of accused from a room which was frequently visited by others- In the present case the accused was deaf and dumb and was not able to communicate. Held, accused was not in conscious possession of the 22 bottles of liquor. (Accused acquitted). *[State v. Bhanwar 1982 RLW 660; 1982 Cr LR 740, Raj.]*

(11) Acquittal—When possession of liquor was not in conscious possession of the accused and it was found in his house, the accused being the head of family, he cannot be held to be a conscious possession of liquor found in his house. (Revision allowed). *[Chala Ram v. State 1983 WLN (UC) 135; 1983 RLW 382.]*

(12) Search-Irregularity- Recovery not rendered illegal—A conviction of a person under Section 54 of the Rajasthan Excise Act, 1950 for being in possession of illicit liquor would not be adversely affected by the fact that an irregularity has been committed in the search conducted under Section 47 of the same Act unless it has prejudiced the cause of fair trial and justice to the accused by this irregularity nor would such irregularity render the recovery of the articles illegal- *[State v. Srinarain 1962 Raj. LW 628; ILR (1962) Raj 815 (DB).]*

(13) Proviso- Applicability- Possession of workable still—Possession of a workable still is not an ingredient of an offence under S. 54(c) and this circumstance to an offence under S. 54(d). The proviso to S. 54 has reference to an offence under S. 54(d) and it cannot be said as lying down minimum penalty for an offence under S. 54(c). The proviso only comes into play when a person is convicted under S. 54(c) cannot be sentenced under the proviso. *[State v. Th. Narain Singh, 1960 RLW 446;ILR (1960) 10 Raj. 936.]*

(14) Acquittal set aside-Sentence reduced—The Magistrate could not appreciate that the possession of the liquor, at the time when the Rajasthan Prohibition Act was in force, itself was an offence, and nothing more was required to be proved (Sentence reduced to period already undergone). *[State of Rajasthan v. Budh Singh & Ors. 1986 Cr. L.R (Raj) 663 and 729 : 1986 WLN (UC) 374.]*

(15) Lenient view taken—Illicit liquor in possession recovered from tiffin weighing only 1/4 seer- incident of 1971 and accused was in jail from 21.5.1971 to 3.6.1974- Lienient view taken and sentence reduced to period already under gone-fine set aside. *[Mohan Lal v. State, 1978 WLN (UC) 403.]*

(16) Possession of Liquor of different strength–offence when not made out—What is an offence under the Act is the possession of any liquor in contravention of any rule which may have been made by the Excise Commissioner fixing the strength of quantity in excess of or below which the liquor shall not be possessed by any person. Unless, therefore the Excise Commissioner has fixed the strength or the quantity of liquor by any notification with the previous sanction of the Government, the possession of liquor of a strength different from what is sold doesn't amount to an offence. Notification No. 4163 obviously only purports to fix the price of liquor of particular variety which can be charged by a licensee. It does not lay down the strength of quantity in excess of or below which any liquor shall not be possessed by any person . Therefore it cannot be said that the possession of the liquor is a transgression of the rule promulgated by the notification. *[Jamwant Singh vs. State of Raj. 1957 RLW 438.]*

(c) Appreciation of Evidence.

(i) Samples & Report of Chemical Examiner—Recovery of Articles

(17) Appreciation of Evidence—Samples sealed on spot, but no evidence produced that samples not tempered with before reaching chemical examiner—. Articles excisable sent to chemical examiner-no evidence that these were same which were recovered from possession of accused- No link established (Revision accepted). [ILR (1953) 3 Raj 655, 1966 RLW 451, ILR (1969) 19 Raj. 918 and 1974 WLN 137]. *Mst. Nathki v State, 1978 (3) R. Cr. C. 158 (159).*

(18) Report of Assistant Chemical Examiner excluded from evidence, though admissible in evidence, under S. 510, Cr.P.C.-No evidence to the effect that samples reached in an untempered condition-Prayer for recording additional evidence refused as seven years have passed (Appeal dismissed). *[State v Heera Lal 1978 WLN (UC) 279; 1978 Cr.LR (Raj) 508 and 659.]*

(19) Recovery of Lahan and liquor—Samples intact-Report of Chemical Examiner proves ethyl alcohal- No reason to interfere with-Sentence held not severe— (Revision dismissed summarily). *[Chhagan Singh v. State 1979(4) R.Cr.C.279.]*

(20) Liquid seized could not be proved to be illicit liquor–Recovery of implements but not of illicit liquor–no connection established-Held, prosecution cannot take benefit of S. 4(4) and conviction does not stand justified. (Mst. Nathki V. State 1978 R Cr.C 158 followed). (Revision allowed). *Malook V State 1979 WLN (UC) 118; 1979(4) R. Cr.C 352.*

Also refer-*Mst Nathki V.State, 1978 R.Cr.C.158.*

(21) Fermented wash recovered from field of accused—No evidence to connect accused from recovery–Field open and accessible to all–Conviction held erroneous. *Babaria V.State 1978 Cr. LR (Raj.) 59.*

(22) Recovery of illicit liquor proved-Value of Hostile Motbir witnesses—It does not tanspire from the evidence on record that Circle Inspector some how or other planted illicit liquor in his house so as to implicate him in this case. Motbir, who turned hostile to the prosecution case admitted his signatures on the recovery memo and the site-plan. He further stated that he had put his signatures to these documents without any pressure from the quarter. His evidence is therefore, not in any way helpful to the accused

petitioners. Had there been no recovery of the illicit wine from Jumma's house in his presence, he would have surely refused to sign the recovery memo and the site plan. (Conviction upheld) [Jumma vs. State, 1976 Cr. L.R. (Raj) 353.]

(ii) Recovery of utencils—

(23) Use for distillation must be proved—The Excise Inspector in his statement before the trial court merely exhibited this inspection memo EXP 7 and didn't testify to its contents on Oath. Hence, in the absence of any satisfactory evidence that the tin, the earthen pot and the bottle were the implements of manufacturing illicit liquor and the few drops found in the bottle were of illicit wine, their recoveries from the house of the petitioner alone was not enough to establish and sustain the charge under sec. 54(a) of the Act. These articles could be used for purposes other than distillation of illicit liquor and, therefore, both the courts below committed an error in holding that there was no other alternative use and utility of these articles but for distillation of illicit liquor. *Ridmal Singh v. State 1979 C. L.R. (Raj.) 190*

(24) Acquittal—Accused caught with 8 bottles of illicit liquor in a jericane–Prosecution failed to establish that throughout the period from seizure to the article reaching to office of Chemical Analyser, the sample bottle remained in sealed condition–Report of Chemical Analyser not exhibited–Conviction held not sustainable. (Revision allowed). *Bachya Khan v.State 1982 R. CrC.229.*

(d) Testimony of Excise Inspector

(25) Revision—Nothing illegal to base conviction on Statements of Excise Inspector [1957 RLW 438 foll.]- Conclusions on finding of fact not perverse and based on evidence, held, not to be disturbed in revision. *Harnath Singh v. State. 1979 Cr. LR (Raj.) 525.*

(26) Illicit liquor recovered-Expert opinion is required—Excise Inspector's opinion in absence of scientific evidence not of any value. [AIR 1967 SC 1550 foll; 1956 RLW 54 dist.]

State v. Sawal Ram 1970 RLW 566:1971 CrLJ 200: 1970 WLN 440: ILR (1971) 21 Raj. 729 (DB).

(27) Spirit- Even if the stuff is 'spirit' unfit for human consumption, a case under S.57 can be made out against accused in possession.

Ram Chandra v. State ILR (1960) 10 Raj. 738: 1960 RLW 215.

(28) Recovery of Illicit Liquor from accused and recovery memo was got signed from him. Held, the recovery-memo not admissible in evidence so far proving of his signatures is concerned, but rest of recovery-memo is held admissible and not hit by S. 25 of Evidence Act.

State v. Lichman 1984 RLR 241.

(e) Witnesses-Testimony of

(29) Working still and illicit wash recovered-**Solitary Witness**—when even identity of the petitioner was mistaken, held, extremely unsafe to convict the petitioner only on the statement of Sole witness. (Revision allowed-Petitioner was acquitted).

Gundri v. State 1981 (6) R. CrC.195

(30) Applicability & Scope—Conviction altered from clause (c) to (a)-Two motbirs turned hostile.Accused ran away from spot. Degchi, Babri, a bottle of liquor, a plastic tube as well as fermented wash were recovered and samples certified by Analyst to contain excisable articles. In fact the broken pieces of the Bhatti were not produced in the court and as such it cannot be said with certainty that a working still was recovered from the possession of the accused. Held that conviction cannot be maintained under S. 54(c), but he can be convicted under Ss. 16/54(a) of the Act. (Revision partly allowed)

Amer Singh v. State 1983 R.CrC. 49(50)

(31) Identity mistaken—Sole witness (Revision allowed-accused acquitted)

Gundari v. State 1981 (6) R.CrC. 195

(f) Burden of Proof-Presumption under S. 68 of the Act—When possession proved, accused has to explain possession

(32) Assumption—Once it is proved that the accused had something to do with the import, export, transport, manufacture, sell or possession of excisable article, it is for him to prove satisfactory that he has not knowingly done so. Section 69 of the Act will become atiose if it were held that the prosecution must prove the conscious possession before it can take resort to S. 68. Section 68 proceeds on the assumption that a person who is in any way concerned with the excisable article, as mentioned under S. 54(a) of the Act, he must be presumed to have committed the offence charged. The practical difficulty of the prosecution to prove something which is exclusively within the knowledge of the accused has persuaded the legislature to consider that if the onus is placed on the prosecution, the object of the Act would be frustrated By enacting S.68 of the Act the legislature has manifested its intention that an anti-social adventurer cannot claim for his injurious activities large regard than for the defence of the society itself (1976 Cr. L.R. 382 and AIR 1960 SC 483, not applicable).

Nathu Lal v. State IL. R. (1976) 26 Raj. 996: 1977 RLW 23: 1976 WLN 681.

(33) Possession must be proved—In order to raise a presumption of guilt against the accused. It must be made out by the prosecution beyond doubt that he was in possession of the excisable articles recovered on search. There cannot be any absolute presumption that a person in occupation of the premises must be in possession of every thing found in side the premises. Whether such a presumption should be raised in any particular case or not depends upon facts and circumstances of each case.

State v. Chandrabhan, AIR 1942 Oudh. 69.

(34) Use of implements to be stated—Though the law presumes against the accused person as laid down in Section 68 yet the prosecution must establish certain primary and basic facts. The Excise Officer must allege and explain as to what those implement of manufacturing illicit liquor was recovered with the accused and also its supposed use when accused was in possession.

Emperor vs. Mahadeo AIR 1925 All 388:88 IC 275: 23 All LJ 417: 26 CrLJ 1107.

(g) Practice & Procedure
(Miscellaneous Cases)

(35) CrPC S. 167 (5)—Investigation when becomes illegal-Provisions of S. 167(5) are held to be mandatory and the Magistrate shall order stopping further investigation

expiry of six months. unless special reasons being recorded. The object of enacting section was to expedite the investigation. Cognizance taken by Magistrate on such gal investigation held vitiated and hence quashed. (1979 CrLJ(SC) 1036 and 1052 relied

Babu Lal v. State 1981 CrLC 338: 1981 WLN 225

(36) Prescribed Minimum Sentence to be awarded—The minimum sentence provided reunder is six months No discretion has been left in the court in an offence under 4 (2) of the Act to give the sentence less than minimum prescribed. [AIR 1958 SC 5 referred to] Revision dismissed.]

Kanya v. State 1981 (6) R. Cr C 407 (408)

(37) Complaint when dismissed—Charge sheet filed under S. 4 (2) for one bottle llicit liquor recovered from accused–The case was fixed for the evidence of the prosecution. ither the A.P.P nor the complainant was present. The case was going on since 1977 d not a single witness of the prosecution has been examined. Therefore if under the cumstances the learned Magistrate in the absence of the complainant dismissed the mplaint. he did not commit any illegality. (Appeal dismissed)

State v. Chunni Lal 1982 RLW 255: 1982 R Cr. C 176

(38) Criminal PC—S. 167 (4) & (5)–Cognizance in defective Investigation–Charge eet was filed after six months of arrest of accused. It was not illegal and the evidence llected after the period of six months has to be excluded from consideration.

Subh Karan v. State 1986 (1) WLN 279: 1986 RLW 134

(39) Criminal Practice—Ex-parte hearing in Criminal Appeal–Rehearing allowed- a Criminal Case, unless an advocate engaged by the accused has been formally disengaged otherwise instructions are withdrawn from him, he has to appear in the case. In the stant case advocate T did not appear and advocate S could not appear as his name d not appear in cause list. State Appeal was heard ex-parte and was allowed. Held, interest of justice rehearing of appeal was allowed.

State V. Uttamchand & Het Ram 1981 CrLR 637 and 717

(40) Investigation when not vitiated—

State v. Masita 1974 WLN 895: 1974 RLW 541.

(41) Conviction upheld when based on legal and inimpeachable evidence.

Hardit Singh v. State 1978 Cr. LR (Raj.) 741.

(42) Acquittal upheld when independent evidence as to possession of two bottles f liquor by accused not produced.

State v. Sardarilal 1978 Cr. LR (Raj) 649

(43) Protracted Trial –Incident of 1968–Agony of Trial for 4 years- Procedure f Warrant case not followed fresh trial after lapes of 10 years, held not in interest of ustice- (Appeal dismissed).

State v. Khyali Ram, 1978 Cr. LR (Raj.) 646.

(44) Quantum of punishment—Previous Conviction-Not proved-No question asked o accused-sentence reduced to six months already undergone. (Revision partly allowed).

Anokh Singh v. State 1978 Cr. LR (Raj.) 588: 1978 WLN (UC) 1.

(45) Driver of truck carrying liquor with permit—No criminal liability can be saddled on him (Application accepted, proceedings quashed).

Guman Singh v. State 1978 WLN (UC) 50 (51)

❑ **(46) Owner of car–Liability of–Complicity in carrying Ganja made out**—It is no doubt true that the car in which the contraband Ganja was being carried belonged to the appellant, but that fact would not show that it was the appellant who was responsible for sending the Ganja in the car. The appellant admittedly was not present in the car at the time the Ganja was recovered from the car. Besides the driver. there were two other occupants of the car and, according to one of them, namely. Wali Mohd the Ganja belonged to him. The appellant has stated that he had deputed his driver Akram on February 4, 1967 to take the car to Sasaram at a distance of 70 miles from Varanasi for election work. The High Court rejected this version of the appellant on the ground that as the car did not reach Sasaram the appellant should have lodged a report on February 5,1967 with the police. The fact that no such report was lodged with the police by the appellant till Feburary 8, 1967 shown according to the High Court. the complicity of the appellant. In this respect we find that there is nothing on the record to indicate that the appellant should have come to know on February 5, 1967 that the car had not reached Sasaram if, in fact he had sent that car to that place. There is nothing improbable in the appellant having learnt on February 8, 1967 that his car had not reached Sasaram and about his having made a report to the police on that day.

Thakur Jai Narain Singh vs. State of Madhya Pradesh, 1973 CJ (SC) 1973.

(47) Duty of prosecution to produce records—It is incumbent for the prosecution to submit search warrant; memo of search warrant proceedings. list of articles recovered and seized along with the original articles seized during such search and the same must be thorughly proved by calling the Motbir (search-winesses) present before whom the search was conducted so as to provide ample opportunity to the court to safeguard the interests in establishing the bonafide legality and due effect of the search and to the accused to understand the allegations and prepare himself for his defence. In the absence of which the prosecution case will be rather weaker to sustain conviction.

Mohamad Bashir Khan v. Emperor 33 Cr. LJ 94 : AIR 1932 All 185: 1932 All.L J 194: 140 IC 246.

(48) Appeal against acquittal—The memo of appeal is competely silent with regard to any ground challenging the order of acquittal. Hence merits cannot be challenged (Appeal dismissed)

State v. Uttamchand 1982 R. Cr. C. 293: 1982 Cr LR 419: 1982 WLN (UC) 187

(49) Deposit of Fine- Criminal P.C.- Ss. 68 & 69- When accused is ready & willing. cannot be sent to Jail-The learned Additional Chief Judicial Magistrate had no power express or implied to have sent the accused to imprisonment when he was ready and willing to deposit the fine within the stipulated period i.e. 7 days extended period. Even otherwise when the earlier application was refused it was obligatory on the learned Additional Chief Judicial Magistrate to have atleast accepted that part of the fine which was imposed besides the substantive sentence. Looking from the either angle the order of the Addl. Chief Judicial Magistrate cannot be held to be a valid order. Neither section 68 nor section 69 IPC contemplated that the accused should be present in the court for depositing the

fine. Even if he is represented by a lawyer and the later moves an application for depositing the fine or deposit the fine it is the bounden duty of the court to accept the same.

Bannaram v. State 1986 (2) WLN 408: 1986 RLR 675: 1986 RCC 386: 1986 Cr LR (Raj.) 588.

(h) Proof of Alcoholic contents in Liquor

(50) The percentage of alcohol could not be so calculated with any precision by mere visual observation (AIR 1967 SC 1550 relied on)

Mangilal v. District Excise Officer ILR (1970) 20 Raj. 569: 1970 WLN 159: AIR 1971 Raj. 46.

(51) Mere smell alone is not sufficient to prove alcoholic contents of liquid, a scientific expert opinion is always necessary. The Inspector failed to tell the Court as to his training etc. and as such his bald opinion without convincing ground cannot be accepted as expert evidence.

State v. Sanwal Ram ILR (1971) 21 Raj. 729: 1970 WLN 440: 1970 RLW 566: 1971 Cri LJ 200 (DB)

(i) Latest Trend

1. Expert evidence—Excise Inspector testing liquor by smelling. Held to be an expert in this particular case-

Held,We find that the Excise Inspector who had deposed. at the very outset of his evidence, that he had put in 21 years service as Excise Inspector and had tested lacs of samples of liquor. As already pointed out, the competence of C.D.Misra to test the composition and strength of the liquid under consideration was not questioned at all. We, therefore, think that this particular Excise Inspector could be treated as an expert within the meaning of Section 45 of the Evidence Act. The Excise Inspector had, in addition to employing the smelling test, used all the other tests he could reasonably adopt. If his competence to give his opinion or the sufficiency of the tests adopted by him had been questioned in the Trial Court, the prosecution would have been in a position to lead more evidence on these questions. We also find that the objects recovered from the possession of the appellant almost proclaim the nature of his activities and of liquid which could be in possession [1]

2. Excise employee witness—Simply because he is an excise employee, it is not enough to discard his statement as an interested witness or in the absence of his hostility to the accused person. Depite pointed and lengthy cross-examination nothing have been brought out in the statement of the witness-Excise-employee so as to doubt his veracity of his statement. Both the lower courts below relied his statement and I Ihave no reason to hold otherwise.[2]

3. Interested Witnesses—No particular number of witnesses by required for proving a fact under S. 134, Evidence Act- Conviction can safely be based on testimony of a single witness. Witnesses cannot be discarded on the sole ground that they were interested in success of the result of the discharge of their official duties [3]

1. Shrichand Batra v. State of U.P. 1974 UJ (SC) 149=1974 SCR 639= 1974 Cr. LR (SC) 97.
2. Nathulal v. State of Raj., 1976 WLN 681= 1977 RLW 23.
3. Charan Singh v. State of Raj. 1997(1) RLW 514

4. Recalling of witnesses when allowed—Accused was not allowed to cross examine a material witness. Held, serious prejudice was called to accused. Prayer of accused for recalling such witness for cross examination was allowed.[1]

5. Appreciation of evidence–Conviction when set aside—No proof that the field from which illicit liquor recovery belonged to appellant accused. No site-plan was prepared and no motbirs were called on. No proof on record whether articles reached chemical examinor in duly sealed condition. Conviction and sentence set aside.[2]

6. Delievery on Supurdginama--Foreign liquor seized was lying in custody of police. Stuff likely to deteriorate. Liquor delivered to petitioner-Owner on supurdginama [3]

7. Charge when set aside under S. 482, CrPC—Petitioner was not arrested on spot. No evidence of identification connecting him with crime. in as much as. none of three witnesses has identified the petitioner to be one of occupants of premises. Statement of co-accused is not an evidence. Held, no option but to quash the charge framed against petitioner. (Para 6) Order framing of charge is set aside (Petition allowed).[4]

(j) Bail

Bail when granted—(i) Only six bottles of illicit liquor recovered from accused. he was allowed bail.[5]

(ii) Offences under S. 54 and Penal Code Ss. 302, 304, 323- CrPC- S. 438- Jurisdiction for Anticipatory Bail explained—Arrest apprehended for non-bailable offences. Held, the Court within whose jurisdiction arrest is apprehended has jurisdiction for granting anticipatory bail.

"The Court within whose jurisdiction, a person apprehends his arrest for a non-bailable offence, has jurisdiction to grant anticipatory bail to such person notwithstanding the fact that the offence for which he apprehends his arrest was committed beyond the territorial jurisdiction of the High Court or the Court of Sessions. to which he has applied under this section".

In the instant case the accused resided within the jurisdiction of Additional District & Sessions Judge, Sojat and he apprehended his arrest there although the F.I.R. was lodged elsewhere not within the jurisdiction of Sojat Judge. The Judge at Sojat had jurisdiction to consider bail application.[6]

(iii) Liquor Tragedy Cases- (Ss. 54,61, 63 & 31C and CrPC - S. 439)–Bail granted—31 persons lost their lives and 105 were seriously injured- Sales man on retail shops

1. Jagjeevan Ram v. State of Raj, 1991 CrLr (Raj) 172.
2. Prabhu Singh v. State of Raj, 1991 CrLR (Raj.) 766.
3. Shiv Charan v. State of Rajasthan 1993 CrLR (Raj.) 508
4. Nagarmal v State of Raj, 1993(3) WLC 941: 1993 RCC 213: 1993 CrLR (Raj.) 175.
5. Jodharam v. State of Rajasthan, 1994(1) WLN 36(Raj.). 1994 (1) WLC 442: 1994(1) RLW 80: 1994 CriLJ 1962: 1994 RCC 243.
6. Dwarka Prasad v. State 1987 Cr LR (Raj.) 320

VK" was the master mind who prepared illicit liquor. "VK" is, held, not entiled to bail Application dismissed). Three other sales men ordered to be released on bail as their letention is no more required for investigation. Direction for proper investigation given Bail granted). [AIR 1979 SC 1456 relied on][1]

(iv) Bail when refused- Liquor tragedy—31 lives lost while 105 injured–First bail pplication was rejected after considered all aspects. No new ground available- Charge lready framed—Trial to be expedited by Trial Court.[2] (Second Bail Application disposed f.)[2]

(v) Second bail application–When allowed now far an offence was made out—It s to be noticed that import, export, transport, manufacture, collection, sale or possession f Bhang is punishable under S.54 of the Excise Act wherein intoxicating drug has been efined under S. 3(14) of the Act. It is also to be noticed that cultivation of any hemp lant (Cannabis Sativa) is also punishable under S. 54(b) read with S. 54(g) of the Act vith imprisonment for a term which extend to three years and with fine which may extend o Rs. 2,000/- S. 20 of the N.D.P.S. Act also provides punishment in relation to cannabis lant and cannabis for its cultivation and for its import, export, transport, manufacture, ollection, sale or possession etc.

The above provisions give an impression that the definition of intoxicating drugs nd its punishments are overlapping where one cannot be obeyed without disobeying he other.

Under the Rajasthan Excise Act, 1950, Charas, Ganja and Bhang are included within he definition of cannabis (hemp) whereas under N.D.P.S. Act Bhang is excluded. Bhang oes not fall within the definition of cannabis (Hemp) as defined under S. 2(iii) of N.D.P.S. ct. It is also to be noticed that under Excise Act, cultivation of only cannabis (Hemp) lant i.e. Charas, Ganja and Bhang is an offence under S. 54(b) and punishable under . 54(g) of the Act whereas under N.D.P.S. Act cultivation of any cannabis plant which neans any plant of the genus cannabis as defined under S 2(iv) of N.D.P.S. Act is unishable under S. 20(a) read with S. 20(b)(i) of the said Act. Although 'Bhang' is xcluded from the dfinition of cannabis (Hemp) under the N.D P.S. Act yet it does fall vithin the definition of cannabis plant and as such its cultivation is punishable under . 20(a) read with S. 20(b) (i) of the said Act. I am also of the opinion that cannabis Hemp) is one of the species of cannabis plant, therefore, it cannot be held that since Bhang' is excluded from the definition of cannabis (Hemp) under the N.D P.S. Act one f the species of cannabis plant, therefore, its cultivation is not an offence and it is ot punishable under S. 20(b) (i) of the said Act.

Cultivation of 'Bhang' is punishable under N.D.P.C. Act although it is not included vithin the definition of cannaibs (Hemp) and not under the Excise Act within the meaning f Art. 254 of the Constitution of India. As regards cultivation of Bhang is concerned, he N.D.P.S. Act would prevail over the Excise Act and latter enactment passed by the egislature of the State shall be deemed to be repugnant and void to the extent of its nconsistency with the former enactment passed by Legislature of the State shall be deemed

. Narain Singh & 4 others v. State, 1994(2) WLC 182 1993(2) RLW 145 1993 CrLR (Raj.) 302.

. Vijay Kumar V. State, 1994 (3) WLC 718.

to be repugnant and void to the extent of its inconsistency with the former enactment passed by Parliament. However, it is made clear that personal use and sale of Bhang is not an offence under Rule 24 of the Rajasthan N.D.P.Rules, 1985.

In the instant case none of the witnesses cited in the charge-sheet have seen the accused-appellant sowing, weeding, watering and giving care and attention for protection of the cannabis plants in question. It is not possible in the present case also to infer or to gather from attending circumstances that the accused-applicant was giving any careful attention to protect the cannabis plants in question. Unless the guilt of accused applicant by consciously culivating cannbis plants in question is prima facie shown or proved by attributing some overt act to him by prosecution agency, it would be, presumed that the alleged cannabis plants were of small growth and these unwanted self-grown cannabis plants were growing in his field of 'Mirch' un-noticed by him. Accused enlarged on bail.[1]

(6) Illustrative Cases

(a) Conviction Cases

1. When case was not found to be doubtful on ground of want of independent witness the conviction was upheld. In sample 90.14% Ethyle Alcohol was found.[2]

2. Permit under-Validity-District Excise Officer and his superior officer are competent to grant the licence and permits and Assistant Excise Officer was not competent to grant any permit under the provisions of law. Held alleged permit granted by AEO was not a permit in eye of law. (Acquittal set aside-accused convicted).[3]

(b) Acquittal Cases:

1. Where only two bottles of illicit liquor were recovered & Accused remained in custody for 13 days, acquittal was maintained.[4]

2. No offence or charge was held made out, where three bottles of liquor recovered from accused. It is not violation of law.[5]

3. In one case the prosecution failed to show that the sample of liquid was sent to Chemical Examiner in sealed condition. Conviction not proper.[6]

4. Conviction when held erroneous—No signatures of Motbirs on recovery memo-Excise Inspector did not testify the Contents of memo on Oath-No evidence as to recovered utencils etc. to be implement of illiciting liquor-alternative use possible. Held, view of both lower courts erroneous–(Revision accepted, conviction set aside).[7]

5. Conviction not possible—Acquittal upheld-When the sample of liquor recovered was not properly sealed & forwarded to the Chemical Examiner, accused cannot be convicted on the basis that the liquid was liquor (Appeal dismissed).[8]

1. Manjee v. State of Rajasthan 1996(2) WLC 405.
2. Sugan Singh v. State 1989(2) WLN 324.
3. State v Taj Mohd, 1982 Raj. LR 232: 1982 CrLR 408: ILR (1982) 32 Raj. 692: 1982 WLN 231.
4. State v. Machhar Singh 1987 WLN(UC) 549.
5. Pritam Lal v. State 1988 WLN (UC) 471:1988 CrLR (Raj.) 724.
6. State v. Pritam Singh 1989 WLN (UC) 528
7. Ridmal Singh v. State 1979 Cr. LR (Raj.) 190.
8. State v. Pritam Singh 1986 CrLR (Raj.) 185.

6. Denatured spirit seized from possession—Not fit for human consumption- Covered . 24-A(3)-(1977 Cr. LR(Raj.). 84 and AIR 1962 SC 579 followed Conviction set aside /ision accepted).[1]

7. Petitioner found drinking alcohol from glucose bottle, sitting outside his house- was convicted- Doctor neither tested urine nor blood of petitioner, nor his stomuch ents- His opinion was based on alcoholic smell emitting from the mouth of accused- smell comes from B. G. Phos and Pickles also weekness of defence not to be exploited— /iction set aside—(Revision allowed).[2]

8. Independent evidence available to prove that accused was in possession of ttles of liquor-Finding is based on proper appreciation of evidence-Acquittal upheld.[3]

9. Infirmities in prosecution story—When it is not mentioned that bottles of liquer ed reached for the Chemical Examination in same condition. Held report of Chemical miner cannot be taken into consideration and the accused is entitled to acquittal.[4]

10. Inspection memo without signatures of Motbirs—Excise Inspector did not testify Oath the contents of Inspection Memo-Recovery of earthen pot and bottle does not olish that these articles were used for manufacturing illicit-liquor-Held, conviction roneous:–

Ex P. 7 does not bear the signatures of Motbirs and the petitioner on it although is alleged to have been made at the spot after the recovery of the alleged excisable les. The Excise Inspector in this statement before the trial court merely exhibited inspection memo 7 and did not testify to its contents on Oath. Hence, in the absence y satisfactory evidence that the tin, the earthen pot and the bottles were the implements anufacturing illicit liquor and the few drops found in the bottle were of illicit wine, recoveries from the house of the petitioner alone was not enough to establish and in the charge under section 54(a) of the Act. These articles could be used for purposes r than distillation of illicit liquor and, therefore, both the courts below committed rror in holding that there was no other alternative use and utility of these articles or distillation of illicit liquor.[5]

11. Reversal of acquittal order after 10 years- Propriety examined—Even though hargesheet was filed on 14-10-1969, the charge was framed on 24-11-1971, i.e. more two years and the prosecution cannot be held reasonable for this delay. But after raming of the charge, the case had to be adjourned on a number of dates for the on that the witnesses were not present and necessary steps for effecting service ummons has not been taken by the prosecuting agency

The incident took place as far back as on 13th April, 1968, and the respondent already suffered the agony of a protracted trial before the Magistrate for more than rs. The reversal of the acquittal of the respondent necessitating a fresh trial after apse of nearly 10 years would not sub-serve the interest of justice.[6]

Mul Chand Thakur Das Sindhi v. State 1979 (4) R.Cr.C.334
Mangilal v. State, 1982 R.Cr.C.232: 1982 CrLR 480.
State v. Sardarlal, 1978 Cr. LR (Raj.) 651
Babulal v. State of Rajasthan, 1980 Cr. LR (Raj.) 509
Ridmal Singh v. State of Rajasthan, 1979 Cr. LR (Raj.) 190.
State of Rajasthan v. Khayali Ram, 1978 Cr. LR (Raj.) 646

12. Appeal against acquittal—Memo of appeal completely silent with regard to any ground challeging order of acquittal. Merits held, cannot be challenged.[1]

13. Seizure & Seal-Acquittal upheld—When prosecution failed to prove that seal was intact, held, accused was rightly acquitted. [1980 CrLR (Raj.) 509 referred to][2]

14. No conscious possession—Accused acquitted.[3]

15. Conviction when set aside—Sample taken from one bottle of illicit liquor-Recovery not supported by Motbirs- No other independent witness produced- Articles found in chouk which was a common court yard-Possession of accused not proved-Acquitted.[4]

(c) Sentence when reduced to period already undergone—[5]Incident seven years old. 144 bottles of liquor recovered, but only six samples were taken. Accused remained in custody for 12 day.[6] Accused was sentenced to R-I, for three months with fine of Rs. 300/- A period of more than 7 years lapsed. Already remained in custody for 19 days.[7] Some 12 years ago, two pitchers of wash recovered from accused. Sentence reduced.[8] Accused not previous convict and has not committed such offence after the incident of 12 years old. He remained in custody for a month or so.[9]

2. When sentence reduced—Accused old man of 65 years-occurrence of 1971- 8 years lapsed till revision-ill health also considered-Sentence reduced & fine enhanced [1977 Cr. LR 1 relied on].[10]

3. Protracted trial—incident of 1971-liquor recovered from possession was not illicit-substantive sentence reduced to the period already undergone-Fine of Rs. 100/- maintained.[11]

4. Recovery of Fermented Wash—Found to be liquor by Chemical Analyst- Held, not a fit case to interfere with, but sentence reduced as case is going on for last 8 years.[12]

5. Reduction of Sentence—Six bottles of illicit liquor recovered from possession of accused 60 years old belonging to Scheduled Caste. He remained in prison for 13 days. Sentence of 3 months R.I. was reduced to the period already undergone.[13]

6. Sentence reduced—Inordinate delay in sending the sealed samples for chemical analysis is a relevant consideration, but each case would depend on its own fact. Offence was committed in 1971 and the accused petitioner has already remained in jail for two months-Sentence was reduced to term already undergone by him.[14]

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1. State v. Utam Chand, 1982 WLN (UC) 187 :1982 Cr. L.R. (Raj.) 419
2. State of Raj. v. Ladu S/o Mamdu, 1990(2) RLW 520: 1990(2) WLN 80:1990 (2) RLR 429
3. State of Raj. v. Bhanwar, 1982 CrLR (Raj.) 740
4. Chinda Singh v. State, 1991 RCC 148.
5. Mangilal v. State 1982 R.CR.C. 232 : 1982 CrLR 460.
6. Karam Singh v. State 1987(2) WLN 434.
7. Poonam Chand v. State 1987 (1) WLN 393: 1987 CrLR 160
8. Sugan Singh v. State 1989 (2) WLN 342.
9. Jangir Singh v. State 1989 CrLR 258 (Raj.)
10. Magan Singh v. State, 1979 Cr. Lr (Raj.) 280.
11. Ramjas v. State 1979(4) R. Cr. C. 369 (370)
12. Nanda v. State, 1980(5) R Cr C 400
13. Surja Ram v. State 1981 (6) R Cr.C 271.
14. Dhanraj v. State 1981 CrLR 376.

7. Probation—Illicit liquor was recovered from possession of accused who was ot a previous convict and was aged 32 years. Held, a fit case to release him on probation nder S. 360 Cr. P.C.(1971 R. Cr. C 224 relied on).[1]

8. Sentence reduced—Recovery of Articles from room in possession of accused's rother-Disbelieving defence witnesses, it was rightly held to be recovered from possession f accused-Conviction upheld, but sentence reduced to already undergone (i.e. 18 days).[2]

9. Sentence reduced—In a case where out of 133 bottles of liquor recovered, only 2 bottles sent for chemicals examination. Held, it cannot be said that the remaining 131 bottles also contained liquor-Sentence reduced to period already undergone & fine set aside.[3]

10. Proviso to S. 54 who not attracted-Sentence reduced—Fermented wash is material for manufacturing liquor and is not workable still-Minimum sentence of six months not to be imposed as proviso was not attracted in this case. Accused has undergone imprisonment for 30 days. Sentence reduced to period already undergone.[4]

11. Sentence condoned—Fermented wash recovered from the "Chapra" of the house in year 1976-Sentence reduced to the period already undergone.[5]

12. Sentence Reduced—A bladder containing two bottles of illicit wine was recovered from accused. Conviction upheld, but his sentence was reduced to the period of one month as already undergone looking at (i) no previous conviction on his part, and (ii) incident of 1974 facing trial.[6]

13. Sentence reduced—Quantity of liquor recovered was four bottles- Incident 9 years old-Accused sentenced to imprisonment already undergone. (Revision partly allowed).[7]

14. Conviction up held, where 150 bottles of illicit liquor recovered and sent to laboratory in sealed condition.[8]

15. Recovery of 2000 pouches—Probation rejected, but sentence reduced to period already undergone and fine enhanced from Rs. 500 to Rs. 1000/-[9]

16. When possession of illicit liquor proved—Conviction and sentence rightly upheld.[10]

1. Kakka Singh v. State 1981(6) R CrC 267; 1981 Cr LR 588.
2. Gangu Singh v. State 1984 CrLR (Raj.) 637.
3. Shankar v. State of (Raj.) 1985 WLN (UC) 291; 1985 Cr LR (Raj.) 600
4. Birbal v. State 1986 RCC 302; 1986 Cr LR (Raj.) 131.
5. Surta Ram v State 1982 R. Cr. C. 420; 1982 CrLR 401.
6. Halka v. State 1983 R. Cr. C 41.
7. Shankar v State 1982 CrLR 108.
8. Bhagwan Sahai v. State of Raj. 2001(1) RLR 255.
9. Kishan Lal v. State, 2000 Cr. LR (Raj.) 494.
10. Subhash Chandra v. State of Raj. 2000(1) RCr. D 627 (Raj.)

17. Sentence reduced-Incident 13 years old—380 bottles of liquor recovered from accused, out of them 4 bottles were taken as sample. Bottles found to be containing liquor-conviction-It cannot be positively presumed that other bottles also contained liquor. As four bottles found in conscious possession of the accused, the conviction was maintained, but sentence reduced to period already undergone.[1]

18. Sentence when reduced—Illicit liquor i.e. a drum of full wash found in the house of accused–Conviction not challenged–Accused-petitioner remained in custody for two months. He is first offender. Sentence, therefore, reduced to the period already undergone by him.[2]

19. Sentence when reduced—An old incident of 14 years. Offence was committed in 1982, while petitioner was convicted in 1987. His appeal was decided in 1994 and he came to know of its on 6-9-1996. Sentence imposed is six months imprisonment with Rs. 100/- as fine.

The petitioner has undergone about 4 months sentence. In circumstances of the case it appears to be just and proper to modify the sentence of imprisonment for the period already undergone and fine enhanced to Rs. 200/-[3]

20. Illegal Search-Conviction Set aside—In the instant case the search was illegal as it was in violation of provisions of section 47 of the Act. Held that when search itself was illegal, conviction cannot be based on such search.[4]

21. Search found illegal—When no warrants were obtained for search, but begs containing illicit liquor bottles were seized. Held, conviction is not justified due to illegal search.[5]

22. Sentence reduced (Ss. 16/54)—Illicit liquor recovered with wakable still from house of accused petitioner-convicted and sentenced to one years' imprisonment by the Trial Court conviction confirmed in appeal-Revision - sentence reduced to six months in interest of Justice after considering the facts and circumstance of the case. (Revision accepted).[6]

(7) Benefit of Probation

(a) Important Case—

SONA SINGH V. STATE OF RAJASTHAN
[1990 (1) RLR 278: 1990 RCC 596]

Ss. 54/16 Benefit of Probation when allowed-although Minimum Sentence was prescribed-Duty of Court pointed out-

2. All the three petitioners were convicted under Section 16/54 of the Rajasthan Excise Act, 1950 (for brevity, 'Excise Act') and have been sentenced to different period of imprisonment & fine by the trial Court. Petitioner in Petition No. 77/90 was sentenced by the appellate Court to six months rigorous imprisonment and fine of Rs. 200/- in default to undergo one month's further sentence. Petitioner in Revision Petition No. 87/90, was sentenced by the appellate Court, for a period of six months rigorous imprisonment and a fine of Rs. 500/- in default to undergo further rigorous imprisonment for a period of three months and, in Petition No. 91/90 the petitioner was sentenced to simple imprisonment for six months and a fine of Rs. 200/- in default of which, he was sentenced to further simple imprisonment for 15 days.

1. Ashok Kumar v. State, 1991 RCC 331.
2. Gurdeep Singh v. State, 1996 CrLR (Raj.) 5 : 1996(1) RCD 464 (Raj.)
3. Surjeet Singh S/o Shyam Singh v. State, 1997 CrLR (Raj.) 28 : 1997(1) RCD 74.
4. Mool Chand & ors. v. State of Raj, 1990 (2) RLR 626 : 1990(2) RLW 668.
5. Jagdish Prasad Bishnoi v. State of Raj. 1991(1) RLW 23.
6. Nita Singh & Anr. v. State of Rajasthan, 2003(2) CrLR (Raj.) 1414 : 2003(3) RCrC 1640 (Raj.) : 2003 (3) RCrD 325 (Raj.)

3. None of the learned counsel for the petitioners presses their petitions on merits, it is contended that all the petitioners deserve to be given benefit of the provisions ec. 360, Cr. P C or Probation of Offenders Act. 1958 (for bregity, the Act, 1958) which been wrongly denied to them. It is also pointed out that no reasons were recorded he courts below regarding refusal to give above benefit to the petitioners and whatever ons have been given, are no reasons in eye of law.

4. It is contended by Miss Sumitra Goyal learned Public Prosecutor, that benefit ie provisions of Act, 1958/Section 360. Cr.P.C. could not be given to them. as minimum ence of six months is provided in Sec. 54 of the Excise Act 1950. It is, therefore, ended that the courts below have rightly denied this benefit to the petitioners.

5. There is no doubt that Section 54 of the Excise Act does provides that a person, is found guilty under the provisions of Section mentioned above shall be punished a minimum sentence of imprisonment for six months and fine of two hundred rupees. maximum sentence provided is three years and fine. which may extend to two thousand es. Reliance was placed by the learned Public Prosecutor on State of Andhra Pradesh R. Rangadamapa (AIR 1982 SC 1492), wherein while considering the provisions of lhra Pradesh Excise Act, it was observed by the Apex Court that where provision minimum sentence is provided. the Court is not entitled to reduce the same beyond minimum sentence provided in section itself. In my opinion. this authority is not icable to the present contention raised by the learned counsel for the petitioners. it is contended is whether the petitioners were entitled to benefit of the provisions ct, 1958/Section 360, Cr. P.C. and not that they should have been given less sentence the minimum provided in Section 54 of the Excise Act. The Probation of Offenders 1958 is a mile-stone in the progress of liberal trend of reform in the field of criminology. result of the recognition of the doctrine that the object of criminal law is to reform individual offender than to punish him. Hence. this Act came to be enacted. keeping iew the purpose mentioned above. Section 4 of the Act. 1958 clearly provides that n any person is found guilty to have committed an offence. not punishable with h or imprisonment for life and the Court by which the person is found guilty is ie opinion. having regard to the facts and circumstances of the case. including the re of the offence and character of the offender. that it is expedient to release him robation of good conduct then. notwithstanding anything contained in any other for the time being in force. the Court may instead of sentencing him at once to punishment, direct that he may be released on his entering into a bond with or out sureties to appear and receive sentence when called upon during such period exceeding three years as the court may direct. and in the mean time. to keep peace be of good behaviour. Sub-sec. (2) provides that before making any order under section (1). the Court shall take into consideration the report. if any. of the Probation cer concerned in relation to the case. Thus. it is evident from the provisions referred bove. that there provisions are mandatory and it was duty of the lower courts to collected material about the character. antecedents. family back-ground of the offenders if the Court. after considering the material, came to the conclusion that the offender f such a character that he cannot reform or rehabilitate only then after recording 'special reasons' it could refuse to deal with the case under the provisions of Section

4 of the Act, 1958. Nothing like this was done in either of the three cases and the concerning courts refused to give benefit of the provisions of Sections 4 without material or record, which should have been collected.

6. Reference may be made to State v.Rathinavelu (1973 C.L.J. 354). in which, the Apex Court considered similar provisions of Railway Property (Unlawful Possession) Act. 1960, while considering the question of giving benefit of the provisions of Section 4 of the Probation of Offenders Act. The petitioners, in the above mentioned case, was convicted for an offence under Section 3 of the above-mentioned Act. but was released under the provisions of S. 4(1) of the Act, 1958 on entering into a bond for Rs. 300/- with two sureties to be of good behaviour for a period of new year by the trial Court The State preferred revision petition and contended that since the sentence for a minimum period of one year with a fine of Rs. 1000/- was provided under Section 3 of the above-mentioned Act, the benefit of the provisions of Section 4 of the Act. 1958 could not have been given to the accused-person. However, it was held that if minimum sentence is provided, benevolent of the Act. 1958 could not have been given to the accused-person. However, it was held that if minimum sentence is provided. benevolent of the Act, 1958 could be applied if the conditions are satisfied. In Revision Petitions No. 77/90 and 91/90, benefit of the provisions of Section 4 of the Act. 1958 was refused. as minimum sentence was provided in Section 54 of the Excise Act. In revision Petition No. 87/90. while refusing to allow benefit of the provisions of section 4 of the Act of 1958, it was observed by the Appellate Court that, even though, the petitioner is a man having family, but, since he was manufacturing illicit liquor and was possessing illicit liquor in large quantity, he does not deserve to be given benefit of the provisions mentioned above. In my considered opinion, the reasons mentioned above are not sufficient to disentitle the petitioner from consideration for giving benefit of the provisions mentioned above. The trial in Revision Petition No. 77/90 was initiated on the incident that took place on 17-5-87 and, thus more than four years have passed, since the petitioner has been facing the criminal proceeding in various courts. In Revision Petition No. 87/90. the trial was initiated on the incident that took place on 14.11.87 and petitioner has faced criminal proceedings in various courts for about 3 years and is 60 years old. as given out by the learned counsel. In Revision Petition No. 91/90, the trill was initiated on the incident, which took place on 17.10.82 and the petitioner has faced criminal proceedings for about 8 years. All the petitioners have remained in jail for quite some time and they have no previous conviction to their discredit, nor any criminal proceedings are pending against them, as give out by the learned counsel for each of the petitioners. and it will serve no useful purpose. after they have faced the protracted criminal litigation in various courts to put them behind bars for any further period. Similar view was taken by this Courts in Nanu v. State of Raj. (1980 Cr. L.J. 279). Moti Lal Bairwa v. State of Rajasthan (1986 RLR 369) & Magh Singh v. State of Rajasthan (1981 Cr. L.R. Raj) 569.

7. Having regard to all the facts and circumstances of the case & nature of the offence. I am of the opinion that it is expedient to release all the petitioners on probation of good conduct and they may be released on each of their entering into a bond in the sum of Rs. 5,000/- (Rupees five thousand only) with two sureties in the sum of Rs. 2,500/- (Rupees two thousand & five hundred only) each to the satisfaction of the

rial Court to appear & receive the sentence when called upon during period of one 'ear and, in the mean-time, to keep peace and be of good behaviour.

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(b) Benefit of Probation allowed-Not to be deprived of service -Sentence till rising of the Court set aside-A case of scheduled caste person—

One bottle containing 400 M L of liquor recovered from the accused belonging o scheduled caste while coming on cycle. He was also drunk.

The accused in his statement stated that he was a teacher and he came from centre after getting salary and when he was going to the school the Excise people were beating a lady and he has told them why they were beating the lady, on which they said that she has committed crime. On this the Excise people gave beatings to the accused and old him that he will teach a lesson and caught hold of him. He was having no liquor vith him. For the purpose of revision. I would accept the analysis of the two courts hat a very small quantity of illicit liquor in one bottle was found from his possession vhile he was coming on cycle. (Para 4)

The accused belongs to scheduled caste as he is harijan chamar and he is a teacher. n the society in which he is living inspite of the fact that the possession of illicit liquor even of this insignificant quantity may be an offence, yet the question is whether for such a petty trivial offence, the accused should be deprived of the career by substantive punishment which has been done by the trial court. Although the trial courts sentence s till rising of the Court but the effect of this would be that the accused would be deprived of his service. (Para 5).

It is very rare and with great difficulty that a scheduled caste person gets appointment n service and for this lapse, punishing him of jail and depriving of service would hardly be justified. Consequently looking to the facts and circumstances of the case. I would release the accused on probation rather than sentencing him, so that he is not deprived of his service (Revision allowed-para 6).

(c) Probation when allowed (Illustrative Cases)

(i) Excise Cases

1. **Probation allowed**—48 bottles of liquor caught while taking out side the licence area Servant was given benefit of the Act of 1958. but not to the Licence, Conviction of Licensee upheld.[2]

2. **Benefit of Probation**—Accused, aged 38, was agriculturist having no previous conviction-Released on probation.[3]

3. Possession of illicit Liquor when not proved for sale, it is no offence. Held, sentence is not inadequate.[4]

4. **Probation allowed to a lady accused of 69 years as small quantity of liquor was recovered from her possession**—Not previous convict. Released on probation.[5]

1. Sultan Singh v.State 1987 (2) RLR 505 (506)
2. Gopilal & Subhash Chand v. State 1986 CrLR (Raj) 335.
3. fatch Singh alias Banda S/o Bodan v. State 1986 WLN (UC) 237.
4. State v. Malva 1986 WLN 611. 1986 RCC 282
5. Smt. Anjani v. State 1986 WLN (UC) 610· 1986 RCC 243.

5. **Probation-** Accused 60 years old—He is first offender—Benefit of probation allowed in interest of justice.[1]

6. **Conviction & Release on Probation**—Accused first offender, poor man—belongs to scheduled caste, remained in jail for 8 days- Released on probation.[2]

7. **Probation allowed**—Further Prosecution when not justified—Accused, a youngman of 25, found in possession of one bottle of illicit liquor and has remained in jail for few days. No workable still and quantity of wash found in his possession. Held, his further prosecution for manufacturing illicit liquor is not justified. Benefit of Probation granted.[3]

8. **Probation allowed**—Accused aged 30- Not a pre-convict-Fine deposited-case pending for last 10 years S. 361 Cr., P.C. is mandatory and "social reasons" for not allowing probation are to be given.[4]

9. **Probation-Cr. P.C.S. 360**—Benefit allowed when accused 25 years of age and not previous convict.[5]

10. **Probation**—Accused was released on probation being first offender [1978 CrLJ (Raj). 54, 1981 RCC 1, AIR 1979 SC 964 referred to][6]

11. **Probation when allowed**—Accused was not habitual offender and was convicted under S. 54(a) (c) & (d)- Benefit of Probation given (Revision partly allowed)[7]

12. **Benefit of Probation**—Under S. 360 Cr. P.C. or Probation of Offenders Act-Not to be extended unless accused is below 21 years of age-illicit liquor recovered. benefit not extended, but held that sentence is excessive. (Sentence modified).[8]

13. **Probation**—220 Bottles in 11 bags recovery-Incident of 1974-Accused 30 years old having no previous conviction-Benefit of probation allowed.[9]

14. Accused convicted, but incident was nine year old and the accused remained in jail for ten days. Benefit of probation granted.[10]

15. Accused belonging to scheduled caste committed a pretty trival offence. when one bottle of liquor containing 400 M.L. liquor only was recovered from him. He was sentenced to till rising of the Court, but the effect would be that the accused would be deprived of his service. He was, therefore, released on probation.[11]

16. Accused first offender, remained in jail for ten days and the incident was of 1978.[12]

1. Surgyan Singh v. State 1985(2) WLN 706· 1985 RLR 966.
2. Ram Kalyan v. State 1984(1) Crimes 465
3. Godhu v. State 1985 WLN(UC) 640
4. Rameshwar v. State 1985 (1) Crimes 63.
5. Hazari v. State 1978 Cr. LR (Raj. 514: 1978(3) RCrC 224
6. Magh Singh v. State 1981 CrLR 569.
7. Sarjeet Singh v State 1986 RLR 30 1986 WLN(UC) 145 1986 CRLR (Raj.) 129
8. Harnath Singh v State 1979 Cr. LR (Raj) 525 (526)
9. Panna Lal. v. State 1984 WLN (UC) 168. 1984 CrLR (Raj.) 613
10. Matu Singh v. State 1987(1) RLR 311: 1987(1) WLN 658:1987 RCC 211.
11. Sultan Singh v. State 1987(2) RLR 505: 1987(2) WLN 467.
12. Nathu Singh v. State 1987 WLM (UC) 220.

17. Where the appellate court granted benefit of probation, it tentamounted to etting aside sentence passed by the Trial Court, The Trial court was directed to release ne accused on bond with sureties.[1]

18. Old incident of 1983. Accused an oldman of 50 years. He remained in jail for 4/15 days Period of six years lapsed. Now it is unjust to send him back to jail. Probation ranted.[2]

19. Accused 17-18 years old and is running a regular shop. He is not involved ı manufacture of illicit liquor. Still was recovered from open space and not from his ouse. He is not a previous convict and now expected to stick to his shop. Benefit f probation extended.[3]

20. Acquittal-Seizure & Seal-Duty of Prosecution—It was duty of prosecution ı prove that the seal on the packet of seized articles was intact from date of seizure ı delivery to the Chief Public Analyst. It was for the prosecution to fill up the gap ı its evidence (Para 7).

Held, accused was rightly acquitted. (Para 8) (1980 Cr. LR (Raj.) 509 ref. to) (Appeal ismissed)[4]

21. Benefit of Probation when allowed— Incident of year 1981- Accused is 70 ears old with no previous conviction. Benefit given to accused.[5]

22. Benefit of Probation when allowed—Where accused was 21 years without any revious conviction, benefit of probation given to the accused.[6]

23. Probation granted by Sessions Court—Bonds could not be furnished in time. igh Court extended period for furnishing personal bond and security bonds and for epositing the amount till 15.4.1992.[7]

24. Recovery of 17 bottles of Illicit Liquor-Conviction-Probation granted—Case years' old. Trial court has not considered for benefit of probation to be given to accused- onviction affirmed- But benefit of probation given to accused in revision.[8]

25. Probation when granted—In appeal against conviction, prayer for release of ccused on probation was accepted as there was no previous history of conviction of ccused- appellant. He has already undergone imprisonment for six days Appellant was leased on probation.[9]

26. Benefit of Probation when cannot be denied—Revision filed against order giving enefit of probation to accused in excise case. Held, benefit of probation cannot be denied a convict on ground of recovery of large quantity of liquor, even when he was not previous convict for such offence. (Revision dismissed).[10]

Ram Chandra v. State 1988(1) WLN 610: 1988 CrLR (Raj). 78.
Chhotu Ram v. State 1989 WLN(UC) 83. 1989 CrLR (Raj.) 731.
Parvat Singh v. State 1989(2) RLW 36: 1983(2) WLN 305
State v. Ladu 1990(2) RLR 429: 1990(2) WLN 80.
Amra Ram v. State of Raj, 1990(2) WLN 222
Malkiyat Singh v State of Raj. 1991(1) WLN 327.
Puran Singh v State of Rajasthan, 1992 RCC 453: 1992 CrLR (Raj.) 243.
Prakash v State of Raj, 1993 RCC 453.
Ashwini Kumar v. State of Rajasthan, 1995 CrLR (Raj.) 560: 1995 RCC 564.
Panna Lal v. State, 1997 WLC (Raj) 428 (UC).

(ii) Prohibition Cases

1. Probation of Offenders Act. Ss. 3 & 4—Probation allowed–Liquor was proved by Chemical examination–Conviction upheld, but probation allowed as the petitioner was illiterate. Harijan of village facing criminal trial for last seven years and already remained in jail for 15 days. Not habitual offender. Chance given to reform.

Shyo Ram v. State 1983 WLN(UC) 150.

2. When only one bottle of liquor was recovered on 14.11.78 and the Act has now been repealed, the benefit of probation allowed.

Kauda v. State 1982 RLW 635: 1982 Raj. LR 1018: 1983 R Cr.C 44: 1982 WLN 563.

Also refer- Ram Sharan v. State 1983 Raj. LR 538.

3. Accused was found in possession of bottles of illicit liquor in 1976—Six years have lapsed–Benefit of probation given (Revision partly allowed)

Govind Lal v. State 1982 R. Cr. C. 382.

4. Benefit of Probation—Half bottle of liquor recovered from accused–Incident of 1977–Since the prohibition Act has been repealed, accused -petitioner be released under S. 4 of Probation of Offenders Act (Revision partly allowed).

Tamu Ram v.State 1982 R Cr.C 249.

5. One bottle of rum (liquor) recovered from possession of accused—Applicability of S. 360 Cr. P.C. or Act of 1958 not excluded by any Act- Accused was not previous convict. Benefit of probation allowed. (Revision dismissed. but accused was released on bonds)

Jagta Ram v. State 1981(6) R. Cr. C 1.

6. When the accused 30 years of age and already undergone imprisonment for 80 days and was not a previous convict, the benefit of probation given and was released.

Kajor v. State 1981 CrLR 285.

7. Benefit of Probation allowed—In the instant case. the petitioner is a widow having two children to support and she admitted the guilt. Only one bottle of liquor was recovered from her possession and she was not a previous convict. Benefit of probation was given and she was released on bond. (Revision dismissed)

Somali v. State 1981(6) R. Cr. C. 361.

8. Probation allowed—Only one earthen pitcher containing wash was found-Accused 20 years old and has remained in jail for 28 days- The Act is also now a dead law-Probation allowed.

Bhanwaria v. State 1986 WLN(UC) 110:1985 RLW 747.

9. Probation—40 Bottles recovered from accused-Not proper to send him to jail-Probation under S. 360 Cr. PC allowed.

Daulat v. State 1985 WLN(UC) 562: 1986 CrLR (Raj) 13

10. Probation on good conduct—Five liters of illicit liquor found-accused not pre-convict-Released on probation.

Utma Ram v. State 1986 Cr. LR (Raj) 27: 1985 WLN(UC) 564.

11. Released on Probation—Seven bottles of illicit liquor recovered from accused-Prohibition Act is now a dead law-Probation granted.

Pobudan Singh v. State 1985 WLN(UC) 560.

12. Proviso to S.4 (2) does not override the provisions of the Probation of Offenders 1 and provision for minimum sentence of 6 months is not a bar to grant probation. IR 1970 Cal. 47 followed)- Benefit allowed.

Shyo Ram v. State 1984 RLW 200.

13. Probation- Benefit allowed to accused 65 years old having three bottles of cit liquor.

Mahadia v.State 1984 WLN(UC) 243.

14. Benefit of Probation given to accused having 10 bottles of liquor.

Dungera Ram v. State 1984 WLN(UC) 121: 1984 Cr. LR (Raj) 393.

15. Probation extended to accused found in possession of 7 bottles.

Gopa v. State 1984 Cr. LR (Raj.) 464.

16. Benefit of Probation given to accused possessing one bottle of liquor.

Kauda v.State 1984 Cr. LR (Raj.) 744.

[1]**["54-A. Owner of animal, cart, vessel, raft, motor vehicle or any her means of conveyance deemed to be guilty in certain cases-** Where ıy animal, cart, vessel, raft, motor vehicle or any other means of conveyance used in the commission of an offence under this Act, and is liable to confiscation, e owner thereof, except in case of a motor vehicle or other means of conveyance ;ing owned by the Central Government or any State Government or any their undertaking, shall be deemed to be guilty of such offence and such vner shall be liable to be proceeded against and punished accordingly unless : satisfied the court that he had no reason to believe that such offence was ;ing or likely to be committed and he had exercises due care in the prevention the commission of such an offence."]

COMMENTARY
SYNOPSIS

Deeming Provision	3. Reference
Defence	4. Exception

1. Deeming Provision–New offence created—Section 54-A is a deeming provision offence in which the owner of-

(i) animal, (ii) cart, (iii) vessel, (iv) raft, (v) motor vehicle or (vi) any other means conveyance, (e.g. cycle, thela etc).

-Is deemed to be guilty of such offence where such conveyance is-

(i) used in commission of an offence under this Act and is liable to confiscation ıder S. 69 of the Act. Such owner shall be prosecuted and punished accordingly.

2. Defence- The owner has to satisfy the court that-

Inserted by S. 2 of the Raj. Excise (Amendment) Act. 2000 (Act No. 7 of 2000) w.e.f. dated 3-1-2000. Pub. in Raj.-Gaz-EO-IV (Ka II), dated 3-5-2000. Page 1(1) to (10).

(1) he had *no reason to believe* that such offence was being or likely to be committed, and

(2) he had exercised *due care in prevention of the commission of such an offence.*

If the court is satisfied on these counts, he (owner) may not deemed to be guilty of offence under this section.

3. Reference—For confiscation of such vehicle, please refer to Section 69, of the Act, which has also been amended simultaneously.

4. Exception—There is immunity granted to the State as owner of vehicles from the operation of this section. The exception is carved out as given below-

"Except in case of a motor vehicle or other means of conveyance being owned-

(1) by the Central Government, or
(2) by any State Government, or
(3) by any of their undertaking- Thus the vehicles of Rajasthan Road Transport Corporation etc. will not be covered by this Section.

55. Penalty for unlawfully selling to persons under eighteen or employing children or women- If any licenced vendor, or any person in his employ or acting on his behalf-

(a) sells or delivers any liquor or intoxicating drug in contravention of section 22;or
(b) employs or permits to be employed on any part of his licensed premises any person in contravention of section 23;or
(c) permits disorderly conduct or gaming on the licensed premises;
(d) permits any person whom he knows or has reason to believe to have been convicted of any non -bailable offence or any reputed prostitute to frequent his licensed premises whether or not for the purpose of crime or prostitution;

shall in addition to any other penalty to which he may be liable to punishable with a fine which may extend to five hundred rupees.

COMMENTARY

1. Nature of offence—The offence under this section relates to unlawfully selling etc. by the licensed vendor or his employee, or any person acting on his behalf. This is offence of vicarious liability or joint liability in which the licenced vendor as well as actual seller on his behalf shall be liable to punishment.

2. Penalty—This offence consists of several acts mentioned in clauses (a) to (d) for which any other penalty may be imposed under any law, but an additional penalty of fine upto Rs. 500/- may be imposed under this section.

3. Several Act of offence-clause(a)—Contravention of provisions of section 22 and selling or delivery of any liquor or intoxicating drug. Section 22 puts. prohibition of two kinds-

(1) Selling or delivery of any liquor or intoxicating drug to (a) person apparently under the age of 18 year (i.e.minor), or (b) to any person of unsound mind or (c) to any soldier on duty and in uniform.

(2) exchange for jewellery, clothes, arms or household utencils is prohibited.

[Please refer to the text of Section 22, supra, for details]

Clause (b)—In contravention of Section 23, any person of below 18 years of age or a woman is not to be employed.

[Please refer of the Text of Section 23 of the Act, Supra, for details]

Clause (c)—Disorderly conduct or Gaming on licensed premises is not to be permitted by the licenced vendor etc.

Clause (d)—Frequent visits of (i) convict of any non-bailable offence, OR

(ii) any reputed prostitute on licenced premises is not to be allowed.

Thus these prohibitions are to be strictly followed by the licenced vendor etc.

4. Licensed dealer when held guilty—The Excise Inspector gave some money to boy of ten year's age and sent him to buy some liquor. After 9 p.m. the boy bought he liquor and the vender was arrested. Held, the vender was guilty of offence under his section.[1]

[2][56. Penalty for rendering denatured spirit fit for human consumption- Whoever renders or attempts to render fit for human consumption any spirit (wherever manufactured) which has been denatured or any denatured spirituous preparation or has in his possession any denatured spirit or any denatured spiritnous preparation which has been rendered fit for human consumption or in respect of which any attempt or in which any alteration has been made to render it so fit, shall be punished with imprisonment for a term which shall not be less than six months and may extend to [3][three years] and also with fine which shall not be less than rupees two hundred and may extend to one thousand rupees.]

COMMENTARY

1. Nature of offence—The offence under S. 56 is a non-bailable offence relating to penalty for rendering denatured spirit fit for human consumption. Attempt to render it fit for human consumption is also an offence under this Section.

2. Meaning of—

(1) Denatured- [See-S.3(3)

(2) Spirit.....[See-S.3(21)

(3) Denatured Spirituous Preparation - [See-S.3(4)

1. Refer to 17 CRLJ 139 : 33 Indian Cases 3.5
2. Substituted by section 10 of Rajasthan Act No 28 of 1961, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 30-10-1976.
3. Substituted by section 7 of Raj. Act No. 30 of 1976, published in the Raj. Gaz. Extraordinary, Part IV-A, dated 28-4-1976.

3. Punishment-Minimum Sentence—Very harsh punishment has been provided under this section. Imprisonment shall be at least for six months, which may be extended upto three years and minimum fine of Rs. 200/- has been prescribed which may be extended upto Rs. 100/-.

Prescribed Minimum Sentence to be awarded (S.4(2) of Raj. Prohibition Act)- The minimum sentence provided thereunder is six months. No discretion has been left to the court in an offence under S.4 (2) of the Act to give the sentence less than minimum prescribed. [AIR 1958 SC 935 referred to] (Revision dismissed). *Kanya v.State 1981 (6) R. Cr. C 407 (408).*

57. Penalty for posession of excisable article unlawfully imported—Whoever without lawful authority has in his possession any excisable article knowing the same to have been unlawfully imported, transported manufactured, cultivated or collected or knowing the prescribed duty not to have been paid thereon, shall be punished with imprisonment for a term which may extend to three months, or with fine, which may extend to one thousand rupees or with both.

COMMENTARY

1. **Nature of offence**—It is a bailable offence under Section 57 of the Act.
2. **Meaning of**—
   (i) Excisable article [See-S.3(4)
   (ii) Import-[See-S.3(13)
   (iii) Transport-[See-S.3(25)
   (iv) Manufacture [See-S.3 (17)
3. **Ingredients of offence**—
   1. Possession of any quantity of excisable article and
   2. (a) Knowledge of such article being unlawfully–
      (1) imported,
      (2) transported,
      (3) manufactured,
      (4) cultivated, or
      (5) collected, or
      (b) Knowledge that excise duty is not paid on such article.
4. **Punishment**—
   — Imprisonment up to 3 months or
   — with fine upto Rs. 1000, or both.

58. Penalty for certain acts by licensee or his servants—Whoever being the holder of a licence, permit or pass granted under this Act, or being in the employ of such holder and acting on his behalf-

(a) fails to produce such licence, permit or pass on the demand of any Excise officer or of any other officer duly empowered to make such demand: or

(b) in any case not provided for in section 54 wilfully contravenes any rule made under section 41 or section 42, or

(c) wilfully does or omits to do anything in breach of the conditions of the licence, permit or pass not otherwise provided for in this Act;

all be punished for each offence with fine which may extend to five hundred ɔees.

COMMENTARY

1. **Scope**—Section 58 deals with certain offences committed by the licensee or his employee acting on his behalf. The offences have been enumerated in clauses . (b) and (c) which are (a) Failure to produce licence, permit or pass when demanded (b) wilful contravention of Rules made under this Act, or (c) wilful act or omission breach of any condition of licence etc. (Please read the clauses in text).

2. **Punishment**—Fine upto Rs. 500/- for each such offence.

Where the complaint was not alleging breach of the particular condition of licence l the Counsel for State could not point out such contravention, held no offence was de out under clause (c) of section 58 above.[1]

Supply of lesser weight or measurement amounts to an offence.[2] Shop can be sed temporarily during prescribed period when no alternative arrangement could be ie.[3] Servant found selling liquor in a grove after prescribed hours, but servant was nd to be unauthorised. Hence, Master was held not liable.[4]

59. Penalty for consumption in chemist's shop etc—(1) If any chemist, ıggist, apothecary or keeper of a dispensary allows any excisable article, ich has not been bona fide medicated for medicinal purposes to be consumed his business premises by any person not employed in his business, he shall punished with imprisonment for a term which may extend to three months nd with fine] which may extend to one thousand rupees. [5][XXX].

(2) If any person not employed as aforesaid, consumes any such excisable cle on such premises, he shall be punished with fine which may extend two hundred rupees.

COMMENTARY

Scope—According to section 50, the consumption of any excisable article, not ınt for medical purposes, in the shop of chemist, druggist etc. by any person (who ot his employee there) is an offence and the chemist etc. is to be punished with

Dr.Sharda Prasad Sinha v. State of Bihar 1977 CrLR (SC) 337.
Emperor v. Ram Harak AIR 1931 Oudh 80: 1932 Cr. L.J. 124.
Puttulal v. Emperor 1932 CrLJ 1014: 133 Indian Cases 405
Dulli v.Emperor AIR 1925 All 307.
Substituted and omitted by section 5 of Rajasthan Act No. 41 of 1956, published in the Rajasthan Gaz; Extraordinary, Part IV-A, dated 31-12-1956

imprisonment for three months and with fine upto Rs. 1000/- Such person consuming such article is also liable to fine up to Rs. 200/-.

60. Penalty for Excise Officer refusing to do duty- Any Excise Officer who without lawful excuse shall cease or refuse to perform or shall withdraw himself from the duties of his office unless expressly allowed to do so in writing by the Excise Commissioner, or unless he shall have given to his superior officer two months notice in writing of his intention to do so shall be punished with imprisonment which may extend to three months or which may extend to five hundred rupees or with both.

61. Penalty for Excise Officer making vexatious search etc.—If any Excise Officer-

(a) without reasonable grounds of suspicion enters, inspects or searches, or causes to be entered, inspected, or searched any place, or

(b) vexatiously and unnecessarily seizes any property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act; or

(c) vexatiously and unnessarily detains, searches or arrests any person.

he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees or with both.

COMMENTARY

1. **Offences by Excise Officer**- Section 60 and 61 provide for penalties for excise officer also for his misconduct. These are penal provisions and are different from any departmental action under the relevant. Service Rules, i.e. Rajasthan Civil Services (C.C.A.) Rules, 1956 and Rajasthan Civil Services (Conduct) Rules [1]

2. **Refusal to perform duty (Section 60)**- Any Excise Officer (i) ceases or refuses to perform the duties of his office, or (ii) withdraws himself from such duties.

AND

(a) he does so without any lawful excuse. &

(b) without written permission of Excise Commissioner

(c) without giving two month's written notice to his superior officer

Then such Excise Officer is liable to punishment under S. 60 of the Act with imprisonment upto 3 months or with fine upto Rs. 500/- or both

3. **Making a vexatious search etc. (Section 61)**- -This offence forbids the vexatious search or seizure or arrest by Excise officers. The three conditions mentioned in clause (a),(b) or (c) are relating to such offence. when any one of these is fulfilled it amounts to an offence.

1. Please refer to the following books for details-
अनुशासनिक कार्यवाही (दत्त) ।
--Law & Procedure of Disciplinary Proceedings (Dutt).

Imprisonment upto three months, or fine upto Rs. 500/- or both can be awarded ich excise officer who is found guilty of such offence.

This provision protects the licence-holders from the vexatious search, seizure or t by Excise Officer and avoids harassment.

62. Penalties for offences not otherwise provided for--Whoever ilty of any act or intentional omission in contravention of any of the provisions his Act, or of any rule of order made under this Act and not otherwise vided for their in shall be punished for each such act or omission with which may extend to two hundred rupees.

COMMENTARY

1. Residuary Offence—What is left or reminder of the offences mentioned hereinbefore been incorporated in this section, so as to include-

(a) any act or
— intentional omission

(b) in contravention of any of the provisions of (i) the Act, or (ii) rule or (iii) Order made under this Act.
— as all offence, which is punishable for each such act or omission with fine upto Rs. 200/-

Thus contravention of the provisions of the act, rule order which has not been ed by the previously mentioned offences, has been covered under this section.

2. Case law-Possession of adulterated liquor- In cannot be presumed that adulteration wilful and deliberate in such a case.[1]

Negotiations & Completion of Sale of Ganja- Where two persons found negotiating ale/purchase of Ganja, the prosecution must prove that who was selling that Ganja who was in possession of Ganja.[2]

63. Penalty for fraud by licensed manufacturer or vendor or his ant–If any licensed manufacturer or licensed vendor or any person in mploy or acting on his behalf-

(a) sells or keeps or exposes for sale, as foreign liquor any liquor which nows or has reason to believe to have been manufactured from rectified or country liquor; or

(b) marks any bottle, case, package or other receptacle containing liquor ufactured from rectified spirit or country liquor or cork of any such bottle the intention of causing it to be believed that the such bottle, case, package, her receptacle contains foreign liquor;

D.O & Collector v.Shri Gopal Chandra 1971 Unreported Judgments (SC) 550
edar v State 1977 yearly Digest 2803

he shall be punishable with imprisonment for a term which may extend to three months; [1][and with fine] which may extend to five hundred rupees. [1][XXX]

COMMENTARY

1. Offence of Fraud—Section 63 creates an offence against the Licensed Manufacture or vendor or his servant for playing fraud with customers or consumers of liquor. Two alternative fact-situations have been mentioned inclauses (a) or (b) in which the vendor or manufacture changes the variety and nature of the liquor before supplying it to the customer. Such adulteration or fraudulent act is an offence under this section.

2. Punishment—

(a) Imprisonment upto three months and

(b) Fine up to Rs. 500/-

3. "Any person in his employ or acting on his behalf" Meaning—Under S. 63, the offence of fraud may also be committed by the employee of the licensed vendor or even by his agent or representative acting on his behalf. In such a case the doctrine of constructive (or vicarious) liability comes into action and both Master and his servant can be convicted for the offence under S. 63 of the Act in view of S. 64 of the Act, infra.

The son of licensee found selling the adulterated liquor and no proper precaution was taken by the licensee. Conviction was held to be proper.[2]

64. Manufacture, sale or possession by one person on account of another- (1) When any excisable article has been manufactured or sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture or sale was or that such possession is, on his account. The article shall for the purpose of this Act be deemed to have manufactured or sold by or to be in the possession of such other person.

(2) Nothing in sub-section (1) shall absolve any person who manufactures, sells or has possession of an excisable article on account of another person from liability to punishment under this Act for the unlawful manufacture, sale or possession of such article.

COMMENTARY

1. Scope—S. 64 is a deeming clause which creates the constructive or vicarious liability of the person on whose account the excisable article is being manufactured, sold or possessed by any other person. In such a case both persons have been made liable for offence under the Act. This is a general principle applicable to all offences under the Act.

1 Substituted and omitted by section 6 of Rajasthan Act No 43 of 1956. Published in Raj Gaz.-EO-IV A dated 31.12.56.

2. Emperor v.Sital Prasad, AIR 1965 ALL 313

2. Knowledge or reason to believe of such other person—For applicability of the deeming provision the person on whose account the excisable article was manufactured or sold or is in possession, must have knowledge or reasonable belief of such activities being done on his behalf by other person. Such Knowledge or belief is to be proved. In case of possession the conscious possession is to be proved by the prosecution.

3. Acquittal—When possession of liquor was not in conscious possession of the accused and it was found in his house, the accused being the head of family, he cannot be held to be in conscious possession of liquor found in his house, (Revision allowed).[1]

65. Attempt to commit offence punishable under this Act—Whoever attempts to commit or abets any offence punishable under this Act shall be liable to the punishment provided for the offence.

COMMENTARY

1. Scope—Section 65 has included the "**attempt to commit**" or "abet to commit" offence in the list of offences under this Act.

2. Meaning of "Attempt" to commit an offence- The expression 'Attempt to commit offence" has been dealt with under S. 511 of Indian Penal Code.

Please refer to the following cases for meaning of "attempt"-

1. State of Maharashtra v. Md. Yakib AIR 1980 SC 1111
2. Parasmal v. State 1969 WLN 476
3. State v. Parasmal 1969 RLW 127: AIR 1969 Raj. 65.
4. AIR 1970 SC 713.
5. Madanlal v. State 1986 RLW 377.

3. Meaning of "Abetment" to commit offence—The offence of Abetment has been dealt with under section 107 of Indian Penal Code. There are three kinds of abetment-

(1) Abetment by instigation
(2) Abetment by conspiracy, &
(3) Abetment by aid

4. Distinction between "Abetment (S. 107) and "Attempt" (S. 511) IPC-

(1) Both these offences are indicateble offences or preliminary crimes.
(2) Abetment of offence is a complete offence in itself, but "attempt" is an "incomplete-Offence", which has been made a substantive offence.
(3) In abetment the presence of abettor is not necessary on spot of occurrence of offence, but in an attempt the presence of offender at the time of commission of offence seems to be necessary.

[Please refer to Dutts' INDIAN PENAL CODE (Principles & Precedents)- (1987)- Page 121 for "Abetment" and Page 1429 for "Attempt" for further details.]

66. Enhanced punishment after previous conviction—If any person, after having been previously convicted of an offence punishable under this Act

1. Chela Ram v. State 1983 WLN (UC) 135- 1983 RLW 382.

or under the similar provisions of any enactment repealed by this Act, subsequently commits and is convicted of an offence punishable under this Act, he shall be liable to twice the punishment which might be imposed on a first conviction under this act.

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under the Code of Criminal Procedure, [1][1973 (Central Act 2 of 1974)] [2][XXX] from being so tried;

[3][Provided further that the enhanced punishment wouldn't in any way affect the minimum sentence prescribed for the [4][offences referred to in the proviso to section 54.]

COMMENTARY

1. Scope–Enhanced Punishment—S. 66 provides for the enhanced punishment after previous conviction for an offence under this Act. Thus second or subsequent conviction makes the accused liable for double(twice) of the punishment provided for the offence.

2. Summary Trial—In such a case summary trial under the Code of Criminal Procedure [under chapter XXI of Cr. P.C. sections 250 to 265] shall not be prevented in view of proviso I of this section.

3. Minimum Sentence—Under proviso to S. 54 minimum sentence has been provided for certain offences, but such enhanced punishment under S. 66 would not affect the enhanced punishment under this section.

4. Quantum of Punishment & Previous Conviction—Not proved–No question asked to accused–sentence reduced to six months already undergone. The Magistrate should not have referred to the previous conviction, because the petitioner was not charged with it, nor any question relating to his previous conviction was asked from him after he was convicted for the subsequent offence by the learned Magistrate. Hence, I exclude his previous conviction in determining the measure of punishment. the petitioner has already served at rigorous imprisonment for six months. the ends of justice would be met if the sentence of one year's rigorous imprisonment awarded to him by the trial court is reduced to the term already undergone by him.[5]

5. Previous Conviction to be proved—Only after determination of guilt of accused person, the evidence of a previous conviction can be used for purpose of enhancement of sentence under this section.[6]

1. Substituted by section 8(i) of Rajasthan Act No. 30 of 1976, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 28-4-1976
2. Omitted by section 16 of Rajasthan Act No. 38 of 1957, published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-12-1957.
3. Added by section 7 of Rajasthan Act No. 41 of 1956 published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 31-12-1956.
4. Substituted by section 8 (ii)-ibid.
5. Anokha Singh vs. State of Rajasthan, 1978 Cr. LR. (Raj) 588 1978 WLN (UC)1
6. AIR 1928 Oudh 275: 109 Indian Cases 349 : 29 CrLJ 525

›secution is instituted within a year after the date on which the offence is ›ged to have been committed.

COMMENTARY
SYNOPSIS

Cognizance of offences
Meaning of Magistrate
Cognizance under S. 67(1)(a)
Meaning of "on complaint or report"
Meaning of excise officer
Powers under S. 67 (1) (a) conferred on S.I., Police
Cognizance under S 67(1) (b)
8. Meaning of "Complaint or report"
9. Powers under S. 67(1)(b) delegated to Assistant Excise Officers–Notification
10. Meaning of "report of an Excise Officer" (Explanation)
11. Limitation for taking cognizance [sub-sec. (2)]
12. Practice & Procedure

1. Cognizance of Offences—This is a special provision for taking cognizance of ›nce under this Act. There are some restrictions on taking cognizance by Magistrate ›er this section.

2. Meaning of "Magistrate"—[Sec.S.3[16] Magistrate means "Judicial Magistrate ›ts Class"

3. Cognizance under clause(a) of sub-sec.(1)—Cognizance for offe ›ces under sections 56,59 or 63 shall be taken by the Magistrate-

(i) On his own knowledge or suspicious. (This is covered unde ‹ S. 190(1) (c) of Cr. P C.),or

(ii) on a complaint or the report of an Excise Officer. (This is covered under S. 190(1)(b) Cr. P.C.)

4. "On a complaint or report of Excise Officer"- Meaning of expression- The ion should be construed strictly and cognizance of an offence could not be taken ›pt in the manner provided in S. 67 of the Act.

The purpose behind S. 67 of the Act is that cognizance should not be taken at instance of any person other than an Excise Officer under clause (a) of S. 67 of Act, so that undue harassment to the public may be avoided. The words "on a ›plaint" and j"or a report of an Excise Officer" cannot be read disjunctively.[1]

5. Meaning of "Excise Officer" under S. 67(1) (a) - Excise Inspector is held to Excise Officer—

"Excise Officers" under- S. 67(1) (a) and (b)—Conferment of specific authority purpose of filing of complaint or report under S. 67(1) (a) on any officer, is held necessary (Bhagwan's case 1979 Cr. LR (Raj) 589 overruled). Held, Excise Inspector ›mpetent to make a complaint or report under S. 67(1)(a) (case law reviewed).[2]

Excise Officer—Powers not invested on Incharge Railway Police Station, Jodhpur-d. cognizance on his report cannot be taken by Special Railway Magistrate.[3]

State of Rajasthan v. Rama ILR (1968) 18 Raj 111 1967 RLW 559 (590)
State v. Laxman Singh 1980 RLW 495 1980 WLN 433 1980 Cr LR 557 (D.B.)
State e. Rama ILR (1968) 18 Raj 111 1967 RLW 559.

Excise Inspector is Excise Officer—He can submit charge sheet and Magistrate can taken congnizance of offence on it-View in Bhagwana v. State was followed, whereas D.B. decision in State v. Lachman took different view. (Case remanded for fresh trial).[1]

An Excise Inspector was an Excise Officer for the purpose of filing a complaint or a report under S. 68(1)(a) of the Excise Act. [1980 WLN 433(DB) followed]. Held that in the instant case the complaint was competent. (Acquittal set aside, case sent back for trial.)[2]

Excise Inspector held competent to file complaint or challan under the Excise Act. In the instant case the trial Court has wrongly acquitted accused on this ground. (Appeal accepted).[3]

Inspectors of Excise Department have been invested with powers of Excise Officer under S. 3(7) of the Act. They are, therefore, competent to make a complaint or report for offence under S. 67(1)(a) of the Act to the Magistrate.

In the instant case, held that acquittal was not proper and was set aside but as the case was more than ten years old, the chargesheet was closed.[4]

Another case was eleven years old as such acquittal was not set aside. [1979 CrLR(Raj) 159 was reversed by D.B. in 1980 WLN 433-AIR 1971 SC 1725 and 1978 SC 933 relied on][5]

6. Powers under S. 67(1)(a) conferred on Sub-Inspector of Police—

Notification No. F. 1(52) F. & T 61 dated 9.9.1961- Published in Raj. Gaz.(1)-V-C, dated 26.10.1961—In exercise of the powers conferred by section 10 of the Rajasthan Excise Act, 1950 (Act II of 1950) and SR/50 dated the 15th May 1951 published in the Rajasthan Gazette Vol. III, Pt. I of 1951, the State Government hereby orders that the Officers of Police and Revenue Department not below the rank specified hereunder shall exercise the powers and perform the duties under the sections mentioned against them-

2. Sub-Inspector of Police–Sections 44, 47 and 67(1) (a), except in respect of retail licences granted for sale of liquor under the Act.

Investigation when not vitiated—Head Constable cannot investigate excise cases without authority–His investigation is held invalid -But on report of Head constable seizing liquor, investigation commenced by SHO–Cognizance on report of SHO held not without jurisdiction–No prejudice caused to accused has been shown-Held, trial court's view was erroneous–Trial held not vitiated.[6]

7. Cognizance under clause (b) of sub-sec. (1)—Cognizance of offences under sections 55, 56, 58, 60, 61 or 62 shall be taken by the Magistrate—

"On a complaint or the report of—
(i) an officer not below the rank of the Excise Commissioner or
(ii) an Excise Officer duly empowered in that behalf".

8. Meaning of "Complaint or the report"-[See Note (4) above]

9. Powers under S. 67(1)(b)- Delegated to Assistant Excise Officers-

1. State v. Gokul 1982 R. Cr.C 199.
2. State v. Madhumal 1981 Cr LR 379.
3. State v. Vardha Ram 1981 (6) RCr.C. 198.
4. State v. Narain 1987 RCC 78.
5. State v. Banwari Ram 1990(1) RLR 597.
6. State v. Masita 1974 WLN 895; 1974 RLW 541.

NOTIFICATION

[Notification G.S.R. 13 dated 15 December, 1969]

In exercise of the powers conferred by Finance (Excise) Department Notification 1(85) F.D./EX-67(R), dated 18th September, 1969, I hereby delegate to the Assistant se Officers my power under Section 46(a), Section 67(1)(b) in so far as complaint port is not for offences under section 60,61 and 69(3) of the Rajasthan Excise Act, (Raj. Act II of 1950) to be exercised within their jurisdiction.

[Pub. in Raj. Gaz. Part IV-C, dated 13-4-1970 Page 33]

10. Meaning of "Report of an Excise Officer-[Explanation of sub-sec.(1)]---The t of on Excise Officer is to be treated as report by a police officer is to be treated as report police officer within meaning of S. 190(1)(b) of Cr. P.C. for all purposes of trial. This is the procedure of trial on police report is to be followed in such cases.

11. Limitation for taking cognizance [sub-section(2)]---After expiry of ONE YEAR the date of alleged commission of offence, no cognizance shall be taken by the strate, but with the special sanction of the State Government in such a case, the strate shall take cognizance of such offence even after expiry of one year from date leged commission of the offence.

12. S. 67 (1) &(2)—Limitation for offence—Cognizance taken, but no sanction n Held, cognizance is timebarrd, order quashed—Looking to the provision of Sec. 1 of the Rajasthan Excise Act, This special provision will also prevail over the provision c. 469, CrPC, also. There is specific mention that the prosecution should be instituted n one year from the date of commission of offence. Learned Magistrate has also the shelter of Sec. 469, CrPC, and he has taken the cognizance, which is also not ct on the ground that under the provisions of Sec. 67 of the Excise Act, limitatin nences from the date of commission of offence and not from the date of knowlede.

In the present case, the cognizance has been taken after expiry of one year from late of commission of the offence and no sanction was also taken, therefore, the izance taken in the case is clearly beyond the period of limitation. Therefore, in of above, the order passed by learned Judicial Magistrate taking cognizance against petitioner is not according to law and the same is liable to be quashed.[1]

13. Practice & Procedure-Procedure of Trial—Procedure under S. 251-A followed ad of S. 252. Cr. P.C. (1898)- Effect of-[2]

Investigation when becomes illegal-CrPC S. 167(5)—Provision of S. 167(5) are to be mandatory and the Magistrate shall order stopping further investigation on y of six months, unless special reasons being recorded. The object of enacting this on was to expedite the investigation. Cognizance taken by Magistrate on such illegal tigation held vitiated and hence quashed. (1979 CrLJ (SC) 1936 and 1052 relied on).[3]

14. Complaint when dismissed (S. 256 Cr.P.C.)- Charge sheet filed under S. 4(2) ne bottle of illicit liquor recovered from accused-The case was fixed for the evidence e prosecution. Neither the A.P.P. nor the complainant was present. The case was on since 1977 and not a single witness of the prosecution has been examined. efore, if under the circumstances the learned Magistrate in the absence of the complaint issed the complaint, he did not commit any illegality. (Appeal dismissed).[4]

68. Presumption as to commission of offences in certain cases- very prosecution for any offence punishable under this Act, it shall be

Gulam Hussain V. State of Rajasthan 2006 (1) WLC (Raj.) 523
Ghisia v. State, 1959 Cr. LJ 1359: AIR 1959 Raj. 266 (DB)
Babu Lal v. State 1981 Cr LJ 338: 1981 WLN 225.
State v. Chunni Lal 1982 RLW 255: 1982 R Cr.C 176.

presumed [1][without further evidence] until the contrary is proved, that the accused person he committed such offence in respect of -

(a) any excisable article, or

(b) any still, utensil, implement or apparatus whatsoever [2][as are ordinarily used in] in manufacture of any such article of drug, or

(c) any materials which have undergone any process towards the manufacture of an excisable article or from which any such article has been manufactured, for the possession of which he is unable to account satisfactorily, and the holder of a licence, permit or pass under this Act, shall be liable to punishment, as well as the actual offender, for any offence punishable under this Act committed by any person in his employ and acting on his behalf as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

COMMENTARY

SYNOPSIS

1 Nature of Presumption
2 Prosecution for offences
3. Joint Liability and Actual offender
4 Possession
(a) Meaning
(b) Conscious Possession
(c) Joint Possession
5. Scheme of Act & Purpose of presumption

1. Nature of Presumption—This Section runs thus-

".....it shall be presumed-

— without further evidence-

— until contrary is proved

that the accused person has committed the offence-. .."

Thus the presumption is rebuttable and not absolute. There cannot be any absolute presumption that a person in occupation of the premises must be presumed to be in possession of every thing found inside the premises. Whether such a presumption should be raised in any particular case or not, depends upon facts and circumstances of each cases.[3] But such facts and circumstances are to be proved in defence by proper evidence [3]

1 Inserted by section 12(i) of Raj. Act No 28 of 1961, published in the Raj. Gaz., Extraordinary, Part IV-A, dated 21-10-1961.
2. Substituted by section 12(ii)-ibid.
3 State v. Chandrabhan AIR 1935 Oudh 69 36 Crl.J 264

2. Prosecution for offences—Section enumerates the various offences in narrative n in clauses (a) to (c) without reference to sections of the Act. Please refer to the ıses in the text itself for details. In brief the offence in respect of (a) any excisable cle, or (b) any still etc. used to manufacture such article or drug or (c) any material pared to manufacture such articles, the possessor will be presumed to be liable for ı offence.

3. Joint-liability & Actual Offender—In case of holder of licence, permit or pass, shall be liable for any such offence along with the actual offender (employee, agent ı, if he is unable to establish that all due and reasonable precautions were taken by ı to prevent commission of such offence.

In such a case no person other than the offender (i.e. holder of licence, permit pass) shall be punished with imprisonment. Only fine shall be imposed, but in case default of payment of fine,he may be sent to imprisonment also.

4. Possession—It is a wide term which is involved in all activities of manufacture, ɔort, export, sale, transport etc. relating to use of liquor.

(a) Meaning of "Possession"—

"Possession" means conscious possession. Neither mere possibility nor remote ɔability nor vague doubts which are not reasonable, can without danger to the ninistration of justice, be the foundation of discrediting the reliable and cogent evidence.

In the instant case,carrying of 30 bottles of liquor (in vehicle) was held not possible hout each of them taking the other in confidence.[1]

(b) Conscious Possession—

Two accused found sitting in the house at time of raid. It alone is not sufficient. rden lies on prosecution to prove conscious possession.[2]

Nature of Conscious Possession—Proved where 30 bottles of liquor recovered thout permit–Onus on accused to prove that it was not in his knowledge.–Transportation liquor does include elements of possession–Incident 8 years old–already undergone days imprisonment-sentence reduced to already undergone and fine enhanced.

(c) Joint-Possession-Factum of knowledge of possession—Where large quantity "cocaine" along with weighing machine and packing material was recovered from a ıall house in which two brothers were jointly residing and running a joint business. ld, that in such a case it is useless to plead that each of them were not aware of ɔ dealing in cocaine.[3]

The articles of eliciting liquor (utencils etc.) were recovered in raid from Kotari a house occupied by three persons. All of them were held guilty.[4]

5. Scheme of the Act & Purpose of Presumption—The scheme of the Rajasthan ɔcise Act is to prohibit possession and transportation of liquor without permit issued ıder S. 5 of the Act. The State Government has prescribed the quantity of retail sale

Nathu Lal v State ILR (1976) 26 Raj 996: 1977 RLW 24: 1977 CrLR (Raj.) 1 1976 WLN 681.

State of Maharashtra v.Vishwanath Namdeo Kolege 1967 CrLR (MS) 422

Emperor v.Kashinath & Others AIR 1930 All 161: 31 Cr LJ. 26.

Parmai v Emperor AIR 1934 All 129: 35 CrLJ 1395

of country liquor as 2.25 litres, by Notification No. F. 1(187) E & T/59-I, dated Nov. 30, 1961, Published in Rajasthan Government Gazette, Part IV-C, dated December 28, 1961. Section 19 of the Act provides that no person not being licensed to manufacture, cultivate or sell any excisable article, shall have in his possession any quantity of such article in excess of such quantity as the State Government has under S. 5 declared to be the limit of sale by retail. A close reading of the above mentioned notification issued under S. 5 with S. 19 of the Act reveals that the accused petitioner could possess only 2.25 litres of country liquor. Admittedly the article alleged to have been recovered from the possession of the accused, is country liquor and the quantity exceeds much above the prescribed limit.

Section 68 seems to be provided with the assumption that if the accused has something to do with the article regarding which he is being prosecuted in that situation the law will presume him to be guilty. In other words,once it is proved that the accused had something to do with the import, export, transport, manufacture, sell or possession of excisable article, it is for him to prove satisfactorily that he has not knowingly done so Section 69 of the Act will become atiose if were held that the prosecution must prove the conscious possession before it can take resort to S 68. Section 68 proceeds on the assumption that a person who is in any way concerned with the excisable article, as mentioned under S. 54(a) of the Act, he must be presumed to have committed the offence charged. The practical difficulty of the prosecution to prove something which is exclusively with in the knowledge of the accused has persuaded the legislature to consider that if the onus is placed on the prosecution, the object of the Act would be frustrated. By enacting S. 68 of the Act the legislature has manifested its intention that an anti-social adventurer cannot claim for his injurious activities large regard than for the defence of the society itself. (1976 Cr. LR. 382 and AIR 1960 SC 483, not applicable).[1]

69. What things are liable to confiscation—(1) Whenever an offence punishable under this Act has been committed-

(a) every excisable article in respect of which such offence has been committed,

(b) every still, utensil, implement or apparatus and all materials by means of which such offence has been committed,

(c) every excisable article lawfully imported, transported, manufactured, held in possession or sold along with or in addition to any excisable article liable to confiscation under clause (a).

(d) every receptacle, package or covering in which any article as aforesaid or any materials, still, utensil, implement or apparatus is or are found together with the other contents (if any) of such receptacle or package, and

1. Nathu Lal v. State ILR (1976) 26 Raj. 996: 1977 RLW 23 1976 WLN 681 1977 CrLR (Raj) 1.

(e) every animal, cart, vessel, raft or other conveyance used in carrying such receptacle or package, shall be liable to confiscation.[2]

[1][XXX deleted]

(2) When in the trial of any offence punishable under this Act the Magistrate cides that anything is liable to confiscation [2][under clause (a) to (d) of sub-ction (1)] he may order confiscation :

Provided that [3][in case of a thing other than an excisable article he may, ieu of ordering confiscation, give] the owner of the thing liable to be confiscated option to pay any such fine as the Magistrate thinks fit.

(3) When anything mentioned in sub-section (1) is found in circumstances uch afford reason to believe that an offence under this Act has been committed respect or by means thereof or when such an offence has been committed d the offender is not known or cannot be found, the Excise Commissioner ıy order confiscation of the same:

Provided that no such order shall be made until the expiration of one onth from the date of seizing the thing or animal in question or without hearing : person (if any) claiming any right thereto and the evidence (if any) which produces in support of the claim:

Provided further that if the thing in question is liable to speedy and natural cay, or if the Excise Commissioner is of opinion that the sale of the thing animal in question would be for the benefit of its owner,he may at any ıe direct it to be sold; and the provisions of this section shall so far as ıy be, apply to the net proceeds of such sale.

[4]["(4) Where any means of conveyance referred to in clause (e) of sub-ction (1) is seized in connection with the commission of any offence under s Act, a report of such seizure shall, without unreasonable delay, be made the person seizing it to the Excise Commissioner or to the officer, not low the rank of the District Excise Officer, as may be duly authorised by

Following Proviso deleted by S. 3 of the Rajasthan Excise (Amendment) Act, 2000 (Act. No 7 of 2000)

[Provided that no such animal, cart, vessel, raft or other means of conveyance shall be so liable to confiscation, if the owner thereof, is not the owner of the articles thereby removed and establishes that he had no reason to believe that such offence was being or was likely to be committed.]

Substituted by Ibid

Substituted by section 13 of Rajasthan Act No 28 of 1961, published in the Raj Gaz Extraordinary, Part IV-A, dated 21-10-1961

Inserted Sub-Sections (4) to (9) inserted by S.3 of the Rajasthan Excise (Amendment) Act (Act No. 7 of 2000) Sub section (4) to (9) inserted Pub-in Raj. Gaz-FO-IV (Ka) dated 3-5-2000 w.e.f. 3-1-2000.

the State Government in this behalf and whether or not a prosecution is instituted for commission of such an offence, the Excise Commissioner or the officer authorised in this behalf by the State Government, having jurisdiction over the area where the said means of conveyance was seized, may, if satisfied that the said means of conveyance was used for commission of offence under this act, order confiscation of the said means of conveyance:

Provided that before ordering confiscation of the said means of conveyance a reasonable opportunity of being heard shall be afforded to the owner of the said means of conveyance and if such owner satisfies the Excise Commissioner or the officer authorised by the State Government in this behalf that he had no reason to believe that such offence was being or likely to be committed and he had exercised due care in the prevention of the commission of such an offence, the Excise Commissioner or the officer authorised by the State Government in this behalf, may not confiscate the said means of conveyance :

Provided further that where such means of conveyance is owned by the Central Government or any State Government or any of their undertaking, no order of confiscation of such means of conveyance shall be passed by the Excise Commissioner or an officer authorised by the State Government in this behalf and the matter shall be referred to the State Government by the Excise Commissioner or the officer authorised by the State Government in this behalf, for making such orders regarding means of conveyance as the State Government may deem fit:

Provided also that before ordering confiscation under his sub-section the owner of the means of conveyance, referred to in clause (e) of sub-section(1), may be given an option to pay in lieu of confiscation, a fine not exceeding the market price of such means of conveyance.

(5) [deleted][1]

(6) Whenever any means of conveyance as referred to in clause (e) of sub-section (1) is seized in connection with commission of an offence under this Act, the Excise Commissioner or any officer authorised in this behalf by the State Government shall have, and, notwithstanding anything contained in any law for the time being in force any court, tribunal or other authority shall

1. Please see section 9A as amended in 2001 and sub-section (5) deleted vide S. 26 of the Raj. Act No. 15 of 2005 w.e.f. 20-5-2005 which was as follows—(5) Any person aggrieved by an order of confiscation made under sub-section(4) may within sixty days from the date of communication to him of such order, appeal to the Divisional Bench of Revenue Board and Divisional Bench of the Revenue Board after giving opportunity to the appellant to be heard, shall pass such order as it may think fit, confirming, modifying or annulling the order appealed against.

ot have, jurisdiction to make order with regard to the possession, delivery, isposal, release of such means of conveyance.

(7) Where the Excise Commissioner or the officer authorised by the tate Government in this behalf is of the opinion that it is expedient in public nterest or for the benefit of its owner that the means of conveyance, as referred in clause (e) of sub-section(1), seized for commission of offence under his Act be sold by public auction, he may at any time direct it to be sold.

(8) Where any means of conveyance is sold, as aforesaid, the sale proceeds hereof, after deduction of the expenses of such sale or auction or other incidental xpenses relating thereto and in other cases, the means of conveyance which vas seized or the amount of fine paid on lieu of its confiscation, shall—

(a) where no order of confiscation is ultimately passed by the Excise Commissioner or the officer authorised by the State Government in this behalf; or

[1][(b) where an order passed in appeal so requires;] or

(c) where in a prosecution instituted for commission of offence under this Act in respect of which an order of confiscation has been made under this section, the person concerned is acquitted,

be paid, returned or refunded, as the case may be, to its owner;

Provided that no interest shall be payable on the amount to be paid or refunded under this sub-section.

(9) any order of confiscation made by the Excise Commissioner or any officer authorised by the State Government in this behalf, shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.]

परिपत्र संख्या 2/2000

[2][मदिरा के अवैध परिवहन पर अंकुश लगाने की दृष्टि से अध्यादेश दिनांक 3-1-2000 द्वारा राजस्थान आबकारी अधिनियम, 1950 में धारा 54-ए जोडी जाकर वाहन स्वामियों पर विशेष दायित्व डाला गया है तथा मदिरा के अवैध परिवहन में काम में लिये जा रहे वाहनों के अधिहरण के संबंध में विस्तृत प्रावधान धारा 69 के अन्तर्गत उप-धारा (4) से (9) जोड कर किये गये हैं।

धारा 69(4) के अंतिम परन्तुक में यह प्रावधान किया गया है कि अधिहरण योग्य वाहन का वाहन स्वामी अधिहरण की ऐवज में एक नियत जुर्माना राशि अदा कर वाहन को अधिहरण से मुक्त रखवा सकने का अधिकारी होगा। संभव है कि कतिपय मामलों में संबंधित वाहन स्वामी द्वारा निर्धारित अवधि में जुर्माना

1. Substituted by S. 26 of the Raj. Act No. 15 of 2005 w.e.f. 20-5-2005
2. परिपत्र संख्या 2/2000 क्रमांक प.29(सी)(3)आब./अभि./99/ दिनांक 29-3-2000

राशि ही अदा नहीं की जावे। इसके अतिरिक्त यह भी संभव है कि कुछ मामलों में उपलब्ध पते पर नोटिस दिये जाने के उपरांत भी कोई वाहन स्वामी उपस्थित ही नहीं हो एवं उसका वाहन धारा 69(4) के अन्तर्गत अधिहरित करने का एक तरफा निर्णय लेना पड़े। ऐसे मामलों में अधिहरित किये गये वाहन का निस्तारण आवश्यक हो जाता है। इस संबंध में निम्न निर्देश प्रदान किये जाते हैं—

1. अधिहरित किये गये वाहनों का निस्तारण खुली नीलामी द्वारा किया जायेगा।
2. अधिहरित किये गये वाहनों की नीलामी धारा 69(5) में प्रावधित अपील की समयावधि समाप्त हो जाने के पश्चात् यथा शीघ्र की जायेगी।
3. अधिहरित वाहनों की नीलामी के लिये कमेटी के गठन एवं नीलामी कार्यवाही के अनुमोदन बाबत् निम्न व्यवस्था की जाती है।

(अ) साईकिल, मोटर साईकिल, स्कूटर, पशु गाड़ी व अन्य दो पहिया वाहनों के लिये—

नीलामी समिति निम्न प्रकार होगी—

1.	जिला आबकारी अधिकारी	अध्यक्ष
2.	संबंधित कोषाधिकारी का प्रतिनिधित्व	सदस्य
3.	मुख्यालय पर पदस्थापित सहायक आब. अधिकारी/आबकारी निरीक्षक	सदस्य
4.	जिला कार्यालय का लेखाकार/क. लेखाकार	सदस्य

इस प्रकार के मामलों में नीलामी कार्यवाही के पृथक से अनुमोदन की आवश्यकता नहीं होगी।

(ब) जीप, कार आदि के लिये—

1.	जिला आबकारी अधिकारी	अध्यक्ष
2.	जिला परिवहन अधिकारी अथवा उसका प्रतिनिधि	सदस्य
3.	कोषाधिकारी का प्रतिनिधि	सदस्य
4.	संबंधित जोन का सहायक लेखाधिकारी, जो मुख्यालय में पदस्थापित है।	सदस्य

ऐसे मामलों में की गई नीलामी कार्यवाही का अनुमोदन संबंधित अतिरिक्त आबकारी आयुक्त से प्राप्त करना होगा।

(स) ट्रक/बस/मिनी ट्रक आदि वाहन—

ऐसे वाहनों के मामलों में नीलामी समिति निम्न प्रकार होगी—

1.	संबंधित अतिरिक्त आयुक्त, आबकारी	अध्यक्ष
2.	संबंधित जिला आबकारी अधिकारी	सदस्य
3.	संबंधित जिला परिवहन अधिकारी	सदस्य
4.	वित्तीय सलाहकार द्वारा मनोनीत वरिष्ठ/सहायक लेखाधिकारी	सदस्य

इस प्रकार के मामलों में नीलामी कार्यवाही का अनुमोदन मुख्यालय से प्राप्त किया जाना होगा।

नीलामी कार्यवाही से प्राप्त होने वाली राशि तथा नीलामी की कार्यवाही पर होने वाले व्यय का पृथक एवं स्पष्ट लेखा रखा जावे ताकि संबंधित अभियोग पीरत करते समय राशि के बारे में किसी प्रकार संशय नहीं रहें।

उक्त निर्देशों की पालना सुनिश्चित की जावे।]

☐ Notification

[1]In exercise of the powers conferred by sub-sections (4), (6), (7) and (8) of section 9 of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950) the State Government hereby uthorises the officers mentioned in col. no. 1, to exercise the powers of the said sub-ections for the means of conveyance mentioned against each in col. no. 2, within their spective jurisdiction, namely—

	Authorised Officers	Means of Conveyance
	1.	2.
1.	District Excise Officer	Animal, cart, vessel, raft and two wheelers of all kinds.
2.	Additional Excise Commissioner	Light motor vehicles of all kinds.]

COMMENTARY
SYNOPSIS

Confiscation of things. [Sub-Sec.(1)]
Effect of amendment- (2000)
Order of confiscation by Magistrate. [Sub-sec. (2)]
Order of Confiscation by Excise Commissioner [sub-sec. (3)]
Confiscation of any means of Conveyance referred to in clause (e) of Sub-sec.(1)- procedure summarised.[Sub-section (4)]
Defence of owner [Proviso I]
Exception- State Vehicles- [Proviso II]
8. Option to owner Heavy fine [Proviso III]
9. Appeal [Sub-Sec. (5)]
10. No jurisdiction to Court etc. to order release. [Sub-Sec. (6)]
11. Sale of Vehicle etc. by Public Auction. [Sub-Sec. (7)]
12. Disposal of Sale Proceeds [Sub-Section (8)]
13. No Saving From punishment [Sub-Sec. (9)]
14. Provisions in the rules.
15. Case Law summarised.

1. Confiscation of things—Section 69(1) enumerates the list of things which are able to confiscation when an offence punishable under this Act has been committed. ı this process of confiscation the things mentioned in clauses (a) to (e) of sub-section 1) are liable to be confiscated. We may briefly indicate the nature of these things only or reference.

[See text of these clauses in the Section itself for exact details.]

(a) excisable articles involved in offence.

. Notification No. F. 1(6) FD/EX./99 Dated 08-8-2000.

(b) Still and other articles used for manufacture of excisable articles.

(c) excisable articles legally obtained,but kept with articles mentioned above in clause (a)

(d) every packing or covering material, and

(e) every vehicle or animal etc. used in carrying such articles.

2. Effect of Amendment-(2000)—In sub-section (1), proviso to clause (e) has been omitted and in sub-section(2), the expression "under clause (a) to(d) of sub-section" has been substituted, by Amendment of 2000.

Consequently, there are now two-categories of things mentioned in sub-section (1), i.e.-

(1) The articles or things mentioned in clauses (a) to (d)- Magistrate functioning under sub-section (2) may order confiscation of these articles and-

(2) Vehicles etc. under clause (e)—The vehicles enumerated in clause (e) are now liable to confiscation in accordance with procedure laid down in new sub-section (4) followed by sub-sections (5) to (9). A very harsh provision has been made by this amendment. Please note and examine the propriety of these amendments.

A new section 54-A has also been inserted to deal with the owner of vehicles or conveyances used in commission of offence under this Act as a guilty person (accused).

[Please refer to S. 54-A for Details]

3. Order of Confiscation by Magistrate [Sub-Sec. (2)]—The Magistrate may order confiscation of anything under clauses (a) to (d) of sub-section (1), if during trial he decided that anything is liable to confiscation.

BUT there is an exception to this order of confiscation that in case of a thing, other than an excisable articles, the owner may pay fine in lieu of confiscation. Thus only excisable articles shall be confiscated,but in case of other things the Magistrate may impose fine on the owner of such things and may release the same.

4. Order of confiscation by Excise Commissioner [Sub-Sec(3)]—There are two fact-situations in this sub-section-1 in case (i) where offender is not known or cannot be found or (ii) if the vehicles etc. is found in circumstances of committing an offence under the Act, the Excise Commissioner may order confiscation of the things recovered during commission of such offence.

There are two exceptions (Proviso) to this provision-

(1) Order of confiscation under S. 69(3) shall be made-

(a) after expiry of one month from the date of seizure, and

(b) If there is any claimant, such person shall be given a hearing and he would be allowed to produce evidence supporting his claim to those things etc.

(2) The things liable to speedy and natural decay may be directed by the Excise Commissioner to be sold and net proceeds to be confiscated according to this section.

5. Confiscation of "any means of conveyance" referred to in clause (e) of sub-ction (1)—Procedure summarised-[sub-section(4)]

In clause (e), the following conveyances have been pointed out-

"Every(i) animal, (ii) cart, (iii) vessel, (iv) raft, or (v) other conveyance used carrying such receptacles or package shall be liable to confiscation".

The procedure of such confiscation has been enumerated exhaustively in sub-ction (4), which may be briefly stated as follows;

(i) **Seizure of conveyance in connection with commission of any offence under is Act**—A report of such seizure is to be made immediately to - (a) the Excise ommissioner or (b) to the Authorised Officer.

(2) **Confiscation-order**—If the Excise Commissioner or the Authorised officer is tisfied that the said conveyance was used for commission of an offence under the ct, the order of confiscation may be passed by him.

(3) Reasonable opportunity of being heard to be given to owner before ordering ich confiscation.

6. Defence of owner [Proviso]—Two points are to be noted here for which e owner has to satisfy the authorities—

(1) that he had no reason to believe that such offence was being or likely to be committed, and

(2) that he had exercised due care in the prevention of the commission of such an offence.

Where Excise Commissioner or Authorised Officer (i.e. authorities) is satisfied n these two points of defences taken by the owner, the means of conveyance may ot be confiscated, but may be released in accordance with law.

7. Exception [Proviso II]–Means of conveyance owned by -

(i) The Central Government, or

(ii) any State Government or

(iii) Any of their undertakings

— are not to be confiscated by the Excise Commissioner or the Authorised)fficer and such matter shall be referred to the State Government for orders.

8. Option to Owner–Heavy Fine [Proviso III]—Before ordering confiscation f the conveyance, the owner may be given an option to pay in lieu of confiscation, *fine not exceeding the market value* of such means of conveyance. It is respectfully ubmitted that this provision is very harsh and may be used arbitrarily to harass the wner.

9. Appeal [Sub-section (5)]—Appeal against order or confiscation of conveyance vould lie to the Divisional Commissioner within sixty days from communication to him f such order.

After hearing the appellant, appropriate order may be passed in appeal.

10. No jurisdiction to Court etc. to order release etc. [Sub-sec. (6)]–A vehicle or conveyance so seized by the Authorities shall not be ordered to be released etc. by any court, tribunal or other authority. This is very harsh step, please read sub-section (6) very carefully.

11. Sale of Vehicle etc. by Public Auction-[Sub-section (7)—If it is expedient in public interest or benefit of its owner, such vehicle may be sold by public auction at any time by the Authorities.

12. Disposal of Sale Process [Sub-Section (8)]—On sale of the conveyance, the sale proceeds would be disposed of in the manner indicated in details under sub-section (8) please read sub-section (8) very carefully. No interest shall be paid on the amount paid or, refunded under this sub-section.

13. No Saving from Punishment-[Sub-Section (9)]—If a person is held liable to punishment under this Act, the confiscation order made by the authorities shall not prevent infliction of such punishment. In other words, the owner of vehicle etc. would be liable to punishment under S. 55 A of the Act along with other offences under the Act, as well as the confiscation of same Vehicle under this Section (S.69). Both actions may be taken together and simultaneously

[Please refer to Commentary of section 55-A, supra, also]

14. Provisions in the Rules—

Chapter X- Disposal of Confiscated Articles

(Rr. 78 to 82 of the Rajasthan Excise Rules, 1956).

The following provisions in these rules have been made-

Rule 78 – Magistrate to send the article to District Excise Officer.
Rule 79 – Disposal of animals and things other than excisable articles.
Rule 80 – Disposal of excisable articles.
Rule 81 – Perishable articles.
Rule 82 – Sale or disposal to be deferred pending an appeal.

Thus the following things are to be made over to the District Excise Officer by Magistrate—

(i) excisable articles, or
(ii) any receptacle, packet or cover, or
(iii) any animal, cart, vessel, raft or other conveyance. (Rule 78)

There after the District Excise Officer shall take further action for disposal of these articles as per rules mentioned above.

15. Case Law Summarised—

Correction in Judgment—Accused acquitted by appellate court and jeep confiscated was ordered to be returned to (बरामदकर्त्ता). It was held to be clerical error. Mistake of language used in the judgment, जप्तशुदा जीप बरामदकर्त्ता को लौटा दी जावे। The intention of the court was obvious that the jeep to be returned to one from whom it was recovered. In any case it is a fit case where to prevent miscarriage of justice the impugned order should be set aside under the inherent powers of the court (Petition allowed)[1]

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1 Kour Singh v. State 1981 CrLR 131: 1981 (6) R. Cr. C. 168.

Vehicle When Confiscated—Accused was found driving jeep while committed offence. Conviction confirmed. Held Jeep shall stand confiscated.[1]

Vehicle not confiscated—Owner lent his car to a friend, but he had no reason to believe that the car would be used for transporting contraband goods in it. This could not be proved by prosecution.[2]

Liability of Car owner-Complicity of transporting Ganja not made out—Nothing on record to indicate any complicity- Information of missing car given to police late-delay explained.[3]

70. Power of Excise officers to compound offences—(1) [4][Subject to such conditions and restrictions as may be prescribed, the Excise Commissioner or any other Excise Officer specially empowered by the State Government in that behalf] may accept from any person whose licence, permit or pass is liable to be cancelled or suspended under this Act, or who is reasonably suspected of having committed an offence punishable under this Act, a sum of money [5][not less than Rs. 5000/- but not exceeding 10 times of the annual licence fee in respect of manufacturing units/ bonds and wholesale vends etc. and not more than two times of exclusive privilege amount in case of liquor and beer shops alongwith other levies applicable from time to time] in lieu of such cancellation of suspension or by way of composition for such offence which may have been committed, as the case may be, and in all cases whatsoever in which any property[6] [XXX] has been seized as liable to confiscation under this Act [7][may release all such property except an excisable article on payment of the value thereof as estimated by such officer and may confiscate the excisable article]:

Provided that no such composition shall be accepted from any officer or servant of the Excise Department for any offence under this Act committed by such officer or servant.

[8][Provided further that no offence of manufacture, or possession for sale of an excisable article punishable under section 54 shall be compounded].

1. State v. Uttamchand 1981 CrLR (Raj.) 717: 1982 WLN (UC) 187.
2. Vijay Singh v. State of Haryana (1978) 80 PLR 713: 1978 Y.D. 2262.
3. Thakur Jai Narain Singh v. State of Madhaya Pradesh, 1973 UJ (SC) 1973.
4. Substituted vide section 10 of Rajasthan Act No. 4 of 1967, published in the Raj. Gaz., Extraordinary, Part IV-A, dated 24-7-1967.
5. Inserted by S. 27 of the Rajasthan Finance Act, 1998 (Act No. 8 of 1998) Chapter VII-Pub.in Raj. Gaz. EO-IVA-dated 31.7.98, Page 5(22).
6. Omitted by section 14(i) of Rajasthan Act No. 28 of 1961, published in the Rajasthan Gaz., Extraordinary, Part IV-A, dated 21-10-1961.
7. Substituted by section 14(ii)-ibid.
8. Inserted by section 10 of Raj. Act No. 30 of 1976, published in the Raj. Gaz.-EO-IVA dated 28-4-1976.

(2) On the payment of such sums of money to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

COMMENTARY
SYNOPSIS

1. Compounding of offences by Excise Officers
2. Compounding Authorities Notifications
3. Compounding of Offences (Rule 77-B-Excise Rules)
4. Procedure [sub-sec (1)] Amendment 1998-Composition Money
5. Non-Compoundable offences. (Proviso)
6. Effect of [sub-sec (2)]

1. Compounding of offences by Excise Officers—Section 70 authorises the Excise Officers to compound offences subject to such conditions and restrictions as may be prescribed (i.e. prescribed by Rules)- [Refer to Note (3) infra]

2. Who is empowered-Compounding Authorities–

(1) The Excise Commissioner, or
(2) Any other Excise Officer specially empowered by the State Government in this behalf.

NOTIFICATIONS

[Notification No. F. 1(37)-FD-Ex/67/228 dated 18-1-1968]

In exercise of the powers conferred by sub-section (1) of section 70 of the Rajasthan Excise Act, 1950 the State Government hereby especially empowers all the District Excise Officers, within their respective jurisdiction, to exercise subject to conditions and restrictions specified in rule 77D of the Rajasthan Excise Rules 1956, all the powers under that section to compound offences.

★ ★ ★ ★ ★

Notification No. F. 1(3)-FD/Ex 72 dated 16-12-1973]

S.O. 78—In exercise of the powers conferred by Section 70 of Rajasthan Excise Act (Raj. Act II of 1950) The State Government hereby authorises the Deputy Commissioner Excise, Headquarters, Udaipur to accept from a person for an offence committed under the Act, composition money not exceeding Rs. 1000 (one thousand) in each case.

3. Compounding of Offences—

(Rule 77-D, Chapter IX-B of the Rajasthan Excise Rules 1956)

Section 70(1) uses the expression "subject to such conditions and restrictions as may be prescribed" in relation to Compounding of Offences under the Act

Rule 77-D provides such conditions and restrictions: as summarised below-

(1) Any District Excise Officer specially empowered in that behalf may compound the following cases-
   (i) Cancellation or suspension of a licence, permit or pass or
   (ii) Any offence under the Act

(2) Such District Excise Officer may accept a sum of money not exceeding Rs. 500/- for such compounding or composition.

(3) Previous sanction of Excise Commissioner shall be obtained by the District Excise Officer before compounding the following offences-

(i) Offence committed or reasonably suspected of being committed under S. 54(c) or S. 54 (d), OR

(ii) if the proceedings for offence are pending in the Court of law.

4. Procedure (sub-sec. (1)-

(1) The following cases may be compounded-

(1) Where the licence, permit or pass is liable to be cancelled or suspended under this Act. OR

(2) Where a person is suspected to have committed an offence under this Act.

● **(ii) Composition Money–Amendment 1998**—In both these fact-situations the ıthorities mentioned above in Note (2) may accept from such person an amount as ɛtailed below. It was Rs. Ten thousand prior to amendment of 1998, but now it has ɛen amended.

(a) In respect of manufacturing Units/Bonds and wholesale Vends etc.

— *A sum of money not less than Rs. 5000/- (Five thousand), but not exceeding 10 times of the annual licence fee of the above.*

(b) In case of liquor and Beer shops-

A sum of money not more than two times of exclusive privilege amount.

Along with other levies applicable from time to time

Thus the amount as mentioned above is at the discretion of the authority and is in addition to other levies applicable from time to time

Such amount may be accepted--

(1) in lieu of cancellation or suspension of licence, permit or pass, or

(2) for composition of such offence which may have been committed by him.

(iii) Seizure of Property—After receiving the composition-money, the authority—

(a) may confiscate the excisable article, and

(b) may release any other property seized as liable to confiscation on payment the value of such property estimated by such officer.

Section 70(1) v. Section 69(2), Proviso—Under S. 70(1) above, the value of property timated by such officer is to be paid for release of such property, where as under oviso to S. 69 the Magistrate may impose fine as he thinks fit in lieu of ordering confiscation.

❑ **Suggestion**—Both these provision are discrepant. There should be a limit to e fine in S. 69 whereas the payment of value as estimated by authorities is also unjustified. is for the Legislature to amend these provisions.

5. Non-Compoundable Offences-

[Proviso I & II to sub-sec(1)]

The following offences cannot be compounded or composed—

(1) Any offence committed by any officer or servant of the Excise Department.

(2) No offence relating to

— manufacture or

— possession for sale Rules of an excisable article

Punishable under section 54 of the Act

6. Effect of compounding or composition–[sub-sec(2)]--

On payment of such composition money as determined by the officer under sub-section(1), the following effect will ensue-

(i) The accused shall be discharged, if in custody.

(ii) the property seized shall be released, and

(iii) No further proceedings shall be taken against such person or property for such offence.

❑❑❑

Chapter [X]

Miscellaneous

❑ Introductory Note

This is the last Chapter of the Act dealing with miscellaneous provisions, which /ery important. These are:

Section 71— Exemptions from applicability of the Act.

Section 72— Publication of Rules & notifications.

Section 73— Bar of certain suits against State Government and its officers while acting in good faith under the provisions of the Act.

Section 74— Powers exercisable from time to time by Excise Commissioner.

71. Exemptions—(1) Nothing in the foregoing provision of this Act lies to the import, manufacture, possession, sale or supply of any bona-medicated article for medicinal purposes by medical practitioners, chemists ;gists, apothecaries or keepers of dispensaries except in so for as the 'ernment may be notification in the [2][Official Gazette] so direct.

[1][(2) Where in the opinion of the [2][State Government] reasonable grounds t for doing so, the [2][State Government] may, by like notification and subject ıch conditions and restrictions as it may impose, exempt any person or s of persons or any excisable article from all or any of the provisions ıis Act or of the rules made thereunder either [3][throughout the territories 'hich this Act extends] or in any specified part thereof or for any specified od or occasion.

[4][The State Government being of the opinion that reasonable ground t for doing so, hereby exempts, with effect from 1-4-2001 :

(i) such retail licencees who have been granted licence under exclusive ilege system from the payment of fee prescribed under rule 69-B of the ısthan Excise Rules, 1956 to the extent to which it exceeds the amount Rs. 0.50 per bulk litre.

(ii) such wholesale licencees who have been granted licence under rule l)(a) of the Rajasthan Excise Rules, 1956 and who manafacture IMFL/

Substituted by section 2 of Raj. Act No. 35 of 1956, published in the Raj. Gaz., Extraordinary, Part IV-A, dated 31-10-1956.
Substituted by section 4 of Rajasthan Act No. 38 of 1957, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 5-12-1957.
Substituted by section 17-ibid.
Notification No. F. 4(12) FD/Ex/2001/Pt. II dated 31-3-2001.

Beer outside Rajasthan from the payment of fee prescribed under rule 69(1) of the said rules.]

(3) Every notification issued by the State Government under sub-section (1) or sub-section (2) shall be laid before the House of the State Legislature at the session there of next following and shall be liable to be rescinded or modified by a resolution of that House.]

COMMENTARY
SYNOPSIS

1. Scope
2. Bonafide medicated Articles exempted.
3. Old sub-section(2) declared void.
4. Expression-"Throughout the territory"-Meaning
5. Classification of Exemptions
6. Important Notifications under S. 71 (2)
7. Special Rules Spirituous Preparations
8. Legislative Control
9. Principle of Promissory Estoppel

1. Scope—Section 71 is an important provision of this Act which deals with exemptions from the operation of this Act in certain specified matters. It grants relaxation from the prohibitory and regulatory provisions of the Act or the rules made thereunder.

2. Bonafide Medicated Articles for medical purposes exempted [(sub-section (1)]—Sub-section (1) exempts the bonafide medicated articles for medical purposes from operation of the Act in relation to-

(i) manufacture,
(ii) possession,
(iii) sale or
(iv) supply

—by (a) medical practitioners
(b) chemists,
(c) druggists,
(d) apothecaries or
(e) keepers of dispensaries

— Except so far as the Government may by notification in the Official Gazette so direct.

3. Old sub-section (2) declared void—Prior to Amendment of 1956, the text of sub-section (2) was as follows:

"(2) The Government may by like notification and subject to such conditions as it may think fit to prescribe, exempt any person or class of persons or any excisable article wholly or partially from the operation of all or any of the provisions of this Act or of all or any of the Rules made therein either throughout Rajasthan or in any specified area comprised therein or for any specified period or occasion."

This provision was held to be void on ground of absence of any basis for classification and giving unbridled power of exemption to the State Government.[1]

So it was amended in 1956 w.e.f. 31-10-56.

The full Bench of the Rajasthan High Court observed - "As sub-section is worded, it does not contain any basis of classification itself although we should like to add that is not an indispensable requirement for upholding a classification. We would next point out that there is nothing in the entire Act either in the preamble or elsewhere therein

1. Rao Manohar Singh v. State of Raj. AIR 1954 Raj. 85(93); 1955 RLW 98; ILR (1954) 4 Raj 113 (FB).

show whether and if so on what basis an exemption from the operation of the provisions the Act could be granted to any class of persons, and in respect of any excisable icles or with reference to any specified area or any specified period or occasion. it further remarkable that the section permits exemption in the case of a single person well. The section, therefore, seems to us to be clearly of the character which would ice unregulated and unbridled power in the hands of the Government by which it would open to it to exempt any person whatsoever from the operation of the Act as itradistinguished from any other person without any rhyme or reason."[1]

4. Expression "Throughout the territory to which this Act extends"-used in this :tion 71(2) rendered useless—This expression was inserted in 1957 Thereafter the t was made applicable to "Abu Area" w.e.f.1.9.78 and is now applicable to whole of : State of Rajasthan. So this expression is of no use hence forth

5. Classification of Exemptions—[1] Section 71(2) contemplates four classes of :mptions, viz.—

1. Exemption as to quantum of Liquor.
2. Exemption as to class or category of person
3. Exemption as to specific area.
4. Exemption as to the specified time.

The persons holding permits can stock the specified quantum of Liquor Consumers y be granted permit to possess two bottles. The permit holder can have that much intum of Liquor as is specified in the permit. Possession beyond the prescribed limit offence

There are certain class of persons who are exempted and their exemption have n held valid. Personnels of armed forces and the Foreigner as tourist are such persons. us Army canteens and tourist hotels are provided exemption for that purpose

Restriction on renewal of licenses- Not violative of Articles 14 & 19 of the nstitution—

During prohibition in Udaipur area under Raj. Act No 17 of 1969 now repealed ewal of licenses for sale of foreign and Indian liquor was restricted to three star hotels l above (where foreign tourists visit and often stay). The Government's action refusing ewal of licenses to other hotels including the petitioner is held not arbitrary, capricious liscriminatory. Refusal of such licenses does not infringe Art. 14 & 19 of the constitution. s Classification is quite reasonable.[2]

6. Important Notifications relating to Exemption [under S. 71(2)]

(a) All permissions, exemptions and conditions of Princely States cancelled—

[Notification No. F. 4(1) dated 18th July, 1952]

SR.51:- In exercise of the powers conferred by sub-section (2) of section 71 of Rajasthan Excise Act, 1950, read with Section 21 of the General Clauses Act, 1897, ie Central legislature, the Government of Rajasthan is pleased to order that all permissions, mptions and concessions granted in respect of manufacture or distribution of liquor ther excisable articles or in respect of any distillery, brewery, pot-still or ware-house er the laws of the former Jodhpur and Bikaner States and other covenanting States nder any rule made thereunder, shall be cancelled with immediate effect

[Published in Raj. Gaz-Part I, dated 26.7.1952, Page 396]

Rao Manohar Singh v. State of Raj AIR 1954 Raj. 85(93); 1955 RLW 98; ILR (1954) 4 Raj 113 (FB).

Dalchand v. State of Rajasthan, AIR 1981 Raj. 180.

(b) Exemption from Excise Duty to Various Institutions

[Notification No. F 1(2) dated 18th September, 1958]

S.R.52- In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act (No II of 1950) and in supersession of Government Notification No. F. 1 (ii) SR/50, dated the 14th March, 1951, the Government of Rajasthan is pleased to exempt from payment of excise duty all rectified spirit (Ethyl alcohol) and absolute alcohol supplied for bona fide use thereof to all recognised research and educational institutions and all Government and other recognised charitable hospitals and dispensaries throughout the territories to which the said Act extends.

Permits for duty free rectified spirit and absolute alcohol shall be issued by the District Excise Officer concerned with the annual limits fixed by the Excise Commissioner, on receipt of requisitions for the same duly signed by a Principal, Head Master, District Medical and Health Officer or any other person of similar status as the case may be.

[Published in Raj.. Gaz. Part IV C dated 9th Oct., 1958 and thereafter amended by Notifications dated 4th July 1959 and 15th March 1969.]

(c) Exemption to Military Installations

[Notification No. F. 1(3) dated 21st january 1953]

SR. 50- In exercise of the powers conferred y Section 71(2) of the Rajasthan Excise Act, 1950, (Act No. II of 1950), the Government of rajasthan is pleased to exempt the Military installations in India from operation of the provision of the aforesaid Act relating to export, import, transport and possession of the methylated spirit and alcohol if required by them for bona fide industrial purpose.

[Published in Raj. Gaz. Part I, dated 28th March 1953]

(d) Excise duty exempted on supply to Excise Department

[Notification S.O.119 dated 30.3.1972]

S.O. 119- In exercise of the powers conferred by sub-section(2) of Section 71 of the Rajasthan Excise Act, 1950 (Raj. Act II of 1950), the State Government being of the opinion that reasonable grounds exist for doing so exempt from payments of Excise duty all varieties of country liquor supply to Excise Department of the State Government.

This notification shall come into force on 1-4-1972.

[Published in Raj. Gaz. E-O, Part IV-C(II), dated 30-3-1972, Page 320.]

(e) Additional Renewal Fee exempted-

[Notification No. F. 4(27) FD/Ex/79, dated August 9, 1979]

G.S.R. 87- In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government being of opinion that reasonable grounds exist for doing so, exempt the licensees of Indian made Foreign liquor shops of Rajasthan who submitted their application for renewal of their licence for 1979-80 after the prescribed period from payment of additional fee as provided in rule 72-A of the Rajasthan Excise Rules, 1956

[Pub. in Raj. Gaz. 4 (Ga) (1), dt. 6-9-79, page 305].

(f) Duty free Import of Sacramental Wine

Notification

[No. F 1(4) FD/Ex/84 S.O. 116, November 7, 1985]

In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government of being of the opinion

'easonable ground exist for doing so, hereby permits, the duty free import of sacramental as defined in the Rajasthan Sacramental Wine Rules, 1970 from outside Rajasthan ıe condition that such import from outside Rajasthan shall be against permits to sued by the district Excise Officer concerned with the approval of the Excise Commissioner shall not exceed 750 Bulk litres per decease per year.

[Published in Raj. Gaz-EO-4 (Ga) I dated 9-11-85, Page 254]

(g) Exemption from R. 72 A- S.71(2)—

In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan se Act. 1950 (Raj. Act No .II of 1950), the State Government being of opinion that ɔnable grounds exist for doing so, exempt the Ganganagar Sugar Mills from operation ule 72-A of the Rajasthan EXcise Rules, 1956 for payment of additional fee only shops run in the Financial year 1982-83.

[No. F 2(9) FD/Ex/81, S.O. 11, dated 27.4.1988, pub. in Raj. Gaz, EO, 4(Ga) (II) dated -88, Page 30]

❑ Latest Notifications

Please refer to page 653 and from S. No. [24] to ownwords.

7. Exemptions provided by Special Rules—Summary Note on Rajasthan Spirituous ɔarations Import, Export, Transport, Possession & Sale Rules, 1989

These rules came into force w.e.f. 6-11-89 which deals with the above mentioned sactions relating to "Spirituous Preparations".

"Spirituous Preparations", means such preparations declared by the Government e "liquor" from time to time. The Government of Rajasthan declared all medicinal toilet preparations and other spirituous preparations containing more than 20 proof hol to be liquor for the purpose of the Act and the Rules vide Notifications S.O. lated 8.5.1990.

The Government has approved the list of 26 intoxicating preparations to be for purposes of R. 26, incapable of being misused for potable purposes and therefore npted from the operation of these rules vide S.O.31 dated 23-1-1990.

Rule 5 provides for the following spirituous preparations which may be possessed ıout licence by various persons and registered practitioners of various pathies within ;cribed limits without a licence or permit-

(1) Allopathies Preparations
(2) Homeopathic Preparations
(3) Ayurvedic Preparations
(4) Toilet Preparations
(5) Essences and
(6) All kind of Intoxicating Spirituous Preparations.

Rule 6 to 9 deal with issuing permit or pass for import, export and transport of ;e preparations.

Sale of these preparations are to be regulated by licences, permits or passes issued the authorities in pursuance of Rules 10 to 23 of these Rules.

Infringement of the provision of these rules would be an offence under S. 54 of the Rajasthan Excise Act, 1950 as provided by Rule 24 (ii)

The District Excise Officer may also revoke the licence or permit on such infringement, but in cases of minor nature the District Excise officer may restore such licence or permit on payment of an amount not exceeding Rs. 500/-

Duty (Rule 25)—Where the duty is not leviable under the Medicinal & Toilet Preparations (Excise Duties) Act, 1955, the provisions of the Rajasthan Excise Act, 1950 shall apply and the duty may be imposed accordingly.

Exemption (Rule 26)—The Excise Commissioner will issue a list of preparations incapable of being misused for potable purposes and these rules shall not apply to those preparations. Vide S.O. 31 dated 23.1.1990 a list of 26 such intoxicating preparations has been exempted from operation of these rules.

[Please refer to the list and Notifications along with the text of Rules in Part II of the Book].

Forms—The following forms have been prescribed and appended to these Rules-

1. Application for issue of I.S.P. licence for the sale of Ayurvedic Drugs.
2. Form of Application for the grant of licence for the sale of Intoxi–cating spirituous Preparations.
3. Licence for the sale of Intoxicating spirituous preparations (Form I.S.P.I)
4. Permit for the possession of Intoxicating spirituous preparations. (Form I.S.P. 2A)
5. Form of Permit for import/transport of Intoxicating spirituous Preparations (Form I.S.P.3)

8. Legislative Control— [sub-sec. (3)]

Whenever the State Government issues notification under sub-section (1) or (2), it shall be laid before the House of State Legislature in the next session and it can be rescinded or modified by the House of the Legislature.

Thus legislative control on power to exempt has been incorporated under sub-section (3) of S. 71 of the Act so as to check any arbitrary and unbridled action by the State Government. *According to Lord Halsbury-*

"Exemptions from tax increases burden on the other members of the Community and should, therefore, be depricated."

9. Principle of Promissory Estopel—Applicability-Notification is bad--When an exemption has been issued under rule 8 of the Central Excise Rules such exercise of powers cannot be equated with the legislative function and the promise held by the Central Government to grant exemption in given conditions. Government is bound by it and the obligation cannot be released on the anvil of the argument that such exemption is in legislative exercise of its function.

The Notification being No. 159/85 GE is bad and in violation of the principles of promissory Estoppel and same deserves to be quashed (Writ allowed).[2]

1. Lord Halsbury in I.R.C. v Forest (1890) 15 A.C. 334.
2. M/s J.K. Industries Ltd. v. Union of India 1986(2) WLN 612 1986 RLR 831.

72. Publication of rules and notifications—All rules made and notifications ssued under this Act shall be published in the [Official Gazette] and shall hereupon have effect as if enacted in this Act from the date of such publication or from such other date as may be specified in that behalf.

NOTE

[Please refer to the Commentary of sections 41 & 42- Note (6) and commentary of section 4- Note (3) for comments.]

[1][**73. Bar of certain suits**—No suit, prosecution or other legal proceedings, shall lie against the State Government or against any officer or person for any thing in good faith done or intended to be done in pursuance of this Act.]

COMMENTARY
SYNOPSIS

Protection against suits etc
Meaning of "Good faith."
Writ petitions not barred
Civil suits as remedy
(a) Contract of sale of liquor suit when decreed.
(b) Refund of security deposit.
5 Bar of Jurisdiction of Civil Courts (CS 9-B amended)

1. Protection against suits etc.

Section 73 provides a legal bar to any suit, proceeding against-

(1) the State Government or

(2) any officer, or

(3) any person.

2. Meaning of "Good faith"

The term "good faith" has been defined in negative form under S. 52 of Indian Penal Code as follows:

"Nothing is said to be done or believed to be done in "good faith", which is done or believed to be done"without due care and attention."

But this term has been defined in positive form under S. 3(22) of the General Clauses Act and S. 32(32) of the Rajasthan General Clauses Act, 1955 as follows-

"A thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not".

Thus the combined denotation of these definitions concludes two elements in the term 'Good Faith'.

viz–(a) due care and attention i.e. not negligently but cautiously, and
(b) honestly i.e. Fairly, fair from any fraud, faithfully.

Thus any act done or intended to be done must confirm to the above mentioned elements of good faith so as to avail the protection of bar under this section.

. Substituted by section 15 of Rajasthan Act No. 28 of 1961, published in the Rajasthan Gazette, Extraordinary, Part-VI-A, dated 21-10-1961.

3. Writ-petitions when not barred–

Section 78 refers to "other legal proceedings", but generally a writ-petition under Article 226/227 of the Constitution is not barred being an extra-ordinary remedy.

[Please refer to commentary of "Preamble"-Note (16) and Note (11) of the commentary of S. 4 of the Act for details].

4. Civil suits, as remedy–

In appropriate cases, civil suits based on law of contract and irregularities committed in applying this Act are being entertained, as pleas of 'bonafide" fails in such suits.

(a) Contract of Sale of Liquor-Suit when decreed—Short supply by Government Ware House-where liquor was not available in the ware house, held the suit of plaintiff deserves to be decreed when the State was responsible for short supply of liquor.[1]

Where the liquor was not supplied inspite of payment of full amount of price, held that the suit is liable to be decreed.[2]

(b) Refund of Security Deposit—When demand of licensee could not be met out, he is entitled to refund of deposit, but where the interest was not claimed in the notice under S. 80 CPC, held that plaintiff is not entitled to interest on amount of deposit.[3]

● **5. Bar of Jurisdiction of Civil Courts [Section 9-B]—New Provision (as amended in 1998)**

Section 9-B provides that "no civil court shall have jurisdiction to entertain **any suit or proceeding** to set aside or modify (a) any original order passed by an officer competent to do so under the provisions of the Act, or (b) any order passed under or referred in Section 9-A" (i.e., appeal or Revisions).

Thus Section 9-B protects certain orders made by the officers of State from judicial scrutiny, while section 73 bars certain suit, prosecution or other legal proceedings and its officers. Both these Sections are different and should not be confused for any thing done or intended to be done in pursuance of this Act in good faith

Thus any action taken or intended to be taken under the Act has been protected from legal proceedings etc, but it must be in good faith which is to be pleaded and established, when protection under this section is claimed

74. Powers exercisable from time to time—Any power conferred by this Act on the Excise Commissioner may be exercised from time to time as occasion requires.

Commentary

Section 74 deals with the time of exercise of powers conferred by this Act on the Excise Commissioner. Very wide powers have been given by the Act to the Excise Commissioner who is Chief Excise Authority in law and Controlling Authority having administrative powers in the Excise Department. All the powers so conferred may not be possible to be exercised at once, but these powers are to be used as per policy decisions of the State Government and are to be exercised from time to time whenever such occasion requires to do so. This relaxation has been given in view of th effect that no body can

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1. Mangi Bai v. State 1986 WLN (UC) 183
2. M/S Ajaib Singh & Co. V. State 1986 WLN (UC) 66
3. Dhanraj v. State 1986 WLN (UC) 392

seek any remedy by writ of mandamus asking to exercise certain powers for certain purposes mentioned in the Act, but not implemented due to policy of State Government. This section is like a protective umbrella for omission of use of any power by the Excise Commissioner.

Exercise of Power-All incidental powers necessarily included by implication–Framing of Rules—

By framing of the said rules the Government has not contravened any provisions of the Act, including Section 42. The State Government has power under S. 41(2)(d) to frame rules regarding permit fee also while framing rules for regulating the import, export, transport or possession of any excisable article. This clause (d) is of very wide import.

Held, grant of jurisdiction implies the grant of all powers necessary for its exercise. When statute confers powers in general terms, all powers incidental and necessary to make such law effective are included by implication.[1]

[2][75. X X X]

[3][SCHEDULE I deleted]

[4][SCHEDULE II]

Bond for abstaining from the commission of offences under the Rajasthan Excise Act. 1950.

[Section 66-A]

Whereas I (name)..... S/o. ..... caste ..... inhabitant of (place) ..... district ..... have been upon called upon to execute a bond to abstain from the commission of any offence under the Rajasthan Excise Act. 1950 for the term of (state the period).

I hereby bind myself not to commit any such offence during the said term and in case of my making default therein I hereby bind myself to forfeit to the State Government for the sum of Rs .....

Dated this ..... day of..... 20..... (Signatures)

(Where a bond with surety or sureties is to be executed. add)-

I/We do hereby declare my self/ourselves surety/sureties for the above named ..... that he will abstain from commission of any offence under the Rajasthan Excise Act, 1950, during the aforesaid term. and in case of his making any default therein. I/We bind myself/ourselves jointly and severally to forfeit to the State Government the sum of rupees.

Dated this..... .....day of 20.....

1. M/s Pesticides India v State of Raj. 1992(3) WLC 582 1994 (1) WLN 239
2. Omitted by S 18 of Raj Act No 38 of 1957.
3. Deleted vide section 11 of Rajasthan Act No. 4 of 1967,published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 24-7-1967.
4. Inserted by section 17 of Rajasthan Act No. 28 of 1961. published in the Rajasthan Gazette Part IV-A. Extraordinary, dated 21-10-61.

APPENDIX I

THE RAJASTHAN EXCISE (AMENDING AND EXTENDING) ACT, 1957[1]

(Act No.38 of 1957)

An Act further to amend the Rajasthan Excise Act, 1950 and to extend the provisions thereof to the Ajmer and Sunel areas.

WHEREAS it is expedient further to amend the Rajasthan Excise Act. 1950 (Raj.Act II of 1950) for the purpose of extending its provisions to the Ajmer and Sunnel area of the new State of Rajasthan as formed by section 10 of the State Reorganization Act. 1956 (Central Act 37 of 1956) and for other purposes hereinafter appearing.

Be it enacted by the Rajasthan State Legislature in the Eighth year of the Republic of India as follows:-

1. Short title and commencement.—(1) This Act may be called the Rajasthan Excise (Amending and Extending) Act.1957

(2) It shall come into force on such date[2] as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the subject or context otherwise requires-

(i) "Abu area" means the territory comprised in the Abu Road taluka of Banaskantha District in the State of Bombay as it existed immediately before the first day of November.1956;

(ii) "Ajmer area" means the territory of the State of Ajmer as it existed immediately before the first day of November.1956;

(iii) "pre-reorganisation" used with reference to the State of Rajasthan means the State of Rajasthan as it existed in pursuance of the convent or under the Constitution immediately before the first day of November.1956;

(iv) "State" or "State of Rajasthan" means the new State of Rajasthan as formed by section 10 of the State Reorganistion Act. 1956 (Central Act 37 of 1956). and

(v) "Sunel area" means the territory comprised in the Sunnel tappa of Bhanpura Tahsil of Mandsaur District in the State of Madhya Bharat as it existed immediately before the first day of November.1956.

3. Extension of Rajasthan Act II of 1950.—On and from the date. this Act comes into force, the Rajasthan Excise Act.1950 (Raj.Act II of 1950), hereinafter reffered to as the principal Act, shall be amended in the manner indicated in sections 4 to 18 of this

1. First Published in Rajasthan Rajpatra part IV-A extraordinary dated 5-12-1957
2. Came into force with effect from 1-2-1958 Noti. No. F. 1(78) E & T 56 dated 21-2-1958 published in Raj. Gaz. Part IV-A. dt. 30-1-1958.

Act and shall, as so amended extends to the whole of the State of Rajasthan except the Abu area.

[x x x][1]

19. Applicaton of rules etc.under Rajasthan Act II of 1950—On and from the date this Act comes into force, the rules, regulations, orders and notifications made and issued under the principal Act by a competent authority in force at the commencement of this Act shall subject to the modifications specified in section 4 of this Act, extend and apply to the whole of the State of Rajasthan except the Abu area.

20. Repeal and supersession—On and from the date this Act comes into force.-

(a) the enactments specified in the Schedule together with all laws amending the said enactments shall stand repealed to the extent specified in column 3 thereof, and

(b) the rules, regulations, orders and notifications made and issued under the enactments so repealed shall stand superseded.

21. Interpretation—The provisions of the Rajasthan General Clauses Act, 1955 (Rajasthan Act 8 of 1955) shall as far as may be, apply mutatis mutandis to this Act and to the principal Act.

THE SCHEDULE

(see section 20)

List of enactments Repealed

1	The Excise Regulation, 1915 (Central Regulation I of 1915)	In so far as it applies to the Ajmer area
2	The Madhya Bharat Excise Act Samvat 2009 (Madhya Bharat Act 14 of 1952).	In so far as it applied to the Sunnel area.

Amendment done by sections 4 to sections 18 have been incorporated in the Act

APPENDIX II

[1][THE RAJASTHAN EXCISE (AMENDING AND EXTENDING) ACT, 1978

(Raj.Act No.15 of 1978)

[Received the assent of the President on the 11th day of November,1978.]

An Act further to amend to Rajasthan Excise Act,1950

Be it enacted by the Rajasthan State Legislature in the Twenty-ninth Year of the Republic of India as follows-

1. Short title and commencement. – (1) This Act may be called the Rajasthan Excise (Amending and Extending) Act,1978.

(2) Except section 4, which shall come into force at once, the other provisions of this Act, shall be deemed to have come into force on the 1st day of September, 1978.

[2][Statement of Objects and Reasons

Consequent upon the re-organisation of States, the Abu area was merged in the State in the State of Rajasthan but the Bombay Prohibition Act, 1949 of the erstwhile State of Bombay continued to be in operation in that area. As such the provisions of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) could not be made applicable to the said area.

With a view to obtain uniformity in the application of laws in all areas of the State, it was considered necessary to extend the Rajasthan Excise Atc, 1950 to that area.

Since the Rajasthan Legislative Assembly was not in session and the Governor was satisfied that circumstances existed which rendered it necessary for him to take immediate action, he made and promulgated the Rajasthan Excise (Amending and Extending) Ordinance, 1978, on the 1st day of September,1978.

The bill seeks to replace the said ordinance.]

2. Amendment of Section 1,Rajasthan Act II of 1950. —In sub section (2) of section 1 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) hereinafter reffered to as the principal Act, the words "expect the Abu area" shall be omitted.

3. Commencement of Rajasthan Act II of 1950.—The principal Act as Amended by section 2 of the Rajasthan Excise (Amending and Extending) Ordinance,1978 (Rajasthan Ordinance No.14 of 1978), shall be deemed to have come into force in the Abu area from the date of the commencement of the said Ordinance

4. Repeal and Savings.—(1) The Rajasthan Excise (Amending and Extending) Ordinance (No.14 of 1978) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance shall be deemed to have been done or taken under this Act

1 Noti No. F 2(38) vidh1/78, dt 13.11.1978. Pub in Raj Gaz. Ex. ordi. Pt Iv-A, dt 13-11-1978

2. Statement of objects and Reasons pub. in Raj. Gaz. Ex. ordi. Pt III-A dt 5.10.1978

[APPENDIX III]

THE RAJASTHAN EXCISE AND TAXATION OFFICERS (CHANGE IN DESIGNATIONS) ACT, 1964.

(Act No.30 of 1964)

(Received the assent of the Governor on the 21st day of Nomvember, 1964).

An Act to amend certain enactment for the purpose of changeing the designations of certain officers of the Exice and Taxation Department bifurcate into Commercial Taxes Department and Excise Department.

Be it enacted by the Raj. State Legislature in the Fifteenth Year of the Republic of India as follows:-

1. Short title—This Act may be called the Raj. Excise and Taxation Officers (Change in Designation) Act,1964.

2. Definitions—In this Act, unless the context otherwise requires

(a) "appointed day" means the first day of July,1964

(b) "taxation officers" means officers specified in column No.2 of the Table given in section 4; and

(c) "instrument" include rules, notification and order

3. Amendment of certain enactments.—The enactments specified in the Schedule shall, as from the appointed day, be deemed to have been amended to the extent and in the manner specified in the fourth column thereof.

4. Construction of reference to Taxation Officers in enactments or instruments.—Any reference, by whatever from of words, to any of the officers specified in column No.2 of the Table given herender, in any law for the time being in force, or in any instrument or other document, except in any instrument or document made or executed under the Rajasthan Excise Act,1950 (Raj.Act 2 of 1950), shall as from the appointed day, be construed as a reference to the officers specified against each in column No.3 thereof.

TABLE

S. No.	Desigantions which have been changed	New designations Taxes
1	2	3
1.	Commissioner, Excise and Taxation, Rajasthan.	Commissioner, Commercial Taxes Rajasthan
2.	Additional Commisioner (Taxation), Excise and Taxation, Rajasthan	Additional Commissioner, Commercial Taxes, Rajasthan
3.	(i) Deputy Commissioner,Excise and Taxation (Administration)	Deputy Commissioner, Commercial Taxes (Administration).
	(ii) Deputy Commissioner (Administration)	
	(iii) Deputy Commissioner (Sales Tax)	
	(iv) Deputy Commissioner (Inspection).	
4.	(i) Deputy Commissioner, Excise and Taxation (Apeals).	Deputy Commissioner, Commercial Taxes (Appeals)
	(ii) Deputy Commissioner Sales Tax (Appeals).	
	(iii) Deputy Commissioner (Appeals).	
5.	Sales Tax Officers	Commercial Taxes Officers
6.	Inspector,Sales Tax Department	Inspector, Commercial Taxes Department.

1. Came into force with effect from 1-2-1958 Notfn No. F. 1(78) E & T 56 dated 21-2-1958, published in Raj. Gaz. Part IV-A, dt. 30-1-1958
(First published in the Raj. Gaz. Part IV-A, Ext. dated 24-11-1964)

5. Reference to Assistant Excise Commissioner in instruments and documents—Any reference to Assistant Excise Commissioner in any instrument or document executed or made under or with reference to the Raj.Excise Act,1950, shall, as from the appointed day, he construed as a reference to the District Excise Officer

6. Savings—Notwithstanding anything contained in sections 3,4 and 5, the change made by this Act in the designations of taxation officers or the Assistant Excise Commissioner shall not affect the previous use of old designation by any such officer or render invalid anything done, or any action taken, by him previously to the commencement of this Act merely on the ground that the changed designation as provided in this Act was not used after the appointed day.

The Schedule

[Not Printed as in corporated in the principal Act]

APPENDIX IV

THE RAJASTHAN TAX ON LUXURIES (TOBACCO AND ITS PRODUCTS) ACT, 1994

1. Short title, extent and commencement.—(1) This Act may be the Rajasthan Tax on Luxuries (Tobacco and its Products) Act,1994.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the subject or context other requires-

(a) "business" means the activity of supplying tobacco or its product by way of sale or otherwise, whether or not such activity is cannot with a motive to make gain or profit and whether not any again profit accrues from such activity;

(b) "luxuries" means tobacco and its products;

(c) "receipt" in relations to a tobacconist, means the amount of consideration received or receivable by him for supply of tabacco its products by way of sale or otherwise including any sum for anything done by him in respect of tobacco or its product sold at the time of or before the delivery thereof and the price of primary or secondary packing;

(d) "registered tobacconist" means a tobacconist registered provisions of this Act.

(e) "rules" means the rules made under this Act.

(f) "State" means the State of Rajasthan'

(g) "tax" means the tax levied on the luxuries under this Act;

(h) "tobacco" means unmanufactured and manufactured tobacco described in the Notes and in the table in Chapter 24 of the Excise Central Tariff Act,1985.

Explanation.- For the purposes of this clause.

(i) unmanufactured tobacco means unmanufactured tobacco brand name;

(ii) manufactured tobacco does not include Bidis;

(i) "tobacconist" means.-

(a) a manufacturer who supplies tobacco whether by way of otherwise, and includes any person who for the purposes ness gets the manufacturing done from any other person or not on job work basis; but does not include any person manufactures tobacco only on job work basis;

(b) any person who for the purposes of the business brings or to be brought tabocco in the State or to whom any tobacco despatched from any place outside the State and who such tobacco whether by way of sale or otherwise;

(c) any person who supplies tobacco from a place within the any place outside the State, whether by way of sale or otherwise; and

(d) any person who does not buy or otherwise obtain unmanufactured tobacco under a brand name but supplies whether by way of sale or otherwise such unmanufactured tobacco in a sealed container under a brand name.

Explanation—For the removal of doubts, it is hereby declared that—

(i) an agriculturist, who exclusively supplies unmanufactured tobacco grown on land cultivated by him personally, whether or not in a sealed container but not under a brand name;

(ii) a person, who exclusively supplies unmanufactured tobacco whether or not in a sealed container but not under a brand name;

(iii) a person, not being a person referred to in sub-clause (c), who exclusively obtains tobacco whether by way of purchase or otherwise from a registered tobacconist;

Shall not be deemed to be a tobacconist for the purpose of this clause; and

(j) "turnover of receipt" means the aggregate of the amounts of receipts of a tobacconist during a year in respect of supply of tobacco whether such supply is by way of sale or otherwise.

(2) Words and expressions used but not defined in this Act shall have the meaning assigned to them under the Rajasthan Sales Tax Act, 1954 (Act No. 29 of 1954).

3. Incidence of tax—(1) On or after commencement of this Act (hereinafter referred to as the "commencement date") every tobacconist whose turnover of receipts made:—

(i) during the year ending on 31st March, 1994; or

(ii) during any year commencing on Ist April subsequent to the year mentioned in sub-clause (i),

exceeds rupees fifty thousand shall be liable to get such registration as may be prescribed under this Act, and be liable to pay tax on turnover receipts

(2) Every tobacconist who is registered under this Act shall continue to be liable to pay tax until his registration is duly cancelled.

4. Levy of luxury tax on a tobacconist—(1) Subject to the provisions of this Act and the rules made thereunder, there shall be levied on the turnover of receipts of a tobacconist a tax at such rate, not exceeding fifteen percent, as may be notified by the State Government in the Official Gazette.

(2) Notwithstanding anything contained in sub-section (1), where a tobacconist proves to the satisfaction of the assessing authority that tax on the tobacco or its products sullied by him by way of sale or otherwise has already been paid by any other person and produces a proof of such payment in support thereof he shall not be liable to pay tax under the Act.

5. Exemption from tax—Notwithstanding anything contained in this Act, where the State Government is of the opinion that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt a tobacconist fully or partially, whether prospectively or retrospectively from tax payable by him under this Act.

6. Offences and penalties—All provisions relating to offences, penalties and interest including the provisions of prosecution and compounding of offences, of the Rajasthan Sales Tax Act, 1954, shall mutatis mutandis apply to all acts or omissions of a tobacconist and all matters arising under this Act.

7. Applicability of the provisions of the Rajasthan Sales Tax Act, 1954 and the rules made thereunder—Subject to the provisions of this Act and the rules made thereunder, the authorities empowered to assess, reassess, collect and enforce payment of tax under Rajasthan Sales Tax Act, 1954 shall assess, reassess, collect and enforce payment of tax or other sum including penalty or interest payable by a tobacconist under this Act as if the tax penalty or interest were payble under the said Act, and for this purpose, they may exercise all or any of the powers assigned to them under the said Act and all the provisions under the said Act and the rules made thereunder for the time being in force including the provisions relating to registration, returns, advance payment of tax, provisional assessments, assessments, recovery of tax, penalties, interest, prosecution, compounding of offences, appeals, revision, and other incidental and miscellaneous matters shall *mutatis mutandis* apply.

8. Bar to certain proceedings.—No, civil court or any other authority shall stay any proceedings purported to be initiated or already initiated under this Act, and no assessment made and no order passed by any officer or any authority under the Act, shall be called in question, except as provided in this Act.

9. Power to make rules— (1) The Government may, be notification in the Official Gazette, make rules for carrying out the Official Gazette, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or two successive sessions and if before the expiry of the session in which they are so laid or in the session immediately following, the House of the State Legislature makes any modification in any of such rules so resolves that any such rules should not be made, such rules shall have effect thereafter only in such modified form or be of no effect, as the case may be, so however, that any such modification or ammulment shall be without prejudice to the validity of anything previously done thereunder.

[Pub. in Raj. Gaz. Exty, pt. 4(A), dated 15-4-94, p. 3(5)] = 1994 RSCS/Part II/Head Note No. 167/Page Nos. 193-196.

APPENDIX V

THE RAJASTHAN PROHIBITION OF SMOKING AND NON-SMOKERS' HEALTH PROTECTION ACT, 2000

(Act. No. 14 of 2000)

(Received the assent of the Governor on the 11th day of May, 2000)

An

Act

to provide for prohibition of smoking in places of public work or use and in public service vehicles in the territory of the State of Rajasthan and to make provision for other matters connected therewith.

Be it enacted by the Rajasthan State Legislature in the Fiftieth Year of the Republic of India, as follows :-

1. Short title, extent and commencement—(1) This Act may be called the Rajasthan Prohibition of Smoking and Non-Smokers' Health Protection Act, 1999

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

NOTIFICATIONS

(1) S.O. 136—In exercise of the powers conferred by section 3 of the Rajasthan Prohibition of Smoking and Non-Smokers Health Protection Act, 1999 (Act No. 14 of 2000), the State Government hereby declare the following places as "places of public work or use" and to be "Non-Smoking Places" for the purpose of the said Act, namely-

1. All places of public work or use as defined in clause (c) of section 2 of the Rajasthan Prohibition of Smoking and Non-Smokers' Health Protection Act, 1999 (Act, No. 14 of 2000) and Banquet Halls, Monuments, Cinema Halls and Stadia excluding open area.

The notification shall come into force from 1st August, 2000.

[No. F1(29) M&H/Gr. 3/96 dated 17-7-2000 Pub. in Raj. Gaz. Part IV(G) -EO- dated 19-7-2000]

(2) S.O. 137—In exercise of the powers conferred by sub-section 3 of section 1 of the Rajasthan Prohibition of Smoking and Non-Smokers' Health Protection Act, 1999 (Act. No. 14 of 2000), the State Government hereby appoints the 1st Day of August, 2000 as the date on which the said Act shall come into force.

[No. F1(29) M&H/Gr. 3/96 dated 17-7-2000 Pub. in Raj. Gaz. -EO- Part IV(G) dated 19-7-2000]

2. Definitions—In this Act, unless the context otherwise requires, -

(a) "advertisement" means and includes any Notice, Circular, Wall Paper, Pamphlet display on hoardings, or any visible representation made by means of any light, sound, smoke, gas or any other means which has the effect of promoting smoking and the expression 'advertise' shall be construed accordingly,

(b) "authorised officer" means a person authorised under section 4,

(c) "place of public work or use" means a place declared as such under section 3 and includes auditoria, hospital buildings, health institutions, amusement centres, restaurants, public offices, court buildings, educational institutions, libraries and the like which are visited by general public but does not include any open place,

(d) "public service vehicle" means a vehicle as defined under clause (35) of section 2 of the Motor Vehicles Act, 1988 (Central Act No. 59 of 1988),

(e) "rule" means the rule made under this Act, and

(f) "Smoking" means smoking of tobacco in any form whether in the form of cigarette, cigar, beedis or otherwise with the aid of a pipe, wrapper or any other instruments.

3. Declaration of no-smoking place of public work or use—As soon as may be fter the commencement of this Act and thereafter from time to time, the State Government ıay by notification in the Official Gazette, declare any place of public work or use in the tate of Rajasthan to be a no-smoking place for the purpose of this Act.

4. Power of the State Government to authorise officers to act under this Act.— 1) The State Government may, by notification in the Official Gazette, authorise one or more ersons who shall be competent to act under this Act.

(2) Every person authorised under sub-section (1) shall be deemed to be a public ervant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. 5 of 1860).

5. Prohibition of smoking in places of public work or use. —No Person shall smoke ı any place of public work or use.

6. Prohibition of smoking in public service vehicle.—Without prejudice to the rovisions of Motor Vehicles Act, 1988 (Central Act No 59 of 1988), no person shall smoke ı a public service vehicle.

7. Prohibition of advertisement of cigarettes etc.—Notwithstanding anything ontained in any other law for the time in being force, no person shall advertise in any lace and any public service vehicle which may promote smoking, or the sale of cigarettes ıd beedis etc.

8. Prohibition of sale of cigarettes, beedis etc. to minors.—No person shall sell garettes, beedies or any other such smoking substance to any person who is below the ge of eighteen years.

9. Prohibition or storage, sale and distribution of cigarettes etc. in the vicinity of educational institutions.—No person shall himself or by any person on his behalf, store, sell or distribute cigarettes or beedis or any other such smoking substance within an area of one hundred metres around any college, school or other educational institution.

10. Display and exhibition of board.—The owner or manager or incharge of affairs of every place of public work or use shall display and exhibit a board at a conspicuous place or places in and outside the premises visited or used by general public prominently stating that the place is a "No Smoking Zone" and that "Smoking is an Offence".

11. Penalties.—Any person, who contravenes the provisions of.—

(i) sections 5,6 or 10 shall be punishable with fine which may extent to one hundred rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of two hundred rupees but which may extent to five hundred rupees.

(ii) sections 7,8 or 9 shall be punishable with fine which may extend to five hundred rupees and in case of second or subsequent offence, shall be punishable with imprisonment which may extend to three months or with a minimum fine of five hundred rupees but which may extend to one thousand rupees or with both.

12. Ejection of violators of the provisions of this Act from the place of public work or use.—Any authorised officer or any police officer not below the rank of sub-inspector, may eject any person from the place of public work or use who contravenes the provisions of this Act.

13. Court competent to try offences under this Act and take cognizance of offences. — (1) No court other than the court of a Judicial Magistrate shall take cognizance of and try an offence under this Act.

(2) No court shall take cognizance of any offence under this Act except on a complaint in writing made by an authorised officer with respect to offences under sections 5,6 and 10 and on a report in writing made by a police officer not below the rank of sub-inspector, with respect to the offences under sections, 7,8, and 9.

14. Certain offences to be cognizable and bailable. —Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) offences under sections 7,8, and 9 shall be cognizable and bailable.

15. Offences under this Act to be tried summarily—All offences under this Act shall be tried summarily in the manner provided for summary trial under the Code of Criminal Procedure, 1973 (Central Act No 2 of 1974).

16. Power to delegate—The State Government may by notification in the Official Gazette direct that any power exercisable by it under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified therein.

17. Composition of offences.—The State Government or any person authorised by t by general or special order in this behalf, may either before or after the institution of he proceedings, compound any offences made punishable by or under this Act.

18. Power to make rules.—(1) The State Government may make rules for carrying ut the purposes of this Act.

(2) All rules made under this Act shall be laid, as soon as may be after they are nade, before the House of the State Legislature while it is in session, for a period of not ess than fourteen days, which may be comprised in one session or in two successive essions and if, before the expiry of the session in which they are so laid or of the session nmediately following, the house of the State Legislature makes any modification in any f such rules, or resolves that any such rule should not be made, such rule shall thereafter ave effect only in such modified form or be of no effect, as the case may be, so, however, hat any such modification or annulment shall be without prejudice to the validity of nything previously done thereunder. ❑❑❑

No. F.2(34) Vidhi/2/99 dated 12-5-2000 Published in Raj Gaz. -EO- Part IV A dated 12-5-2000 Page No. 21(6) and come in force from 1-8-2000

PART-II

VARIOUS EXCISE RULES

[For list of various rules, please refer to the contents/ Index on face of the book.]

[1]

THE RAJASTHAN EXCISE RULES, 1956

In exercise of the powers conferred by section 41 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the Government of Rajasthan is pleased to make the following rules and to order, with reference to the proviso to sub-section (3) of the said section, that previous publication of these rules is dispensed with as the Government of Rajasthan considers that the rules should be brought into force at once.

❑ Introductory Note

These Rules of 1956 one the main rules under the Excise Act, which fills up the contents of the Act with procedural provisions. Thus the Act is to be read with these rules alongwith notifications issued thereunder and also the special rules appended herewith.

All these rules make the provisions of the act workable and effective and form a complete code on the Excise Law in Rajasthan.

CHAPTER I

Preliminary

1. Short Title and Commencement—These rules may be called the Rajasthan Excise Rules, 1956 and shall come into force on their publication in the Rajasthan Gazette.[1]

[2]**[2 Definitions**—In these rules, unless the context otherwise requires:-

(a) "the Act" means the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950);

[2]**[(a-1)-"Bonded Warehouse"** means any warehouse or a part of a distillery licensed by the Excise Commissioner as a bonded warehouse for the receipt and storage of liquor or any other accessible article under bond, both bottle and bulk, of Indian manufactures, transported or imported into Rajasthan State, from any place with in Indian Union as

1. Notification No, F.49 (8). S.R.53, dated 21-11-1956, Published in Rajasthan Gazette, Part IV-C dated 31-1-1957- came into force w.e.f. 31.1.1957.
2. Substituted by No. F. 1(7) FD/EX/82 GSR 93, dated 22-1-86, published in Raj Gaz EO-4 (Ga) (I) dated 23-1-86, Page 410.

approved by the Excise Commissioner for its reduction. bottling. transport or export in bond, or on payment of duty with in or outside the State.]

(b) "country liquor" means the substances for the time being declared by the Government as country liquor under sub-section (2) of Section 4;

[1][**(b-1)** 'draught beer' means fresh beer of such specifications as determined by Excise Commissioner from time to time and contained in kgs of prescribed quantity of not less than twenty litre each".]

(c) "Foreign liquor" means substances declared for the time being as foreign liquor under sub-section (2) of Section 4 of the Act.

[1][(c-1] 'heritage liquor' means alcoholic brewerages prepared with such herbs or spices and in the manner approved by Excise Commissioner from time to time.']

[2][The State Government hereby declare 'Heritage Liquor' as defined in clause (C-) of rule 2 of the Rajasthan Excise Rules, 1956, to be Indian made foreign Liquor for the purpose of the said Act.]

(d)"Indian made foreign liquor" means foreign liquor made in India;

[3][**(d-1) " Issued under bond"** means issued under a bond for the subsequent payment of duty];

(e) "Liquor" includes all substance declared by the Government as liquor under sub-section (1) of Section 4;

[4][**(e-1) Deleted**]

[3][**(e-2) "London proof litre"**, means a litre containing liquor of strength of London proof];

(f) " section" means a section of the Act;

(g) Words and expressions defined in the Act; and not defined in these rules have the meaning respectively assigned to them in the Act; and

(h) reference to duty on import shall be deemed to include reference to countervailing duty.

❑ COMMENTARY

1. Definitions in the Rules & Act—In Rajasthan Excise Rules, 1956, ten definitions have been given under rule (2)-(a) the Act, (b) Bonded warehouse, (c) Country liquor, (d) foreign liquor, (e) Indian made Foreign Liquor, (f) Issued on Bond, (g) liquor, (h) London proof liter, (i) Section & (j) Words & expressions.

These definitions are to be read with the definitions given in section 3 of the Act.

Liquor–Meaning—Expression 'liquor' covers not only those alcoholic liquids which are generally used for beverage purposes and produces the effect of intoxication, but also all such liquids containing alcohol.[5]

Inserted vide S.O. 105 dated 9-7-1998- No.F.4 (18) FD/Ex / 98- Pub-in Raj. Gaz- EO-4 (Ga)II-dated 9-7-98 Pages 165 (1) to (4)

Notification No. F. 4 (28) FD/Ex/02-Pt. I dated 1-4-2003 w.e.f. 1-4-2003 Pub. in Raj. Gaz. Part IV (c) dated 1-4-2003.

Inserted vide Raj. Gaz. IV-C, dated 17-5-62.

Deleted by No. F/1 (6) FD Ex 75, dated 18-9-75, Pub in Raj. Gaz, Part IV-C, dated 16-10-1975, P. 530.

State of Bombay v. F N Balsara, AIR 1951 SC 318.]

Intoxication—means condition produced. on brain or nervous system of human being, by excessive use of any liquor or drugs.[1]

2. Principles decided by the Courts—

(Case Law)

(a) Rajasthan Excise Rules, 1956—Rules & Rajasthan Issue & Sale price of Country Liquor Rules, 1964—Refund of deposit allowed & suit was decreed—As bottles were not available in the Warehouse liquor was not issued to plaintiff. evidence of endorsement on challan not rebutted by defendant.[2]

Contract of as of Liquor–Suit when decreed—Short supply by Government Ware House—Where liquor was not available in the ware house. held the suit of plaintiff deserves to be decreed when the state was responsible for short supply of liquor.[3]

Where the liquor was not supplied inspite of payment of full amount of price. held that suit is liable to be decreed[4]

Refund of Security Deposit—When demand of licenses could not met out, he is entitled to refund of deposit. but where the interest was not claimed in the notice under S. 80, CPC held that plaintiff is not entitled to interest on amount of deposit.[5]

(b) Rajasthan Foreign Liquor (Wholesale Trade & Retail Off Licences) Rules, 1982

R. 4 (1) (e) Validity of Auction- Financial Status of bidder- Condition No. 10 to be satisfied- When the appellant could not furnish certificate of financial status as per requirements, held he was rightly not allowed to take part in auction.[6]-& Companies Act-S.11 (2)- Licence granted to 28 persons jointly to file joint tender- Such tender was accepted and was held to be valid. In facts & circumstances of the case. held that provision of the Companies Act is not applicable. A single venture for purpose of filing tender and obtaining licence is not covered. (Appeal dismissed).[7]

(c) Rajasthan Issue & Sale Price of Country Liquor Rules, 1964—Suit for refund of deposit when decreed- When liquor was not issued due to non-availability of bottles in the Warehouse and endorsement on challan revealed this fact which was not rebutted by defendant. Plaintiff's suit was therefore, decreed.[8]

(d) Rajasthan Stock taking and Wastage of Liquor Rules, 1959—R.4(1)&(5) and S. 28—Excess Wastage Duty—held not a tax or duty, but consideration for licence-Demand notice cannot be invalidated on the ground of not mentioning the provision of law under which it was issued.[9]

Levy of Excise duty on Rectified Sprit & TMEL—[Section 9-A, 17.41 42- Excise Rules, 1959- R-5(5) Raj. Stock taking & wastage of liquor Rules. 1959] Wastage during

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1. A.Narayan Nair v. State, AIR 1952 TC 239 : 53 Cr. LJ 1095.
2. M/s Hazari Mal & Co. v. State 1958 WLN (UC) 56.
3. Mangi Bai v. State 1986 WLN(UC) 183,
4. M/s Ajaib Singh & Co. v. State 1986 WLN (UC) 66
5. Dhanraj v. State 1986 WLN (UC) 392.
6. Heeranand v. State 1985 (2) WLN 272; 1985 RLW 382: 1985 RLR 749 (DB)
7. Sushil Kumar & Party v. State 1985 RLW 368 (DB)
8. Hazarimal & Co. v. State 1985 WLN (UC) 56.
9. M/s Sona Distilleries Ltd.v. Excise Commissioner 1984 SLN 489(490): 1984 RLR 773

transit-Contractual Obligation alone is to prevail—Condition No. 33 of the Licence provided for levy of excise duty on wastage of provided for levy of excise duty on wastage of IMFL as per rules. nature of contract being statutory and petitioner having accepted the licence now cannot wriggle out from contractual obligations arising out of the conditions of licence. Held that the state is entitled to realise excise duty on wastage of IMFL during transit in accordance with terms of the contract. In the instant case the Rules of 1959. held not applicable and as such enquiry under R. 5 (5) was out of question. (Special appeal dismissed).[1]

Rajasthan Distillery Rules, 1977

—R.4 and Rajasthan Stock—taking and Wastage of Liquor Rules, 1959- R.4 (1) & (5)—Duty on Excess Wastage not tax or duty. but consideration for licence—Measure thereof- Validity of demand notice-The so called duty on excess wastage as demanded in the instant case, is neither a tax nor a duty of excess imposed under section 28 of the Act. It is strictly speaking, not a fee in the name of a quid pro quo for services rendered, but it is a price or consideration which the Government charges to the licence for parting with the privilege of manufacturing liquor. There is no legal bar to the distiller agreeing to compensate loss of revenue which may be suffered by a State Government as a consequence of such excessive wastage by him in consideration of the privilege of manufacturing liquor granted to him by the State Government The petitioner had agreed in the instant case to compensate the State Government for the loss of revenue which it might have suffered on account of the excessive wastage of rectified spirit by the petitioner. The measure of the loss is the excise duty which the State Government would have earned on the excessively watered rectified spirit if such spirit had been converted into IMFL for consumption by human beings.[2]

CHAPTER II

Import, Export, Transport and Possession of Country Liquor

❑ Introductory Note

"Import, Export & Transport"—have been dealt with in Chapter III of the Act under Ss.11 to 15; and

"Manufacture, Possession & Sale"—have been dealt with in chapter IV of the Act under Ss. 16 to 27.

Please read these sections together with these Rules.

Import

3. Import of Country Liquor—Country liquor made by import into Rajasthan only:-

(a) under the authority and in accordance with the terms of a permission granted by the Excise Commissioner, or

(b) under a bond for the payment of the prescribed import duty. executed by a person to whom the exclusive privilege for the supply of such liquor has been granted under section 24: or

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1. M/s Udaipur Distillery & Co. v. State of Raj 1996 (1) WLC (Raj 385 (DB)
2. M/s Sona Distilleries Ltd. v Excise Commissioner 1984 WLN 489: RLR 773.

(c) as permitted by any notification issued by the Government on the subject and for the time being in force.

4. Import to be in accordance with the rules—All imports of country liquor shall be in accordance with these rules.

5. Import to be subject to the rules of the exporting State—All import of country liquor shall be subject to such rules as may be in force in the State of District from which the liquor is to be obtained.

6. Making of casks—On each cask or other vessel containing country liquor imported into Rajasthan the importer shall cause to be pointed legibly:-

(a) the name of exporting distillery or warehouse.
(b) Serial number of cask or other vessel;
(c) the quantity and strength of the country liquor contained in the cask or other vessel; and
(d) The capacity of the cask or other vessel.

7. Consignment to be accompanied by pass and Accounts—Each consignment of imported country liquor shall be accompanied by a pass and dispatch account in such form as may be prescribed by the Excise Commissioner and the particular noted on cask or other vessel containing the liquor shall tally with the entries in the pass.

8. Verification of consignment on arrival—On arrival of the consignment in the warehouse in Rajasthan the Inspector-in-charge shall prove the liquor and verify the details of the consignor:

Export

9. Export of country liquor—Country liquor may be exported from Rajasthan only-

(a) under the authority and in accordance with the terms of permission granted by the Excise Commissioner concerned; and
(b) by a person who has paid export duty on the country liquor to be exported or, at the discretion of the Excise Commissioner concerned, who has executed a bond for the payment of export duty to the satisfaction of the Commissioners; or
(c) as permitted by any notification issued by the Government on the subject and for the time being in force.

10. Application for permission—(1) When any person desires to export country liquor in bond from Rajasthan, he shall present a written application to the Excise Commissioner containing the following particulars:-

(a) the name of the consignor;
(b) the name of consignee: and
(c) the description. quantity and strength of the country liquor to be exported

(2) Every such application shall also be accompanied by :-

(a) an authority of import. issued by the appropriate excise authority of the State to which the country liquor is to be exported.
(b) the receipt in proof of the payment of export duty. and
(c) a duly executed bond.

11. Application how to be dealt with—(1) On receipt of an application for export of country liquor, the Excise Commissioner shall himself see that the duty has been paid and shall unless there is reason to the contrary issue a pass for export in quadruplicate.

(2) One part of such pass will be given to the applicant and the second part will be sent by post to the officer-in-charge of the bonded warehouse in the importing State, third to accompany the consignment and the fourth be retained for record.

(3) Within a reasonable time to be fixed by the Excise Commissioner who granted the pass and to be specified in the bond or pass, the exporter shall produce before Excise Commissioner his copy of the pass endorsed with a certificate signed by the appropriate excise authority of the importing State the due arrival or otherwise of the country liquor at its destination.

12. Particulars to be marked on cask in which liquor is exported—On each cask or other vessel containing the country liquor for export, the exporter shall cause to be painted legibly:-

(a) the name and mark of the exporting distillery;
(b) the serial number of the cask or other vessel and its capacity;
(c) the nature, quantity and strength of the contents, and their particulars shall tally with entries made in the pass.

13. Extension of time—On a written application being made to the Excise Commissioner establishing sufficient cause for the grant of an extension of time or on the production before him of the certificate from the appropriate Excise Officer of the importing State to the effect that there are good reasons for extending the time it shall be with in the competence of the Excise Commissioner to extend the time specified in the pass or bond for the due arrival of the country liquor at its destination, and such power may be exercised, for sufficient reason from time to time.

14. Discharge or enforcement on bond—(1) In the case of country liquor exported under special bond the Excise Commissioner of the state of export shall discharge the bond on receipt of the pass and certificate provided that non of the condition of the bond has been infringed.

(2) The duty on consignment issued under a general bond shall be written off on receipt of pass and certificate, provided none of the conditions of the bond has been infringed.

(3) if the certificate is not received within the time mentioned in the bond or pass or if on the receipt of the certificate it appears that any of the conditions of the bond has been infringed, the Excise Commissioner, of the exporting State shall take necessary step for the realisation of the penalty from the exporter or his surely under the bond.

Transport

15. Transport of country liquor—(1) The transport of country liquor in bond from one Distillery to another or between distillery and bonded warehouse shall be governed by the rules relating to export of country liquor with necessary modifications.

(2) The transport of country liquor from Distilleries or warehouses or wholesale depots or wholesale and retail shops shall be regulated by rules governing the issue of country liquor from the distillery or warehouse.

(3) The transport of country liquor from wholesale depot and wholesale shops to retail shops shall be governed-by rules relating to sales at such depots and wholesales shops.

(4) The provision of this rule shall be subject to the provisions of the Act.

16. Restrictions on transport—(1) Subject to the provision of sub-rule (2) any person may transport country liquor within Rajasthan in any quantity not exceeding the limit for the time being in force for retail sale of such liquor.

(2) The transport of country spirit to any area in which a higher duty is levied or in respect of which a higher retail place has been fixed for the time being under any contract made by the distiller or manufacture for that area with the Government, is prohibited except under the authority of and in accordance with the conditions of a special permission given by the Deputy Excise Commissioner, having jurisdiction over the area to which the liquor is to be transferred.

Provided that this prohibition shall not extend to country liquor passing through such area when duly protected by a pass.

COMMENTARY

S.54 Cr.P.C. (New) S. 482—Driver of truck carrying liquor with permit -no criminal liability can be saddled on him (Application accepted. proceedings quashed)[1]

S.54 (a). No Exclusive possession of—accused proved when "Badha" was open place where any person can have access without knowledge of accused–Acquittal affirmed.[2]

Ss. 54, 68 and 69. Transportation of liquor—Element of conscious possession necessary- Scope and applicability of S. 68 indicated- Circumstances, when burden of proof on accused, explained.[3]

Possession

17. Possession of country liquor obtained or manufactured unlawfully—The possession without lawful authority of country liquor which has not been lawfully manufactured or obtained lawfully is prohibited

18. Permit for possession beyond limit of retail sale—(1) Any person desirous of obtaining a permit under sub-section (1) of Section 19 for the possession of [4][Indian -made foreign liquor or] country liquor in excess of the limit for retail sale may make an application in writing stating–

(a) The quantity required and the date on which it is to be purchased
(b) The occasion which renders the purchase necessary
(c) The vendor for the whom the purchase is to be made:
(d) The place where the liquor is to be consumed.

(2) The application under sub-rule (1) shall be made to the [5] District Excise Officer] concerned, who may, unless there are reasons to the contrary, grant the permit

1. Guman Singh v. State 1978 WLN (UC) 50 (51)
2. State v. Ram Karan, 1978 WLN (UC) 408 (410).
3. Nathulal v. State. ILR (1976) 26 Raj 996.
4. Ins. vide Raj Gaz. IV-C. dated 29-12-1960
5. Substituted vide Raj. Gaz IV-C (II) dated 16-10-69.

(3) Such permit, if granted shall be prepared in triplicate, the original and the duplicate shall be given to the applicant, who shall present the original before the vendor from whom the liquor is to be purchased. The vendor shall, after compliance, return it to the officer who granted it. The duplicate shall remain with the consignment in its transit form the shop to the place of consumption.

❑ COMMENTARY

Seizure of Illicit bottles (Rules15) A valid permit was not produced at time of seizure- false defence created after seizure by producing a permit issued by Assistant Excise Officer, who was not competent to issue such permit. Held, such permit is not valid in eye of law accused was wrongly acquitted.[1]

[2]**18A. Possession of liquor beyond certain strength**—No person shall keep or have in his possession any country liquor of a strength and variety other than those specified for retail sale by rules made from time to time by the Excise Commissioner under sub-clause (iii) of clause (e) of Section 42 of the Act.

❑ COMMENTARY

Joint possession—Factum of Knowledge of possession—Where large quantity of "Cocaine" along with weighing machine and packing material was recovered from a small house in which two brothers were jointly residing and running a joint business. Held that in such a case it is useless to plead that each of them were not aware of the dealing in cocain.[3]

The articles of illiciting liquor (utencils etc.) were recovered in raid from Kotari of a house occupied by three person. All of them were held guilty.[4]

Permit when not valid—Under the provisions of the Raj. Excise Act and Rules made thereunder the Assistant Excise Officer was not competent to grant any permit, held that such permit was not a vaild permit in the eye of law.[5]

CHAPTER III

Import and Export of Indian-made Foreign Liquor

❑ Introductory Note

"Import, Exports, Transport" have been dealt with in Chapter III of Act under s.1 to 15, and

"Manufacture, Possession & sale have been dealt with in chapter IV of the Act under Ss. 16 to 27.

Please read these sections together with these Rules.

Foreign Liquor & Beer

19. Methods of import—Subject to the provision of the Act Indian-made Foreign Liquor, Foreign Liquor and Beer may be imported in accordance with this Chapter either-

1. State of Raj. v. Taj Mohammed 1982 CrLR (Raj) 408 : 1982 WLN 231
2. Added by No. F. 1 (100) E & T/57 dated 27-6-58, Pub. in Raj. Gaz.-IV-C dated 17-7-58.
3. Emperor v. Kashinath & Others AIR 1930 All. 161 : 31 Cr. L.J. 26.
4. Parmal v. Emperor AIR 1934 All 129 : 35 CrLJ 1395
5. State v. Taj Mohammed 1981 WLN 231 : 1982 CrLR (Raj) 408

[1](1) In bond for payment of duty in Rajasthan, for wholesale vend by manufactures by wholesale vendors.

(2) On payment of duty in Rajasthan, or

(3) On payment of duty in the State of export, at the rates leviable in Rajasthan, to be subsequently transferred to Rajasthan by book transfers.

[2][20-23 - XXX deleted XXX]

Import on pre-payment of Duty in Rajasthan

24. Condition of import—(1) A person holding a licence for the sale of Indian made Foreign Liquor and Foreign Liquor or the Commandant of Regimental units of the Armed Forces of the Union of Indian stationed in Rajasthan may important Indian made Foreign Liquor on pre-payment of import duty in Rajasthan and under a permit issued under the next succeeding rule from a distillery, brewery or warehouse of the exporting State;

[1][Provided that duty paid Rum possessed by any units of the Indian Armed forces may be imported into the State without payment of duty and such import shall not require any permit pass from the State authorities.]

[2][(2) If the person authorised to import Indian Made Foreign Liquor under sub-rule (1), does not import the liquor for which he has deposited either the duty or the permit fee or both, he may be allowed refund by the Excise Commissioner.]

[3]["(3) The Excise Commissoner if he is satisfied that there are sufficient reason for doing so, may allow refund of excise duty paid in respect of IMFL that after having brought into the godowns of Rajasthan State Beverages Crop. Ltd. had to be returned back or destroyed."]

25. Procedure for permit—(1) For a permit under the preceding rule, an application shall be made in writing to the [4][District Excise Officer or Assistant Excise Officer, as the case may be] of the District in which the licensed vendor holds a licence or the unit of the regiment is stationed (as the case may be) specifying:-

(a) the name of the distillery, brewery, bonded warehouse or bonded laboratory from which the import is to be made.

(b) the name. complete description and quantity of each kind of liquor to be imported and whether the import is to be in bulk or in bottles.

(c) the route of import, and

(d) the amount of import duty to be paid.

(2) A separate application shall be made for each consignment. If the application is in order the [4][District Excise Officer or Assistant Excise Officer, as the case may be], shall after checking and correcting the amount of duty entered therein endorse the application with an order directing the applicant to pay the amount unless there are reasons for rejecting the application.

(3) The applicant shall, after paying the amount of duty as ordered to the [4][District Excise Officer or Assistant Excise Officer, as the case may be], and the prescribed permit

1. Added vide Raj. Gaz. EO., IV-C. dt. 8-4-65.
2. Subs. Ibid.
3. Added by No. F. 4 (15) FD-Ex/2005/Part-I, dated 1-4-2006 w.e.f. 1-4-2005.
4. Subs. vide Raj. Gaz. IV-C (II), dated 16-10-69.

fee, produce the receipt and the application before the [1][District Excise Officer or Assistant Excise Officer, as the case may be], who shall issue the permit in quadruplicate, sanctioning the import by the applicant of Indian-made Foreign Liquor of the kind and quantity specified in the permit for the purpose mentioned in the permit. One copy of the permit shall be given to the applicant, the second copy shall be sent to the Excise Inspector of the circle and the fourth copy shall be retained by the [1][District Excise Officer or Assistant Excise Officer as the case may be] for record and for verification (if deemed necessary) of the consignment on arrival.

26. Procedure on arrival—(1) On receipt of the consignment importer shall at once notify its arrival to the Excise Inspector of the circle in which his licensed premises are situated, and shall allow him to check the consignment land to examine and, if necessary, to test the contents or to take a sample thereof for test.

(2) The [1][District Excise Officer or Assistant Excise Officer, as the case may be], may, if he thinks it necessary cause the contents of the consignment to be checked with the application and with the permit issued by him.

(3) The importer shall be liable to pay duty on excess transit wastage, if any claim is made by the State of export thereof. In that case, he shall, be allowed to set-off against that claim the amount of import duty pre paid by him on the quantity representing the excess loss in transit.

27. Import on pre-payment of duty in the State of export—Indian made foreign liquor may be imported by a person holding a licence for the sale of foreign liquor and also by the Commanding Officer of Regimental units in Rajasthan from any distillery, brewery, warehouse or premises licensed for whole-sale vend, in any State to which this provision may be applied by the Government by notification on pre-payment of duty in the State of export at the rates in force in the Rajasthan.

28. How imported—(1) The importer, unless generally or specially exempted by the Excise Commissioner, to this effect, shall first apply to the [1][District Excise Officer or Assistant Excise Officer] of the District of import, for the issue of permit in accordance with rule 23 (1).

(2) The [1][District Excise Officer or Assistant Excise Officer, as the case may be], if he sees no objection, shall issue a permit in quadruplicate containing the particulars given in the application. The permit shall be in force upto the date noted therein. One copy of the permit shall be made over to the importer, the second copy shall be forwarded to the appropriate Excise Officer of the district or place of export, the third copy shall be sent to the Excise Inspector of the Circle and the fourth shall be retained for record. The permit shall clearly specify that import is authorised on repayment of duty in the State of Export as the rates prevailing in Rajasthan.

(3) The importer shall present his copy of the permit before the appropriate Excise Officer of the District or place of export or the Officer-incharge of the distillery, brewery, warehouse or premises from which export is to be made together with a receipt for the amount of duty paid by him. The said officer, after satisfying himself, that the import is duly authorised and that the amount of duty paid is correct, shall authorise export and issue a pass to cover the same. A copy shall be sent direct to the [1][District Excise Officer or Assistant Excise Officer as the case may be], who shall forward all export passes received from other States to the Excise Commissioner, at the end of each quarter.

Subs. vide Raj. Gaz. IV-C (II), dt. 16-10-69.

29. Import free of duty or at a reduced rate—(1) Indian-made rectified spirit may be imported free of duty or at the reduced rate of duty say chemists or druggists holding a licence and educational institutions, charitable hospitals, Government hospitals and similar institutions, if so authorised by the notifications under Section 28.

(2) The provision of Rules 25 and 26 shall also apply mutatis mutandis to all import under this rule.

30. Denatured Spirit [1][Deleted]. [Now see Chapter IV a, infra]

Export General

31. Duty how paid—(1) The export duty on Indian-made foreign Liquor will be levied by pre-payment in the District of Export or by credit against a distillers advance duty deposit, before the liquor is exported from the distillery, ware house or licensed wholesale vendors premises.

(2) No pass covering the export of any such consignment shall be issued by any Excise Officer of the District of until the duty above referred to has been paid.

(3) Rectified spirit shall not be exported without the permission of the Excise Commissioner.

COMMENTARY

Refund of duty paid not allowed—Excise duty or countervailing duty on absolute alcohol held void by Supreme Court, only prospectively. Claim for refund of duty paid by company, Burden of duty already shifted by the company on consumers, hence refund not allowed to the company.[2]

Permit Fee—Levy of permit fee in order to regulate grant of permit for spirit and to supervise spirit through proper staff is permissible under the rule. The concept of quid pro quo not relevant. AIR 1980 SC 1008 Disting [3]

Export from Distilleries in Bond to other States in India

32. Export in bond under pass—Any person may export in bond Indian made Foreign Liquor manufactured at a distillery in Rajasthan in any place in India under a pass granted as provided in the following rules.

33. Application to be made to the [4][District Excise Officer or Assistant Excise Officer]—(1) When any person desire, to export in bond spirit manufactured in distillery in Rajasthan, he shall submit an application to the [4][District Excise Officer or Assistant Excise Officer] of the District in which the distillery of manufacture is situated.

(2) The application must specify (a) the name of the consignor, (b) the name of the consignee, (c) the description, quantity and strength of the liquor to be exerted.

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1. Deleted vide No. 5792/59-F-1(41) ET-58, dated 28-9-59, Pub in Raj. Gaz., Part IV-C dated 19-11-59.
2. M/s Pesticides India v. State of Rajasthan, 1992 (3) WLC 582 : 1991 WLN (UC) 1998- See also Satish Kumar v. State of Rajasthan, 1992 (I) RLW 710 : 1992 (1) WLN 305.
3. M/s Geeta, Enterprises v. State of Rajasthan, 1993 (3) WLC 251 : 1993 (1) RLW 308 : 1993 (2) RLR 183.
4. Subs. vide Raj. Gaz. IV-C (II), dated 16-10-69.

(3) Every such application must be accompanied by (a) a permit from the appropriate Excise Officer of the District to which the spirits are to be exported authorising the import of the spirits, and (b) a duly executed special bond or a reference to the general bond in force.

Note : The permit referred to in clause (a) may be general permit covering all consignments for 1 year.

34. Permit granted by [1][District Excise Officer or Assistant Excise Officer] of exporting district—(1) The permit granted by the [1][District Excise Officer or Assistant Excise Officer] or the exporting district shall be in quadruplicate.

(2) One copy of the permit shall be delivered to the exporter, second copy will be forwarded to the appropriate Excise Officer of the District to which the liquor is to be taken, the third will be sent to the Excise Inspector of the Circle and the fourth will be retained for record.

Note : Usually, the officer in-charge of the warehouse to which the liquor is consigned will be the appropriate Excise Officer of the district of imports.

(3) With a reasonable time to be fixed by the [1][District Excise Officer or Assistant Excise Officer, as the case may be]. of the exporting district and specified in the bond or past he importer shall produce before the [1][District Excise Officer of Assistant Excise Officer, as the case may be], of the exporting district his copy of the pass endorsed with a certificate signed by the appropriate Excise Officer of the importing district certifying the due arrival or authorizes of the liquor at its destination.

35. Particulars to be painted on cask—On each cask or other vessel containing Indian-made foreign liquor for export there shall be legibly cut or painted-

(i) the name and mark of the exporting distillery;

(ii) the number of the cask or other vessel and its capacity;

(iii) the nature, quantity and strength of its contents.

These particulars shall tally with those entered in the pass.

36. Extension of time—On a written application being made to the [1][District Excise Officer or Assistant Excise Officer, as the case may be], of the exporting district establishing sufficient cause for the grant of time or on the production before him of a certificate from the appropriate Excise Officer of the district destination to the effect that there are good and sufficient reasons for extending the currency of the pass or bon, it shall be competent for the [1][District Excise Officer or Assistant Excise Officer, as the case may be], of the exporting district if he thinks fit, to extend the time specified in the pass or bond of the due arrival of the liquor at its destination.

37. Bond when to be discharged—(I) In the case of Indian made foreign liquor exporting under special bonds the [1][District Excise Officer or Assistant Excise Officer, as the case may be], of the exporting district shall discharge the bond on receipt of the pass and certificate mentioned above, provided that none of the conditions of the bond have been infringed. The duty on consignments issued under a general bond shall be written off on receipt of the said pass and certificate, provided that none of the conditions of the bond have been infringed.

1. Subs. vide Raj. Gaz. IV-C (II), dated 16-10-69.

(2) If the certificate be not received within the time mentioned in the bond or pass, or if on receipt of the certificate it appears that any of the conditions of the bond have been infringed the [1][District Excise Officer or Asstt. Excise Officer, as the case may be] of the exporting district shall forthwith take the necessary steps to recover from the executant or his surely the penalty due under the bond.

Export from Distilleries on Payment of Duty

38. Export of duty paid Indian-made foreign liquor to any place in India—Any person may export duty paid Indian-made foreign liquor manufactured at a distillery in Rajasthan to any place in India under a permit granted as provided in the following rules:

[2][Provided that duty paid rum possessed by any Unit of the Indian Armed Forces may be exported from the State without payment of duty and such export shall not require any permit pass from the State Authorities.]

[3][Provided further that if any person authorised to export Indian made Foreign Liquor on payment of export duty does not export the liquor, refund of the export duty paid may be allowed by the Excise Commissioner.]

39.Application for pass—(I) The exporter shall present an applicant for a pass to the [1][District Excise Officer or Assistant Excise Officer as the case may be], together with a permit authorising the import signed by the appropriate Excise Officer of the State of import,k specifying the rate of duty chargeable on the foreign liquor and a receipt for the amount of duty on the total quantity of L.M.F. liquor to be exported. The [1][District Excise Officer or Assistant Excise Officer, as the case many be], if satisfied, will send the application to the inspector-in-charge, Distillery for compliance.

(2) The Inspector may thereupon grant a pass authorising the export of the Indian-made foreign liquor and endorsing the rate of duty specified in the permit, and the total amount of duty recovered. One copy of the pass shall be sent to the authority granting the import permit.

40. Export of Rum for Troops—Rum manufactured at a distillery in Rajasthan and intended for Indian troops may be exported to any part of India in accordance with Rule 39:

Provided that it shall be the duty of the Exporter to obtain on the back of the pass a certificate signed by the Commanding Officer of the unit to which the rum is supplied or any Commissioned Officer empowered by the Commanding Officer, in this behalf certifying the receipt of the consignment. The exporter shall produce the pass endorsed with this certificate before the [1][District Excise Officer or Assistant Excise Officer, as the case may be], who will forward it to the incharge of the distillery within the period specified in the pass.

1. Subs. vide Raj. Gaz. IV-C (II), dated 16-10-69.
2. Ins. vide Raj. Gaz. IV-C, dated 22-8-1963.
3. Added by Natification No. 4 (49) FD/Ex/88. GSR, 64 dated 4-7-1989. Published in Raj. Gaz.4 (Ga) dated 31-3-89 Page 211.

Export from wholesale shops

41. Pass—(1) Whenever a wholesale vendor exports a consignment of duty paid .M.F. Liquor manufactured in Rajasthan to any place in India he shall, at the time of lespatch, prepare a pass in quadruplicate. He shall send on copy of the pass to the [District Excise Officer or Assistant Excise Officer], of the district of export, one copy o the appropriate Excise Officer of the place of export, one copy to consignee, and hall retain the fourth copy.

(2) The pass shall state clearly (a) the name and address of the consignor; (b) he name and address of the consignee; (c) the exact description and quantity of each ind of Foreign Liquor despatched under the pass, (d) the route by which it is despatched nd (e) the date of despatch.

(3) A separate pass shall be issued in respect of each consignment.

Book Transfer of Duty

42. Book Transfer of Duty—The duty, other than export duty on Indian made ›reign liquor manufactured at any distillery in Rajasthan and exported therefrom on pre-ayment of duty (i.e. import duty) of any State of India shall be credited by book transfer › the Government of the importing State annually, after the closing of the financial year.

CHAPTER IV

Transmission and Possession of Intoxicating Drugs

❑ Introductory Notes

These Rules are to be read with Chapter III and IV of the Act containing Sections . to 15 and Sections 16 to 27 respectively.

Intoxicating drug—Sulfa-nature of—The definition of an intoxicating drug in S.3 4) does not show that it means sulfa also- It cannot be presumed without any evidence at Sulfa & Charas are the same thing.[2]

43. Transmission by post—Subject to Rule 44, transmission by post of intoxicating ugs, within, into or out of Rajasthan is prohibited except on behalf of the Government by a Government servant acting bonafide in execution of his duty

44. Transport through Rajasthan—Transport of any intoxicating drugs from any ate in India through Rajasthan to another State in India shall be unlawful unless authorised the Chief Excise Authority of the State from which it is being exported by a pass ich has been granted on the condition that the consignment is not broken in transit, carried by specified route to a specified destination and subject to such examination a Gazetted Excise Officer of Rajasthan may require.

45. Possession of drugs unlawfully obtained—No person shall without lawful thorities, have in his possession any intoxicating drug in any quantity whatsoever ich he knows or has reason to believe to have unlawfully obtained.

46. Admixture of drugs—(1) In the case of an admixture of two or more intoxicating ıgs, the lowest limit of possession applicable to any such of drugs (under Section

Subs. vide Raj. Gaz. IV (II), dated 16-10-69.
Shabbir Ali v. State . ILR (1957) 7 Raj. 1082: 1957 RLW 625.

19 read with the notification for the time being in force under Section 5) shall be deemed to apply to the admixture.

(2) In the case of an a admixture of one or more intoxicationg drug with any other substance (the other substance (the other subsance not being an intoxcating drug) the lowest limit of possession applicable to any such drugs (under Section 19 read with the notification for the time being in force under Section 5) shall be deemed to apply to the admixture :

Provided that where water is added, its weight shall not be taken into account in calculating the weight of the admixture for the purposes of this sub-rule

[1]CHAPTER IV-A

Import, Export, Transport, Possession, Sale of Denatured Sprit and licenses thereof

❑ Introductory Note

These rules are to be read with Chapters III and IV of the Act containing section 11 to 15 and sections 16 to 27 respectively.

Spirit—Even if the stuff is 'spirit' unfit for human consumption a case under S.57 can be made out against accused in possession.[2]

Import

46-A-(i) By whom—Save upon a limit [3]fixed under Section 14 of the Act, no person other than a licensed whole- sale vendor of denatured spirit [4][or denatured spirituous preparation] shall import any denatured spirit [4][or denatured spirituous preparation] in Rajasthan.

(ii) Application for import—A whole-sale vendor of denatured spirit [4][or denatured spirituous preparation], shall supply to the [5][District Excise Officer or Assistant Excise Officer] of the district of import in writing specifying-

(a) the name of the distillery, bonded warehouse or bonded laboratory from which the import is to be made;

(b) the name, complete description and quantity to be imported and whether the import is to be in bulk or in bottles.

(c) the route of import and the amount of countervailing duty to be paid.

A separate application shall be made for each consignment and if the application is in order [3][District Excise Officer or Assistant Excise Officer as the case may be], shall after checking and correcting the amount of duty entered therein, endorse the application with an order directing the applicant to pay the amount, unless there are reasons for rejecting the application.

1. Ins vide Raj. Gaz. IV-C, dt. 12-11-1959.
2. Ramchandra v. State ILR (1960) 10 Raj. 738 : 1960 RLW 215.
3. Ins. vide Raj. Gaz. IV-C, dt. 12-7-62.
4. Subs., vide Raj. Gaz IV-C, (II) dt 16-10-69.

(iii) Issue of permit—The applicant shall after paying the amount of prescribed ountervailing duty and permit fee in case the spirit to be imported is manfatured outside ndia) produce the receipt thereof and the application before the [1][District Excise Officer r Assistant Excise Officer, as the case may be], who shall issue the permit in quadruplicate anctioning the import by the applicant of denatured spirit [1][or denatured spirituous reparation] of the kind and quantity to be specified by him in the permit. One copy f the permit shall be given to the applicant, the second copy shall be sent to the appropriate xcise Officer of the State of export and the third shall be sent to the Excise Inspector f the Circle, the fourth shall be retained by the [2][District Excise Officer or Assistant xcise Officer, as the case may be] for record and for verification, if necessary of the onsignment on arrival.

(iv) Procedure on arrival—On receipt of the consignment the importer shall at nce notify its arrival to the Excise Inspector of the Circle in which his licensed premises re situated and shall allow him to check the consignment and to examine and the test ie contents and to take sample thereof for test.

The importer shall be liable to pay duty on the excess transit wastage, if any laim is made by the State of export thereof. In the case, he shall be allied to set off gainst that claim the amount of countervailing duty [3][prepaid] by him on the quantity epresenting excess loss in transit.

(v) Procedure at place of export—The importer shall present his copy of the permit the Chief Excise Authority of the exporting District who may grant a pass covering ie import of the spirit into Rajasthan which shall be returned after the receipt of the onsignment is recorded on it by the [2][District Excise Officer or Assistant Excise Officer, s the case many be], of the District.

Export

46-B.(i) By whom—Save up to a limit [3][fixed under Section 14 of the Act], no erson other than a licensed whole-sale vendor of denatured spirit [1][or denatured spirituous reparation] shall export denatured spirit [1][or denatured spirituous preparation] outside ajasthan.

(ii) Permit of Export—The exporter shall obtain a permit from the appropriate Excise fficer of the State of import authorising import of denatured spirit [1][or denatured spirituous reparation] and specifying the quantity to be imported.

[4][Provided that the exporter shall not be required to obtain the said permit where iere is no restriction on such import in the State of import.]

(iii) Application for pass- The exporter shall then present an application to the District Excise Officer or Assistant Excise Officer], of District specifying—

(a) the name of the consignee;

(b) the quantity of denatured spirit [5][or denatured spirituous preparation] to be xported;

Subs. vide Raj. Gaz. IV-C, (II) dt. 16-10-69.
Ins. vide Raj, Gaz. IV-C, (II) dt. 12-7-62.
Subs. vide Raj. Gaz. IV-C, dt. 17-5-62.
Inserted by Noti. No. F.4 (13) FD [EX] 82 pt. II, G.S.R. 28 dated 13-8-1984, published in Raj Gaz-EO-4 (Ga) I dated 14-8-84, Page 106-[1984 RLT 372-373]
Subs. vide Raj. Gaz, IV-C, dt 12-7-62.

(c) the description of the spirit stating the denaturants and their proportion used therein along with the certificate to this effect issued by the Excise Officer in-charge. The application shall be accompanied by the permit of import and a treasury receipt of the excise duty prepaid on the quantity of denatured spirit [1][or denatured spirituous preparation] to be exported.

(iv) Issue of pass—If the application is in order, the [2][District Excise Officer] may grant a pass authorising export. The pass shall be in quadruplicate. One copy deliverable to the exporter, second to be forwarded to the Excise Inspector concerned of the exporting State, the third to the officer who granted the permit and the fourth to be retained for record.

(v) Verification of export—The consignment shall be sealed with the departmental seal. On reaching the consignment at the destination, the exporter shall get a certificate on his copy of the pass from the officer of the place of import in proof of the same having reached there and then present the said before the issuing authority.

Transport

46-C. (i) Transport from wholesale vendors premises—Denatured spirit [1][or denatured spirituous preparation] may be transported from a distillery by licensed whole-sale—vendors of denatured spirit [1][or denatured spirituous preparation] in any quantity provided that a pass has been obtained from the [2][District Excise Officer or Assistant Excise Officer of the District in whose area the wholesale shop is situated on payment of prescribed duty. The pass shall be issued in triplicate, one copy of which shall be given to the transporter, the Second shall be forwarded for verification of the receipt of the consignment to the Excise Inspector in whose jurisdiction the licensed premises for wholesale vend, are situated and the third shall be retained for record.

(ii) Excise Duty—Duty paid denatured spirit [1][or denatured spirituous preparation] may be transported from the premises of the licensed whole-sale or retail licensed vendor under cover of a pass issued by the whole-sale licensee who sell the spirit. Such pass shall be in duplicate, one copy of which shall be given to the transporter and the other copy retained by him for record.

(iii) Transport by individual—No pass for the transport of denatured spirit [1][or denatured spirituous preparation] with the limit or private possession by any individual shall be required.

Possession

46-D (i) Possession by an individual—No person not being a licensed wholesale or retail vendor of denatured spirit [1][or denatured spirituous preparation] shall possess denatured spirit 1[or denatured spirituous preparational in excess of the limit of retail sale, unless, he holds a permit from the [2][District Excise Officer or Assistant Excise Officer] authorising him to possess the spirit in a larger quantity.

1. Subs. vide Raj. Gaz, IV-C, dt. 12-7-62.
2. Subs. vide Raj. Gaz, IV-C, (II), dt. 16-10-69.

[1]**(ii) Permit for possession**—The District Excise Officer may grant permit (a) for : purchase of denatured spirit or denatured spirituous preparations from a wholesale ıdor or from a retail vendor, where there is no wholesale vendor and for possession :reof to a person requiring denatured spirit or denatured spirituous preparations for vate purposes for a quantity in excess of private possession, but not exceeding 18 :rs.

(b) For the purchase of denatured spirit by hospitals, dispensaries, educational d research institutions for their bonafide use in excess of the limit or private possession ım any distiller holding a licence for wholesale vendor any other whole-sale vendor, from retail vendor where there is no whole-sale vendor].

(iii) Possession for specified purposes— Licence for possession and use of natured spirit for industrial purposes, or for manufacturing denatured spirit for industrial rposes, or for manufacturing denatured spirituous preparations, if satisfied that there : sufficient grounds to do so may be granted by the [2][District Excise Officer] concerned th the previous sanction of Excise Commissioner.

Sale

46-E. (i) Wholesale vend—Licence for the sale by whole-sale of denatured spirit ır denatured spirituous preparation] distillers who denatures spirit to wholesale dealers d by wholesale dealers to other wholesale or retail dealers shall if satisfied that there reasonable ground to do so, be granted by the [3][District Excise Officer] concerned th the previous sanction of the Excise Commissioner. The licence shall also cover the ght to the bottled denatured spirit [2][or denatured spirituous preparation]. All sale under ıs licence shall be covered by a pass.

An application for the grant of renewal of a licence under this sub rule may be ected on the ground that the applicant is not, in the opinion of the licensing authority fit person to hold a licence, or that he has no legitimate demand for such spirit, or ıt sufficient number of licence have already been granted, or for any other sufficient tson. The applicant will have no claim to know the reasons for rejecting his application.

(ii) Retail vend- If satisfied that there is a reasonable demand for denatured spirit ır denatured spirituous preparation] in any locality, the [3][District Excise Officer] may, th the previous sanction of the Excise Commissioner or by an officer duly authorised him in its behalf, grant to a suitable applicant a licence which covers the right to ttle denatured spirit [2][or denatured spirituous preparation] or the retail vend of denatured irit or denatured spirituous preparation.]

(iii) Limit of retail vend– The quantity, within which sale to all purchasers of natured spirit [2][or denatured spirituous preparation] shall be deemed to be limit of le by retail shall be [4][as fixed under Sec. 14 of the Act]

Subs. by Raj Gaz. No. F. 1(4) FD/Ext./68 G.S.R. 161, dt. 12.6.1970, Raj. Gaz. IV-C(I) dt. 16-7-1970. P. 290

Subs. vide Raj. Gaz. IV-C, dt. 12-7-62.

Subs. vide Raj. Gaz. IV-C, (II), dt. 16-10-69.

Added by Notification No. 4(54) FD/EX/89, SO. 26 dated 8-5-1990 published in Raj. Gaz. E.O,4 (Ga) II dated 8-5-90, Page 29(3)-[1990 I RLT 213-214].

[1][**46 F.** If the person authorised to import, export or transport denatured spirit or denatured spirituous preparations does not import, export or transport denatured spirit or denatured spirituous preparations for which he has deposited the permit fee, he may be allowed refund by the Excise Commissioner]

CHAPTER V

Licences for Foreign Liquor and Beer

❑ Introductory Note.

In Chapter VI of the Act, sections 31 to 38 deal with Licences, Permits & passes to be issued under the Act read with various Rules.

In the Rajasthan Excise Rules 1956, the licences of various kinds have been described in the following Chapters:-

Chapter — Licence for

V — Foreign Liquor & Beer for whole sale vend

VI — Licence for Retail Sale

VI — Country Liquor & Intoxicating Drugs

Licences are to be given after following procedures enumerated in the Rules—

(a) Licences by Auction- Chapter VII (Rs. 60 to 77)

(b) Licence under they Guarantee System - Chapter VII (Rr. 67-A to 67H)

(c) Licence of payment of lump sum instead of or in addition to duty- Chapter VII-B (Rr. 67 - 1 to 67 L)

Chapter VIII of the Rules provides for "Licence & Permit Fees" under rules 68 to 70. The latest notifications have been included in the Chapter

General provisions as to Licence have been given in Rules 72 to 77 A in Chapter IX of the Rules.

Special Rules—There are special rules on specific subject, please look into these rules hereinafter.

Notifications—There are important notifications on various aspects of licences etc, which are also to be read with these rules. (See Notifications)

Licence Forms—There are prescribed forms for various licences under this chapter. These rules have been appended to these rules

"Bottling"–What is ?–It is a process of sale—Liquor is to be bottled under a licence and such a licence has been obtained by the petitioners for the purpose of sale of liquor meant for human consumption, where by it has been prescribed what will be the strength of a particular quality of wine and what will be its colour and in what quantity it will be sold and what will be its price.. The Distilleries Rules, 1976 under

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1. Added by Notification No. 4(54) FD/EX/89, SO. 26 dated 8-5-1990 published in Raj. Gaz E.O,4 (Ga) II dated 8-5-90, Page 29(3)-[1990 I RLT 213-214].

ıich licence has been granted to petitioners also provide that in what conditions the ıuor is to be sold. (Para 21)[1]

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Licence for whole-sale vend

[2][**47. Whole Sale vend licences**—(1) Licences for the wholesale vend of foreign ıuor and beer shall be of four classes:

(a) For wholesale vend by manufacturers to Rajasthan State Beverages Corporation Limited;

(b) For wholesale vend by Rajasthan State Beverages Corporation Limited to wholesale vendors;

(c) For wholesale vend by wholesale vendors to retail vendors; and

(d) For wholesale vend by manufacturers of wine for its own wholesale vend & other wholesale vendors:

Provided that manufacturers holding licence under clause (a) may sell draught beer d manufacturers holding licence under clause (d) may sell wine, directly to retail on (bar ·encee) licencee on the basis of permit issued by the District Excise Officer concerned."]

[3]["(2) Wholesale licences under sub-rule (1) shall be granted by Excise Commissioner such form as may be specified by the State Government."]

(3) A licensee holding a licence under clause (b) of sub-rule (1) covering any strict or districts shall not hold a licence for the retail sale of foreign liquor for such strict or districts, unless the Excise Commissioner has given a special sanction for such tail licence.

[4][(4) Notwithstanding any thing contained in this rule, licence for wholesale vend · traders or dealers of foreign liquor bottled in foreign countries to wholesale venders ay be granted by Excise Commissioner on such terms and conditions as State Government ay specify.]

Licence for retail Sale

48. Who may grant– Subject to the provision of Rule 47 (3) and subject to the her provisions of these rules the following kinds of licences for the retail sale of foreign ıuor may be granted by the [5][District Excise Officer] concerned with the previous sanction ·the Excise Commissioner.

(a) Shop licences

(b) Hotel and Dak Bungalow licences

(c) Restaurant or Hotel Bar Licences.

Udaipur Distillery Co. Ltd. V State of Rajasthan. 1996 (2) WLC (Raj) 413 (DB)
Substituted by S.O. 32, Notification No. F4 (17) FD/Excise/2004 dated 2-12-2005.
Substituted by S.O.3. Notification No. F4 (17) FD/Excise/2004 dated 1-4-2005.
Added by GSR 52 dated 11-2-2004-RG-Page 87.
Subs. vide R.G. IV-C, (II) dt. 16-10-69.

[1][(cc) Club bar licences]

(d) Railway Refreshment Room or Dining Car Licences.

(e) Canteen Tenant Licences.

(f) Occasional licences.

(g) Licences for the sale of tonic and medicated wine.

Explanation— Subject to Rule 47 (3), [2][grant of the occasional Licences and] renewal of ny of these licences does not require the previous sanction of the Excise Commissioner.

49. Shop Licences—(1) Shop Licences for the retail sale of foreign liquor shall be of two classes as described below—

(a) for retail sale, for consumption on the premises, and

(b) for retail sale for consumption "off" the premises only.

(2) A licensee holding a licence for retail sale for consumption "off" premises shall not allow the consumption of foreign liquor on his premises and shall sale only in original sealed bottles.

[3]["**50. Hotel Licences**--Hotel Licences for retail sale of Foreign Liquor shall cover for consumption on the premises and to serve Liquor and Beer to all customers and visitors who visit such Hotel."]

51. Restaurant or Hotel Bar Licences—Restaurant or Hotel Bar Licences shall cover only retail sale of foreign liquor to persons served with stables at the restaurant or note. for consumption on the premises and the licensee shall not sell foreign liquor for any other purpose or to any other person.

[4][**51-A. Club Bar Licences**—A club which is duly registered may be granted club bar licences and such licence shall cover only retail sale of foreign liquor by the club to its bonafide members for consumption in the club premises and such club shall not sell foreign liquor for any other purpose or to any person who is not its member]

52. Railway Refreshment Room or Dining Car Licences—Railway Refreshment room or Dining Car Licences for retail sale of foreign liquor shall cover retail sale for the consumption on the premises to **bona fide** Railway passengers either in course of transit by train or asking a temporary halt at the Railway Station at the beginning or end of journey and the licensee shall not sell foreign liquor to any other person or for any other purpose.

53. Canteen Tenant Licences—Canteen tenant licences shall be issued only to person running a Military canteen established under the Canteen Tenants system and

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1. Inserted by No. F.4 (13) FD/EX/82 Pt. II, GSR 28, dated 13-8-1984, published in Raj. Gaz EO-4 (Ga) I dated 14-8-84, Page 106,
2. Inserted by S.O. 84 of 14-6-94.
3. Substituted vide Noti. No. F.4 (62) FD/EX/96, dated 31-3-97 w.e.f. 1-4-97.
4. Inserted by No. F.4(13) FD/EX/82/Pt.II. GSR 28, dateed 13-8-1984, published in Raj Gaz-EO-4 (Ga) I dated 14-8-84. page 106.

shall cover retail sale for consumption on premises or by bona fide members of the Armed Forces of Union of India served by the Canteen and the licensee shall not sell foreign liquor to any other person or for any other purpose.

[1][54. **Occasional licence:-** In respect of the entertainments of temporary nature, occasional licence may be granted for a period not exceeding 30 days and for such hours and on such terms and conditions as may be specified in the licence for;

(a) Consumption of foreign liquor on the payment fee @ Rs. 1000/- per day (when there is no sale and liquor is served);

(b) Sale of foreign liquor on payment of licence fee @ Rs. 5000/- per day.]

[2][Provided that a person having occasional licence can lift draught beer from a brewery notwithstanding the provisions of rule 47 of these rules."]

55. Licence for the retail sale of tonics and medicated wines– Licences for the retail sale of foreign liquor in the shape of tonics and medicated wines shall be granted only to bonafide chemists and druggists and shall cover the retail sale of tonics and medicated wines containing not less than 20% and not more than 42% of proof spirit.

56. Rectified spirit—Licences for the sale of rectified spirit shall be granted only by the Excise Commissioner and shall be granted only to chemists, medical practitioners and persons-in-charge of Laboratories.

CHAPTER VI

Licences–Country Liquor and Intoxicating Drugs

57. Retail Licences-general—Licences for the retail sale of accessible articles may be granted either (1) by auction in accordance with the procedure described in the Chapter on auction, or

(2) On commission basis, or

(3) Any other system sanctioned by the Government from time to time [3][for instance the guarantee system]

❑COMMENTARY

R.57 (3)– Meaning of words "any payments there at– Wide enough to include payments under these licences and held that State Government is perfectly justified in recovering such payments in accordance with terms of contract. See S.40 ibid also.[4]

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1. Substituted vide GSR 1—No F. 1(5) FD/EX/99 dated 1-4-1999. Pub. in Raj-Gaz-EO-4(Ga) I-dated 1-4-1999, page 1 to 4 again substituted vide Notification No. F.4(28)FD/Ex/02 Pt.-I, Dated 1-4-2003 w.e.f. 1-4-2003.
2. Added by GSR 52 dated 11-2-2004 Pub. in Raj. Gaz. 4(Ga) dated 11-2-2004, w.e.f. w.e.f. 11-2-2004. page 87.
3. Added by the Raj. Gaz. 'EO' Part IV C dated 2-2-1963.
4. State v. Balmukand ILR 1974-24 Raj. 910 : 1974 WLN 367 (DB).

Guarantee System- (R.57 & 67 A)—Permissibility of Rebate—Running Contract-Licensee is held not entitled to retain the benefit of rebate on stock remaining unsold at the close of licence for 1977-78 and he is not entitled to rebate on additional quantity of liquor lifted for licence period, 1978-79-Licensee is not entitled to additional rebate (Writ Petition dismissed)[1]

Applicability of Section 30-A -Liability of Interest under conditions of Government contract for delayed payment.—Principles of natural justice not followed-Bank guarantee delayed— Held, liability of interest is as per terms of the contract and not as per Section 30-A of the Act. After availing benefit, petitioners, held, cannot assail condition No. 175 of the contract providing for interest for delayed period. However, as the demand notice issued without giving opportunity of hearing, is liable to be quashed and is hence set aside-Principles of natural justice violated. (Paras 17-19) (Petition partly allowed)[2]

58. Licensing Authority—Licences for the retail sale of excisable articles shall be granted by the [3][District Excise Officer] concerned in accordance with the procedure described in these rules or any other system as may be sanctioned by Government and shall authorise the licensee to purchase such articles from the warehouse to which shop is attached or, with the permission of the [3][Excise Commissioner] from any other ware house in Rajasthan provided the transport of excisable article to his shop is covered by an entry in his pass book signed by the officer-in charge of the warehouse and is effected with in the period mentioned in such entry.

❑COMMENTARY

Termination of Licence premature due to mistake-Claim filed—District Excise Officer, designated as Licensing Authority not incompetent to terminate licence. Maturity date shown wrong in licence by mistake. Held, it does not give any right to licensee.[4]

59. Prohibition against admixture—A licence for retail sale of Bhang or Ganja shall not entitle the licensee to prepare the preparations or admixtures there of. A separate licence will be given for such preparations and admixture.

CHAPTER VII

Licences–Procedure for Auction

60. Licences by auction—Licences may be granted by auction in cases where any of these rules provide for the grant of the licences in such manner in such cases, the procedure prescribed by this Chapter shall be followed.

61. Rules for auction—(1) [5][The District Excise Officer or any other Officer authorised by the Excise Commissioner] shall be the presiding officer for auctions.

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1. Panna Lal & Ors. V. State of Rajasthan. 2002 (1) WLC (Raj.) 358.
2. Chandan Singh V. State of Rajasthan & Others, 2003 (3) WLC: (Raj.) 584.
3. Subs. by Raj. Gaz. Part IV-C, (II) dated 16-10-1969.
4. M/s. Amar Kumar V. Board of Revenue 1996 (1) WLC 156 (Raj.)
5. Subs. vide Raj. Gaz. EO-IV C dated 27-2-68, page, 1029-30.

(2) [1][Subject to such terms and conditions as may be laid down by the Excise Commissioner]. the presiding officer shall call bids to be offered regarding the annual fee to be paid for the licence concerned.

(3) The presiding officer shall not be bound to accept the highest or any bid and no reasons will be given for not accepting higher bid or any bid.

(4) Every bider will be liable to be held to his bid whether it be the highest or not.

(5) The presiding officer shall, in accepting or rejecting the bids. exercise his discretion in such manner as to exclude bids which are the result of speculation or unhealthy rivarly or disproportionate with reference to the market value of the licence or which are likely to lead to undesirable monopoly or to malpractices. He shall have also discretion to reject bid by persons of doubtful solvency or with doubtful moral antecedents.

(6) Where the highest bid is not accepted, the presiding officer shall record his reasons in writing.

(7) If the amount offered by the highest suitable bidder is not adequate, the grant of the licence may be with held for re-auction at a subsequent date, or for grant on commission.

(8) After the bid has been accepted by the presiding officer, no subsequent bid at that auction shall be considered.

(9) The acceptance of the bid or any other alternative system by the presiding officer shall be subject to confirmation by the Excise Commissioner.

62. Presiding Officer to report the result of auction—(1) As soon as auction has been held its result shall be reported by the presiding officer to the Excise Commissioner for sanction.

(2) The Excise Commissioner may either sanction the auction or pass such other orders as he may think fit regarding the disposal of all or any of the licences of red or sale.

63. Persons debarred from bidding— Without prejudice to the provisions of Rule 61, the following restrictions shall apply regarding persons who can offer bid at auctions:-

(1) Former licensees who are in arrears to the Government as regards payment of Excise Revenue or who have been guilty of serious breaches of the Rajasthan Excise Act,. 1950. the Opium Act, 1873, any law repeated by either of these two Acts or under such repealed laws, or any condition of any licence in respect of any excisable or opium, shall not be entitled to bid without the consent of the presiding officer.

(2) An agent shall not be allowed to bid unless he holds a due authority or unless the principal is present and authorises the agent to bid on his behalf.

(3) Without the express sanction of the [2][District Excise Officer], no person shall bid for a licence or exercise a privilege who holds and who is the agent or servant of any person holding a similar licence in an adjoining area, in any other State in India.

(4) No person below the age of eighteen years shall be entitled to bid at auctions.

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1. Subs vide Raj. Gaz. Pt. IV-C (II) dated 16-10-69.
2. Subs vide Raj. Gaz. IV-C. Ext. dated 27-2-68 page 1029-30.

[1][(5) [Deleted]

[2][The State Government hereby prescribes the following procedure for registration of contractors with the Excise Department; namely –

1. Those person(s) already registered with the Excise Department on the date of this notification, shall be deemed to have been registered under this Notification.

2. The person(s) applying for registration should be otherwise eligible to be a contractor under Rajasthan Excise Act, 1950 and rules made thereunder.

3. The Excise Commissioner, Rajasthan, Udaipur shall be competent authority to grant registration.]

❑COMMENTARY

Registration of Contractors-Conditions Prescribed—Notification No. F 1 (9) FD/EX 94 dated 28-12-1994 has been published in Raj Gaz-EO-IV C (II) dated 13-1-95 on page 413 (2) prescribing procedure and conditions for registration of contractors in the Excise Department. Please refer to the notification under caption "**Registration of Contractors**" in the Rules, supra.

64. Copies of notices is to be made available—A copy of the notice issued for an auction shall be made available before the commencement of the auction for the inspection of the intending bidders.

65. Register of shops to be kept—Every [3][District Excise Officer] shall keep a register of shops auctioned by him.

66. The adoption of a method other than auction—(1) The Excise Commissioner may at his discretion direct the adoption in a particular case of method other than auction for the grant of a licence.

(2) In particular when a licence is cancelled under Section 34 of the Rajasthan Excise Act, 1950 (Act II of 1950), a fresh licence for the unexpired period or any part thereof may with the previous approval of the Deputy Excise Commissioner, be granted by the tender, re-auction or on commission basis subject to confirmation by the Excise Commissioner.

(3) In case a licence is suspended under Section 34 of the Rajasthan Excise Act. 1950 (Act 2 of 1950) he [3][District Excise Office] may with the previous approval of the Deputy Excise Commissioner run the shop on commission basis during the period of a suspension subject to confirmation by the Excise Commissioner.

67. Delegation of powers—The Excise Commissioner may delegate all or any of his powers under this Chapter to any subordinate officer.

❑ COMMENTARY

Negotiations for tender—The Commissioner, Excise is held competent to enter into negotiations and petitioner has a right to participate in such negotiations.[4]

R. 67. No concluded contract where tender was temporarily accepted. Non-compliance of Conditions- Held, open to non-petitioner to withdraw the acceptance of tender.[5]

Auction System- Meaning of "Fixed Fee" - The term "Fixed Fee" is a fee determined by the Excise Commissioner in lieu of "Licence Fee".[6]

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1. Deleted the following vide Notification No. F. 4(12) FD/Ex./2002 dated 1-4-02 w.e.f 1-4-2002 Published in Raj. Gaz. Part-IV (C) dated 1-4-2002.
   "(5) Persons who are not Registered as contractor with the Excise Department. Rajasthan in the prescribed manner shall not be entitled to bid at auction"
2. No. F. 4(12) FD/Ex/2001/ part II dated 13-2-2001
3. Subs vide Raj. Gaz. IV-C. Ext. dated 27-2-68.
4. M/s. Malu Khan & Party V. State 1989 (2) WLN 337.
5. Champa Lal V. State 1984 WLN (UC) 178.
6. State of UP. V. Sheopat Raj, 1994 Supp. (1) SCC 8.

Licence Fee is neither tax nor fee—It is held to be a consideration for granting rivilege and forms part of excise revenue. It is neither a trade nor a business. It is ot a fundamental right of a citizen to deal with in liquor. Imposition of high rate of cence fee is meant to eliminate or discourage large number of enthusiastic citizens.[1]

Auction-Acceptance or rejection of highest bid- It is option of Government and not open to challenge. as the government is free to adopt any other method for sale the privilege. This power is held to be unrestricted. It undoubtedly includes the power sell the privilege in question by private negotiations.[2] Cancellation of the highest fer and giving it to the next highest offer (bid) is held to be not proper by the Supreme ourt.[3]

CHAPTER VII-A

Licence under the Guarantee System

INTRODUCTORY NOTE

(a) Grant of Licences under Guarantee & Exclusive Privilege Systems—Recovery guaranteed amount held not excise duty (Sec. S.24,28 &30 of Raj Excise Act.)[4]

There is no levy of excise duty in enforcing the payment of the guaranteed sum the stipulated lump sum mentioned in the licences. for these reasons:

(i) Firstly, the licences were granted after offering being accepted in accepting tender or auction bid.

(ii) Secondly, the stipulated sum represents the consideration or price for the exclusive privilege of vending liquor.

(iii) Grantee agrees to pay the sum what he considers equivalent to the value of right.

(iv) It has no relation with the manufacture or production of any accessible article except that a licence to sell is provided.

(v) Excise duty is levied on manufacture and not on sale of liquor. Thus stipulated price is not excise duty.[4]

(b) Lump sum amount not to be confused with issue price-Both are different– ne lump sum amount stipulated to be paid under an agreement of licence is not equivalent the issue price The issue price is payable only when the contractors take delivery the particular quantity of specified value of liquor. The issue price rates to excisable ticles drawn by the contractor and does not pertain to undrawn articles. The issue ice is the price at which Liquor is to be sold to the liquor contractor. The contractors their part pay the total sum as price which already includes the excise duty in respect which they have no direct liability. The price of goods necessarily includes different mponents but price a buyer pays is different from duty or taxes payable by the anufacturers. The incidents of all components taxes and duty pass on to the consumers

Paradise Bar-cum-Restaurant v. Govt of A.P., (1979)2 Andhra WR 293.
State of Orissa v Hari Narayan Jaiswal & Ors. 1973 UJ (SC) 8
Bhooma Reddy v State of Mysore, AIR 1969 SC 655.
Pannalal v. State (1975) 2 SCC 633 : 1975 Tax LR 2005. AIR 1975 SC 2008.

inform of signle word price. What the consumer pay is the price of the goods and not the antecedent duties and taxes. The permission given to the contractor in the matter of his obligation is to pay the excise duty component of the issue price. The excise duty component of the issue price is, therefore,only a measure of the quantum or extent of the concession or the remission to be given to the liquor contractor. The lump sums amount paid for the exclusive privilege is not to be confused with the issue price In essence what is sought to be recovered from the contractor [is the short fail occasioned on account of failure on the part of the contractor] to fulfil the term of the contract. The contractual obligation is not depended on the quantum of the liquor sold by them which is relevant only for the purpose of remission to be earned by them under the licence. An adjustment by way of reduction in the contractual liability of the contractor to the extent of specified and quantified portion of the issue price is purely a measure of concession or remission and is a method of calculation. The quantum of adjustment only arise when liquor is to be drawn otherwise formula of remission is out of picture [1]

(c) Guarantee system and Exclusive privilege system compared–Under the guarantee system the licensee guarantees the payment of the specified value of the liquor in a particular financial year which is called under that system the amount of guarantee where as under the exclusive privilege system the licensee guarantees the payment of such lumpsum instead of or in addition to the excise duty as it determined by the Excise Commissioner and subject to such other terms and conditions as may be laid down by him.

Under the guarantee system the licencee is required to pay the 'value' of the liquor to the extent to which he guarantees the payment and the value of the liquor contains certain portion which can easily be attributed towards the payment of excise duty as a licensee pass that amount by drawing liquor from the ware house of the State Government and paying the issue price thereof. Under the "Exclusive privilege system" the component of the issue price which is attributable to payment of excise duty is adjusted towards the guaranteed amount which a licence is required to pay during a financial year under the licence issued under Chapter VII-B of the rules which means that the licence under the exclusive privilege system guarantees the payment of the excise duty to the extent to lumpsum is determined by the Commissioner and for the payment of that guaranteed amount he has to purchase from the bounded warehouse of the State Government liquor of such value which may go to pay the entire amount guaranteed by him under that system.

A close comparison of the two systems that the "exclusive privilege system" is nothing but an old wine in a new bottle. Under the guarantee system the licensee is required to pay the amount guaranteed by him in the shape of the value of the liquor where as under the exclusive privilege system he is required to pay the excise duty as lump sum fixed by the Commissioner under Section 30 of the Act read with Rule 67-1 of the Rules by drawing liquor of the value which may be sufficient to pay off the guaranteed amount from the component part of the issue price which is attributable to the payment of excise duty.[2]

1 Pannalal V. State (1975) 2 SCC 633 1975 Tax LR 2005: AIR 1975 SC 2008
2. Bal Mukand Vs. State of Rajasthan and others. ILR (1972) 22 Raj 84 1972 RLW 520: 1971 WLN 373: 1972 Tax LR 2453.

Relation between Excise duty & Issue Price- demand for payment of short-fall guarantee amount cannot be realised by State Government—(Reversed in 1974-WLN 7 DB).

In demand raised under the first system to pay the value of the liquor, which s not been drawn, does contain therein the excise duty which is an indirect tax and hich under the provisions of the law cannot be realised unless the liquor is drawn a license under the terms of his licence from a ware house. Under the exclusive privilege stem whatever is demanded from the licensee to complete the guarantee amount is thing but excise duty and such a duty cannot be charged unless the licensee has rchased from the Government the liquor under the terms of his licence.[1]

Guaranteed Amount not demand of excise duty–Guaranteed amount can be manded under contract—Merely because the issue prices had a component of excise ty, it will be wrong to say that demand for guaranteed amount or deficiency there was a demand for excise duty [ILR (1972) 22 Raj. 84 reversed][2]

Validity of Licence, when cannot be challenged by way of writ-petition—In the stant case, the petitioners worked under the licence for the full term and excluded his mpetitor. When non-compliance of the terms of such licence sesulted in inconvenient nsequences, the petitioners could not challenge its validity.[3]

Forfeiture of Earnest Money—Rr. 67-I, 67 KK, 67 (3), (9) and (10) and 93. Tender m itself contains conditions for forfeiture of earnest money, if tenderer does not remain und by his tender- This is held to be statutory condition. Held, the auction bidder not claim refund of earnest money.[4]

Guarantee System-[Rule 57 & 67 A] Permissibility of Rebate—Running contract-censee is held not entitled to retain the benefit of rebate on stock remaining unsold at close of licence for 1977-78 and he is not entitled to rebate on additional quantity of uor lifted for licence period, 1978-79-Licensee is not entitled to additional rebate (Writ tition dismissed)[5]

67-A. Licence under the guarantee system—(1) Licences for retail shops of country uor under the guarantee system may be granted to persons guaranteeing to draw from Government warehouse and sell, in a financial year or part thereof country liquor of specified value, herein-after called the "amount of guarantee".

planation:- "Value" for the purpose of the above rule shall be the total issue price at a Government warehouse calculated at the rate of such price current on the first day of January preceding the financial year to which the guarantee relates.

(2) Licences under the guarantee system may be granted either—
- (a) by inviting tenders, or
- (b) by auction, or
- (c) by negotiation.

(3) The amount of guarantee shall be—

Bal Mukand V. State ILR (1972) 22 Raj. 84: 1971 WLN 373: 1972 Tax LR 2453. [Reversed in 1974 WLN 367(DB)].
State V. Balmukand ILR (1974) 24 Raj. 910: 1974 WLN 367 (DB)
State of Rajasthan V. Balmukand ILR (1974) 24 Raj. 910: 1974 WLN 367 (DB)
Banwari Lal V. State ILR (1976) 26 Raj. 462 : 1976 RLW 354: 1975 WLN 129.
Panna Lal & Ors. V. State of Rajasthan, 2002 (1) WLC (Raj.) 358.

- (a) where a licence is granted by inviting tenders- the amount of the tender accepted for the grant of the licence.
- (b) where a licence is granted by auction- the amount of the bid accepted for the grant of the licence: and
- (c) where a licence is granted by negotiation the amount determined by the Excise Commissioner and accepted by the licensee.

67-B. Procedure for tenders—(a) In cases in which tenders are to be invited the grant of licence for a shop, sealed tenders for the amount of guarantee for the period of the licence shall be invited by the Excise Commissioner.

(b) A tender notice shall be issued by the Excise Commissioner at least 15 days before the date fixed in the notice for the receipt of tenders. The time up to which the tenders shall be received on the fixed date shall be indicated in the notice. The tenders shall be submitted in the form to be obtained from the [1][District Excise Officer] on payment of such fees as may be fixed by the Excise Commissioner. Tenders received after the prescribed time and date shall not be valid and shall not be taken into consideration.

[2][(bb) The Excise Commissioner shall specify the minimum amount of guarantee for each shop].

[3][Provided that where tenders are invited, or negotiation and auction is made in respect of a group of shops, the minimum amount of guarantee for such group as a whole may be so specified].

(c) Every tender shall be accompanied by such earnest money as may be indicated [4][***] by the Excise Commissioner with the approval of the State Government.

(d) Tenders shall be received by [1][District Excise Officer] concerned who shall send them to the Deputy Excise Commissioner concerned. They shall be opened by the Deputy Excise Commissioner on the date and at the time to be fixed by him in the presence of such tenderers as may care to be present.

(e) Every tender shall be initialed by the Deputy Excise Commissioner, and the amount of tender shall also be written on the tender form by the Deputy Excise Commissioner in his own hand, as soon as the tender is opened.

(f) All tenders received shall be recorded in the register in the form laid down by the Excise Commissioner.

(g) The Deputy Excise Commissioner shall be the authority competent to accept or reject any tender. He may accept the tender other than the biggest without assigning any reasons therefor. Where the guaranteed amount offered by any tenderer is acceptable to the Deputy Commissioner but such an amount has been offered by more than one tenderer and one of them is existing licensee for the shop under the guarantee system, licence for the shops shall be granted to such existing licensee. If none of the tenderer offering the same amount to such a licence, a decision shall be taken by the Deputy Excise Commissioner by drawal of lots, in the presence of the tenderer concerned.

(h) Notwithstanding any thing contained in Rule 62, the decision of the Deputy Excise Commissioner accepting any tender shall be final, provided that if the tender accept by the Deputy Excise Commissioner is not the highest tender for a shop or a group

1. Subs. vide Raj Gaz. IV-C (ii) dated 16-10-69.
2. Ins. vide Raj. Gaz. Extraordinary, IV-C, dated 12-2-64.
3. Inserted by No. F. 1(5)FD/Excise/86, GSR 117, dated 28-2-1986, published in Raj. Gaz. E-O.4 (Ga) 1, dated 28-2-86 Page 462.
4. Ommitted vide Raj. Gaz. Extraordinary, IV-C, dated 12-2-64.

shops, as the case may be, the Deputy Excise Commissioners decision shall be subject confirmation by the Excise Commissioner. The Excise Commissioner may either confirm : decision of the Deputy Commissioner or require that the highest tender shall be cepted or that the shop or the group of shops, as the case may be, shall be put to en auction.

(i) Acceptance of tender shall be communicated to the successful tenderer in the m laid down by the Excise Commissioner, & the tenderer shall be required to furnish e security in cash within the time indicated in this communication.

(j) If the required security is not furnished with the time indicated the acceptance the tender may be revoked by the Deputy Excise Commissioner and the earnest money posited by the tenderer with the tender shall in the event of such revocation be forfeited the State.

67.C. Procedure for auction—(1) Subject to such general or special directions may be issued by the Excise Commissioner from time to time the [1][District Excise ficer] may but the licence for a shop to auction under the guarantee system [2][on the sis of minimum guarantee as may be specified by the Excise Commissioner for that op].

(2) In such an auction the Presiding Officer shall call bids for the amount of guarantee the period of the licence.

67-D Procedure for tenders or auction—Clauses (1) and (3) to(9) of Rule 61 and les 62 to 66 shall. as far as may be, be applicable mutatis mutandis in cases of grant licence under the guarantee system by inviting tenders or by auction.

67-E. Grant of licence by negotiation— (1) Subject to such general or special ections as maybe issued by the Excise Commissioner from time to time the [1][District cise Officer], before the commencement of a financial year make an offer to the licence 1 shop in the form laid down by the Excise Commissioner, for the grant of the licence the ensuing financial year, indicating there in the amount of guarantee and the conditions the licence. Such an offer shall give not less than 10 days time to the licensee, with which he may communicate to the [1][District Excise Officer] his acceptance or otherwise he offer,in the form laid down by the Excise Commissioner. The acceptance shall be ompanied with proof of payment of such security and in such manner as may be icated in the offer:

Provided that if the licensee fails to communicate his acceptance with in the aforesaid iod of 10 days or if the acceptance is not accompanied by proof of payment of security aforesaid, such offer shall be deemed to have been rejected by him.

[2][Provided further that where any of the other two methods, namely. invitation enders under Rule 67-B or auction under Rule 67-C has already been adopted,before offer is made under this rule to the licensee of a shop, the minimum time-limit of days referred to above shall be reduced to five days].

(2) Notwithstanding anything contained in Rule 67-C, but subject to such general special directions as may be issued by the Excise Commissioner from time to time, [1][District Excise Officer] may on rejection of as provided that-

Ins. vide Raj. Gaz. IV-C, dated 14.10.65.
Subs, vide Raj. Gaz. IV-C (II) dated 16.10.69.

(i) the amount of guarantee in the offer made to such other person shall not be less than the amount determined by the Excise Commissioner; and
(ii) the minimum time-limit of ten days refereed to in sub-rule (1) shall not apply to an offer under this rule.

(3) On receipt of the acceptance of the offer from the licensee or any other person referred to in sub-rule (2), as the case may be the [1][District Excise Officer] shall, subject to such general or special directions as may be issued by the Excise Commissioner, grant the licence.

67. F. Licence for part of financial year—Where a shop is running under a system other than the guarantee system, or where the licence for a shop has been cancelled or is otherwise terminated during the course of a financial year, the Excise Commissioner may direct that such a shop be put to auction under the guarantee system for the remaining part of the financial year.

67.G. Licence for group of shops—Nothing in these rules shall prevent a group of shops being put to auction under the guarantee system on tenders being invited, or to an offer under Rule 67-B being made, for a group of shop jointly.

67.H. Adoption of various methods for grant of licence—Nothing in these rules shall prevent any of the methods, namely, invitation of tenders under Rule 67-B or auction under Rule 67-C, or negotiation under Rule 67-I, being adopted for grant of licence on guarantee system for various shops, or any of these methods being tried in any other for the grant of licence of a shop.

[2]CHAPTER VII-B

Licence on Payment of lump sum instead of or in addition to duty

[3]**[67-I. Licence on payment for exclusive privilege**—(1) Licence for exclusive privilege of selling country liquor by retail with in any local area under Section 24 may be granted on condition of payment of such lump sum instead of, or in addition to excise duty, as may be determined by the Excise Commissioner and subject to such other terms and conditions as may be laid down by him.

(2) Licence for exclusive privilege of selling by retail country liquor at a shop may be granted either-

(a) by negotiations with the existing licensees;

Offer under sub-rule (1), or where no offer is made under sub-rule (1) on account of any general or special direction of the Excise Commissioner, make an offer to any other person for the grant of a licence on the same terms and conditions as those, contained in the offer under sub-rule (1):

(b) by auction;
(c) by inviting sealed tenders
(d) by negotiation with the third parties (persons other than existing licensees);
[4][(e) by following any other system sanctioned by the Government from time to time]

1. Ins. vide Raj. Gaz. IV-C, dated 14-10-65.
2. Chapter VII inserted vide Raj. Gaz-EO Part IV-C, dated 27-2-1968.
3. Subs. vide GSR-52. dt. 30-3-1972 published in Raj. Gaz. EO, Part IV-C. (1). dated 30-3-1972 P. 87.
4. Added by G.S.R.97, Notification No.F.4 (44) FD/Ex/2005-Pt-I dated 28-2-2006.

67-J- Procedure for allotment by negotiations—[1][(1) Subject to such general or cial directions as may be issued by the Excise Commissioner from time to time. A ence under. Rule 67-E may be granted by way of allotment by negotiation in accordance h the procedure laid down in sub-rules (2) and (4)].

(2) Subject to such general or special directions as may be issued by the Excise mmissioner from time to time, the District Excise Officer may, before the commencement the financial year, make an offer to the existing licensee of the shop in the form laid vn by the Excise Commissioner for the grant of licence for the ensuing year, indicating rein the amount of payment for exclusive privilege payable by him under Rule 67- nd the conditions of licence. Such an offer shall give not less than five days, within ich he may communicate to the District Excise Office his acceptance, or otherwise his offer in the form laid down by the Excise Commissioner. The acceptance shall accompanied with proof of payment of such security and in such manner as may indicated in the offer.

Provided that no offer under this sub-rule shall be made to an existing licensee o has not been of good behaviour during the period of previous licence or suffers m any of the disabilities mentioned in Rule 74.

Provided further that if the licensee fails to communicate his acceptance within period of 5 days or if the acceptance is not accompanied by proof of urity as aforesaid,such offer shall be deemed to have been rejected by him.

[2](3) [x x x x]

(4) On receipt of the acceptance of the offer from the licence 2(x x x), the District cise Officer shall, subject to such general or special direction as may be issued by Excise Commissioner, grant the licence.

[3][(5) Subject to the written sanction of the Excise Commissioner licence under s rule may be granted in respect of group of shops jointly].

[4][**67-K. Procedure for auction**—(i) Subject to such general or special directions maybe issued by the Excise Commissioner from time to time, the District Excise Officer ay put the licence under Rule 67-I for any area to auction.

(ii) In such an auction the Presiding Officer shall call bids for the Lump sum payment r exclusive privilege payable instead of, or in addition to excise duty, as may be directed the Excise Commissioner.

(iii) Clauses (1) and (3) to (9) of the Rule 61 and Rules 62 to 65 shall, so far as ay be, be applicable mutatis mutandis to such auctions.

[5][(iv) Subject to the Written sanction of the Excise Commissioner licence under is rule may be granted in respect of a group of shops.

Subs. by Amending Rules vide GSR-52, dated 30-3-1972.
Deleted by the Notification published in Raj. Gaz.EO-Part IV-C, dated 1-3-1963
Subs. by Raj. Gaz.-EO-Part IV-C, dated 29-5-1969.
Rules 67-K andf 67-C were inserted by Raj.Gaz-EO. Part IV-C dated 1-3-1967
Ins vide S.R.229 No. F 4 (5) FD/EX, 74 dated 4-3-1974 published in Raj Gaz Part IV-C, dated 4-3-1974

[1][**67. K.K.--Procedure for invitation of sealed tenders**—(1) Subject to such general or special directions as may be issued by the Excise Commissioner from time to time, licences under rule 67-I may be granted for any area by inviting sealed tenders.

(2) In such case,sealed, tenders will be invited by the Excise Commissioner for the amount of sum payable for exclusive privilege instead of or in addition to excise duty as may be directed by the Excise Commissioner.

(3) A tender notice shall be issued by Excise Commissioner at least 15 days before the date fixed in the notice for receipt of tenders. The time upto which tenders shall be received on the fixed days shall be indicated in the notice. The tenders shall be submitted in the form to be obtained from office of any District Excise Officer/Excise Commissioner on payment of such fee as may be fixed by the Excise Commissioner. Tenders received after the time and the date fixed in the notice shall not be valid and shall not be taken into consideration.

[2][Provided that after once having invited tender if it is considered necessary to invite tenders afresh with such changes as may be deemed necessary, tender notice shall be issued for such a shorter period not less than 3 days as may be deemed proper by the Excise Commissioner.]

(4) The Excise Commissioner shall specify minimum amount of sum payable for grant of exclusive privilege in case of each shop and no tenders less than this amount shall be acceptable.

[3][(5) Subject to the written sanction of the Excise Commissioner, licence under this rule may be granted in respect of a group of shops].

(6) Every tender shall be accompanied by such earnest money as may be indicated by the Excise Commissioner. The tender shall be received by the Excise Commissioner and shall be opened by him on the date and at the time to be fixed by him in presence of such tenderers as may be present.

(7) Every tender shall be initialed by the Excise Commissioner and the amount of tenders shall be written thereon by the Excise Commissioner as soon as the tender is opened.

(8) All tenders received shall be recorded in a register in the form laid down by the Excise Commissioner. The Excise Commissioner shall be authority competent to accept or reject any tender. Where the amount offered by any tenderer is acceptable to the Excise Commissioner but such an amount has been offered by more than one tenderer, a decision shall be taken by the Excise Commissioner by drawal of lots in the presence of tenderer concerned, if any.

(9) Acceptance of a tender shall be communicated to successful tenderer in the form laid down by the Excise Commissioner and the tenderer shall be required to furnish due security in cash with in the time indicated in this communication.

1. Whole of rule 67-KK was inserted by the Amending Rules vide G.S.R. 52, dt. 30-3-1972 published in R.G.-E.O. in part IV-C (1) dated 30-3-1972 p. 287.
2. Added by No. F. 1(2) FD/EX/88 S.O. 259 dated 14-3-1989, published in Raj. Gaz.-EO 4 (Ga) (II) dated 14-3-89. Page 470.
3. Sub. vide G.S.R. 229 by Notification No. F 4 (5) FD/EXP 74 dated 4-3-1974 published in Raj Gaz. EO- Part IV-C (1), dated 4-3-1974.

(10) If the required security is not furnished with in the time indicated, acceptance of the tender may be revoked by the Excise Commissioner and the earnest money deposited by the tenderer with the tender shall in the event of such revocation be forfeited to the State.

(11) On the cover of the sealed envelop containing the tender submitted, shall not be required to indicate amount or name of shop for which tender is being submitted].

[1][**67-L. Adoption of any other method**—[2][* * *] The Excise Commissioner may at his discretion grant licence under Rule 67-1 for any area by negotiation of any third party :

Provided that in making negotiations with third parties highest bidder if any shall also be given a chance to make a higher offer [3][or highest tenderer unless he is de barred from holding licence under any provision of the Act or Rules or has rejected the offer under sub-rule (2) of Rule 67-J.]

❑ COMMENTARY

1. No fundamental right available to a citizen–Privilege of selling liquor-Contractual obligation—Where all formalities of tender completed, the contract, was concluded and exclusive privilege granted- Action of Excise Commissioner was held not unjust, nor unfair, nor arbitrary, nor malafide, nor against public interest. Held, it does not contravene Art. 14 of the Constitution. Scope of judicial scrutiny in the matter of government policy is, held to be limited.[4]

2. Meaning of "Industrial purpose"—The expression Industrial purpose is a wider term and not related merely to use for production. Where rectified spirit may not be used for production of oil but used fortasting, such use cannot be called research by any means for no research is carried out in laboratory. Such testings of products is covered by the term, Industrial purpose.[5]

3. Citizen has no fundamental right Validity of high licence fee examined (Rule 67-L)—To deal with sale etc. of liquor is not a trade or business,but it is a privilege granted under a licence alone. Licence fee in fact is neither a tax nor a fee for services rendered, but is a consideration for granting privilege and forms part of ,excise revenue.[6]

4. Privilege of selling liquor—Citizen has no fundamental right–Submission of tender and completion of formalities by petitioner–Commissioner accepting the same-Interpretation of terms and conditions of contract concluded- Exclusive privilege to vend liquor not parted by State in respect of certain villages of Abu Road- Policy of State for granting exclusive privilege of vending liquor in favour of G.S.M. is neither unjust, nor unfair, nor arbitrary, nor mala fide, nor against public interest and does not contrive Art.14 of the Constitution- It protects weaker sectors from exploitation.[7]

1. Rule 67-L was inserted by the Raj. Gaz, Ext. Ordi., Part IV-C dt. 29-5-1967.
2. The expression 'In case licence for any particular area is not granted by adoption of method prescribed in Rule 67-j or 67-K, deleted by G.S.R. 52 dated 30-3-1972 pub. in Raj. Gaz., Ext. Ordi. Part IV-C (I) dt. 30-3-1972 p. 287.
3. Ins. by Ibid.
4. Anil Kumar Sunil Kumar v. State of Rajasthan, 1993 (1) WLN 313.
5. M/s.B.R.Oil Mills v.Excise Commr. 1981 RRD 184.
6. Paradise Bar-cum-Restaurant.v.Govt. of AP,. (1979)2 Andhra WR 293
7. Anil Kumar Sunil Kumar v. State of Rajasthan, 1993 (1) WLN 327.

5. Highest offer cancelled and next highest offer accepted, Held, it is not proper.[1] (See-Rule 67 B)

6. Licence-Condition No.1 (Ga) and 22(kha)—Held, not onerous, arbitrary or unreasonable and do not contravene S.29 of the contract Act.[2]

7. Tender–Negotiation–Powers of Excise Commissioner—Under the specific situation of the instant case, the Excise Commissioner is competent to enter into negotiations with the third parties and the petitioner has a right to participate in such of the negotiations.[3]

8. Rectified spirit for industrial use held not excisable article—The rectified spirit imported for industrial use is not an excisable article under S.3(4) of the Act and the State Legislature or the State Government is not entitled to impose and levy excise duty on such rectified spirit.[4]

9. Refund of security deposit—Demand made by licensee could not be met hence, he was entitled to refund of security amount. No interest could be paid when the same was not claimed in the notice.[5]

10. Breach of Contract [R.67 (KK) (8) (10)]–Tender for licence for sale of Liquor—Once the tender offered by the tenderer is accepted by the competent authority, a complete/concluded contract comes into existence and if the tenderer thereafter backs out or fails to perform the conditions of the tender, his act amounts to a breach of contract and he is liable to make good the damages which the other party sustained i.e. the State has suffered on account of giving the contract to some other party so as to fulfil the subject matter of contract.[6]

CHAPTER VIII

Licences and Permit fees

[7][**68. Fees and terms for certain licences:-**

The under mentioned fees and terms are prescribed for the following kinds of licences-

S.No.	Description of Licences	Terms of Licences (In Years)	Fee for the Term or Part thereof (in Rupees)
1	2	3	4
(a)	Licence for the possession and use of rectified spirit and absolute alcohol for the purpose of Research Laboratory	Ten Year	1,000.00
(2)	Licence for possession and use of rectified spirit and absolute alcohol for educational, medical & Scientific purposes in Educational Institutions, Hospitals and diagnostic Laboratories.	Ten Years	250.00

1. Bhooma Reddy v. State of Mysore AIR 1969 SC 655
2. Lekhraj v. State of Raj. 1987 (1) Raj LR 661.
3. Malukhan v. State, 1989 (2) WLN 337
4. M/s Hindustan Copper Ltd. v.State of Rajasthan 1989 (1) RLR 632 (DB).
5. 1986 WLN (UC) 392
6. Raghuvir Prasad & Ors. v.State of Rajasthan, 1998 WLC (Raj) (UC) 116.
7. Substituted vide Notification No. F.4 (62) FD/EX/96 dt. 31.3.1997 effective from 1-4-97.

2	3	4
3) Licence for possession and use of rectified spirit and absolute alcohol for industrial purposes.	One Year	15,000.00
3a) Licence for possession and use of rectified spirit and absolute alcohol for [1][testing laboratories] in commercial enterprises. (Provided consumption is limited to 250 ltrs. per annum)	[1][One Year	[1]2000/-]
4) Licence for the wholesale vend of rectified spirit and absolute alcohol in bond by persons who are not manufacturer.	One Year	2,000.00
5) Licence for retail sale of rectified spirit by Chemists and medical practitioners.	Ten Years	2,500.00
(6-A) Application for grant of No objection certificate for	One time levy	
(a) Distillery/brewery		1,00,000.00
(b) Bottling plant		50,000.00
(6-B) Permission for construction of	One time levy	
(a) Distillery/brewery		3,00,000.00
(b) Bottling plant		1,50,000.00
(6-C) Licence to work	One year	
(a) Distillery with permission to bottle IMFL		15,00,000.00
(b) Brewery		12,00,000.00
(c) Bottling plant		5,00,000.00
(6-D) Permission for addition/alterations during a financial year in		
(a) Distillery/brewery		2,00,000.00
(b) Bottling plant		1,00,000.00]
) Licence for manufacture and wholesale vend of rectified spirit absolute alcohol & denatured spirit.	Five Years	22,500.00
) Licence fore sale by wholesale dealers of denatured spirit & denatured spirituous preparations.	Five Years	33,850.00
) Licence for the retail sale of denatured spirit and denatured spirituous preparations	Five Years	13,500.00
0) Licence for the possession and use of denatured spirit for industrial purposes or manufacture of denatured spirituous preparations.	One Year	20,000.00

Subsitituted vide No. F.1 (4) FD/EX/2002 dated 1-4-2002 w.e.f. 1-4-2002 Published in Raj. Gaz. Part-IV (C) dated 1-4-2002 for "Five years" and Rs. 25,000.

Substituted by Notification No.F.4 (31)/FD/Ex/2005, dated 20-1-2006 for item Nos.6(a) to 6 (d) which was previously Substituted by S.O.3, dated 1-4-2005.

1	2	3	4
(11)	Licence for possession and use of specially denatured spirit for industrial purposes for manufacture of methylated preparations like Tincture Iodine, Methyl, Benjoin, Co-Methyl and the like.	One years	1,500.00
[1][12	Licence to Manufacture Country Liquor	One year	1,00,000]
[13	Licence for wholesale vend by manufacturers of liquor to wholesale vendors	One year	
	(i) At Jaipur & Jodhpur		Rs. 8,00,000.00
	(ii) At other Divisional Head quarters		Rs. 6,00,000.00
	(iii) At other Places		Rs. 5,00,000.00]
13A	Licence for wholesale vend of Country Liquor from bonded warehouses established at places other than the manufacturing unit]	One year	2,00,000/-]
[2][13B	Licence for wholesale vend by manufacturers of wine for its own wholesale vend and other wholesale vendors from bonded warehouse established at any place in Rajasthan.	One year	8,00,000.00]
(14)	[xxx Deleted by S.O. 3 dated 1-4-2005.]		
[3](15)	Licence for heritage liquor manufactory	One Year	5,000.00]

[4][69 (1) The fee for licence for sale of foreign liquor shall be as follows:—

S.No.	Kind of Licence	Licence fee per bulk litre (in Rs.)		
		Foreign Liquor (excluding IMFL and Indian made beer)		Indian Made beer
		Liquor	Beer	
1	2	3	4	5
1	Wholesale	20.00	4.00	-
2	Retail	50.00	10.00	2.00

Provided that:

(i) in respect of wholesale licences granted to Canteen Stores Department a privilege fee amounting to Rs. 30.00 lac shall be charged in addition to the annual wholesale licence fee prescribed for licences under rule 47 (1) (b).

(ii) a sum of Rs. 2500/-shall be charged from the commanding officer of the Armed Forces of the Union of India Stationed in Rajasthan and Commandant of the Border Security Force personnel for holding retail off licene."]

1. Subsitiuted by S.O.3, Notification No. F4 (17) FD/Excise/ 2004 dated 1-4-2005.
2. Subsitiuted by G.S.R.58, Notification No.F4 (17) FD/Excise 2004 dated 2-12-2005
3. Added by S.O.105 dated 9-7-98.
4. Substituted by S.O.3 dated 1-4-2005.

[1][(2) "(a) The fee for a licence to bottle country liquor, foreign liquor, beer and drought er shall be as under:

S.No.	Kind	for self brand manufacturing (Rs.per bulk litre)	For bottling under franchise arrangements (Rs.per bulk litre)
1	Country Liquor	2.00	2.00
2	IMFL	2.40	2.40
3	Beer	1.50	2.30
4	Drought Beer	1.00	1.50]

[2][(b) The fee to bottle heritage liquor shall be Rs. 0.50 per bottle whether quart conining upto 750 ML, Pint, Nip or other miniature Size.]

[3][(3)Every manufacturer of Country Liquor, IMFL and beer shall have to get labels respective of size, viz, quart, pint or nip) of brands intended to be sold or manufactured Rajasthan, approved & recorded with Excise Commissioner and a fee of Rs. 25000/-shall payable per brand per year or part thereof for this purpose."]

[4][The State government being of the opinion that reasonable grounds exist for ing so. hereby exempts, w.e.f. 1-4-2001—

(i) such wholesale licencees who have been granted licence under rule 47(1)(a) the Rajasthan Excise Rules, 1956 and who manufacture IMFL/Beer outside Rajasthan m the payment of fee prescribed under Rule 69(1) of the said rules.]

Exemption in bottling fee for exporting Quantity—

For R.T.D. - 75% exemption on export proof - w.e.f. 1-6-2004.
For I.M.F.L. - 75% exemption on export proof - w.e.f. 26-4-2006.
For C.L. - 75% exemption on export proof - w.e.f. 1-6-2004.

[3][69'A. The fee for a licence for retail sale of country liquor (under guarantee stem) shall be as under:-

When guarantee amount for the year:-	Licence fee per year or part thereof Rs.
(1) does not exceed Rs. 15000	100.00
(2) exceeds Rs. 15000 but does not exceed Rs. 50,000	250.00
(3) exceeds Rs. 50,000 but does not exceed Rs. 2,00,000	1,000.00
(4) exceeds Rs. 2,00,000	[5][5000.00]

Substituted by No.F.4 (44) FD/Excise/2005, dated 12-4-2006. for the following
2(a) The fee for a licence to bottle country liquor, foreign liquor and beer shall be as under:-

1.	2.	3.	4
1.	Country liquor	2.00	2.00
2.	IMFL	2.00	3.00
3.	Beer (including drought beer)	2.00	3.00

Substituted by GSR 55 dated 19-2-2004 W.e.f 1-4-2004-Published in Raj. Gaz. E.O.-4(Ga)I dated 19-2-2004, Page 94-95
Substituted by S.O. 3 dated 1-4-2005.
Notification No. F. 4(12) FD/EX/2001/Pt. II date 31-3-2001.
Substituted for "Rs.2500.-" by GSR 60 dated 28-2-1994.

[1][Provided that a sum of Rs. 1000/- (one thousand rupees only) shall be charged from the Commanding Officers of the Armed Forces of the Union of India stationed in Rajasthan and the Commandant of the Border Security Force Personnel for holding a retail off licence.]

[2][**69-AA.** The basic licence fee to retail sale of country liquor shall be at such rate and on such conditions, if any, as may be specified by the State Government from time to time."]

[3][**'69B. Fees for certain permits**—The under mentioned fees are prescribed for a permit for [3][bringing] into, [4][sending] outside or transport with in the State of Rajasthan of the following excisable Articles.-

S. No.	Name of Excisable Article	Permit fee per Bulk Litre/ per kg for [3][Bringing] into	[4][Sending] outside	Transport within State.
1	2	3	4	5
[5][1	Absolute Alcohol, Methylated Alcohol, and preparations of Denatured Sprit	6.00	10.00	4.00
1A.	Denatured Sprit	6.00	5.00	4.00]
[6][2	(a) Rectified spirit for manufacture of Country Liquor and extra natural alcohol high bouquet spirit and life spirits/alcohols for liquor manufacture.	5.00	[7][0.20]	2.50
	(b) Rectified spirit for other purpose.	15.00	[7][0.20]	2.50
	(c) Extra neutral alcohol, high bouquet spirit and like spirits/alcohols for other purposes.]	6.00	[7][0.20]	2.50]
3	Imported Liquor and Beer	10.00	10.00	10.00
[2][4	IMFL			
	(a) Bottled	5.00	[7][0.20]	4.00
	(b) Bulk	3.00	—	—]
[5][5	Indian Made beer	5.00	—	4.00

1. Substituted vide GSR 36 dated 15-11-1991, w.e.f. 4-1-92.
2. Substituted by F.4. (44) FD/Excise 2005 dated 12-4-2006.
3. Substituted vide Notification No. F. 1(5) FD/Ex/99 dated 1-4-1999.
4. Substituted by No. 1(10)/FD/Excise/99 dated 2-11-1999.
5. Substituted by S.O. 439 dated 24-3-2005
6. Substituted by S.O. 3 Notification No. F. 4 (17) FD/Excise/2004 dated 1-4-2005
7. Substituted for 2.50, 6.00 & 6.00 respectively vide No. F. 4 (44) FD/Excise 2005, Part-II, dated 11-5-2006.

2	3	4	5
Country Liquor]	—	—	—
7. Bhang	10/-	—	5/-
Heritage Liquor	—	10/-	4/-
9. LPH	5/-	3/-	4/-]
. Molasses (per Qtl.) :	[2][1.50]	—	—

["Provided that a distillery utilising rectified spirit/extra neutral alcohol produced it for the manufacture of country liquor shall have to pay fee prescribed above for ansportation within state of rectified spirit/extra neutral alcohol for liquor manufacture.]

[3][xxx]

xplanation— Fee mentioned against [4][S. No. 4 to 9] below column No. 5 above shall be charged at the stage when retailer purchases goods and same shall be paid by the retailer/purchaser.

[5]["Provided further that-

[6][(a) deleted]

(b) manufacturers of IMFL, beer and country liquor shall pay in addition to fee calulated at the rates indicated in the table above a sum of Rs.500/-for each permit or pass rrespective of the quantity involved) obtained for sending out the liquor; and

(c) every retail licensee of country liquor shall pay Rs.50/-for every permit irrespective f the quantity involved.]

[7][69-C- The fee for permission to use Ahata attached to a Country Liquor shop or consumption of Liquor on the premises shall be as under:

(a) In case of Municipal Towns with a populations of one lakh or above. Rs. 20,000 per annum

. Substituted vide No. F.4 (85) FD/Ex./03-V dated 5-8-2004.

. Substituted vide No. F.4(12) FD/EX/2001Pt. II dated 31-3-2001 w.e.f. 1-4-2001— Pub. in Raj. Gaz.–EO.–Part-IV(Ga)I dated 31-3-2001, page 221(1). again subs. vide Noti. No. F4(28)FD/Ex./2002 Pt-I, dated 1-4-2003. w.e.f. 1-4-2003 Pub. in Raj. Gaz. part-IV(c) dated 2-4-2003.

3. Deleted Words ""Notwith standing the fact that actual transprontion is not taking place." by G.S.R.45, Notification No.F.4 (31) FD/Ex/2005 dated 17-9-2005.

4. Substituted vide Notification No. F4(12)FD/Ex./2002 dated 1-4-2002. w.e.f. 1-4-2002 printed in Raj. Gaz. part-IV(c) dated 1-4-2002.

5. Proviso inserted vide Notification No. F4(27)FD/Ex./2004 Pt-I. dated 1-4-2005.

6. Clause (a) of proviso delted by No. F. 4 (44) FD/Excise/2005 dated 12-4-2005 which runs as under :-

"(a) a wholesale licensee shall pay permit fee at a rate of Rs.0.25 per bulk liter while applying for permits to lift IMFL/beer from a depot of Rajasthan State Beverages Corporation Limited."

7. Added vide S.O. 321 dated 19-2-99 w.e.f. 1-4-1999.

(b) In case 1of Municipal towns with a population of less than one lakh Rs. 12,000 per annum

(c) At other places Rs.8000 per annum]

[1][**69-D Stock Transfer Fee :**

In the event of transfer of closing stock from one licensee to another Licensee, the stock transfer fees shal be chargeable at the following rates;

S.No.	Name of Item	Rate (In Rupees)
1.	IMFL/Beer	4.00 per bulk litre
2.	Country Liquor	5.00 per bulk litre
3.	Bhang	5.00 per kg.
4.	Lanced Poppy Heads	2.00 per kg.]

70. The minimum fee shall be paid before grant of licence and if, at any time the fees assessed [2][per litre] as prescribed under the preceding rule, exceed the minimum fees paid, such excess shall be paid by the whole-saler before he imports the articles, and by the retailer before he obtains it from another dealer for sale.

71. Maintenance of accounts—Every licensee for the sale of foreign liquor shall maintain a regular and an accurate account of sale and submit the same for each calendar month by the 10th day of the following month.

❑ COMMENTARY

[1] Minimum Licence fees under Rules 69 (1) & 69 (AA) of the Rajasthan Excise Rules, 1956 & Annual Initial Fee.

NOTIFICATION

S.O.101. In exercise of the powers conferred by sub Sec. (2) of Section 71 of the Rajasthan Excise Act, 1950 (Raj. Act No 2 of 1950), the Government of Rajasthan pleased to order that the minimum licence fees recoverable under Rules 69(1) and 69(AA) of the Rajasthan Excise Rules, 1956 and annual initial fee recoverable under second proviso to Rule 3A(2) of the Rajasthan Foreign Liquor (Grant of Wholesale Trade and retail Licencees) Rules, 1982 for the licences granted under exclusive privilege system shall be recoverable on proportionate basis from the licensees for the periods during which the licences were granted in the year 1996-97 and accordingly exempted from payment of these fees for the period for which licences were not granted.

[Notification No. F. 1(21) FD/EX/98 dated 6-5-99, Pub. in Raj. Gaz. EO–IV C (II) dated 12-5-99, page 113]

1. Inserted vide GSR Notification No. F. 1(5) FD/Ex./99 dated 1-4-1999.
2. Substituted vide Notification dated 13-3-62, pub. in Raj Gaz.-IV (Ga) dated 17-5-62.

Amendment in rule(3) held to be valid.[1]—Levy of permit fee also held to be valid.[2]

[2] Ss.3,16,21 & 24- Validity of Raj. Excise Rules (1956), Rr.47, 68(2) & 69(2) & Raj. Distilleries Rules (1976), R. 91(3)

Industries producing Alcoholic Liquor for human consumption and that which is not for human consumption- They form different categories. The State has legislative or rule making power for regulating production, manufacture, marketing transport & purchase and sales in respect of that which is produced for human consumption. Bottling as a part of process of sales. The State has power to levy Botting fee and also to increase the same Scoop of such levy and increase.[3]

CHAPTER IX

Licences—General Provisions

72. Who may grant licences—Except as otherwise provided in these rules, all licences under the Act shall be granted by the Excise Commissioner.

[4]["Provided that of the licences description of which is given in rule 68 of these rules, the Additional Commissioner, Excise of the area may grant the licence described at Rule 68(8) and the District Excise Officer of the area may grant the licences described at Rules 68 (1), 68(2), 68(3-A), 68(5), 68(9) and 68(11) & 54]" see explanation on page 302, occassional licence w.e.f. 14-6-1994.

[5][**72-A. Application for licences**—Every application for a licence shall clearly describe the premises in which the applicant intends to conduct his business and shall be submitted in case of renewal at least one month before the commencement of the year [6]["and where the licence is granted for a longer period at least one month before the commencement of the first year of the period"] for which it is required and shall be accompanied by a treasury receipt showing payment of licence fee, provided where an application for renewal of licence is not made within the prescribed period, it shall be accompanied by additional fee, at the following rates :

[7][(i) Rs. 5000/- or 5% of the licence fee whichever is less, if the delay in deposition of fee is upto one month.

(ii) Rs. 10,000/- or 10% of the licence fee which ever is less, if the delay in deposition of fee is more than a period of one month.

Provided that for renewal of licences upto the year 2001-2002, additional fee equivalent to 25% of the renewal fee or five rupees, whichever is higher shall be charged.]

1. M/s Pesticide India V. State of Raj. 1994(1) WLN 238.
2. Geeta Enterprises V. State of Raj. 93(2) WLN 564 : 1993(3) WLC 251 : 1993(1) RLW 308:1993 (2) RLR 183.
3. Udaipur Distillery Co. Ltd. V. State of Raj. 1996 (2) WLC 413.
4. Added vide S.O. 347 dated 9-1-95 w.e.f. 1-4-95.
5. Added by Notification Pub. in Raj Gaz.-EO-Part IV-C dated 19-11-1959.
6. Added vide S.O. 347 dated 9-1-95 w.e.f. 1-4-95.
7. Notification No. F.4 (12) FD/Ex/2002 dated 1-4-2002 Published in Raj. Gaz. Part IV C dated 27-2-2002.

[1][Provided that the additional fee referred to in the rule shall not be charged from the Commanding Officers of the Units of the Armed Forces of the Union of India stationed in Rajasthan and holding a "Retail off" licence, if the delay in applying for renewal is due to the absence of the unit outside the state [2][or due to such other reason as the licensing authority may, with the prior approval of the Commissioner, deem fit to condone.]

NOTIFICATIONS

[3][1] **Exemption from R. 72A—S-71** (2)—In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Raj.) Act No. II of 1950), the State Government being of opinion that reasonable grounds exist for doing so, exempt the Ganganagar Sugar Mills from operation of Rule 72-A of the Rajasthan Excise Rules, 1956 for payment of additional fee only for shops run in the Financial year 1982-83.

[2].G.S.R.39—In exercise of the powers conferred by sub-section (2) of section 71 of the November 27,1991 Rajasthan Excise Act, 1950, (Rajasthan Act II of 1950) the State Government being of the opinion that reasonable grounds exist for doing so, exempt the licensees holding different kind of licences under rule 68 of Rajasthan Excise Rules, 1956, who had on or before 28-2-1991 deposited the licence fee at the rates prevailing before the government Notification No. F.4(25) FD/EX/90, dated 19-2-1991, from payment of addition fee referred to in rule 72-A of the Rajasthan Excise Rules, 1956.

[No. F.4(25) FD/EX/90, dated 27-11-1991, Published in Raj. Gaz, E-O,IV (Ga) I, dated 27-11-1991, Page 112]

❑ COMMENTARY

72 A. Renewal of Licence—Renewal of licences cannot be a claim of licensee. No time limit prescribed by Rules for submitting application for licence. Held there is no illegality in granting licence to Ganganagar Sugar Mills.[4]

[5][**72 B. Transfer of a licence**—(a) Every licence shall be deemed to have been granted or renewed personally to the licensee and no licence shall be sold or transferred without obtaining previous permission in writing from the licensing authority [6][and such permission shall not be accorded unless an amount equal to 50% of the licence Fee has been paid."]

[7][Provided that [8][addtion (s) or] deletion (s) or substitution (s) of name (s) of

1. Added by No. 6 of 22-6-62.
2. Added by No. 11 of 6-7-64.
3. No. F. 2(9) FD/EX/81 S.O. 11 dated 27-4-88 pub. in Raj. Gaz. E.O. 4(Ga) (I) dated 30-4-88, page 30.
4. Gauri Lal V. State 1978 WLN 651.
5. Added by No. 3 of 28-5-59.
6. Added by S.O. 3, Notification No. F. 4 (17) FD/Excise/2004 dated 1-4-2005.
7. Proviso and clause (c) added vide No. F. 1(2) FD/88, S.O. dated 10-2-89 published in Raj. Gaz., E.O., 4 (Ga) (II) dated 14-2-89 Page 444.
8. Inserted by No. F. 1 (11) FD/EX/98-GSR. 4-dated 26-3-1999.

co-licencees constituting a particular licence in or from running licence shall be sanctioned by the [1][Licensing Authority] on such terms and conditions as he thinks fit.]

(b) If during the currency of a licence, the licensee desires to transfer his business to a new premises, he shall intimate his intention to the licensing authority at least 15 days in advance, and get his licence suitably amended. The licence shall thereupon hold good in a respect of new premises.]

[2](c) Every licensee of a licence shall be liable jointly and severally for all kinds of dues of Excise Department and other liabilities, whatsoever, in respect of licence granted].

[3][d) In the event of death of licencee where provision exists for year to year renewal, the transfer of licence may be considered in the name of such legal heir by Excise Commissioner in whose favour all the heirs of deceased licencee agree through application supported by affidavit submitted personally before him, on payment of 10% of annual renewal fees and on production of death certificate of original licencee issued by competent authority. In case legal heirs do not agree on any name, it would be transferred either in the name of all the heirs or in whose favour a competent civil court directs. The heir, in whose name licence is to be transferred, must be otherwise eligible for holding such licence as per prevailing provisions".]

[4][**विषय-देशी मदिरा एवं भारत निर्मित विदेशी मदिरा/बीयर खुदरा दुकानों हेतु अनुज्ञापत्र में नाम जोड़ने बाबत**—राजस्थान आबकारी नियम, 1956 के नियम 72-बी के परन्तुक के अनुसार अनुज्ञापत्र में नाम जोड़ने अथवा हटाने की अनुमति अनुज्ञापन अधिकारी द्वारा दी जा सकती है। अनुज्ञापत्र में भागीदार का नाम जोड़ने हेतु फीस के रूप में राज्य सरकार ने रु.25,000/-की राशि निर्धारित की है।

चूँकि देशी मदिरा एवं भारत निर्मित विदेशी मदिरा/बीयर खुदरा दुकानों हेतु जिला आबकारी अधिकारी ही अनुज्ञापन अधिकारी है, अत: अनुज्ञापत्रों में नाम जोड़ने के लिए आवेदन प्राप्त होने पर नियमानुसार स्वीकृति जारी कर दी जाये।]

❑ COMMENTARY

Essential Condition for Registration of Firm- R 72-B—Where licence was in name of R and new partners joined but licence not transferred. Held that the firm was entitled to registration when all essential conditions were complied with and there was no contravention of the Excise Rules.[5]

73. Period of licence for retail sales- (1) [6][Except otherwise provided] Licence for the retail sale of excisable articles shall ordinarily be granted for one year corresponding to the financial year of the Government subject to the following exceptions—

(a) A licence granted during the course of the financial year shall expire at the mid-night of the last day of the financial year.

(b) Licence granted for particular occasion shall be valid only for that occasion, and

(c) Licences for the retail sale of country liquor, foreign liquor and Hemp drugs may be granted for a period exceeding one year by or with special sanction of the Excise Commissioner.

1. Sub. by S.O. 347 dated 9-1-1995 for "Excise Commissioner."
2. Clause(c) Added vide No. F. 1 (2) dated 10-2-89 published in Raj. Gaz. E.O. 4(Ga) II dated 14-2-89.
3. Inserted vide No. F. 1 (11) FD/EX./98 dated 6-11-98.
4. क्रमांक प.22 (ए)(13)सेटल/आब/2006/351 दिनांक मई 11, 2006
5. C.T.V. M/s Roop Lal Denchand 1986(2) WLN 756.
6. Added vide S.O. 347 dated 9-1-95 w.e.f. 1-4-95.

[1](d) Licence for the retail sale of country liquor may be granted for any part of the financial year by or with the sanction of the Excise Commissioner]

(2) Licences for the wholesale manufacture or supply of liquor may be granted for a period not exceeding five years.

74. Persons debarred from holding licences—Without the previous written sanction of the Excise Commissioner;-

(1) No person holding or having an interest in a licence for the manufacturer sale or supply of foreign liquor in a district may hold or possess any interest in a licence for the retail sale of country Liquor in the same district.

(2) No person holding an interest in a licence for the retail sale of opium [2][denatured spirit,] or intoxication drugs in a district may hold or possess any interest in a licence for the whole sale or retail manufacture or sale of foreign or country liquor in the same district.

(3) No person shall hold or have an interest in two or more shops for the retail sale of the same excisable articles in the same village, or in the same city or town, and

(4) No person holding or having an interest in a licence for the manufacture of country liquor or supply thereof from a distillery or retail vendor shall hold or have an interest in a licence for the retail sale of country liquor in the area in which the distillery is established in any area supplied from such distillery.

[3][(5) No person whose tender or bid at an auction for grant of licence under the Act or these Rules has been accepted but who fails to deposit within the time allowed, the security amount required to be deposited according to the conditions of tender or auction in the financial year 1972-73 or thereafter shall be entitled to hold any licence under the Act or these rules for a period of three years from the last date allowed for deposit of such security].

❑ COMMENTARY

R.73—Premature termination of licence due to mistake—It gives no right to the licensee to claim any specific amount on this account.[4]

Order passed with out hearing—Order under S. 74 (5) passed debarring petitioner for a period of three year from obtaining licence, but no hearing was given- part of order relating to disqualifying petitioner from obtaining licence from the Excise Department for a period of 3 years was quashed. CMR 1975 SC 266 relied on][5]

Black listing, when not permitted.[6]

[7]**75. Location of shops**—

(1) A licensee for the retail sale of Country Liquor, Foreign or Indian Made Foreign Liquor or hemp drugs shall have his shop only at a place approved by the District Excise Officer concerned.

1. Ins. by S.O. 52 dated 30-3-1972, published in Raj. Gaz.–EO Part IV-C dated 30-3-1972 P. 287.
2. Ins. vide No. 1(11) FD/EX/75, dated 31-7-1976, in Raj.Gaz. Part IV-C dt. 12-8-76 p. 242.
3. Added by No. 28 of 5-5-72.
4. M/s. Amar Kumar v. Board of Revenue 1996 (1) WLC 156 (Raj).
5. Bhanwarlal v. State, ILR (1976) 26 Raj : 1976 RLW 304 : AIR 1976 Raj 215 : 1976 WLN (UC) 129–Also refer to :
   Bhagwat Singh v. State of Punjab AIR 1975 P & H 236 (FB)
6. M/s Nandraj Wines v. State of Raj 1980 RRD 179.
7. Substituted vide No. F. 1 (6) FD/EX/91, GSR 51 dated 27-2-1992–Pub. in Raj. Gaz. EO-4 (Ga) dated 27-2-92 page 151-154.

(2) A shop for the retail sale of Country Liquors or Foreign or Indian Made Foreign Liquor shall not be located with in a [1][distance] of 200 metres of Collegiate Educational Institution, Senior Higher Secondary School [2][Girls School of any standard,] Hospital, Place of Worship or Place of Public Entertainment, a Factory or a Labour or Harijan Colony [3][xxx].

[4][(3) A retail shop shall not be shifted from one place to another but if a licencee desires to change already approved location of the shop, same may be allowed by the District Excise Officer concerned on such conditions and fees as determined by the Excise Commissioner from time to time".

(4) The District Excise Officer, with sufficient reasons to be recorded in writing, shall have the powers to shift a shop from one place to another and no compensation shall be given to the licensee for such shifting of a shop.

Provided that the Excise Commissioner may grant relaxation in the above conditions location of a Liquor shop in exceptional circumstances [5][xxx] after recording sufficient sons in writing for doing so.

[6]["(5) A shop for the retail sale of country liquor, Foreign liquor and Indian Made eign Liquor, beer or Hemp Drugs shall not be located within a distance of 150 meters both sides from the Centre of National or State High ways, But this condition shall apply in areas falling within the jurisdiction of Municipal Corporation/Municipal ıncil/Municipality." [7][or where a developed market at a distance specified by Public rks Department is located.]

ılanation—

(1) For the purpose of sub-Rule(2) of Rule 75, the restriction about the distance ı shop from a "Place of Worship in the cities having a population of more than one shall only be applicable in respect of those places of worship entered in the list ntained in the Office of District Excise Officer.

(2) Harijan Colony shall means a Municipal Ward in which population of Person ›nging to Scheduled Castes according to the latest census exceeds Fifty percent of total population of that ward.

(3) Any shop situated near an educational Institution other than a College or Senior her Secondary School level Institutional or girls school of any standard shall be opened ' atleast one hour after the closing time of that institution.[7]

[8]["(4) for the purpose of sub-rule (2) of Rule 75 "Place of Public Entertainment" I mean Theater and Cinema Hall only."]

Substituted for "radius" vide S.O. 223 dated 25-2-1993.
Inserted vide GSR 1 dated 1.4.1999.
Deleted vide S.O. 223 dated 25-2-1993 for the words :
Railway station or Bus Stand approved by Rajasthan State Road Transport Corporation or the appropriate Local Authority as the case may be.
Substituted No. F. 1 (6) FD/EX/91 dated 28-1-1998.
Deleted vide, S.O. 223 of 25-2-93 for the following--
"With the prior approval of the State Government."
Inserted vide S.O. 223 dated 25-2-93.
Inserted vide GSR 1, dated 1-4-1999.
Subseituted vide S.O. 223 dated 25-2-93, for "(4) Restrictions about the distance of a shop from Railway Station and bus stand shall be applicable from 1st April 1993."

[1][विषय:—धार्मिक पूजा स्थलों के समीप मदिरा की दुकानों के सम्बन्ध में।

वर्तमान में राजस्थान आबकारी नियम 1956 के नियम 75 (2) के अनुसार देशी मदिरा, विदेशी मदिरा या भारत निर्मित विदेशी मदिरा की खुदरा दुकानों के लिये कोई दुकान धार्मिक पूजा स्थल से 200 मीटर की दूरी से भीतर अवस्थित नहीं होगी। किन्तु धार्मिक पूजा स्थलों की कोई स्पष्ट परिभाषा नहीं होने के कारण समय-समय पर यह कठिनाई उत्पन्न होती रहती है कि किस पूजा स्थल को इन नियमों के अन्तर्गत धार्मिक पूजा स्थल माना जावे और किस पूजा स्थल को नहीं। अत: इस कठिनाई को मद्दे नजर रखते हुये निम्न प्रकार निर्देश दिये जाते हैं:—

"उपरोक्त नियमों की पालना के उद्देश्य से वे स्थान धार्मिक पूजा स्थल की परिभाषा के अन्तर्गत आवेगें जो मंदिर, मस्जिद गुरुद्वारा या अन्य पूजा स्थल हो एवं जहाँ उन स्थलों पर पर्याप्त मात्रा में प्रतिदिन लोग पूजा के लिये आकर पूजा-अर्चना करते हो। ऐसे धार्मिक स्थलों में वे पूजा स्थल भी शामिल होगें जो राजस्थान पब्लिक ट्रस्ट एक्ट के तहत रजिस्टर्ड की गई संस्थाओं या अन्य किन्हीं नियमों के अन्तर्गत रजिस्टर्ड संस्थाओं या समितियों द्वारा चलाये जा रहे है या केवल ऐसे सार्वजनिक प्रकार से देवस्थान विभाग की देखरेख में चल रहे है या जिन्हें देवस्थान विभाग या राज्य सरकार के किसी अन्य विभाग/संस्थान से वित्तीय सहायता दी जाती हों।"

सभी जिला आबकारी अधिकारी अपने अपने क्षेत्र में स्थित उपरोक्तानुसार पूजा स्थलों की सूची, पत्र प्राप्ति के एक माह के अन्दर तैयार कर अपने कार्यालय में रखेंगे व एक प्रति प्रधान कार्यालय को प्रेषित करेगें एवं आबकारी दुकानों की अवस्थिति के संबंध में सिफारिश करते समय उपरोक्तानुसार पूजा स्थलों का पूर्ण विवरण देगें। इस विवरण में पूजास्थल यदि रजिस्टर्ड है तो उनके रजिस्ट्रेशन बाबत पूर्ण विवरण, पुजा स्थल का आकार प्रकार एवं पूजा अर्चना करने आने वाले व्यक्तियों की संख्या आदि का पूर्ण विवरण सम्मिलित होगा।]

❑ COMMENTARY

1. Location of Shop(R.75)- Any Interference by Excise Commissioner in absence of exceptional circumstances is held to be arbitrary, hence set aside.[2]

2. Licence for Beer Bar, when found illegal- [Ss.4,41 and Rule 75 (2)- Notification dated 15-2-57]- Licence for Beer Bar was granted, beer is included in foreign liquor and there is prohibition under Rule 75(2) for running a retail shop of country or foreign liquor within area of 200 meters of school or institution. Held that grant of licence for Beer Bar was illegal, hence was quashed.[3]

❑ CIRCULAR

[4][Sub:—Location of Country Liquor Shops.

Instrucation were issued vide this Department Circular No.F.4 (13)FD/Ex/72, dated the 15 the May, 1972 in regard to regulation of distance of country liquor shops from schools, hospitals, places of workship labour colonies etc. The matter has been reconsidered in the light of the recommendations of the Rajasthan Prohibition Committee. The following revised guide lines are laid down regarding minimum distance which may be kept between a country liquor shop and the places covered by rule 75 of the Rajasthan Excise Rules, 1956.

1. Minimum distance of 250 Metres between country liquor shops and labour colonies Textile Factories and Harijan bastis.

Note : For the purpose of this rule Harijan Basti means a Municipal Ward of the inhabitants in which more than 50% of the inhabitants belongs to schedule caste,

2. Minimum distance of 200 Metres should be kept between the country liquor shops and hopsitals, dispensaries, collegiate institutions, places of public entertainment and public resort and places of common public worship recognised as such by the Excise Commissioner.

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1. क्रमांक प. 22 (ए)/26 (सेटल)/आब./92-93 दिनांक 11-3-1993.
2. Amarjit V. State of Raj, 1973 RRD 173.
3. St. Soldiers Public School V. State of Raj 1996 WLC (UC) 340 (Raj)
4. No.4 (1) FD/Ex./75 dated 12-5-1975.

3. Country liquor shops near educational insitiutions (other than collegiate institutions) shall not be allowed to be opened within an hour of the closing of such institutions.

Such distances would mean the distances along regular approach roads in existence and in constant use. It should not be measured as the crow files. Further the distance should normally be between the actual building or structure covered by Rule 75 and a country liquor shop. Some times such structure have spacious compounds. In these cases, liquor shops may be located at a distance of minimum 100 metres from such compound walls. As regards the statue of Mahatma Gandhi, minimum distances of 100 metres may be kept between the statue and country liquor shops.

The above norms shall be observed in future in approving location of country liquor shops by the District Excise Officers strictly. It may well happen that dispute may arise about location of particular shop inspite of the fact that it fulfils the above norms. In such cases, dispute will be resolved by the District Excise Officer under the advice of the District Magistrate concerned whose advice in such cases will be final.]

[1][विषय-वर्ष 2006-07 मे दुकान स्थानान्तरण पर देय फीस।

विषान्तर्गत लेख है कि कतिपय जिला आबकारी अधिकारियों द्वारा भारत निर्मित विदेशी मदिरा व बीयर रिटेल आफ अनुज्ञाधारियो को उपलब्ध करवाये गये अनुज्ञापत्र नवीनीकरण के विकल्प के संदर्भ मे यह पूछा जा रहा है कि दुकान स्थानान्तरण की क्या फीस होगी। दिनांक 29-01-2006 को मुख्यालय पर हुई बैठक में आपको यह अवगत करवा दिया गया कि वर्ष 2006-07 के लिये राज्य सरकार से प्राप्त दिशा निर्देश अनुसार "दुकानो के स्थानान्तरण पर देय शुल्क जो कि वर्तमान मे नई दुकान के लिये निर्धारित लाईसेन्स फीस की 25 प्रतिशत की राशि के बराबर है को घटाकर नई दुकान की लाईसेन्स फीस के 10 प्रतिशत के बराबर किये जाने का निर्णय लिया गया है।"

आपको सूचनार्थ प्रेषित कर लेख है कि संबंधित व्यक्तियों द्वारा जानकारी मांगने पर तदनुसार अवगत करादे।]

FINANCE (EXCISE DIVISION) DEPARTMENT

[2][Sub:-Regarding realization of shifting fees for Country liquor shops in year 2006-07.

I am directed to refer you{r letter No. F.22(A) (3)/Settle/Ex./2005-06//42 dated 28-01-2006 on the above subject, the permission is hereby accorded as under:-

S.No.	Areas	Shifting Charges (in Rs.)
1	For Municipal Council Areas	Rs.25,000/-each
2	For other Municipal Areas	Rs.15,000/-each
3	For rural Areas	Rs.5,000/-each]

[3][**75.A-** Government may permit consumption of Country Liquor on the premises (to be called "Ahata") attached to a Country Liquor shop on such terms and condition as may be laid down]

76. Cancellation, modification and suspension of licences—The authority granting a licence under these rules may cancel, suspend or modify the licence-

1. क्रमांक प. 32 (बी.) (146)आब/एल/2005/3399 दिनांक 7-2-2006.
2. Added by Notification No. 4 (17)FD/EX/2004 dated 1-4-2006.
3. Added by S.O. 320 dated 19-2-91- Pub. in Raj. Gaz- EO-4 (Ga) II dated 20-2-91. Page 671 (7)

(a) to rectify clerical mistakes;
(b) If the licence has been obtained by fraud: or
(c) if the licensee has been guilty of the violation of a conditon of his licence or the contravention of the provison of the Act or any notification order or rule issued under the Act.

❑ COMMENTARY

Licence of Liquor—Suspension of licence is a punishment under S 34 and R.76- Such suspension of licence without following rules of natural justice is invalid.[1]

Cancellation of Licence & Natural Justice—Once a licence is granted to a licensee under the Excise Act, no order of cancellation can be passed without providing an opportunity of hearing. A reasonable opportunity of hearing and showing cause in an enquiry to be conducted, are the most essential requirements for consideration of the question of a licence under S.34 of the Act [1968 RRD519. 1916 RLW 312 and AIR 1978 SC 597 relied on] Writ accepted with cost- Enquiry left open][2]

Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail -Off Licence) Rules 1972-R. 69- Renewal of licence- Not a claim- No person to whom a licenc has ben granted under the Act can claim the renewal of a licence or can claim for compensation on termination or non-renewal thereof. The question of renewal of a licence can arise only when there exists an existing licence and there is no gap in between the expiry of licence and grant of new licence. As the total prohibition was in force in the State of Rajasthan, by no stretch of imagination it can be said that the petitioner's old licence could be renewed from April 1,1980 (writ dismissed)[3]

Rajasthan Foreign Liquor(Grant of whole sale Trade & Retail Licences) Rules, 1982. Rr 6 and 7 - Validity of Notification dated 31-3-82 amending Rr. 6 &7- The amendment of the Rules is a Legislative function of delegated legislature and the principles of natural justice or the right of hearing or opportunity to show cause cannot be extended to it. Rules cannot override the Act and therefore, in view of S 37 whatever prisemise might have been made or impressions given to the licensees for renewal, no legal right is created and the respondents can certainly reject the prayer for renewal and go ahead with the action proceedings according to the amendment of 31st March 1988 (Five writ petitions dismissed summarily)[4]

[5][**76-A. Notice of demand**—As soon as the demand of any duty fee or other demand due against any person under this Act or rules made thereunder is determined by the District Excise Officer. Assistant Excise Officer. he shall serve notice of demand in Form ETI along with a certified copy of the order requiring him to pay the amount so determined with in time specified in the notice which shall not be less than fifteen

1. Mangilal v. District Excise Officer. ILR (1970) 20 Raj. 569 1970 WLN 159. AIR 1971 Raj 46.
2. Topan Dass v. State 1981 RLW 351.
3. Ramkishan v. State 1981 WLN (UC) 267
4. M/s Raju Wine Stores, v. State. 1982 Raj LR 466
5. Ins. by Notification No. F. 1 (II) FD/EX/77, dated 20-6-1977. pub in Raj. Gaz EO part IV-C dated 30-6-1977,p.360.

s from the date of its service and in the manner specified in the notice and the person ll pay the amount accordingly.

[1]]**77. Refund of Fees & Levies**—The Excise Commissioner may refund any amount ee or levy paid for:

(1) The licence under the Act or rules framed thereunder and not sanctioned, vided the application for the same is not rejected on account of any fault, deceit, representation of facts, suppression of material information or any other illegal act the part of applicant,

(2) The permit/pass under the Act a rules framed thereunder and not utilised or issued, provided there is no fault on the part of applicant for non-utilization or non-ie of permit or pass, as the case may be.

(3) The licence/permit/pass in excess of or above the prescribed rates under the evant provision or any over collection.]

[2][**77-A. Samples**—Samples required for analysis under these rules shall be supplied e of cost by the licensee and all expenses in connection with packing, dispatch, chemical alysis, etc shall be borne by him.

The spirit which has not been sufficiently denatured, shall be denatured afresh der the order of the [3][District Excise Officer] when insufficiently denatured spirit is natured again, the expenses will either be borne by the supplier or by licensee concerned].

CHAPTER-IX-A

Prohibition of Publication of advertisements

77-B. Prohibition of printing and publication of advertisements relating to oxicants, etc.—(1) No person shall print or publish in any news paper, news- sheet, ok, leaflet, booklet or any other single or periodical publication or otherwise display, distribute any advertisement or to the matter which comments or solicits the use of offers, any intoxicant or which is calculated to encourage or iniciate any individual class of individuals or the public generally to commit an offence under the Act, or commit a breach or evade the provisions of any rule or order made thereunder.or e conditions of any licence, permit or pass obtained thereunder.

(2) Save as otherwise provided in Rule 77-C, nothing in this rule shall apply to—

(a) Catalogues or price-lists which may be generally or specially approved by the Excise Commissioner in this behalf:

New Rule 77 inserted Vide No. F.4(47) FD/EX/97 dated 26-3-1999.
Text of old Rule 77 was deleted vide NO. F. 4 (47) FD/EX/97 dated 26-6-97, Pub. in Raj. Gaz-EO-4(Ga) (II) dated 4-7-1997. The text of old Rule 77 was as under.
77. **Fees not to be refundable**—The fee paid for any licence under these rules shall not be refundable except under the specific orders of the Government.
[Substituted by GSR 34 dated 22-2-91, Pub in Raj Gaz-IV C-EO-dated 22-2-1991, Page 94 with retrospective effect from 1-4-1981].
Substituted vide Raj. Gaz IV-C, EO, dated 8-2-68.
Substituted on 16-10-69.

(b) any advertisement or other matter contained in any newspaper, news-sheet, book leaflet, booklet or other publication printed and published outside the State;

(c) any advertisement or other matter contained in any newspaper printed and published in the State before the commencemen of this rule and

(d) any other advertisement or matter which the State Government may, by notification in the Official Gazette, generally of specially exempt from the operation of this rule.

[1][**77-C Prohibition or circulation, etc, of newspapers, etc. containing advertisements regarding intoxicants**- Notwithstanding anything contained in sub-rule (2) of Rule 77-B, the State Government may by notification in the Official Gazette, prohibit within the State the circulation, distribution, or sale of any newspaper, news sheet, book, leaflet, booklet or other publication printed and published outside the state which contains any advertisement or matter of the nature described in sub-rule (1) of Rule 77-B].

[2][CHAPTER-IX-B

Compounding of Offences

77-D. Condition and restrictions subject to which power under Section 70 shall be exercised—Powers under Section 70 shall be exercised subject to the following conditions and restrictions-

(a) any District Excise Officer specially empowered in that behalf may accept in lieu of cancellation or suspension of a licence, permit or pass or by way of composition of an offence, sum of money not exceeding Rupees five hundred.]

[3][(b) Notwithstanding anything in clause (a) powers under Section 70 shall not be exercised by any District Excise Officer specially empowered in that behalf, if the offence committed or reasonably suspected of being committed is punishable under clause (c) or (d) of Section 54 or under Section 56, or if any proceedings have been pending in the court of law for the commission of any offence under the Act, with out obtaining the previous sanction of the Excise Commissioner.]

CHAPTER X

Disposal of Confiscated Articles

[Refer to Section 69 of the Act]

78. Magistrate to send the articles to Excise Officer—A Magistrate passing under this Act an order of confiscation of any excisable articles or any receptacle, packet or cover or any animal, cart, vessel, raft or other conveyance shall make it over to the [4][District Excise Officer] concerned.

79. Disposal of animals and things other than excisable articles—All animals confiscated under the Act and all things other than excisable articles so confiscated

1. Ins. vide Raj Gaz. Extra ordi. IV-C, dated 1-12-68.
2. Ins. vide Raj. Gaz. IV-C, Extra ordi, dated 18-12-67
3. Subs. vide Raj. Gaz. IV-C(I), dated 26-6-69
4. Subs. vide RG IV-C, Extra ordi., dated 16-10-69.

hall be sold by public auction under the orders of the [1][Excise Commissioner] within reasonable time after they are received under rule 78 from the Magistrate and the proceeds hereof shall be credited to the Government under the head "8 State Excise Penalties."

80. Disposal of excisable articles—All excisable articles confiscated under the Act shall be dealt within a reasonable time after they are received from the Magistrate under Rule 78.

(a) Excisable articles not exceeding Rs. 5/- in value may be destroyed by the [District Excise Officer.]

(b) Lawfully manufactured liquor in sealed bottles not exceeding Rs. 50/- in value hall be disposed off in such manner as the [1][District Excise Officer] may direct and uch liquor exceeding Rs. 50/- in value shall be disposed off in such manner as the [Excise Commissioner] may direct.

(c) Bhang [2][*] exceeding Rs. 5/- in value shall be deposited in the nearest bonded varehouse, if it is fit for issue, with the sanction of the [1][District Excise Officer], and f unfit, shall be disposed off in such manner as the Excise Commissioner may direct.

(d) Disposal of excisable articles in cases not covered by the above sub-rule shall e in such manner as the Excise Commissioner may direct by general or by special order.

[3][राजस्थान आबकारी अधिनियम 1950 के नियम 19, 20, 21, 22, 23 के अन्तर्गत विहित प्रक्रिया का उल्लघंन करने पर आबकारी विभाग के संबंधित अधिकारियों/कर्मचारियों द्वारा संबंधित के विरुद्ध अभियोग दर्ज कर देशी मदिरा/भारत निर्मित विदेशी मदिरा एवं बीयर को जब्त कर उनके विरुद्ध नियमानुसार कार्यवाही करने हेतु अभियोग दर्ज किया जाता है। ऐसे अभियोगो में जब्त की गई विदेशी मदिरा एवं बीयर के निस्तारण हेतु निम्न अधिकारियों की एक कमेटी गठित कर ऐसी मदिरा को निस्तारण करने के लिए अधिकृत किया जाता है:-

1. संबंधित उप खण्ड अधिकारी (एस.डी.एम.) अध्यक्ष
2. उप पुलिस अधीक्षक संबंधित सदस्य
3. जिला आबकारी अधिकारी/सहायक आबकारी अधिकारी सदस्य सचिव अधिकारी]

81. Perishable articles—Notwithstanding anything in these rules contained above n this Chapter, perishable articles or an animal in respect of which proper arrangements for custody cannot be made, may be disposed off immediately by public auction by he Magistrate himself or by the [1][District Excise Officer]

82. Sale or disposal to be deferred pending an appeal—The sale or other disposal of an excisable articles, animal or any other substance confiscated under the Act shall be deferred till the period of appeal against the order of confiscation has expired, or, f an appeal has been made to the knowledge of the officer concerned against such order, then until the appeal is disposed off :

Provided that the perishable article or an animal in respect of which no proper arrangement can be made for custody may be disposed off immediately and the sale-proceed may be credited in the Government treasury as deposits till the period of appeal expires, or until the appeal is disposed off, as the case may be.

CHAPTER XI

Witnesses and their Expenses

83. Expenses of witness—(1) Witnesses summoned by a criminal court for excise case before it or produced by an Excise Officer shall be paid expenses by the court

1. Subs. vide RG IV-C, Extra ordi., dated 16-10-69.
2. Deleted Noti. No. FD/Ex/173, dt. 17-9-75 Pub. in Raj. Gaz. Part IV-C dt 17-9-75, p. 510.
3. आदेश क्रमांक प. 4(13) वित्त/आब/2003 दिनांक 15-10-2003

in accordance with the rule for the time being in force for the grant of expenses to witnesses in criminal cases.

(2) Witnesses summoned by an Excise Officer in any excise case shall be granted expenses by that Excise Officer out of the budget provision under that head, in accordance with the same scales as are applicable to witnesses summoned by a criminal court.

84. Witnesses from more than 5 miles not to be summoned—An Excise Officer shall not summon witnesses residing at a place more than 5 miles from the border of the area which he is appointed.

CHAPTER XII

Mode of Payment of Duty

85. Duty on foreign liquor and country liquor payable before issue—(1) The duty on manufacture imposed for the time being in respect of foreign or country liquor shall be payable before the issue of such liquor from the distillery, brewery, warehouse or godown (as the case may be except where the issue is under a bond for the payment of duty.

(2) Export duty in all cases is payable before issue.

[1]["Provided that Excise Commissioner if he is satisfied that there are sufficient reasons for doing so, may allow refund of excise duty paid in respect of IMFL that after having brought in to the godowns of Rajasthan State Beverages Corporation Ltd. had to be returned back or destroyed."]

86. Duty on Ganja and Bhang payable before issue—The duty imposed for the time being on transport of Ganja or Bhang shall be payable before issue from the warehouse or gowdown concerned, except where the issue is under bond.

87. Bonds–their effect—Every person executing a bond for the payment of a duty levied under the Act shall be liable to pay the penalty of the bond according to its tenor.

CHAPTER XIII

Powers of Officers

88. Powers under Section 43,44,45 and 47—All Excise Officer of the Government of Rajasthan not below the rank of Excise Inspector [2][and Patrolling Officers in the Excise Preventive Force] may exercise the powers referred to in Sections 43,44,45 and 47.

89. Power under Section 45—All Excise Officer of the Government of Rajasthan including Excise Guards may exercise the powers mentioned in Section 45:

[3][Provided that when power is exercised by an Excise Officer other than an Excise Inspector of the Circle concerned, such officer shall immediately hand over the person arrested and the articles seized to the Excise Inspector of the Circle concerned.]

❑ COMMENTARY

Rr.88 and 89- Meaning of expression "Excise Officer"- Excise Inspectors are Excise Officers within meaning of S.3 (7) read with Rr. 88 and 89 and Notification No. 3- They

1. Proviso added by No. F. 4 (15) FD-Ex/2005 Part-I dated 1-4-06 w.e.f. 1-4-2005.
2. Inserted by Notification Pub. in Raj. Gaz. Part IV-C, dated 7-3-1968.
3. Added by Notification Pub. in Raj. Gaz., Part IV-C, dated 23-7-1964.

are competent to make complaint or report under S. 67 (1) (a) to the Magistrate.*State v. Laxman Singh 1980 WLN 433 :1980 RLW 495: 1980 Cr. LR 557 (Raj) (DB)*

-Rr 88 and 89—Complaint-Filing of-Where the Excise Inspector was conferred with the powers of Excise Officer, he was competent to file complaint in the Court on behalf of the State. *[State v. Chhoga Lal 1986 WLN (UC) 7]*

90. Powers conferred by notification under Section 10—All Excise Officers may exercise the powers conferred upon them by any notification under section 10 for the time being.

91. Powers conferred by notification under Section 9—All Excise Officers may exercise the powers conferred upon them by any notification under Section 9 or by any order issued under such notification.

CHAPTER XIV

Miscellaneous

92. Observance of laws of other States—All passes, permits and permissions issued under these rules shall be on the implied condition that the holder thereof has observed and will observe the Excise laws and rules of other State or States in India (as applicable to the subject- matter) for the time being in force.

93. Forms—The Excise Commissioner may prescribe forms for any licence, permit, permission, or pass to be issued under these rules, any application or statement to be submitted under these rules or any account to be maintained under these rules and may similarly prescribe forms for statement to be submitted, registers to be maintained and records to be kept by Excise Officer under the Act or these rules and other form for the purpose of carrying out of the provisions of the Act and these rules.

❑ COMMENTARY

Prescribed Forms—The Excise Commissioner has prescribed various forms of licences which are being reproduced hereinafter. These forms are frequently changed and as such please contact the District Excise Officer, in case of doubt.

[1]["93-A]. All transactions in respect of Excise revenue in the form of duty (or a countervailing), fee or other demand due against any person under the act or rules made thereunder involving fraction of a rupee shall be carried out in nearest multiple of rupee, proportion below 50 paise being ignored and 50 paise and above rounded off to the next higher rupee"]

94. Repeal—All rules in force in Rajasthan or in any part thereof regarding any matter for which provision is made by these rules are hereby repealed but not so as to effect their previous operations.

❑❑

1. Inserted vide S.O. 178. No. F.1 (4) FD/EX/90 dated 7-12-95, pub. in Raj. Gaz,. EO.4 (Ga) dated 22-12-95, Page 330.

FINANCE (EXCISE) DEPARTMENT

[1]FORM No. RER/BWH-I [See Rule 47 (2)]

Whole Sale Licence With Bond Facility

Sale of Indian Made Foreign Liquor and Beer other than denatured spirit.

Licence No.

Locality

Name of manufacturer licence.

Address of manufacturing unit

Address of Corporate Headquarters

Name of Local representative

Licence for wholesale sale of Indian Made Foreign Liquor and Beer. other than denatured spirit, is hereby granted to Messrs----------at---------- in the District of----------from---------- to----------on prepayment of initial fee of Rs. 50,000/- (Rupees fifty thousand only).

Subject to the following special and general conditions

The Licensee is hereby also permitted to establish and work a company bonded warehouse for storing portable Indian Made Foreign Liquor/Beer and for export/import or transport under bond at----------in the town of---------- during the financial year---------- subject to the condition of this licence.

GENERAL CONDITIONS

1. The Warehouse shall be established at the premises approved by the Excise Commissioner and no additions or alternation shall be made without obtaining his previous permission.
2. The licensee shall have to pay supervision charges as fixed by the Excise Commissioner.
3. The licensee shall have to furnish security for the amount and in the form as directed by the Excise Commissioner.
4. Issue from the warehouse shall be effected only when the duty payable in Rajasthan has been paid in advance.
5. All the stocks of Foreign liquor shall be kept under double lock system. key of one shall remain with Excise Officer concerned and other with the licensee The licensee shall to open his lock when required to do so by the Excise Officer.
6. Excise operation at the warehouse regarding liquor shall take place in the presence of the Excise Officer and the licensee or his duly authorised agent
7. The licensee shall provide all the manual labour and assistance necessary to carry out the provisions of law.

1. Substituted vide S.O. 98 dated 18-6-94, Pub. in Raj. Gaz EO-4 (Ga) Page 107 (8)-107 (13) dated 22-6-94.

8. The licensee shall have to pay duty on the wastage of foreign liquor as per rules.
9. The licensee shall not store any country liquor under cover of this licence nor he shall rectified or denatured spirits or duty paid foreign liquor in the same room.
10. The licensee shall not issue any liquor except under a pass granted by the Officer-in-charge under authority of a permit by the District Excise Officer concerned.
11. The State Government shall not be responsible for any destruction or damage by fire, theft or any other cause to liquor stored in warehouse. In case of any accident the Officer-in-charge shall immediately attend to open it at any hour by day or night.
12. Sales shall be made only on the basis of -
    (a) export permit issued by the District Excise Officer/Assistant Excise Officer concerned, or
    (b) permit issued by the concerned District Excise Officer/Assistant Excise Officer to another wholesale licensee holding licence under rule 47 (1) (b).

[1]["Provided that licensee may sell wine directly to a retail on licensee on the basis of a permit issued by District Excise Officer concerned."]

13. Sales shall only be made in quantities not less than 9 litres or 12 quarters or 24 pints or 48 nips of any on kind of liquor e.g. Whisky, Brandy, Rum and Gin and not less than one case of Beer and fermented liquor.

Note— The minimum limit must be adhered to in the case of each kind of liquor sold.

14. The licensee shall not transfer or sublet this licence to or enter into partner-ship with any person.
15. The licensee shall duly perform and faithfully abide by these conditions and the provisions of the Rajasthan Excise Act 1950, the Narcotic Drugs and Psychotropic substances Act 1985 and rules made thereunder or notifications and orders issued by State Govt. or Excise Authorities. In case of infringement of any of the above conditions or order by the licensee or his agent or any person acting on his behalf, the licence shall be liable to cancellation and the licence fee or any part thereof to forfeiture without prejudice to any other action according to law or rules in force.

SPECIAL CONDITIONS

(Applicable to licensees manufacturing IMFL/Beer outside Rajasthan)

1. The licensee shall have to pay licence fee prescribed under rule 69(1) and the import duty imposed under section 28 before he imports IMFL/Beer in to Rajasthan.
2. For import of Indian Made Foreign Liquor/Beer in Bond licensee shall present an application in written to the District Excise Officer or Assistant Excise Officer of the District of import specifying-
    (a) The quantity and description of the Indian made Foreign Liquor to be imported, including quantity in L.P. Litre.
    (b) The name of the distillery or brewery, from which the liquor is to be imported.
    (c) The name of the bonded warehouse in Rajasthan to which the liquor is to be consigned. He shall also pay fees prescribed for such permit in advance.
3. The applicant shall also execute unless a general bond previously executed by him is still in force, either a general or a special bond in favour of the District Excise Officer or Assistant Excise Officer as the case may be of the district of

1. Notification No. F.4(12)FD/Ex./2002 dated 1-4-2002 Published in Raj. Gaz. Part IV (C) dated 1-4-2002

import for the payment of countervailing duty on quantity actually imported and on the excess loss in transit as determined by the law or rules in force in the State of import.

4. The District Excise Officer or Assistant Excise Officer as the case may be shall unless there are reasons to the contrary, prepare a permit for import in quarduplicate. containing all the particulars specified in special condition No. 2 of the licence and clearly specifying that a bond for payment of duty has been executed. One copy of the permit shall be hand over to the applicant, the second shall be forwarded to the appropriate Excise Authority of the District of Export, the third shall be forward to the Excise Inspector of the Circle and the fourth will be retained by the District Excise Officer or Assistant Excise Officer as the case may be for record and verification of the consignment on arrival. The permit shall remain in force only up to the date specified therein.
5. The importer shall present his copy of permit before the appropriate Excise Officer of the State of export of the Officer-in-charge of the distillery or brewery from which the liquor is to be obtained, who shall issue the necessary pass for export from the State. The pass shall specify the number and date of permit authorising import into Rajasthan.
6. The licensee shall have to inform the probable date of arrival and the approximate quantity in bulk litres of each consignment of foreign liquor to be kept before seven days to the District Excise Officer of the District of the Officer-in -Charge.
7. On the arrival in Rajasthan, the consignment of Indian Made Foreign Liquor shall be taken direct to the bonded warehouse as mentioned in the permit, where it shall be checked by the Officer-in-Charge of Warehouse and also entered in the importer's Accounts.
8. As soon as after such arrival, the Officer-in-Charge of the Warehouse shall also certify on the importer's copy of the pass issued in the exporting State full details regarding the liquor received in such form as may be prescribed by the pass or as may be required by the authority issuing pass and shall return it to the office issuing it, after verification by the District Excise Officer or Assistant Excise Officer as the case may be.
9. The importer shall be liable to pay duty on the excess transit loss as determined by the law or rules in the State of import.
10. The local representative of the manufacture shall invariably be a full time employee of the company holding this licence and company shall give a certificate to this effect when making an application for this licence.
11. A true and detailed account of the licence fee on the balance of stock on 31st March every year and the quantity imported during the year of running of licence through permits or other-wise till the date of application of every permit alongwith the treasury receipt of excess amount deposited for the fresh import (if any) shall be submitted alongwith the application of every fresh import permit.
12. The licensee shall be required to pay brand fee provided for under the proviso of rule 3 of the Rajasthan Foreign Liquor (Grant of Wholesale and Retail of Licences) Rules, 1982

FORMS OF LICENCES

Terms & Conditions of Various Licences

Issued by the Excise Commissioner -

1. देशी मदिरा (Country Liquor) की खुदरा बिक्री के लिए अनुज्ञापत्र (नियम 57, 67 (झा) तथा 83 के अन्तर्गत) 341
2. भारत निर्मित विदेशी मदिरा (बीयर को छोड़कर) खुदरा विक्रय अनुज्ञापत्र की शर्तें 351
3. बीयर के खुदरा (रिटेल ऑफ) विक्रय का अनुज्ञा पत्र 357
4. विदेशी मदिरा एवं बीयर के थोक विक्रेता का अनुज्ञापत्र 365
5. भांग खुदरा विक्रय का अनुज्ञापत्र 370
   भांग थोक अनुज्ञा-पत्र 378
6. परिशोधित स्पिरिट, पूर्ण अलकोहल और विकृतिकृत स्पिरिट के विनिर्माण और थोक विक्रय के लिए अनुज्ञप्ति [नियम 67 (7) के अन्तर्गत] 379
7. विकृत प्रासव (Denatured spirit) तथा विकृत प्रासवीय पदार्थों (Denatured spirituous preparation) के खुदरा विक्रय के लिए अनुज्ञप्ति [नियम 68 (8)] 381
8. देशी मदिरा की बोतलें भरने के लिए अनुज्ञापत्र [नियम 68 (11) तथा 93] 383
9. आसवक के लिए भारत निर्मित विदेशी मदिरा की बोतलें भरने के लिए अनुज्ञापत्र [नियम 69 (2) तथा 92] 386
10. औद्योगिक प्रयोजनों के लिए परिशोधित स्प्रिट या परिशुद्ध मद्यसार (एलकोहल) का कब्जा रखने एवं उसका उपयोग करने के लिए अनुज्ञप्ति नियम [नियम 68 (2) व 93] 390
11. औद्योगिक प्रयोजन हेतु विकृत स्प्रिट रखने व प्रयोग करने हेतु अनुज्ञप्ति पत्र 391

❑ **Note** - Some proforma of other Licences and terms & conditions thereof, have been appended with the various special Rules hereinafter reproduced in this book. Please also refer to the Rules concerned.]

❑ COMMENTARY

Validity of Licence Form - Held, not invalid—

There is no inconsistency between S. 31 and R 93 as the State Government could itself prescribe the forms and licences and lay down the restrictions or conditions in respect thereof or may delegate the power to the Excise Commissioner who could exercise and same with the sanction of the State Government.

The argument that form C. L. (1) A was not prescribed by the State Government and that it was issued by the Excise Commissioner in breach of section 31 was repelled. The Excise Commissioner was duly authorised to prescribe the form C. L. (1) A and the contract entered into by the petitioner with the State Government on and aforesaid form is not illegal or invalid in any manner.[1]

1. State of Rajasthan v. Balmukand, ILR (1974) 24 Raj. 910 : 1974 WLN 367 (DB)

राजस्थान सरकार

आबकारी विभाग

राजस्थान आबकारी अधिनियम, 1950 तथा राजस्थान आबकारी नियम, 1956 के अन्तर्गत

[1](1) देशी मदिरा की खुदरा बिक्री के लिए अनुज्ञापत्र

अनुज्ञापत्र संख्या..... दिनांक.....

अनुज्ञाधारी का नाम	पिता/पति का नाम	आयु	जाति	पूर्ण पता

उपर्युक्त व्यक्तियों को विभाग द्वारा निदेशित राजस्थान राज्य गंगानगर शुगर मिल्स के गोदाम से देशी मदिरा प्राप्त कर समूह क्षेत्र में अवस्थित दुकान/दुकानों पर खुदरा विक्रय करने हेतु दिनांक 1-4-0..... से 31-3-0..... तक की अवधि के लिए नीचे वर्णित शर्तों पर अनुज्ञापत्र जारी किया जाता है।

देशी मदिरा समूह का नाम : .....

समूह में निर्धारित दुकानों की संख्या : .....

समूह में निर्धारित दुकानों का विवरण : .....

.....

इस अनुज्ञापत्र की पालना सुनिश्चित करने के लिये उक्त अनुज्ञाधारी/अनुज्ञाधारियों ने वर्ष 200...-0... की निर्धारित वार्षिक राशि की वांछित 12.5 प्रतिशत नकद धरोहर राशि (अर्नेस्टमनी की राशि को समायोजित करते हुए) जमा करा दी है। अनुज्ञापत्र की शर्त में परिवर्तन दिनांक 21-3-06 अनुज्ञापत्र की पुश्त पर पेज नं. 12 संलग्न है जो 21-3-06 के बाद उठाये गये देशी मदिरा समूहों पर लागू है।

देशी मदिरा खुदरा विक्रय अनुज्ञापत्र (लाईसेन्स) की शर्तें

1. राजस्थान आबकारी अधिनियम 1950 एवं उसके अन्तर्गत बने नियमों आदि की पालना:- अनुज्ञाधारी, राजस्थान आबकारी अधिनियम, 1950 (राजस्थान अधिनियम संख्या-2, 1950) एवं उसके अन्तर्गत बने राजस्थान आबकारी नियम, 1956 एवं आवेदन के संदर्भ में जारी विस्तृत निर्देश एवं शर्तों, अनुज्ञाधारी के पक्ष में जारी की गई स्वीकृति, इस अनुज्ञापत्र की शर्तों तथा समय-समय पर प्रसारित विभागीय निर्देशों से पाबन्द रहेगा।

2. वार्षिक राशि एवं अन्य राशियाँ तथा उनका भुगतान :-

2.1 अनुज्ञाधारी को राजस्थान आबकारी अधिनियम, 1950 की धारा 24 एवं 30 तथा राजस्थान

1. आदेश क्रमांक प. 32 (बी) (146) आब/एळ/05-06/3345 दिनांक 2-2-2006 द्वारा प्रतिस्थापित।

आबकारी नियम, 1956 के नियम संख्या 67 (आई) के अधीन एकाकी विशेषाधिकार के लिए वर्ष 200...-0.... (दिनांक 1-4-0.... से 31-3-0..... तक) की अवधि के लिए निर्धारित वार्षिक राशि रुपये .....(अंकों में) रुपये..... (शब्दों में) ..... का भुगतान करना होगा।

2.2 अनुज्ञाधारी को निर्धारित दुकान/दुकानों की वार्षिक राशि की 12.5 प्रतिशत राशि बतौर बेसिक लाईसेंस फीस दिनांक 15-3-0.... तक जमा करानी होगी।

2.3.1 एकाकी विशेषाधिकार की वार्षिक राशि में से उपर्युक्त शर्त 2.2 में वर्णित बेसिक लाइसेंस फीस जमा कराने के बाद शेष वसूली योग्य राशि का भुगतान समतुल्य 12 मासिक किश्तों में करना होगा। माह का आशय कैलेण्डर माह से है। प्रत्येक माह की मासिक किश्त का भुगतान उस माह की अंतिम दिनांक तक करना होगा। देशी मदिरा पर भुगतान की गई आबकारी ड्यूटी का मासिक किश्त की राशि के प्रति रिबेट (भराव) देय होगा जो किसी भी दशा में मासिक किश्त की राशि से अधिक नहीं होगा। अनुज्ञापत्र की शर्त में परिवर्तन पेज 12 पर संलग्न है।

2.3.2 विलम्ब से जमा करायी गयी राशि पर राजस्थान आबकारी अधिनियम 1950 के अनुसार ब्याज भी वसूली योग्य होगा। ब्याज के भुगतान करने के लिये पृथक से नोटिस की आवश्यकता नहीं होगी।

2.4 अनुज्ञाधारी को राजस्थान आबकारी नियम 1956 के नियम 69-बी के अन्तर्गत देय फीस पृथक से भुगतान करनी होगी।

2.5 उपर्युक्त राशियों के अलावा अन्य फीस एवं कर प्रभार, अगर कोई है, का अलग से भुगतान करना होगा।

3. अनुज्ञापत्र की वैधानिक स्थिति:-

3.1 जिन व्यक्तियों के पक्ष में अनुज्ञापत्र स्वीकृत किया गया है वे व्यक्ति ही अनुज्ञाधारी की श्रेणी में माने जायेगे तथा वे ही इस अनुज्ञापत्र के तहत निर्धारित क्षेत्र में देशी मदिरा की बिक्री करने हेतु अधिकृत होंगे।

3.2 अनुज्ञाधारी, अनुज्ञापत्र देने वाले अधिकारी की लिखित स्वीकृति के बिना किसी अन्य व्यक्ति को अनुज्ञापत्र हस्तान्तरित नहीं कर सकेगा। अनुज्ञापत्र की अवधि में अनुज्ञाधारी की मृत्यु हो जाने पर मदिरा समूह को नियमानुसार फिर से उठाया जा सकेगा। यदि अनुज्ञाधारी का कोई वैध वयस्क उत्तराधिकारी हो, तो उसकी प्रार्थना पर अनुज्ञापत्र उसके नाम पर जारी किया जा सकेगा। किसी समूह में एक से अधिक अनुज्ञाधारी होने की स्थिति में यदि किसी अनुज्ञाधारी की मृत्यु हो जाती है तो शेष अनुज्ञाधारी अनुज्ञापत्र की शर्तों से यथावत बाध्य रहेंगे।

3.3 ''व्यक्तियों के समूह'' के नाम पर अनुज्ञापत्र स्वीकृत किये जाने की स्थिति में स्वीकृत ''व्यक्तियों के समूह'' में सम्मिलित समस्त व्यक्ति सह-अनुज्ञाधारी की श्रेणी में आयेंगे एवं अनुज्ञापत्र की शर्तों से बाध्य होंगे। सभी सह-अनुज्ञाधारी आबकारी बकाया एवं अन्य दायित्वों के भुगतान के लिये संयुक्त एवं पृथक-पृथक रूप से उत्तरदायी होंगे। दायित्वों के उनके आपसी बंटवारे संबंधी उनकी आन्तरिक व्यवस्था से विभाग को कोई सरोकार नहीं रहेगा। ऐसे ''व्यक्तियों के समूह'' में सम्मिलित व्यक्ति, अनुज्ञाधारियों द्वारा आयकर विभाग में प्रस्तुत की जाने वाली सूची से भिन्न नहीं होंगे।

3.4 व्यवसाय संचालन हेतु यदि कोई अनुज्ञाधारी किसी अन्य व्यक्ति को साथ लेकर ''व्यक्तियों का समूह'' बनाना चाहता हो अथवा ''व्यक्तियों के समूह'' में अन्य व्यक्तियों को सम्मिलित करना चाहता हो तो

इसके लिए उसे नियमानुसार राशि जमा कराते हुये अनुज्ञापत्र स्वीकृत करने वाले प्राधिकारी की पूर्व अनुमति लेना आवश्यक होगा। इस प्रकार नये सम्मिलित व्यक्ति भी अनुज्ञाधारी की श्रेणी में माने जावेंगें एवं वे आवेदन के संबंध में जारी विस्तृत निर्देश एवं शर्तों तथा अनुज्ञापत्र की शर्तों से बाध्य होंगे। साथ ही ऐसे व्यक्ति सभी दायित्वों के भुगतान हेतु संयुक्त एवं पृथक-पृथक रूप से उत्तरदायी होंगे। दायित्वों के उनके आपसी बंटवारे संबंधी उनकी आन्तरिक व्यवस्था से विभाग को कोई सरोकार नहीं रहेगा। ऐसे ''व्यक्तियों के समूह'' में सम्मिलित व्यक्ति, अनुज्ञाधारियों द्वारा आयकर विभाग में प्रस्तुत की जाने वाली सूची से भिन्न नहीं होंगे।

4. धरोहर राशि (Security Deposit) हैसियत प्रमाण-पत्र/जमानत:

4.1 अनुज्ञाधारी को अनुज्ञापत्र शर्तों की पालना सुनिश्चित करने हेतु बेसिक लाईसेंस फीस के समतुल्य राशि (अर्थात् वार्षिक राशि की 12.5 प्रतिशत) धरोहर राशि के रूप में आवेदन प्रपत्र के संलग्न विस्तृत दिशा निर्देश व शर्तों में दी गई अवधि में जमा करानी होगी। अनुज्ञाधारी द्वारा आवेदन के साथ प्रस्तुत सत्यांकर राशि (Earnest money) धरोहर राशि पेटे समायोजित कर ली जायेगी।

4.2 धरोहर राशि का समायोजन वर्ष 200...-0.... की अन्तिम मासिक किश्तों के पेटे किया जा सकेगा।

4.3 अनुज्ञाधारी की सक्षम राजस्व अधिकारी द्वारा जारी प्रमाण-पत्र अनुसार आर्थिक हैसियत दुकान/दुकान समूह की वार्षिक राशि की 5 प्रतिशत होनी चाहिये। यदि उसकी स्वयं की हैसियत इस अनुरूप नहीं हैं तो शेष राशि की मोतबीर जमानत पेश करनी होगी।

5. दुकानों की अवस्थिति:-

5.1 अनुज्ञाधारी अनुज्ञा के लिए निर्धारित क्षेत्र (यथा ग्राम पंचायत अथवा नगर निगम/परिषद/पालिका का वार्ड) में देशी मदिरा की निर्धारित दुकानों की संख्या तक किसी भी स्थान पर नियमानुसार दुकान लगा सकेगा, परन्तु इसके लिये उसे अपने क्षेत्र के जिला आबकारी अधिकारी से दुकानों की अवस्थिति स्वीकृत करानी होंगी। बिना स्वीकृति के अनुज्ञाधारी दुकानों का संचालन नहीं कर सकेगा।

5.2 अनुज्ञाधारी दुकानें प्रारम्भ करने से पूर्व दुकानों की अवस्थिति की स्वीकृति हेतु आवश्यक दस्तावेजों सहित, संबंधित जिला आबकारी अधिकारी को आवेदन प्रस्तुत करेगा। उचित एवं पर्याप्त कारण होने पर जिला आबकारी अधिकारी अनुज्ञाधारी द्वारा चाही गई अवस्थिति पर दुकान लगाने की स्वीकृति देने से मना कर सकता है। ऐसी स्थिति में अनुज्ञाधारी किसी प्रकार की क्षतिपूर्ति अथवा उसके द्वारा देय राशियों में छूट पाने का हकदार नहीं होगा। साथ ही वह अन्य स्थान पर नियमानुसार दुकान स्वीकृत कराने हेतु आवेदन जिला आबकारी अधिकारी को प्रस्तुत कर सकेगा।

5.3 जिला आबकारी अधिकारी को यह अधिकार होगा कि वह उचित एवं पर्याप्त कारण होने पर स्वीकृत स्थान से दुकान हटवा सकेगा। इस प्रकार स्वीकृत दुकानों को एक स्थान से उसी समूह क्षेत्र में दूसरे स्थान पर स्थानान्तरित करने या बन्द रहने या संचालन नहीं करने पर अनुज्ञाधारी किसी प्रकार की क्षतिपूर्ति अथवा वार्षिक/मासिक किश्त की राशि में छूट पाने का हकदार नहीं होगा।

5.4 निर्धारित दुकानों की संख्या तक दुकानों की अवस्थिति स्वीकृत नहीं कराने अथवा किसी कारणवश उन्हें संचालित नहीं करने की स्थिति में अनुज्ञाधारी उसके द्वारा देय राशियों में किसी प्रकार की छूट पाने का हकदार नहीं होगा।

5.5 अनुज्ञाधारी मदिरा की दुकान अस्पताल, महाविद्यालय एवं सीनियर हायर सैकण्डरी शिक्षण संस्थानों, सभी स्तर के कन्या शिक्षण संस्थानों, धार्मिक स्थानों, सिनेमा हॉल और नाट्य गृह से 200 मीटर की परिधि

में नहीं लगा सकेगा, परन्तु एक लाख से अधिक आबादी वाले शहरों में धार्मिक स्थानों से दूरी संबंधी प्रतिबंध जिला आबकारी अधिकारी के कार्यालय में रखी हुई सूची में उल्लेखित धार्मिक स्थानों पर लागू होगा। महाविद्यालय, सीनियर हायर सैकण्डरी शिक्षा संस्थानों एवं सभी स्तर के कन्या शिक्षण संस्थानों को छोड़कर अन्य विद्यालयों के निकट की दुकानों के लिए यह प्रतिबन्ध रहेगा कि शिक्षा संस्थान बन्द होने के एक घण्टे बाद ही दुकान खोली जा सकेगी।

5.6 अनुज्ञाधारी, फैक्ट्री अथवा श्रमिक व हरिजन बस्ती से 200 मीटर की परिधि में दुकान नहीं लगा सकेगा। हरिजन बस्ती से अभिप्राय ऐसे नगर पालिका वार्ड से होगा जिसमें अनुसूचित जातियों से संबंधित व्यक्तियों की जनसंख्या नवीनतम जनगणना के अनुसार उस वार्ड की जनसंख्या की 50 प्रतिशत से अधिक है।

5.7 अनुज्ञाधारी राष्ट्रीय राज मार्ग व राज्य राज मार्ग के मध्य से दोनों ओर सार्वजनिक निर्माण विभाग द्वारा तय दूरियों पर विकसित बाजारों में दुकानों की अवस्थिति स्वीकृत करा सकेगा, किन्तु जहां ऐसे बाजार नहीं है वहां मार्ग के मध्य से दोनों ओर 150 मीटर की दूरी तक दुकान नहीं लगा सकेगा किन्तु यह शर्त नगर निगम/नगर परिषद/नगर पालिका की आधिकारिता एवं सीमा से गुजरने वाले उक्त मार्गों पर लागू नहीं होगी।

5.8 दुकानों की अवस्थिति बाबत उक्त प्रतिबन्धों में पर्याप्त कारण होने पर आबकारी आयुक्त शिथिलता प्रदान कर सकेंगे।

5.9 अनुज्ञाधारी को अपनी दुकान के दरवाजे पर कम से कम 75x25 से.मी. आकार का एक साईन बोर्ड जिस पर अनुज्ञाधारी का नाम, दुकान का विवरण, दुकान खुलने व बन्द होने का समय तथा दुकान जिला आबकारी अधिकारी से अनुमोदित होने आदि का उल्लेख हो, लगाना होगा। नगरपालिका क्षेत्र के भीतर की दुकानों के लिए जब तक कि आबकारी आयुक्त की स्वीकृति न हो, तब तक केवल एक ही दरवाजा सार्वजनिक सड़क पर होगा। यदि अधिक दरवाजें स्वीकृति से खुले हो तो प्रत्येक दरवाजे पर ऐसा साईन बोर्ड लगाना होगा। आमतौर से मदिरा की दुकान इस प्रकार होनी चाहिए कि दरवाजे के बार से भीतर के सब हालात स्पष्टतया दिखाई दे सके। दुकान का काउण्टर विहित रीति के अनुसार रखना होगा। जिस कमरे में दुकान होगी उसमें अनुज्ञाधारी एवं उसके अधिकृत नौकर के अतिरिक्त किसी अन्य व्यक्ति को नहीं रख सकेगा। अपनी बिक्री बढ़ाने के लिए ग्राहक को किसी प्रकार का प्रलोभन नहीं दे सकेगा, जैसे कि गाना, नाच व रेडियों/टेलीविजन का कार्यक्रम इत्यादि और न किसी प्रकार का विज्ञापन ही इस विषय पर कर सकेगा।

5.10 सभी मदिरा दुकानों को स्वच्छ रखना होगा तथा नियमित रूप से साफ-सफाई रखनी होगी। मदिरा के स्टॉक को दुकान में व्यवस्थित रूप से रखना होगा। विक्रय की जाने वाली विभिन्न किस्म की मदिरा को दुकान के भीतर उचित रूप से प्रदर्शित (Display) करना होगा।

5.11 कानून व व्यवस्था की दृष्टि से किसी दुकान की अवस्थिति वर्जित स्थान पर होने की दशा में अगर उस दुकान को बन्द करवाया जाता है तो सक्षम अधिकारी की अनुमति से अनुज्ञाधारी उस समूह क्षेत्र में अन्यत्र स्थान पर नियमानुसार दुकान खोल सकेगा परन्तु ऐसा करने पर वार्षिक/मासिक किश्त की राशि के भुगतान में किसी प्रकार की छूट अथवा क्षतिपूर्ति का हकदार नहीं होगा।

5.12 अनुज्ञाधारी नियमानुसार राशि का भुगतान कर जिला आबकारी अधिकारी की अनुमति से स्वीकृत कराई गई दुकान को अपने क्षेत्र में एक स्थान से दूसरे स्थान पर स्थानान्तरित कर सकेगा।

5.13 समूह में एक से अधिक दुकान होने पर अनुज्ञाधारी देशी मदिरा के भण्डारण हेतु उसी समूह क्षेत्र में नियमानुसार एक देशी मदिरा खुदरा गोदाम निःशुल्क स्वीकृत करा सकेगा जो समूह की किसी दुकान से 200 मीटर से अधिक दूर अवस्थित नहीं होना चाहिये।

6. दुकानों का संचालन :-

6.1.1 दुकान खुली रहने का समय प्रातः 9 बजे से रात्रि 11 बजे तक रहेगा, परन्तु आबकारी आयुक्त द्वारा बिना पूर्व सूचना के समय में आवश्यकतानुसार परिवर्तन किया जा सकेगा।

6.1.2 वर्तमान में नियम 4 शुष्क दिवसों पर एवं भविष्य में राज्य सरकार/आबकारी आयुक्त द्वारा नियत किये जाने वाले शुष्क दिवसों पर दुकानें बंद रखनी होगी। शुष्क दिवसों की सूचना अनुज्ञाधारी संबंधित आबकारी निरीक्षक से प्राप्त करेगा। इसके अतिरिक्त दुकान को बन्द रखने व बिक्री समय पर जो नियंत्रण समय-समय पर लगाये जावेंगे उनका पालन भी अनुज्ञाधारी को करना होगा और इसके लिए उसे न तो कोई क्षतिपूर्ति की जायेगी और न उसके द्वारा देय राशि में ही कोई कमी की जावेगी। यदि अनुज्ञाधारी की दुकानें कानून व व्यवस्था संबंधी कारणों से बन्द रहती है तो भी देय राशि में किसी प्रकार की छूट नहीं दी जावेगी। शुष्क दिवसों की पठनीय सूची दुकान के काउण्टर के पास लगानी होगी।

6.1.3 राज्य सरकार, आबकारी आयुक्त अथवा अनुज्ञापत्र देने वाला अधिकारी अनुज्ञाधारी को बिना नोटिस दिये शुष्क दिवसों के अतिरिक्त किसी विशेष अवसर पर या विशेष कारणवश मदिरा के विक्रय के समय में परिवर्तन कर सकेगा या दुकान बन्द रखने की आज्ञा दे सकेगा। ऐसी दशा में अनुज्ञाधारी को इसके लिये न तो कोई क्षतिपूर्ति की जायेगी औन न देय राशि में कोई कमी की जायेगी।

6.2 देशी मदिरा अनुज्ञाधारी अपनी आपूर्ति राजस्थान राज्य गंगानगर शुगर मिल्स के निर्धारित गोदाम से लेगा और उसे अपनी दुकान पर सबसे अधिक सीधे मार्ग से अथवा जिला आबकारी अधिकारी द्वारा निर्धारित मार्ग से नियत समय में सुरक्षित रूप से लायेगा और उसके लिए पास भी साथ रखना होगा। दूसरे स्थान या किसी भी अन्य अनुज्ञाधारी से मदिरा नहीं ला सकेगा, न अपने पास रख सकेगा और न ही उसका विक्रय कर सकेगा।

6.3 अनुज्ञाधारी को अपने क्षेत्र की दुकान/दुकानों तथा विभाग द्वारा स्वीकृत खुदरा गोदाम के मध्य माल लाने व ले जाने हेतु जिला आबकारी अधिकारी से अलग से परमिट लेने की आवश्यकता नहीं होगी। इस हेतु "परिवहन घोषणा पत्र" अनुज्ञाधारी द्वारा जारी किया जावेगा। परिवहन घोषणा पत्र पुस्तिका विभाग द्वारा अनुज्ञाधारी को जारी की जावेगी। इस घोषणा पत्र की मान्यता अवधि एक दिन की होगी।

6.4 अनुज्ञाधारी अपनी दुकान पर अधिकृत रूप से क्रय की गई देशी मदिरा का ही विक्रय कर सकेगा। आबकारी आयुक्त की अनुमति के बिना अन्य कोई पदार्थ न तो रख सकेगा और न ही बेच सकेगा। मदिरा में किसी प्रकार की मिलावट या परिवर्तन भी नहीं कर सकेगा।

6.5 अनुज्ञाधारी मदिरा लाने व बेचने के लिए किसी वयस्क व्यक्ति को संबंधित जिला आबकारी अधिकारी की स्वीकृति से ही नौकर रख सकेगा परन्तु ऐसे व्यक्ति के प्रत्येक काम के लिए अनुज्ञाधारी स्वयं उत्तरदायी होगा। अनुज्ञाधारी की किसी विशेष कारण से अनुपस्थिति की अवस्था में अनुज्ञाधारी के पिता एवं अनुज्ञाधारी के वयस्क पुत्र को इस संबंध में लिखित स्वीकृति की आवश्यकता नहीं होगी। अनुज्ञाधारी मदिरा बेचने व लाने के लिए अपनी दुकान पर किसी ऐसे व्यक्ति को नौकर नहीं रख सकेगा जिसे कोई संक्रामक रोग हो या जो आबकारी एवं फौजदारी जुर्म में आदतन अपराधी अथवा वान्टेड हो। दुकान पर मदिरा बेचान करने वाले अधिकृत नौकर को उचित वेशभूषा में रहना होगा तथा उसे अपना नाम तथा विभाग द्वारा नौकरनामे के अनुमोदन के क्रमांक व दिनांक के उल्लेख वाली पट्टिका/लेमिनेटेड कार्ड लगाना होगा।

6.6 अनुज्ञाधारी को अनुज्ञापत्र की अवधि तक अपनी दुकान नियमित रूप से संचालित रखनी होगी और हर समय स्टॉक में देशी मदिरा की इतनी मात्रा रखनी होगी, जो 15 दिन की बिक्री के लिए पर्याप्त हो।

मदिरा का सारा स्टॉक उसी दुकान या स्वीकृत खुदरा गोदाम पर रखना होगा और उसी दुकान पर बेचना होगा, जिसके लिए उसे अनुज्ञापत्र दिया गया है।

6.7.1 अनुज्ञाधारी मदिरा बन्द बोतलों/अद्धों/पव्वों में ही विक्रय कर सकेगा। जनजाति क्षेत्र में पाउच उपलब्ध करवाने पर पाउच में भी देशी मदिरा की बिक्री की जा सकेगी।

6.7.2 स्वीकृत दुकानों पर किसी भी प्रकार का मदिरापान करना/कराना पूर्णत: निषिद्ध होगा।

6.7.3 ऐसे अनुज्ञाधारी जो देशी मदिरा की खुली बिक्री करना चाहते हैं, आवश्यक स्वीकृति हेतु आबकारी आयुक्त को निवेदन कर सकते हैं। केवल उन्हीं दुकानों पर देशी मदिरा की खुली बिक्री की जा सकेगी जिनसे जुड़े ''अहाते'' में बैठकर मदिरा पान कर सकने की अनुमति ले ली गई है। अहाता स्वीकृत करने के लिए आबकारी आयुक्त सक्षम होंगे। ''अहाते'' को स्वीकृत करने के संबंध में निम्न शर्तें लागू होगी:-

(अ) ''अहाते'' के लिए प्रति दुकान निम्न वार्षिक शुल्क देना होगा:

1. एक लाख या उससे अधिक की आबादी वाले नगरपालिका क्षेत्र में	रूपये 20,000/-
2. एक लाख से कम आबादी वाले नगरपालिका क्षेत्र में	रूपये 12,000/-
3. अन्य स्थान	रुपये 8,000/

(ब) अहाता की स्वीकृति के लिए निम्नलिखित शर्ते पूर्ण करनी होगी-

1. अहाता के लिए प्रस्तावित स्थल पर अहाता लगाने के लिए जिला मजिस्ट्रेट का अनापत्ति प्रमाण पत्र प्राप्त कर प्रस्तुत करना होगा। स्थल का मानचित्र (नक्शा) जिला आबकारी अधिकारी के माध्यम से आबकारी आयुक्त से अनुमोदित कराना होगा।
2. मुख्य मार्गो एवं बाजारों में अहाता स्वीकृत नहीं किया जायेगा।
3. अनुज्ञाधारी को अहाते की लोकेशन इस प्रकार रखनी होगी कि बाहर जाने वाले व्यक्ति को अहाते का भीतरी भाग दिखाई नहीं दें।
4. अहाता स्थल का निर्विवाद आधिपत्य स्वयं अनुज्ञाधारी का होना चाहिये।

(स) 1. अहाता दुकान से जुड़ा होना चाहिए परन्तु ऐसी दुकान, जहां से बोलत बंद मदिरा की बिक्री होती है, में बैठकर पीने की अनुमति नहीं होगी। अनुज्ञाधारी अहाते के रूप में अनुमोदित परिसर में ग्राहक के बैठने का समुचित प्रबन्ध करेगा। वह स्थान मानव स्वास्थ्य की दृष्टि से उपयुक्त होगा और वहां शौचालय की समुचित व्यवस्था होगी। साथ ही अनुज्ञाधारी ''अहाते'' की सफाई और लाईट की पूरी एवं पुख्ता व्यवस्था करेगा। अनुज्ञाधारी को अहाते में अग्निशमन यंत्र रखना भी आवश्यक होगा। अनुज्ञाधारी को दुकान बंद करने के साथ ही अहाते को भी बंद करना होगा।

2. अनुज्ञाधारी को अहाता पर एक साईनबोर्ड कम से कम 751x25 से.मी. लगाना होगा जिस पर अनुज्ञाधारी का नाम, दुकान नम्बर तथा अहाता नम्बर लिखना आवश्यक होगा।

(द) यदि किसी समय यह पाया जाता है कि अनुज्ञाधारी अहाता सुविधा का दुरुपयोग कर रहा है या उसकी समुचित व्यवस्था नहीं कर रहा है, तो ऐसी स्थिति में ''अहाते'' की स्वीकृति तत्काल प्रभाव से निरस्त की जा सकेगी और अनुज्ञाधारी द्वारा जमा कराया गया ''अहाता शुल्क'' वापस नहीं लौटाया जायेगा।

6.8 अनुज्ञाधारी किसी एक व्यक्ति को एक समय में 3 लीटर से अधिक देशी मदिरा सक्षम अधिकारी की आज्ञा के बिना एक साथ नहीं बेच सकेगा, लेकिन राज्य सरकार जब भी उचित समझेगी तब अधिसूचना

जारी कर इस मात्रा में कमी या वृद्धि कर सकेगी, जिसकी पालना अनुज्ञाधारी को करनी होगी। ऐसी आज्ञा के विरुद्ध वह कोई आपत्ति नहीं कर सकेगा और न ही किसी प्रकार की क्षतिपूर्ति की मांग कर सकेगा।

6.9.1 अनुज्ञाधारी 18 वर्ष से कम आयु वाले किसी व्यक्ति को या जिस व्यक्ति का होश हवास दुरूस्त न हो, मदिरा नहीं बेच सकेगा। इसी प्रकार पुलिस व सेना के सिपाही या रेल व आबकारी के कर्मचारियों को भी जो वर्दी पहने हुए या ड्यूटी पर हो, मदिरा नहीं बेच सकेगा। वाहन चालको को एवं हवाई जहाज के पायलटों को भी यात्रा के दौरान मदिरा नहीं बेच सकेगा।

6.9.2 अनुज्ञाधारी अथवा उसका नौकर अपनी दुकान पर किसी प्रकार दंगा, फसाद या जुआ नहीं होने देगा और ऐसे लोगों को जो कुख्यात बदमाश हों, दुकान पर आने नहीं देगा और रात को ऐसे बदमाशों को अपनी दुकान पर नहीं ठहरायेगा। यदि कोई ऐसा व्यक्ति दुकान में आवे जिसके विषय में पुलिस द्वारा दस्तान्दाजी योग्य और जमानत के अयोग्य अपराध का संदेह हो तो अनुज्ञाधारी या जो व्यक्ति उसकी ओर से दुकान पर काम करता हो तो उसका कर्त्तव्य होगा कि उसकी सूचना तुरन्त निकटवती मजिस्ट्रेट या पुलिस अधिकारी को दें।

6.9.3 अगर अनुज्ञाधारी या उसका कोई प्रतिनिधि अन्य देशी मदिरा समूह क्षेत्र में अवैध रूप से देशी मदिरा भेजते हुए पाया जाता है तो अन्य कानूनी कार्यवाही के अलावा उस पर उचित शास्ति भी आरोपित की जा सकेगी।

6.10 राज्य सरकार को देशी मदिरा का अधिकतम व न्यूनतम विक्रय मूल्य निर्धारित करने का अधिकार होगा। अनुज्ञाधारी निर्धारित अधिकतम खुदरा विक्रय मूल्य से अधिक पर देशी मदिरा का विक्रय नहीं कर सकेगा। इसी प्रकार न्यूनतम विक्रय मूल्य से कम मूल्य पर मदिरा का विक्रय नहीं किया जा सकेगा। अनुज्ञापत्र की शर्त में परिवर्तन पेज 12 संलग्न है।

6.11 जिला आबकारी अधिकारी की पूर्व अनुमति के बिना अनुज्ञाधारी किसी मेले में अस्थाई तौर पर दुकान नहीं लगा सकेगा।

7. अभिलेखों का संधारण :-

7.1 अनुज्ञाधारी को देशी मदिरा की आमद, बिक्री और शेष बची मात्रा (Balance) का हिसाब निर्धारित रजिस्टर में दैनिक रूप से रखना होगा व एक निरीक्षण पंजिका भी रखनी होगी। यह रजिस्टर जिला आबकारी अधिकारी के कार्यालय में मूल्य चुका कर प्राप्त करना होगा। प्रतिदिन का हिसाब दुकान बंद करने के साथ उसी दिन ही लिखना होगा और मासिक आमद, बेचान व स्टॉक का नक्शा आगामी माह की 5 तारीख तक हलके के आबकारी निरीक्षक के पास पेश करना होगा।

7.2 आबकारी निरीक्षक अथवा निरीक्षण के लिये अन्य प्राधिकृत अधिकारी द्वारा निरीक्षण करने पर अनुज्ञाधारी को अपना अनुज्ञापत्र, नौकर का नौकरनामा व बिक्री रजिस्टर, परमिट पास एवं मदिरा का तमाम स्टॉक, इत्यादि जांच हेतु बतलाना होगा तथा उसको दिन व रात में किसी भी समय दुकान में प्रविष्ट होने देगा और ऐसे अधिकारी को निरीक्षण के दौरान प्रत्येक प्रकार का सहयोग देगा।

7.3 अनुज्ञापत्र की अवधि समाप्त होने अथवा किसी अन्य कारण से अनुज्ञापत्र रद्द होने की स्थिति में अनुज्ञाधारी को देशी मदिरा के बचे हुए स्टॉक एवं समस्त रिकार्ड की सूचना अविलम्ब अपने क्षेत्र के आबकारी निरीक्षक को देनी होगी। समस्त रिकार्ड उसे आबकारी निरीक्षक के कार्यालय में अविलम्ब जमा कराना होगा एवं बचे हुए स्टॉक का निस्तारण जिला आबकारी अधिकारी के आदेशानुसार करना होगा। निस्तारण होने तक बचा हुआ स्टॉक, आबकारी निरीक्षक एवं निवर्तमान अनुज्ञापत्र धारी के संयुक्त अभिरक्षण में ऐसे स्थान

: रहेगा, जहां व्यवसाय किया जा रहा था एवं निस्तारण करने तक उस स्थान का किराया बिजली व्यय एवं न्य अधिभार निवर्तमान अनुज्ञाधारी को ही देने होंगे।

8. अनुज्ञापत्र को निरस्त करना:

8.1 अनुज्ञाधारी को मासिक किश्तों का भुगतान अनुज्ञापत्र की शर्त संख्या 2.3.1 के तहत निर्धारित वधि तक करना आवश्यक होगा। निर्धारित अवधि तक की मासिक किश्त को जमा नहीं कराने पर इसे नुज्ञापत्र की शर्तों का उल्लघंन माना जायेगा तथा इस आधार पर अनुज्ञापत्र को निरस्त किया जा सकेगा।

8.2 यदि अनुज्ञापत्र देने वाले अधिकारी अथवा उससे उच्च प्राधिकारी को किसी समय यह विश्वास ! कि अनुज्ञाधारी अपनी दुकान चालू नहीं रखता है अथवा ठीक तौर पर नहीं चलाता है अथवा किसी भी प्रकार ाबकारी शुल्क व अन्य आबकारी प्रभारों की अपवंचना में प्रत्यक्ष या परोक्ष रूप से सम्मिलित है अथवा अन्य ोई उचित एवं पर्याप्त कारण हों तो ऐसी दशा में अनुज्ञापत्र निरस्त किया जा सकेगा।

8.3 अनुज्ञापत्र की अवधि के दौरान अनुज्ञाधारी के विरुद्ध राजस्थान आबकारी अधिनियम 1950 ारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्ट 1985 अथवा आबकारी अधिनियम 1950 की धारा 4 में उल्लेखित अधिनियमों तथा उसमें उल्लेखित धाराओं के अन्तर्गत अभियोग दर्ज होने या उनके सजायाब ाने पर अनुज्ञापत्र निरस्त किया जा सकेगा।

8.4 यदि अनुज्ञाधारी अवैध रूप से मदिरा, अफीम या अन्य मादक पदार्थ रखता है या बेचता है या किसी ान्य राज्य में अवैध रूप से मदिरा को बेचने का या अफीम या अन्य मादक पदार्थ बेचने का काम करता है या ाकसी ऐसी जगह से उसका संबंध है जहां से ये वस्तुएं अवैध रूप से लाई जाने का संदेह हो तो ऐसी दशा में अनुज्ञापत्र ेरस्त किया जा सकेगा।

8.5 अनुज्ञाधारी अथवा उसके नौकर द्वारा राजस्थान आबकारी अधिनियम, 1950 उसके अन्तर्गत ने राजस्थान आबकारी नियम, 1956 अथवा आवेदन प्रपत्र के साथ संलग्न विस्तृत निर्देश एवं शर्तों, नुज्ञाधारियों के पक्ष में जारी की गई स्वीकृति, इस अनुज्ञापत्र की शर्तों अथवा समय-समय पर प्रसारित विभागीय ेर्देशों की अवहेलना किये जाने पर अनुज्ञापत्र निरस्त किया जा सकेगा।

8.6 अनुज्ञापत्र स्वीकृत करने वाला अधिकारी अथवा उससे उच्च प्राधिकारी, अनुज्ञाधारी को अपना क्ष प्रस्तुत करने हेतु उचित अवसर प्रदान करने के उपरान्त अनुज्ञापत्र निरस्त कर सकेगा। अनुज्ञापत्र निरस्त किये ाने पर अनुज्ञाधारी अथवा उसके वारिस किसी प्रकार की क्षति पूर्ति पाने के हकदार नहीं होंगे।

8.7 अनुज्ञापत्र निरस्त करने वाले अधिकारी को यह अधिकार होगा कि वह अनुज्ञापत्र को अनुज्ञाधारी ी जोखिम एवं लागत पर निरस्त कर उसके द्वारा प्रस्तुत की गई धरोहर राशि (अमानत राशि को सम्मिलित रते हुये) को जब्त कर सके। साथ ही दुकान/दुकानों के पड़त रहने अथवा दोबारा ठेका कम राशि पर उठने ा अन्य तरीके से दुकान/दुकानों के संचालन के परिणामस्वरूप राज्य सरकार को जो भी हानि होगी उसे संबंधित नुज्ञाधारी की विभाग के पास उनकी जमा किसी भी राशि से, उनके द्वारा प्रस्तुत कोलेटरल सिक्युरिटी से, ाजस्थान आबकारी अधिनियम के तहत तथा भू-राजस्व की बकाया वसूली की भाँति उनकी समस्त चल-अचल म्पत्तियों से तथा उनके वारिसों/उत्तराधिकारियों से वसूल की जा सकेगी। अनुज्ञाधारी की सम्पत्तियों तथा उनके वारिसों/उत्तराधिकारियों की सम्पत्तियों पर प्रथम प्रभार आबकारी विभाग का रहेगा। यदि दुकान/दुकानों के पुन: उठने पर कोई लाभ होगा तो अनुज्ञाधारी उसे पाने के हकदार नहीं होंगे।

9. बकाया राशियों की वसूली:-

अनुज्ञाधारी के विरूद्ध किसी भी प्रकार का कोई आबकारी राजस्व मय ब्याज बकाया रहने की स्थिति में उसकी वसूली विभाग के पास अनुज्ञाधारी की किसी भी जमा राशि से, उनके द्वारा प्रस्तुत की गई कोलेटरल सिक्युरिटी से तथा राजस्थान आबकारी अधिनियम, 1950 के तहत तथा राजस्थान भू-राजस्व अधिनियम 1956 एवं केन्द्रीय राजस्व वसूली अधिनियम 1890 के प्रावधानों के अनुसार भू-राजस्व की बकाया की भाँति अनुज्ञाधारियों तथा उनके वारिसों/उत्तराधिकारियों से की जायेगी। अनुज्ञाधारी की सम्पत्तियों तथा उनके वारिसों/उत्तराधिकारियों की सम्पत्तियों पर प्रथम प्रभार आबकारी विभाग का रहेगा।

10. अन्य बिन्दु:-

10.1 अनुज्ञाधारी के लिए अनिवार्य होगा कि वह आबकारी अधिनियम व नारकोटिक ड्रग्स एण्ड साइकोट्रोपिक सब्सटेन्सेज एक्ट के तहत कारित अपराध उसकी जानकारी में आने पर जिला आबकारी अधिकारी या हल्के के आबकारी निरीक्षक को अविलम्ब सूचना देगा।

10.2 राजस्थान आबकारी अधिनियम, 1950 एवं इसके अन्तर्गत बनाये गये नियमों के समस्त प्रावधान यथारूप में लागू होंगे।

10.3 इस अनुज्ञापत्र के संबंध में उत्पन्न होने वाले समस्त विवाद का न्याय क्षेत्र अनुज्ञापत्र जारी कर्ता प्राधिकारी का मुख्यालय रहेगा।

10.4 अनुज्ञापत्र की शर्तों में परिवर्तन/संशोधन पेज 12 पर संलग्न अनुसार लागू है।

अनुज्ञापत्र देने वाले के हस्ताक्षर

प्रसिसंविद

अनुज्ञापत्र संख्या.....जिला.....

समूह का नाम.....

मैं/हम उपर्युक्त अनुज्ञापत्र के संबंध में इसमें निर्दिष्ट शर्तों तथा राजस्थान आबकारी अधिनियम, 1950 तथा उसके अन्तर्गत बनाये गये नियमों, आवेदन प्रपत्र के साथ संलग्न विस्तृत निर्देश एवं शर्तों, हमारे पक्ष में जारी की गई स्वीकृति एवं समय-समय पर प्रसारित विभागीय निर्देशों की पालना करना पूर्णत: स्वीकार करता हूँ/करतें हैं।

हस्ताक्षर अनुज्ञाधारी

मेरे समक्ष हस्ताक्षर किये

आबकारी निरीक्षक

प्रति हस्ताक्षर

वृत.....

जिला आबकारी अधिकारी

राजस्थान सरकार

कार्यालय आबकारी आयुक्त, राजस्थान, उदयपुर

[1][वर्ष 2006-07 के आबकारी बंदोबस्त के संदर्भ में देशी मदिरा दुकानों के अनुज्ञापन की शर्तों में रेवर्तन एवं दिनांक 22-2-06 को आयोजित होने वाली लॉटरी के स्थगन की सूचना

देशी मदिरा रिटेल दुकानों के अनुज्ञापन हेतु आवेदन आमंत्रण की इस कार्यालय द्वारा जारी सूचना क्रमांक . 32 (बी)(146)/आब/एल/05-06/3345 दिनांक 2-2-06 व इसके क्रम में विभाग द्वारा मदिरा कानों के अनुज्ञापन के संबंध में निम्न संशोधन किये गये हैं:-

1. देशी मदिरा के विक्रय हेतु विभाग द्वारा अधिकतम खुदरा विक्रय मूल्य का निर्धारण नहीं किया जाएगा।

2. आवेदन प्रपत्र में दी गई प्रक्रिया अनुसार देशी मदिरा दुकान समूह हेतु जिन आवेदकों का चयन हो ाता है उन सभी के द्वारा जितनी कम्पोजिट दुकानों के लिए विकल्प दिया गया होगा उस अनुरूप संबंधित ावेदक को उतनी ही संख्या तक कम्पोजिट दुकानें स्वीकृत कर दी जाएगी।

3. देशी मदिरा दुकानों में अहाते के लिए अनापत्ति प्रमाण पत्र जारी करने के लिए संबंधित जिला जिस्ट्रेट के अलावा संबंधित अतिरिक्त आयुक्त आबकारी को भी अधिकृत कर दिया गया है।

4. देशी मदिरा अनुज्ञाधारियों द्वारा माह अप्रेल, मई व जून में मासिक किश्त से अधिक उठाई गई मदिरा ा भराव माह जुलाई, अगस्त व सितम्बर में दिया जा सकेगा।]

राजस्थान सरकार

कार्यालय आबकारी आयुक्त, राजस्थान, उदयपुर

न्दु संख्या 8 :-

[2][(1) प्रस्तावकर्ता को धरोहर राशि जमा कराने हेतु निम्न दो विकल्प प्रदान किये जाते है :-

(अ) प्रस्तावकर्ता प्रस्तावित वार्षिक राशि की 12.5 प्रतिशत राशि की बैंक गारंटी प्रस्तुत कर सकता है अथवा

(ब) आवेदक धरोहर राशि तीन किश्तों में-पांच प्रतिशत 5 अप्रेल तक, 5 प्रतिशत 5 मई तक व शेष ढ़ाई प्रतिशत 5 जून 06 तक जमा करा सकेगा।

उक्त में से कोई विकल्प लेने वाले प्रस्तावकर्ता का प्रस्ताव स्वीकार किये जाने पर उसके द्वारा जमा र्नेस्टमनी बेंसिक लाईसेंस फीस पेटे समायोजित की जा सकेगी।]

. क्रमांक:प. 32(बी)(146)आब/एल/05-06/3479-3496 दिनांक 21-2-06

. क्रमांक:प. 32(बी)(146)आब/एल/05-06/3464-3687 दिनांक 21-3-06 व 22-3-06

राजस्थान सरकार

आबकारी विभाग

राजस्थान आबकारी अधिनियम 1950 राजस्थान आबकारी नियम 1956 तथा राजस्थान विदेशी मदिरा (थोक व्यापार तथा खुदरा बहि:पान अनुज्ञप्ति प्रदाय) नियम 1982 के अन्तर्गत

(2) विदेशी मदिरा एवं बीयर की खुदरा बिक्री (रिटेल ऑफ) के लिए अनुज्ञापत्र

अनुज्ञापत्र संख्या..... दिनांक : .....

अनुज्ञाधारी का नाम	पिता/पति का नाम	आयु	जाति	पूर्णा पता
1	2	3	4	5

उपर्युक्त व्यक्ति/व्यक्तियों को विदेशी मदिरा एवं बीयर के अधिकृत थोक विक्रता से विदेशी मदिरा एवं बीयर प्राप्त कर..... स्थान (मोहल्ला) ..... शहर/गांव.....जिला में अवस्थित दुकान पर खुदरा विक्रय करने हेतु दिनांक..... से .....तक की अवधि के लिए नीचे वर्णित शर्तों पर अनुज्ञापत्र जारी किया जाता है:-

1. राजस्थान आबकारी अधिनियम 1950 एवं उसके अन्तर्गत बने नियमों आदि की पालना:

अनुज्ञाधारी, राजस्थान आबकारी अधिनियम 1950 (राजस्थान अधिनियम संख्या-2, 1950) एवं उसके अन्तर्गत बने राजस्थान आबकारी नियम, 1956 तथा राजस्थान विदेशी मदिरा (थोक व्यापार तथा खुदरा बहि:पान अनुज्ञप्ति प्रदाय) नियम 1982 एवं अनुज्ञापत्र हेतु आवेदन आमंत्रण बाबत दिये गये विस्तृत निर्देश एवं शर्तो, अनुज्ञाधारियों के पक्ष में जारी की गई स्वीकृति, इस अनुज्ञापत्र की शर्तो तथा समय-समय पर प्रसारित विभागीय निर्देशों से पाबन्द रहेगा।

2. लाईसेंस फीस एवं अन्य राशियां तथा उनका भुगतान:-

2.1 अनुज्ञाधारी को वर्ष 200---0--- (दिनांक 1-4-200--- से 31-3-200--- तक) की अवधि के लिए निर्धारित लाईसेन्स फीस रुपये..... (अंकों में) रूपये.....(शब्दों में) का अनुज्ञापत्र आवेदन के संबंध में जारी विस्तृत दिशा निर्देश में उल्लेखित अवधि में भुगतान करना होगा।

2.2 उपर्युक्त राशियों के अलावा फीस एवं अन्य कर प्रभार, अगर कोई है, का नियमानुसार अलग से भुगतान करना होगा।

2.3 अनुज्ञाधारी द्वारा विलम्ब से जमा करायी गयी राशि पर राजस्थान आबकारी अधिनियम, 1950 के अनुसार ब्याज भी वसूली योग्य होगा।

2.4 अनुज्ञाधारी को थोक से मदिरा क्रय के लिये परमिट जारी करवाते समय राजस्थान आबकारी नियम, 1956 के नियम 69-बी के अन्तर्गत देय फीस पृथक से भुगतान करनी होगी।

3. अनुज्ञापत्र की वैधानिक स्थिति:

3.1 अनुज्ञाधारी, अनुज्ञापत्र देने वाले अधिकारी की लिखित स्वीकृति के बिना किसी अन्य व्यक्ति को अनुज्ञापत्र हस्तान्तरित नहीं कर सकेगा। अनुज्ञापत्र की अवधि में अनुज्ञाधारी की मृत्यु हो जाने पर अनुज्ञाधारी के वैध वयस्क उत्तराधिकारी को उसकी प्रार्थना पर अनुज्ञापत्र नियमानुसार स्थानान्तरित किया जा सकेगा।

3.2 ''व्यक्तियों के समूह'' के नाम पर अनुज्ञापत्र स्वीकृति किये जाने की स्थिति में स्वीकृत ''व्यक्तियों के समूह'' में सम्मिलित समस्त व्यक्ति सह-अनुज्ञाधारी की श्रेणी में आयेंगे एवं अनुज्ञापत्र की शर्तों से बाध्य होंगे। सभी सह-अनुज्ञाधारी आबकारी बकाया एवं अन्य दायित्वों के लिए संयुक्त एवं पृथक-पृथक रूप से उत्तरदायी होंगे। दायित्वों के उनके आपसी बंटवारे संबंधी उनकी आन्तरिक व्यवस्था से विभाग को कोई सरोकार नहीं रहेगा। ऐसे ''व्यक्तियों के समूह'' में सम्मिलित व्यक्ति, अनुज्ञाधारियों द्वारा आयकर विभाग में प्रस्तुत की जाने वाली सूची से भिन्न नहीं होंगे।

3.4 व्यवसाय संचालन हेतु यदि कोई अनुज्ञाधारी किसी अन्य व्यक्ति को साथ लेकर ''व्यक्तियों का समूह'' बनाना चाहता हो अथवा ''व्यक्तियों के समूह'' में अन्य व्यक्तियों को सम्मिलित करना चाहता हो तो इसके लिए उसे अनुज्ञापत्र स्वीकृत करने वाले प्राधिकारी की पूर्व अनुमति लेना आवश्यक होगा। इस प्रकार नये सम्मिलित व्यक्ति भी अनुज्ञाधारी की श्रेणी में माने मावेंगे एवं वे आवेदन आमंत्रण के संबंध में जारी विस्तृत निर्देश एवं शर्तों तथा अनुज्ञापत्रों की शर्तों से बाध्य होंगे। साथ ही ऐसे व्यक्ति समूह के सभी दायित्वों की पूर्ति हेतु संयुक्त एवं पृथक-पृथक रूप से उत्तरदायी होंगें। दायित्वों के उनके आपसी बंटवारे संबंधी उनकी आन्तरिक व्यवस्था से विभाग को कोई सरोकार नहीं रहेगा। ऐसे ''व्यक्तियों के समूह'' में सम्मिलित व्यक्ति अनुज्ञाधारियों द्वारा आयकर विभाग में प्रस्तुत की जाने वाली सूची से भिन्न नहीं होंगे।

4. दुकान की अवस्थिति:-

4.1 अनुज्ञाधारी को अपनी दुकान की अवस्थिति का अनुमोदन अपने क्षेत्र के जिला आबकारी अधिकारी से करवाना होगा। बिना स्वीकृति के अनुज्ञाधारी दुकान का संचालन नहीं कर सकेगा। उचित एवं पर्याप्त कारण होने पर जिला आबकारी अधिकारी अनुज्ञाधारी द्वारा चाही गई अवस्थिति पर दुकान लगाने की स्वीकृति देने से मना कर सकता हैं। ऐसी स्थिति में अनुज्ञाधारी किसी प्रकार की क्षतिपूर्ति अथवा लाईसेंस फीस व अन्य देय राशियों में छूट पाने का हकदार नहीं होगा। साथ ही वह अन्य स्थान पर नियमानुसार दुकान स्वीकृति कराने हेतु आवेदन जिला आबकारी अधिकारी को प्रस्तुत कर सकेगा।

4.2 जिला आबकारी अधिकारी को यह अधिकार है कि वह उचित एवं पर्यापत कारण होने पर स्वीकृत स्थान से दुकान हटवा सकेगा। इस प्रकार स्वीकृत दुकान को एक स्थान से उसी दुकान के क्षेत्र में दूसरे स्थान पर स्थानान्तरित करने या बन्द रहने या संचालन नहीं करने पर अनुज्ञाधारी किसी प्रकार का क्षतिपूर्ति अथवा लाइसेन्स फीस में छूट पाने का हकदार नहीं होगा।

4.3 अनुज्ञाधारी किसी कारणवश यदि दुकान संचालित नहीं कर पाता है तो लाइसेन्स फीस एवं अन्य देय राशियों में किसी प्रकार की छूट पाने का हकदार नहीं होगा।

4.4 अनुज्ञाधारी मदिरा दुकान अस्पताल, महाविद्यालय एवं सीनियर हायर सैकण्डरी शिक्षण संस्थानों, सभी स्तर के कन्या शिक्षण संस्थानों, धार्मिक स्थानों, सिनेमा हॉल और नाट्य गृह से 200 मीटर की परिधि

में नहीं लगा सकेगा, परन्तु एक लाख से अधिक आबादी वाले शहरों में धार्मिक स्थानों से दूरी संबंधी प्रतिबंध जिला आबकारी अधिकारी के कार्यालय में रखी हुई सूची में उल्लेखित धार्मिक स्थानों पर लागू होगा। महाविद्यालय, सीनियर हायर सैकण्डरी शिक्षा संस्थानों एवं सभी स्तर के कन्या शिक्षण संस्थानों को छोड़कर अन्य विद्यालयों के निकट की दुकानों के लिए यह प्रतिबन्ध रहेगा कि शिक्षा संस्थान बन्द होने के एक घन्टे बाद ही दुकान खोली जा सकेगी।

4.5 अनुज्ञाधारी, फैक्ट्री अथवा श्रमिक व हरिजन बस्ती से 200 मीटर की परिधि में दुकान नहीं लगा सकेगा। हरिजन बस्ती से अभिप्राय ऐसे नगर पालिका वार्ड से होगा जिसमें अनुसूचित जातियों से संबंधित व्यक्तियों की जनसंख्या नवीनतम जनगणना के अनुसार उस वार्ड की जनसंख्या की 50 प्रतिशत से अधिक है।

4.6 अनुज्ञाधारी राष्ट्रीय राजमार्ग व राज्य राज मार्ग के मध्य से दोनों ओर सार्वजनिक निर्माण विभाग द्वारा तय दूरियों पर विकसित बाजारों में दुकानों की अवस्थिति स्वीकृत करा सकेगा, किन्तु जहां ऐसे बाजार नहीं है वहां मार्ग के मध्य से दोनों ओर 150 मीटर की दूरी तक दुकान नहीं लगा सकेगा किन्तु यह शर्त नगर निगम/नगर परिषद/नगरपालिका की आधिकारिता एवं सीमा से गुजरने वाले उक्त मार्गों पर लागू नहीं होगी।

4.7 दुकानों की अवस्थिति बाबत उक्त प्रतिबन्धों में पर्याप्त कारण होने पर आबकारी आयुक्त शिथिलता प्रदान कर सकेंगे।

4.8 अनुज्ञाधारी को अपनी दुकान के दरवाजे पर कम से कम 75x125 से.मी. आकार का एक साईन बोर्ड जिस पर अनुज्ञाधारी का नाम व विवरण, दुकान के खुलने व बन्द होने का समय आदि का उल्लेख हों, लगाना होगा। नगरपालिका क्षेत्र के भीतर की दुकानों के लिए जब तक कि जिला आबकारी अधिकारी की स्वीकृति न हो, तब तक केवल एक ही दरवाजा सार्वजनिक सड़क पर होगा। आमतौर से मदिरा की दुकान इस प्रकार होनी चाहिए कि दरवाजे के बाहर से भीतर के सब हालात स्पष्टतया दिखाई दे सके। दुकान का काउण्टर विहित रीति के अनुसार रखना होगा। जिस कमरे में दुकान होगी उसमें अनुज्ञाधारी एवं उसके अधिकृत नौकर के अतिरिक्त किसी अन्य व्यक्ति को नहीं रख सकेगा। अपनी बिक्री बढ़ाने के लिए ग्राहक को किसी प्रकार का प्रलोभन नहीं दे सकेगा, जैसे कि गाना, नाच व रेडियों/टेलीविजन का काय्रक्रम इत्यादि और न किसी प्रकार का विज्ञापन ही इस विषय पर कर सकेगा।

4.9 दुकानों को स्वच्छ रखना होगा तथा नियमित रूप से साफ-सफाई रखनी होगी। मदिरा के स्टॉक को दुकान में व्यवस्थित रूप से रखना होगा। विक्रय की जाने वाली विभिन्न ब्राण्डस की मदिरा को दुकान के भीतर उचित रूप से प्रदर्शित (Display) करना होगा।

4.10 कानून व व्यवस्था की दृष्टि से किसी दुकान की अवस्थिति वर्जित स्थान पर होने की दशा में अगर उस दुकान को बन्द करवाया जाता है तो सक्षम अधिकारी की अनुमति से अनुज्ञाधारी उस दुकान के लिए निर्धारित क्षेत्र में अन्यत्र स्थान पर नियमानुसार दुकान खोल सकेगा परन्तु ऐसा करने पर लाइसेंन्स फीस में किसी प्रकार की छूट अथवा क्षतिपूर्ति का हकदार नहीं होगा।

4.11 अनुज्ञाधारी नियमानुसार राशि का भुगतान कर जिला आबकारी अधिकारी की अनुमति से स्वीकृत दुकान को उस दुकान हेतु निर्धारित क्षेत्र में दूसरे स्थान पर स्थानान्तरित कर सकेगा।

4.12 अनुज्ञाधारी विदेशी मदिरा/बीयर के भण्डार हेतु उस दुकान के लिये निर्धारित क्षेत्र में नियमानुसार राशि भुगतान कर खुदरा गोदाम स्वीकृत करा सकेगा। ऐसे खुदरा गोदाम से मदिरा का विक्रय करने की अनुमति नहीं होगी। गोदाम में संग्रहित मदिरा का ब्राण्डवार स्टाक विवरण गोदाम में ही रखना होगा।

5. दुकानों का संचालन :-

5.1 दुकान खुली रहने का समय प्रात: 9 बजे से रात्रि 11 बजे तक रहेगा, परन्तु आबकारी आयुक्त द्वारा बिना पूर्व सूचना के समय में आवश्यकतानुसार परिवर्तन किया जा सकेगा।

5.2 वर्ष 200---0--- हेतु नियत 4 शुष्क दिवसों पर एवं भविष्य में राज्य सरकार/आबकारी आयुक्त द्वारा नियत किये जाने वाले शुष्क दिवसों पर दुकानें बंद रखनी होगी। इसके अतिरिक्त दुकान को बन्द रखने व बिक्री समय पर जो नियंत्रण समय-समय पर लगाये जावेंगे उनका पालन भी अनुज्ञाधारी को करना होगा और इसके लिए उसे न तो कोई क्षतिपूर्ति की जायेगी और न लाइसेंस फीस की राशि में ही कोई कमी की जावेगी। यदि अनुज्ञाधारी की दुकानें कानून व व्यवस्था संबंधी कारणों से बन्द रहती है तो भी लाइसेन्स फीस की राशि में किसी प्रकार की छूट नहीं दी जावेगी। शुष्क दिवसों की पठनीय सूची दुकान के काउण्टर के पास लगानी होगी।

5.3 अनुज्ञाधारी बिक्री के लिए मदिरा केवल अपने जिले के थोक अनुज्ञाधारियों से ही क्रय कर सकेगा और उसे अपनी दुकान पर परमिट में अंकित मार्ग से नियत समय में सुरक्षित रूप से लायेगा और उसके लिए परमिट भी साथ रखना होगा। दूसरे स्थान या किसी भी अन्य अनुज्ञाधारी से मदिरा नहीं ला सकेगा, न अपने पास रख सकेगा और न ही उसका विक्रय कर सकेगा।

5.4 अनुज्ञाधारी अपनी दुकान पर अधिकृत रूप से क्रय की हुई विदेशी मदिरा एवं बीयर का ही विक्रय कर सकेगा।

5.5 अनुज्ञाधारी मदिरा लाने व बेचने के लिए किसी वयस्क व्यक्ति को संबंधित जिला आबकारी अधिकारी की स्वीकृति से ही नौकर रख सकेगा परन्तु ऐसे व्यक्ति के प्रत्येक काम के लिए अनुज्ञाधारी स्वयं उत्तरदायी होगा। अनुज्ञाधारी की किसी विशेष कारण से अनुपस्थिति की अवस्था में अनुज्ञाधारी के पिता एवं अनुज्ञाधारी के वयस्क पुत्र को इस संबंध में लिखित स्वीकृति की आवश्यकता नहीं होगी। अनुज्ञाधारी मदिरा बेचने व लाने के लिए अपनी दुकान पर किसी ऐसे व्यक्ति को नौकर नहीं रख सकेगा जिसे कोई संक्रामक रोग हो या जो आबकारी एवं फौजदारी जुर्म में आदतन अपराधी अथवा वान्टेड हो। दुकान पर मदिरा बेचान करने वाले अधिकृत नौकर को उचित वेशभूषा में रहना होगा तथा उसे अपने नाम तथा विभाग द्वारा नौकरनामे के अनुमोदन के क्रमांक व दिनांक के उल्लेख वाली पट्टिका/लेमिनेटेड कार्ड लगाना होगा।

5.6 अनुज्ञाधारी को अनुज्ञापत्र की अवधि तक अपनी दुकान नियमित रूप से संचालित रखनी होगी और हर समय स्टॉक में मदिरा की इतनी मात्रा रखनी होगी जो 15 दिन की बिक्री के लिए पर्याप्त हो। मदिरा का सारा स्टॉक उसी दुकान या स्वीकृत खुदरा गोदाम पर रखना होगा और उसी दुकान पर बेचान होगा, जिसके लिए उसे अनुज्ञापत्र दिया गया है।

5.7 मदिरा का विक्रय केवल सील बन्द बोतलों/केन में ही किया जा सकेगा।

5.8 स्वीकृत दुकान पर किसी भी प्रकार का मदिरा पान करना/कराना पूर्णत: निषिद्ध होगा।

5.9 अनुज्ञाधारी किसी एक व्यक्ति को एक समय में 6 लीटर से अधिक विदेशी मदिरा/7.8 लीटर से अधिक बीयर बिना सक्षम अधिकारी की आज्ञा के एक साथ नहीं बेच सकेगा, लेकिन राज्य सरकार जब भी उचित समझेगी तब अधिसूचना जारी कर इस मात्रा में कमी या वृद्धि कर सकेगी, जिसकी पालना अनुज्ञाधारी को करनी होगी। ऐसी आज्ञा के विरुद्ध वह कोई आपत्ति नहीं कर सकेगा और न ही किसी प्रकार की क्षतिपूर्ति की मांग कर सकेगा।

5.10 अनुज्ञाधारी 18 वर्ष से कम आयु वाले किसी व्यक्ति को या जिस व्यक्ति को होश हवास दुरुस्त न हो, मदिरा नहीं बेच सकेगा। इसी प्रकार पुलिस व सेना के सिपाही या रेल व आबकारी के कर्मचारियों को

भी जो वर्दी पहने हुए या ड्यूटी पर हो, मदिरा नहीं बेच सकेगा। वाहन चालकों को एवं हवाई जहाज के पायलटों को भी यात्रा के दौरान मदिरा नहीं बेच सकेगा।

5.11 अनुज्ञाधारी अथवा उसका नौकर अपनी दुकान पर किसी प्रकार दंगा, फसाद या जुआ नहीं होने देगा और ऐसे लोगों को जो कुख्यात बदमाश हों, दुकान पर आने नहीं देगा, रात को ऐसे बदमाशों को अपनी दुकान पर नहीं ठहरायेगा। यदि कोई ऐसा व्यक्ति दुकान में आवे जिसके विषय में पुलिस द्वारा दस्तान्दाजी योग्य और जमानत के अयोग्य अपराध का संदेह हो तो अनुज्ञाधारी या जो व्यक्ति उसकी ओर से दुकान पर काम करता हो तो उसका कर्त्तव्य होगा कि उसकी सूचना तुरन्त निकटवर्ती मजिस्ट्रेट या पुलिस अधिकारी को दें।

5.12 अनुज्ञाधारी मदिरा बोतलों पर अंकित अधिकतम खुदरा विक्रय मूल्य से ऊंचा मूल्य ग्राहकों से वसूल नहीं करेगा। अनुज्ञाधारी अधिकतम खुदरा मूल्य के 5% से ज्यादा कम पर भी मदिरा का विक्रय नहीं कर सकेगा।

5.13 अनुज्ञाधारी मदिरा बोतलों पर अंकित अधिकतम खुदरा विक्रय मूल्य से ऊँचा मूल्य ग्राहकों से वसूल नहीं करेगा। अधिकतम खुदरा विक्रय लगभग 20% मार्जिन जोड़कर निर्धारित किया जायेगा।

6. अभिलेखों का संधारण:-

6.1 अनुज्ञाधारी को मदिरा की आमद, बिक्री और शेष बची मात्रा (Balance) का हिसाब निर्धारित रजिस्टर में दैनिक रूप से रखना होगा व एक निरीक्षण पंजिका भी रखनी होगी। यह रजिस्टर जिला आबकारी अधिकारी के कार्यालय में मूल्य चुका कर प्राप्त करना होगा। प्रतिदिन का हिसाब दुकान बंद करने के साथ उसी दिन ही लिखना होगा और मासिक आमद, बेचान व स्टॉक का नक्शा आगामी माह की 5 तारीख तक हलके के आबकारी निरीक्षक के पास पेश करना होगा।

6.2 आबकारी निरीक्षक अथवा निरीक्षण के लिये अन्य प्राधिकृत अधिकारी द्वारा निरीक्षण करने पर अनुज्ञाधारी को अपना अनुज्ञापत्र, नौकर का नौकरनामा व बिक्री रजिस्टर, परमिट पास एवं मदिरा का तमाम स्टॉक, इत्यादि जांच हेतु बतलाना होगा तथा उसको दिन व रात में किसी भी समय दुकान में प्रविष्ट होने देगा और ऐसे अधिकारी को निरीक्षण के दौरान प्रत्येक प्रकार का सहयोग देगा।

6.3 अनुज्ञापत्र की अवधि समाप्त होने अथवा किसी अन्य कारण से अनुज्ञापत्र रद्द होने की स्थिति में अनुज्ञाधारी को मदिरा के बचे हुए स्टाक एवं समस्त रिकार्ड की सूचना अविलम्ब अपने क्षेत्र के आबकारी निरीक्षक को देनी होगी। समस्त रिकार्ड उसे आबकारी निरीक्षक के कार्यालय में अविलम्ब जमा कराना होगा एवं बचे हुए स्टॉक का निस्तारण जिला आबकारी अधिकारी के आदेशानुसार करना होगा। निस्तारण होने तक बचा हुए स्टॉक, आबकारी निरीक्षक एवं निवर्तमान अनुज्ञापत्रधारी के संयुक्त अभिरक्षण में ऐसे स्थान पर रहेगा, जहां व्यवसाय किया जा रहा था एवं निस्तारण करने तक उस स्थान का किराया बिजली व्यय एवं अन्य अधिभार निवर्तमान अनुज्ञाधारी को ही देने होंगे।

7. अनुज्ञापत्र को निरस्त करना:-

7.1 यदि अनुज्ञापत्र देने वाले अधिकारी अथवा उससे उच्च प्राधिकारी को किसी समय यह विश्वास हो कि अनुज्ञाधारी अपनी दुकान चालू नहीं रखता है अथवा ठीक तौर पर नहीं चलाता है अथवा किसी भी प्रकार आबकारी शुल्क व अन्य आबकारी प्रभारों की अपवंचना में प्रत्यक्ष या परोक्ष रूप से सम्मिलित है अथवा अन्य कोई उचित एवं पर्याप्त कारण हों तो ऐसी दशा में अनुज्ञापत्र निरस्त किया जा सकेगा।

7.2 अनुज्ञापत्र की अवधि के दौरान अनुज्ञाधारी के विरूद्ध राजस्थान आबकारी अधिनियम, 1950 नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्ट, 1985 अथवा राजस्थान आबकारी अधिनियम 1950

की धारा 34 में उल्लेखित अधिनियमों तथा उसमें उल्लेखित धाराओं के अन्तर्गत अभियोग दर्ज होने या उसके सजायाब होने पर अनुज्ञापत्र निरस्त किया जा सकेगा।

7.3 यदि अनुज्ञाधारी अवैध रूप से मदिरा, अफीम या अन्य मादक पदार्थ रखता है या बेचता है या किसी अन्य राज्य में अवैध रूप से मदिरा को बेचने का या अफीम या अन्य मादक पदार्थ बेचने का काम करता है या किसी ऐसी जगह से उसका संबंध है जहां से ये वस्तुएं अवैध रूप से लाई जाने का संदेह हो तो ऐसी दशा में अनुज्ञापत्र निरस्त किया जा सकेगा।

7.4 यदि अनुज्ञाधारी अथवा उसके नौकर द्वारा राजस्थान आबकारी अधिनियम, 1950 उसके अन्तर्गत बने राजस्थान आबकारी नियम, 1956 राजस्थान विदेशी मदिरा (थोक व्यापार तथा खुदरा बहि:पान अनुज्ञप्ति प्रदाय) नियम, 1982 अथवा अनुज्ञापत्र हेतु आवेदन के संबंध में जारी विस्तृत निर्देश एवं शर्तो, अनुज्ञाधारी के पक्ष में जारी की गई स्वीकृति, इस अनुज्ञापत्र की शर्तों अथवा समय-समय पर प्रसारित विभागीय निर्देशों की अवहेलना किये जाने पर अनुज्ञापत्र निरस्त किया जा सकेगा।

7.5 अनुज्ञापत्र स्वीकृत करने वाला अधिकारी अथवा उससे उच्च प्राधिकारी अनुज्ञाधारी को अपना पक्ष प्रस्तुत करने हेतु उचित अवसर प्रदान करने के उपरान्त अनुज्ञापत्र निरस्त कर सकेगा। अनुज्ञापत्र निरस्त किये जाने पर अनुज्ञाधारी अथवा उसके वारिस किसी प्रकार की क्षति पूर्ति पाने के हकदार नहीं होंगे।

7.6 अनुज्ञापत्र निरस्त किये जाने की स्थिति में लाईसेंस फीस का कोई भी भाग वापसी योग्य नहीं होगा।

8. बकाया राशियों की वसूली:-

अनुज्ञाधारी के विरुद्ध किसी भी प्रकार का कोई आबकारी राजस्व अथवा उस पर ब्याज बकाया रहने की स्थिति में उसकी वसूली राजस्थान आबकारी अधिनियम, 1950 के तहत तथा राजस्थान भू-राजस्व अधिनियम, 1956 एवं केन्द्रीय राजस्व वसूली अधिनियम, 1890 के प्रावधानों के अनुसार भू-राजस्व की बकाया की भाँति अनुज्ञाधारियों एवं उनके वारिसों/उत्तराधिकारियों से की जायेगी। अनुज्ञाधारी की सम्पतियों तथा उनके वारिसों/उत्तराधिकारियों की सम्पतियों पर प्रथम प्रभार आबकारी विभाग का रहेगा।

9. इस अनुज्ञापत्र के संबंध में उत्पन्न होने वाले समस्त विवाद का न्याय क्षेत्र अनुज्ञापत्र जारीकर्ता प्राधिकारी का मुख्यालय रहेगा।

अनुज्ञापत्र देने वाले के हस्ताक्षर

प्रतिसंविद

अनुज्ञापत्र संख्या.....जिला..... समूह का नाम.....

मैं/हम उपर्युक्त अनुज्ञापत्र के संबंध में इसमें निर्दिष्ट शर्तो तथा राजस्थान आबकारी अधिनियम, 1950 तथा उसके अन्तर्गत बनाये गये नियमों, अनुज्ञापत्र के आवेदन आमंत्रण के साथ संलग्न विस्तृत निर्देश एवं शर्तो, हमारे पक्ष में जारी की गई स्वीकृति एवं समय-समय पर प्रसारित विभागीय निर्देशों की पालना करना पूर्णत: स्वीकार करता हूँ/करते हैं।

हस्ताक्षर अनुज्ञाधारी

प्रति हस्ताक्षर –

मेरे समक्ष हस्ताक्षर किये

आबकारी निरीक्षक

वृत.....

जिला आबकारी अधिकारी

[1]3. बीयर की खुदरा बिक्री के लिये अनुज्ञापत्र

राजस्थान सरकार

आबकारी विभाग

राजस्थान आबकारी अधिनियम, 1950, राजस्थान आबकारी नियम, 1956 तथा राजस्थान विदेशी मदिरा (थोक व्यापार तथा खुदरा बहि:पान अनुज्ञप्ति प्रदाय) नियम 1982 के अन्तर्गत बीयर की खुदरा बिक्री (रिटेल ऑफ) के लिए अनुज्ञापत्र

अनुज्ञापत्र संख्या ..... दिनांक : .....

अनुज्ञाधारी का नाम	पिता/पति का नाम	आयु	जाति	पूर्ण पता
1	2	3	4	5

इस अनुज्ञापत्र की पालना सुनिश्चित करने के लिये उक्त अनुज्ञाधारी/अनुज्ञाधारियों ने :—

(1) स्वीकृत एकाकी विशेषाधिकार की वांछित 17 प्रतिशत नकद धरोहर राशि (अर्नेस्टमनी की राशि में समायोजित करते हुए) जमा करा दी है

अथवा

इसके स्थान पर स्वीकृत एकाकी विशेषाधिकार राशि के 10 प्रतिशत के बराबर नकद (अमानत की राशि को समायोजित करते हुये) तथा 10 प्रतिशत राशि की बैंक गारन्टी निर्धारित प्रपत्र में प्रस्तुत कर दी है।

(2) उपर्युक्त व्यक्तियों को विदेशी मदिरा एवं बीयर के अधिकृत थोक विक्रेता से विदेशी मदिरा एवं बीयर प्राप्त कर निम्न समूह क्षेत्र में अवस्थित दुकानों पर खुदरा विक्रय करने हेतु दिनांक .....से.....तक की अवधि के लिए नीचे वर्णित शर्तों पर अनुज्ञापत्र जारी किया जाता है।

मदिरा समूह का नाम : .....

समूह में सम्मिलित दुकानों की संख्या : .....

समूह में सम्मिलित दुकानों का विवरण : .....

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बीयर खुदरा विक्रय (रिटेल ऑफ) अनुज्ञापत्र (लाईसेन्स) की शर्तें

1. राजस्थान आबकारी अधिनियम 1950 एवं उसके अन्तर्गत बने नियमों आदि की पालना—अनुज्ञाधारी, राजस्थान आबकारी अधिनियम, 1950 (राजस्थान अधिनियम संख्या 2, 1950) एवं उसके अन्तर्गत बने राजस्थान आबकारी नियम, 1956 तथा राजस्थान विदेशी मदिरा (थोक व्यापार तथा खुदरा बहि:पान अनुज्ञप्ति प्रदाय) नियम 1982 एवं निविदा, निविदा के साथ संलग्न विस्तृत निर्देश एवं शर्तों,

1. अधिसूचना संख्या प.23(1) आब/लेखा/2001/1628 दिनांक 27-1-2001 द्वारा प्रसारित एवं संशोधित।

नुज्ञाधारियों के पक्ष में जारी की गई स्वीकृति, इस अनुज्ञापत्र की शर्तों तथा समय-समय पर प्रसारित विभागीय र्देशों से पाबन्द रहेगा।

2. एकाकी विशेषाधिकार एवं अन्य राशियों तथा उनका भुगतान—2.1 अनुज्ञाधारी को राजस्थान ाबकारी अधिनियम, 1950 की धारा 24 एवं 30 तथा राजस्थान विदेशी मदिरा (थोक व्यापार तथा खुदरा हि:पान अनुज्ञप्ति प्रदाय) नियम 1982 के नियम संख्या 3(ए) अधीन एकाकी विशेषाधिकार के लिए वर्ष 004-2005 (दिनांक 1-4-2004 से 31-3-2005 तक) की अवधि के लिए निर्धारित राशि रुपये ..... (अंकों में) रुपये ..... (शब्दों में) का भुगतान करना होगा।

2.2 उपर्युक्त राशियों के अलावा फीस एवं अन्य कर प्रभार, अगर कोई है, का अलग से भुगतान करना गा।

2.3.1 उपर्युक्त एकाकी विशेषाधिकार राशि की पूर्ति समतुल्य 12 मासिक किश्तों में करनी होगी। ह का आशय कलैण्डर माह से है। इन मासिक किश्तों में से खुदरा अनुज्ञाधारी द्वारा थोक अनुज्ञाधारी से उस हेने में क्रय की गई बीयर पर राज्य सरकार द्वारा निर्धारित दर से थोक अनुज्ञाधारी के माध्यम से चुकायी गई ाबकारी ड्यूटी के बराबर विभाग के द्वारा निर्धारित मानचित्र में ड्यूटी अदायगी का सत्यापन कर भराव ulfiliment) खुदरा अनुज्ञाधारी को दिया जावेगा, इसके अलावा होटल बार/क्लब बार/रेस्टोन्ट बार के नुज्ञाधारियों द्वारा राज्य के विदेशी मदिरा/बीयर थोक अनुज्ञाधारियों से क्रय की गई बीयर पर राज्य सरकार त निर्धारित दर से थोक अनुज्ञाधारी के माध्यम से चुकायी गई राज्य आबकारी ड्यूटी के बराबर विभाग द्वारा र्धारित मानचित्र में ड्यूटी अदायगी का सत्यापन कराने पर राज्य आबकारी ड्यूटी का उस समूह क्षेत्र के खुदरा नुज्ञाधारी को, जहाँ होटल बार/क्लब बार/रेस्टोन्ट बार अवस्थित है, बीयर की एकाकी विशेषाधिकार राशि पेटे भराव दिया जायेगा। इसी प्रकार होटल बार/क्लब बार/रेस्टोरेंन्ट बार द्वारा ड्राट बीयर का विनिर्माता सीधे ही क्रय किये जाने पर उस पर चुकाये गये राज्य आबकारी शुल्क के बराबर बीयर की एकाकी विशेषाधिकार शे के पेटे भराव दिया जायेगा। लेकिन उक्त भराव उस महीने की किश्त की राशि तक सीमित होगा। उठायी बीयर की मात्रा में निहित आबकारी ड्यूटी के समकक्ष राशि का उक्त प्रकार देय भराव के पश्चात् शेष कमी शे आगामी माह की 7 तारीख तक नकद जमा करानी होगी। परन्तु माह अप्रेल से अक्टूबर तक की अवधि यदि अनुज्ञाधारी निर्धारित मासिक किश्त से अधिक रिबेट प्राप्त करने का अधिकार हो जाता है तो ऐसी अधिक र्जित रिबेट की राशि माह नवम्बर से मार्च तक रही मासिक कमी, यदि कोई हो, के प्रति समायोजित करवा ाग। भुगतान की निर्धारित अंतिम तिथि को कार्यालय/बैंक बन्द होने पर देय राशि आगामी कार्य दिवस को ा कराये जाने पर राजस्थान जनरल क्लॉजेज एक्ट 1955 की धारा 11 के अन्तर्गत भुगतान निर्दिष्ट दिनांक किया हुआ माना जायेगा।

2.3.2 विलम्ब से जमा करायी गयी राशि पर राजस्थान आबकारी अधिनियम के तहत ब्याज भी वसूली य होगा। शर्त संख्या 2.3.1 में देय भराव के पश्चात् मासिक किश्त में रही कमी की शेष राशि आगामी माह 7 तारीख तक जमा नही कराने पर ब्याज की गणना आगामी माह की 1 तारीख से की जायेगी। ब्याज के ान करने के लिये पृथक से नोटिस की आवश्यकता नही होगी।

2.3.3 एकाकी विशेषाधिकार राशि के अतिरिक्त राजस्थान आबकारी नियम, 1956 के नियम -बी के अन्तर्गत देय फीस पृथक से भुगतान करनी होगी।

2.3.4 एकाकी विशेषाधिकार की निर्धारित राशि के भुगतान के प्रति शर्त संख्या 2.3.1 में वर्णित भराव गणना में अनुज्ञापत्र की समाप्ति पर, चाहे अनुज्ञापत्र निरस्त किया गया हों अथवा अन्यथा, बची हुई बीयर स्टॉक की धनराशि पर दिया गया भराव अमान्य किया जाकर कम कर दिया जायेगा। इसी प्रकार अनुज्ञापत्र समाप्ति पर उस समूह क्षेत्र में अवस्थित होटल बार/क्लब बार/रेस्टोरेंट बार के पास स्टॉक में बची हुई बीयर स्टॉक की धनराशि पर दिया गया भराव अमान्य किया जाकर कम कर दिया जायेगा।

3. अनुज्ञापत्र की वैधानिक स्थिति—3.1 जिन व्यक्तियों के पक्ष में अनुज्ञापत्र स्वीकृत किया गया

है वे व्यक्ति ही अनुज्ञाधारी की श्रेणी में माने जायेगे तथा वे ही इस अनुज्ञापत्र के तहत समूह क्षेत्र में बीयर की बिक्री करने हेतु अधिकृत होंगे।

3.2 अनुज्ञाधारी, अनुज्ञापत्र देने वाले अधिकारी की लिखित स्वीकति के बिना किसी अन्य व्यक्ति को अनुज्ञापत्र हस्तान्तरित नही कर सकेगा। अनुज्ञापत्र की अवधि में अनुज्ञाधारी की मृत्यु हो जाने पर मदिरा समूह को नियमानुसार फिर से उठाया जा सकेगा। यदि अनुज्ञाधारी का कोई वैध वयस्क उत्तराधिकारी हो, तो उसकी प्रार्थना पर अनुज्ञापत्र उसके नाम पर जारी किया जा सकेगा। किसी समूह में एक से अधिक अनुज्ञाधारी होने की स्थिति में यदि किसी अनुज्ञाधारी की मृत्यु हो जाती है तो शेष अनुज्ञाधारी अनुज्ञापत्र की शर्तों से यथावत बाध्य रहेंगे।

3.3 ''व्यक्तियों के समूह'' के नाम पर अनुज्ञापत्र स्वीकृत किये जाने की स्थिति में स्वीकृत ''व्यक्तियों के समूह'' में सम्मिलित समस्त व्यक्ति सह-अनुज्ञाधारी की श्रेणी में आयेंगे एवं अनुज्ञापत्र की शर्तों से बाध्य होंगे। सभी सह-अनुज्ञाधारी आबकारी बकाया एवं अन्य दायित्वों के लिए संयुक्त एवं पृथक-पृथक रूप से उत्तरदायी होंगे। दायित्वों के उनके आपसी बंटवारे संबंधी उनकी आन्तरिक व्यवस्था से विभाग को कोई सरोकार नही रहेगा। ऐसे व्यक्तियों के समूह में सम्मिलित व्यक्ति, अनुज्ञाधारियों द्वारा आयकर विभाग में प्रस्तुत की जाने वाली सूची से भिन्न नहीं होंगे।

3.4 व्यवसाय संचालन हेतु यदि कोई अनुज्ञाधारी किसी अन्य व्यक्ति को साथ लेकर ''व्यक्तियों का समूह'' बनाना चाहता हो अथवा व्यक्तियों के समूह में अन्य व्यक्तियों को सम्मिलित करना चाहता हो तो इसके लिए उसे अनुज्ञापत्र स्वीकृत करने वाले प्राधिकारी की पूर्व अनुमति लेना आवश्यक होगा। इस प्रकार नये सम्मिलित व्यक्ति भी अनुज्ञाधारी की श्रेणी में माने जावेगें एवं वे निविदा प्रपत्र, निविदा के संबंध में विस्तृत निर्देश एवं शर्तों तथा अनुज्ञापत्रों की शर्तों से बाध्य होंगे। साथ ही ऐसे व्यक्ति समूह के सभी दायित्वों की पूर्ति हेतु संयुक्त एवं पृथक-पृथक रूप से उत्तरदायी होंगे। दायित्वों के उनके आपसी बंटवारे संबंधी उनकी आन्तरिक व्यवस्था से विभाग को कोई सरोकार नही रहेगा। ऐसे ''व्यक्तियों के समूह'' में सम्मिलित व्यक्ति अनुज्ञाधारियों द्वारा आयकर विभाग में प्रस्तुत की जाने वाली सूची से भिन्न नही होंगे।

4. धरोहर राशि—अनुज्ञापत्र की पालना सुनिश्चित करने के लिये अनुज्ञाधारी को निविदा स्वीकृति की सूचना नोटिस बोर्ड पर चस्पा किये जाने की दिनांक से (चस्पा दिनांक को छोड़कर) 10 दिवस में या दुकानें प्रारम्भ करने से पूर्व, जो भी पहले हो, स्वीकृत एकाकी विशेषाधिकार राशि के 17 प्रतिशत के बराबर धरोहर राशि (अमानत राशि को समायोजित करते हुए) नकद जमा करानी होगी परन्तु उसे यह विकल्प होगा कि इसके स्थान पर स्वीकृत एकाकी विशेषाधिकार राशि के 10 प्रतिशत के बराबर नकद (अमानत राशि को समायोजित करते हुये) तथा 10 प्रतिशत राशि की बैंक गारन्टी निर्धारित प्रपत्र में जमा करानी होगी। बैंक गारन्टी की अवधि अनुज्ञापत्र की अवधि समाप्त होने के 3 माह बाद तक की होनी चाहिये। माह जनवरी 2005 तक की एकाकी विशेषाधिकार की मासिक किश्तों का भुगतान कर दिये जाने पर जमा कराई गई 17 प्रतिशत धरोहर राशि में से माह फरवरी एवं मार्च 2005 की देय मासिक किश्तों पेटे समायोजन कर दिया जावेगा। बैंक गारन्टी का विकल्प लेने वाले ठेकेदार को माह फरवरी 2005 में एकाकी विशेषाधिकार राशि का 8.33 प्रतिशत के समतुल्य राशि की मदिरा उठाकर अथवा नकद भुगतान करना होगा। अनुज्ञाधारी की शेष धरोहर राशि वर्ष के अन्तर्गत किसी प्रकार की बकाया नही होने की स्थिति में लौटाई जा सकेगी।

बैंक गारन्टी अधिसूचित बैंक द्वारा जारी की हुई होनी चाहिए जो राजस्थान में स्थित बैंक की किसी शाखा पर भुगतान योग्य हो। बैंक गारन्टी, गारन्टी अवधि के दौरान अखण्डनीय (Irrevocable) रहेगी तथा किसी भी आधार पर बैंक अथवा अनुज्ञाधारी उसमें कोई परिवर्तन नही कर सकेगा। आबकारी विभाग द्वारा बैंक गारन्टी के भुगतान की मांग (Invoke) किये जाने पर बैंक को इसका तुरन्त नकद भुगतान करना होगा। भुगतान बाबत् बैंक अथवा अनुज्ञाधारी किसी प्रकार की कोई आपत्ति नहीं कर सकेगा।

5. दुकानों की अवस्थिति—5.1 अनुज्ञाधारी बीयर का खुदरा विक्रय अपनी नियमानुसार स्वीकृत देशी मदिरा खुदरा दुकानों पर ही कर सकेगा। विदेशी मदिरा खुदरा दुकानों की अवस्थिति का अनुमोदन उसे पने क्षेत्र के जिला आबकारी अधिकारी से करवाना होगा। बिना स्वीकृति के अनुज्ञाधारी दुकानों का संचालन ही कर सकेगा। पूर्व में स्वीकृत दुकानों के स्थानों की यथासम्भव जानकारी परिशिष्ट ''अ'' में वर्णित है, जो दाहरण स्वरूप है।

5.2 अनुज्ञाधारी निविदा स्वीकृत होने के एक माह के अन्दर-अन्दर अथवा दुकानें प्रारम्भ करने से पूर्व कानों की अवस्थिति की स्वीकृति हेतु आवश्यक दस्तावेजों सहित, सम्बन्धित जिला आबकारी अधिकारी ो आवेदन प्रस्तुत करेगा। तदुपरान्त आवेदन प्राप्ति के 15 दिवस में जिला आबकारी अधिकारी अपने निर्णय अनुज्ञाधारी को अवगत करायेगा। उचित एवं पर्याप्त कारण होने पर जिला आबकारी अधिकारी अनुज्ञाधारी रा चाही गई अवस्थिति पर दुकान लगाने पर स्वीकृति देने से मना कर सकता है। ऐसी स्थिति में अनुज्ञाधारी सी प्रकार का क्षतिपूर्ति अथवा एकाकी विशेषाधिकार राशि अथवा अन्य देय राशियों में छूट पाने का हकदार ी होगा। साथ ही वह अन्य स्थान पर नियमानुसार दुकान स्वीकृति कराने हेतु आवेदन जिला आबकारी धिकारी को प्रस्तुत कर सकेगा।

5.3 जिला आबकारी अधिकारी को यह अधिकार है कि वह उचित एवं पर्याप्त कारण होने पर स्वीकृत ान से दुकान हटवा सकेगा। इस प्रकार स्वीकृत दुकानों को एक स्थान से उसी समूह क्षेत्र में दूसरे स्थान पर ानान्तरित करने या बन्द रहने या संचालन नही करने पर अनुज्ञाधारी किसी प्रकार की क्षतिपूर्ति अथवा एकाकी शेषाधिकार राशि में छूट पाने का हकदार नहीं होगा।

5.4 समूह में वर्णित निर्धारित संख्या तक दुकानों की अवस्थिति स्वीकृत नहीं कराने अथवा किसी ारणवश उन्हें संचालित नही करने की स्थिति में अनुज्ञाधारी एकाकी विशेषाधिकार राशि एवं अन्य देय राशियों किसी प्रकार की छूट पाने का हकदार नही होगा।

5.5 अनुज्ञाधारी को अपने समूह की सीमा के 2.5 किलोमीटर शुष्क क्षेत्र (Dry Area) में कोई नई ान संचालन करने की अनुमति नही होगी।

5.6 अनुज्ञाधारी बीयर की दुकान अस्पताल, महाविद्यालय एवं सीनियर हायर सैकण्डरी शिक्षण स्थानों, सभी स्तर के कन्या शिक्षण संस्थानों, धार्मिक स्थानों, सिनेमा हॉल और नाट्य गृह से 200 मीटर ा परिधि में नही लगा सकेगा, परन्तु एक लाख से अधिक आबादी वाले शहरों में धार्मिक स्थानों से दूरी संबंधी तेबंध जिला आबकारी अधिकारी के कार्यालय में रखी हुई सूची में उल्लेखित धार्मिक स्थानों पर लागू होगा। ाविद्यालय, सीनियर हायर सैकण्डरी शिक्षा संस्थानों एवं सभी स्तर के कन्या शिक्षण संस्थानों को छोड़कर न्य विद्यालयों के निकट की दुकानों के लिए यह प्रतिबन्ध रहेगा कि शिक्षा संस्थान बन्द होने के एक घण्टे द ही दुकान खोली जा सकेगी।

5.7 अनुज्ञाधारी, फैक्ट्री अथवा श्रमिक व हरिजन बस्ती से 200 मीटर की परिधि में दुकान नही लगा केगा। हरिजन बस्ती से अभिप्राय ऐसे नगर पालिका वार्ड से होगा जिसमें अनुसूचित जातियों से संबंधित क्तियों की जनसंख्या नवीनतम जनगणना के अनुसार उस वार्ड की जनसंख्या की 50 प्रतिशत से अधिक है।

5.8 अनुज्ञाधारी राष्ट्रीय राज मार्ग व राज्य मार्ग के मध्य से दोनों ओर सार्वजनिक निर्माण विभाग द्वारा ा दूरियों पर विकसित बाजारों में दुकानों की अवस्थिति स्वीकृत करा सकेगा, किन्तु जहां ऐसे बाजार नही वहां मार्ग के मध्य से दोनों ओर 150 मीटर की दूरी तक दुकान नही लगा सकेगा किन्तु यह शर्त नगर निगम/ ार परिषद/नगर पालिका की अधिकारिता एवं सीमा से गुजरने वाले उक्त मार्गों पर लागू नही होगी।

5.9 दुकानों की अवस्थिति बाबत् उक्त प्रतिबन्धों में पर्याप्त कारण होने पर आबकारी शिथिलता प्रदान र सकेंगे।

5.10 अनुज्ञाधारी को अपनी दुकान के दरवाजे पर कम से कम 75x125 से.मी. आकार का एक साईन र्ड जिस पर अनुज्ञाधारी का नाम, मदिरा समूह का नाम व दुकान का विवरण, दुकान के खुलने व बन्द होने

का समय तथा दुकान जिला आबकारी अधिकारी से अनुमोदित लिखा हो, लगाना होगा। नगरपालिका क्षेत्र के भीतर की दुकानों के लिए जब तक कि आबकारी आयुक्त की स्वीकृति न हो, तब तक केवल एक ही दरवाजा सार्वजनिक सड़क पर होगा। यदि अधिक दरवाजे स्वीकृति से खुले हो तो प्रत्येक दरवाजे पर ऐसा साईन बोर्ड लगाना होगा। आमतौर से मदिरा की दुकान इस प्रकार होनी चाहिए कि दरवाजे के बाहर से भीतर के सब हालात स्पष्टतया दिखाई दे सके। दुकान का काउण्टर विहित राशि के अनुसार रखना होगा। जिस कमरे में दुकान होगी उसमें अनुज्ञाधारी एवं उसके अधिकृत नौकर के अतिरिक्त किसी अन्य व्यक्ति को नही रख सकेगा। अपनी बिक्री बढ़ाने के लिए ग्राहक को किसी प्रकार का प्रलोभन नही दे सकेगा, जैसे कि गाना, नाच व रेडियों/टेलीविजन का कार्यक्रम इत्यादि और न किसी प्रकार विज्ञापन ही इस विषय पर कर सकेगा।

5.11 सभी मदिरा दुकानों को स्वच्छ रखना होगा तथा नियमित रूप से साफ-सफाई रखनी होगी। बीयर के स्टॉक को दुकान में व्यवस्थित रूप से रखना होगा। विक्रय की जाने वाली विभिन्न ब्राण्ड की बीयर को दुकान के भीतर उचित रूप से प्रदर्शित (Display) करना होगा।

5.12 कानून व व्यवस्था की दृष्टि से किसी दुकान की अवस्थिति वर्जित स्थान पर होने की दशा में अगर उस दुकान को बन्द करवाया जाता है तो सक्षम अधिकारी की अनुमति से अनुज्ञाधारी उस क्षेत्र में अन्यत्र दुकान खोलने की व्यवस्था करेगा और ऐसा करने पर एकाकी विशेषाधिकार राशि की पूर्ति में किसी प्रकार की छूट अथवा क्षतिपूर्ति का हकदार नही होगा।

5.13 अनुज्ञाधारी नियमानुसार राशि का भुगतान कर आबकारी आयुक्त की अनुमति से समूह में स्वीकृत दुकान को एक स्थान से दूसरे स्थान पर स्थानान्तरित कर सकेगा।

5.14 अनुज्ञाधारी विदेशी मदिरा/बीयर के भण्डारण हेतु उसी समूह क्षेत्र में नियमानुसार राशि भुगतान कर खुदरा गोदाम स्वीकृत करा सकेगा।

6. दुकानों का संचालन—6.1.1 दुकान खुली रहने का समय प्रातः 9 बजे से रात्रि 11 बजे तक रहेगा, परन्तु आबकारी आयुक्त द्वारा बिना पूर्व सूचना के समय में आवश्यकतानुसार परिवर्तन किया जा सकेगा।

6.1.2 वर्ष 2004-05 हेतु नियत 3 शुष्क दिवसों पर एवं भविष्य में राज्य सरकार/आबकारी आयुक्त द्वारा नियत किये गये शुष्क दिवसों पर दुकानें बंद रखनी होगी। शुष्क दिवसों की सूचना अनुज्ञाधारी संबंधित आबकारी निरीक्षक से प्राप्त करेगा। इसके अतिरिक्त दुकान को बन्द रखने व बिक्री समय पर जो नियंत्रण समय-समय पर लगाये जावेंगे उनका पालन भी अनुज्ञाधारी को करना होगा और इसके लिए उसे न तो कोई क्षतिपूर्ति जायेगी और न एकाकी विशेषाधिकार राशि में ही कोई कमी की जावेगी। यदि अनुज्ञाधारी की दुकानें कानून व व्यवस्था संबंधी कारणों से बन्द रहती है तो भी एकाकी विशेषाधिकार राशि में किसी प्रकार की छूट नही दी जावेगी। शुष्क दिवसों की पठनीय सूची दुकान के काउण्टर के पास लगानी होगी।

6.1.3 राज्य सरकार, आबकारी आयुक्त अथवा अनुज्ञापत्र देने वाला अधिकारी अढ़अनुज्ञाधारी को बिना नोटिस दिये शुष्क दिवसों के अतिरिक्त किसी विशेष अवसर पर या विशेष कारणवश मदिरा के विक्रय के समय में परिवर्तन कर सकेगा या दुकान बन्द रखने की आज्ञा दे सकेगा। ऐसी दशा में अनुज्ञाधारी को इसके लिये न तो कोई क्षतिपूर्ति की जायेगी और न एकाकी विशेषाधिकार राशि में कोई कमी की जायेगी।

6.2 अनुज्ञाधारी बिक्री के लिए बीयर केवल राजस्थान में स्थित बीयर के थोक अनुज्ञाधारियों से ही क्रय कर सकेगा और उसे अपनी दुकान पर परमिट में अंकित मार्ग से नियत समय में सुरक्षित रूप से लायेगा और उसके लिए पास भी साथ रखना होगा। दूसरे स्थान या किसी भी अन्य अनुज्ञाधारी से बीयर नही ला सकेगा, न अपने पास रख सकेगा और न ही उसका विक्रय कर सकेगा।

6.3 अनुज्ञाधारी को अपने क्षेत्र की दुकानों तथा विभाग द्वारा स्वीकृत खुदरा गोदाम के मध्य माल लाने व ले जाने हेतु जिला आबकारी अधिकारी से अलग से परमिट लेने की आवश्यकता नही होगी। इस हेतु परिवहन घोषणा पत्र अनुज्ञाधारी द्वारा जारी किया जावेगा। परिवहन घोषणा-पत्र पुस्तिका विभाग द्वारा अनुज्ञाधारी को जारी की जावेगी। इस घोषणा-पत्र की मान्यता अवधि एक दिन की होगी।

6.4 अनुज्ञाधारी अपनी दुकान पर अधिकृत रूप से क्रय की हुई विदेशी मदिरा एवं बीयर का ही विक्रय र सकेगा। आबकारी आयुक्त की अनुमति के बिना कोई अन्य पदार्थ न तो रख सकेगा और न ही बेच सकेगा। यर में किसी प्रकार की मिलावट या परिवर्तन भी नही कर सकेगा।

6.5 अनुज्ञाधारी बीयर लाने व बेचने के लिए किसी वयस्क व्यक्ति को संबंधित जिला आबकारी धिकारी की स्वीकृति से ही नौकर रख सकेगा परन्तु ऐसे व्यक्ति के प्रत्येक काम के लिए अनुज्ञाधारी स्वयं तरदायी होगा। अनुज्ञाधारी की किसी विशेष कारण से अनुपस्थिति की अवस्था में अनुज्ञाधारी के पिता एवं नुज्ञाधारी के वयस्क पुत्र को इस संबंध में लिखित स्वीकृति की आवश्यकता नही होगी। अनुज्ञाधारी मदिरा ने व लाने के लिए अपनी दुकान पर किसी ऐसे व्यक्ति को नौकर नही रख सकेगा जिसे कोई संक्रामक रोग या जो आबकारी एवं फौजदारी जुर्म में आदतन अपराधी अथवा वान्टेड हो। दुकान पर मदिरा बेचान करने ले अधिकृत नौकर को उचित वेशभूषा में रहना होगा तथा उसे अपने नाम तथा विभाग द्वारा नौकरनामे के नुमोदन के क्रमांक व दिनांक के उल्लेख वाली पट्टिका/लेमिनेटेड कार्ड लगाना होगा।

6.6 अनुज्ञाधारी को अनुज्ञापत्र की अवधि तक अपनी दुकान नियमित रूप से संचालित रखनी होगी र हर समय स्टॉक में बीयर की इतनी मात्रा रखनी होगी, जो 15 दिन की बिक्री के लिए पर्याप्त हो। बीयर सारा स्टॉक उसी दुकान या स्वीकृत खुदरा गोदाम पर रखना होगा और उसी दुकान पर बेचना होगा, जिसके ए उसे अनुज्ञापत्र दिया गया है।

6.7.1 बीयर का विक्रय केवल सील बन्द बोतलो/केन में ही किया जा सकेगा, जिनकी धारिता 6 मिलीलिटर व इससे कम मात्रा की हो सकेगी। आबकारी आयुक्त की अनुमति से इससे भिन्न धारिता की लबंद बोतलों/केन में ही विक्रय किया जा सकेगा। ग्राहकों को बीयर की बोतलें पोलीथीन बैग में देने पर तः प्रतिबंध रहेगा।

6.7.2 स्वीकृत दुकानों पर किसी भी प्रकार का बीयर पान करना/कराना पूर्णतः निषिद्ध होगा।

6.8 अनुज्ञाधारी किसी एक व्यक्ति को एक समय में 9 लीटर से अधिक बीयर बिना सक्षम अधिकारी आज्ञा के एक साथ नही बेच सकेगा, लेकिन राज्य सरकार जब भी उचित समझेगी तब अधिसूचना जारी इस मात्रा में कमी या वृद्धि कर सकेगी, जिसकी पालना अनुज्ञाधारी को करनी होगी। ऐसी आज्ञा के विरुद्ध कोई आपत्ति नही कर सकेगा और न ही किसी प्रकार की क्षतिपूर्ति की मांग कर सकेगा।

6.9.1 अनुज्ञाधारी 18 वर्ष से कम आयु वाले किसी व्यक्ति को या जिस व्यक्ति का होश हवास दुरूस्त ो, बीयर नही बेच सकेगा। इसी प्रकार पुलिस व सेना के सिपाही या रेल व आबकारी के कर्मचारियों को जो वर्दी पहने हुए या ड्यूटी पर हो, बीयर नही बेच सकेगा। वाहन चालकों को एवं हवाई जहाज के पायलटों भी यात्रा के दौरान बीयर नही बेच सकेगा।

6.9.2 अनुज्ञाधारी अथवा उसका नौकर अपनी दुकान पर किसी प्रकार दंगा, फसाद या जुआ नही देगा और ऐसे लोगों को जो कुख्यात बदमाश हों, दुकान पर आने नहीं देगा और रात को ऐसे बदमाशों को नी दुकान पर नही ठहरायेगा। यदि कोई ऐसा व्यक्ति दुकान में आवे जिसके विषय में पुलिस द्वारा दस्तान्दाजी य और जमानत के अयोग्य अपराध का संदेह हो तो अनुज्ञाधारी या जो व्यक्ति उसकी ओर से दुकान पर काम ता हो तो उसका कर्त्तव्य होगा कि उसकी सूचना तुरन्त निकटवर्ती मजिस्ट्रेट या पुलिस अधिकारी को दें।

6.9.3 अगर अनुज्ञाधारी या उसका कोई प्रतिनिधि अन्य मदिरा समूह क्षेत्र में अवैध रूप से बीयर भेजते पाया जाता है तो अन्य कानूनी कार्यवाही के अलावा उस पर कम से कम राशि रुपये 5.00 लाख की शास्ति ोपित की जावेगी एवं ऐसे अनुज्ञाधारी के बीयर की बिक्री की मात्रा को नियंत्रित भी किया जा सकेगा। इस र बीयर की मात्रा को नियंत्रित किये जाने पर अनुज्ञाधारी एकाकी विशेषाधिकार राशि या अन्य कोई देय ा में छूट अथवा क्षतिपूर्ति पाने का हकदार नहीं होगा।

6.10 आबकारी आयुक्त, राजस्थान को लाईसेन्स की अवधि में बीयर का न्यूनतम विक्रय मूल्य ीरित करने का अधिकार होगा। निर्धारित मूल्य से कम पर अनुज्ञाधारी द्वारा बीयर का विक्रय नही किया सकेगा।

6.11 जिला आबकारी अधिकारी की पूर्व अनुमति के बिना अनुज्ञाधारी किसी मेले में अस्थाई तौर पर दुकान नही लगा सकेगा।

6.12 ग्रामीण क्षेत्रों में जहां विदेशी मदिरा एवं बीयर पृथक खुदरा दुकानें स्वीकृत नही है, वहां देशी मदिरा को स्वीकृत दुकानों पर बीयर बेचने की अनुमति देशी मदिरा के अनुज्ञापत्र के शर्त संख्या 6.12.1 के अन्तर्गत होगी।

7. अभिलेखों का संधारण—7.1 अनुज्ञाधारी को बीयर की आमद, बिक्री और शेष बची मात्रा (Balance) का हिसाब निर्धारित रजिस्टर में दैनिक रूप से रखना होगा व एक निरीक्षण पंजिका भी रखनी होगी। यह रजिस्टर जिला आबकारी अधिकारी के कार्यालय में मूल्य चुका कर प्राप्त करना होगा। प्रतिदिन का हिसाब दुकान बंद करने के साथ उसी दिन ही लिखना होगा और मासिक आमद, बेचान व स्टॉक का नक्शा आगामी माह की 5 तारीख तक हलके के आबकारी निरीक्षक के पास पेश करना होगा।

7.2 आबकारी निरीक्षक अथवा निरीक्षण के लिये अन्य प्राधिकृत अधिकारी द्वारा निरीक्षण करने पर अनुज्ञाधारी को अपना अनुज्ञापत्र, नौकर का नौकरनामा व बिक्री रजिस्टर, परमिट पास एवं बीयर का तमाम स्टॉक, इत्यादि जांच हेतु बतलाना होगा तथा उसको दिन व रात में किसी भी समय दुकान में प्रविष्ट होने देगा और ऐसे अधिकारी को निरीक्षण के दौरान प्रत्येक प्रकार का सहयोग देगा।

7.3 अनुज्ञापत्र की अवधि समाप्त होने अथवा किसी अन्य कारण से अनुज्ञापत्र रद्द होने की स्थिति में अनुज्ञाधारी को बीयर के बचे हुए स्टॉक एवं समस्त रिकार्ड की सूचना अविलम्ब अपने क्षेत्र के आबकारी निरीक्षक को देनी होगी। समस्त रिकार्ड उसे आबकारी निरीक्षक के कार्यालय में अविलम्ब जमा कराना होगा एवं बचे हुए स्टॉक का निस्तारण जिला आबकारी अधिकारी के आदेशानुसार करना होगा। निस्तारण होने तक बचा हुआ स्टॉक, आबकारी निरीक्षक एवं निवर्तमान अनुज्ञापत्रधारी के संयुक्त अभिरक्षण में ऐसे स्थान पर रहेगा, जहां व्यवसाय किया जा रहा था निस्तारण करने तक उस स्थान का किराया बिजली व्यय एवं अन्य अधिभार निवर्तमान अनुज्ञाधारी को ही देने होंगे।

8. अनुज्ञापत्र को निरस्त करना—8.1 अनुज्ञाधारी को एकाकी विशेषाधिकार राशि की मासिक किश्तों का भुगतान अनुज्ञापत्र की शर्त संख्या 2.3.1 के तहत निर्धारित तिथि तक करना आवश्यक होगा। निर्धारित तिथि से इस माह की अवधि तक एकाकी विशेषाधिकार की मासिक किश्त का जमा नही कराने पर इसे अनुज्ञापत्र की शर्तों का उल्लंघन माना जायेगा तथा इस आधार पर अनुज्ञापत्र को निरस्त किया जा सकेगा।

8.2 यदि अनुज्ञापत्र देने वाले अधिकारी अथवा उससे उच्च प्राधिकारी को किसी समय यह विश्वास हो कि अनुज्ञाधारी अपनी दुकान चालू नही रखता है अथवा ठीक तौर पर नही चलाता है अथवा आवश्यक मात्रा में बीयर नही बेचता है या किसी माह की एकाकी विशेषाधिकार राशि की पूर्ति हेतु निर्धारित अवधि के पहले पखवाड़े में बीयर उठाकर अथवा नकद से उस माह की 25 प्रतिशत से भी कम पूर्ति करता है अथवा अन्य कोई उचित एवं पर्याप्त कारण हों तो ऐसी दशा में अनुज्ञापत्र निरस्त किया जा सकेगा।

8.3 अनुज्ञापत्र की अवधि के दौरान अनुज्ञाधारी के विरुद्ध राजस्थान आबकारी अधिनियम 1950, नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्ट 1985 अथवा आबकारी अधिनियम 1950 की धारा 34 में उल्लेखित अधिनियमों तथा उसमें उल्लेखित धाराओं के अन्तर्गत अभियोग दर्ज होने या उसके सजायाब होने पर अनुज्ञापत्र निरस्त किया जा सकेगा।

8.4 यदि अनुज्ञाधारी अवैध रूप से मदिरा, अफीम या अन्य मादक पदार्थ रखता है या बेचता है या किसी अन्य राज्य में अवैध रूप से मदिरा को बेचने का या अफीम या अन्य मादक पदार्थ बेचने का काम करता है या किसी ऐसी जगह से उसका संबंध है जहां से ये वस्तुएं अवैध रूप से लाई जाने का संदेह हो तो ऐसी दशा में अनुज्ञापत्र निरस्त किया जा सकेगा।

8.5 यदि अनुज्ञाधारी अथवा उसके नौकर द्वारा राजस्थान आबकारी अधिनियम, 1950 उसके अन्तर्गत बने राजस्थान आबकारी नियम, 1956 राजस्थान विदेशी मदिरा (थोक व्यापार तथा खुदरा बहिःपान अनुज्ञप्ति प्रदाय) नियम, 1982 अथवा निविदा, निविदा के साथ संलग्न विस्तृत निर्देश एवं शर्तें अनुज्ञाधारियों के पक्ष

जारी की गई स्वीकृति, इस अनुज्ञापत्र की शर्तों अथवा समय-समय पर प्रसारित विभागीय निर्देशों की अवहेलना ये जाने पर अनुज्ञापत्र निरस्त किया जा सकेगा।

8.6 अनुज्ञापत्र स्वीकृत करने वाला अधिकारी अथवा उससे उच्च प्राधिकारी अनुज्ञाधारी को अपना प्रस्तुत करने हेतु उचित अवसर प्रदान करने के उपरान्त अनुज्ञापत्र निरस्त कर सकेगा। अनुज्ञापत्र निरस्त किये ने पर अनुज्ञाधारी अथवा उसके वारिस किसी प्रकार की क्षति पूर्ति पाने के हकदार नही होंगे।

8.7 अनुज्ञापत्र निरस्त करने वाले अधिकारी को यह अधिकार होगा कि वह अनुज्ञापत्र को अनुज्ञाधारी जोखिम एवं लागत पर निरस्त कर उसके द्वारा नकद तथा बैंक गारन्टी के रूप में प्रस्तुत की गई धरोहर राशि मानत राशि को सम्मिलित करते हुये) अथवा उसका कोई भाग जब्त सरकार कर सके। साथ ही समूह के त रहने अथवा दोबारा ठेका कम राशि पर उठने या अन्य तरीके से समूह के संचालन के परिणमास्वरूप राज्य कार को जो भी हानि होगी उसे सम्बन्धित अनुज्ञाधारी की विभाग के पास उनकी जमा किसी भी राशि से, के द्वारा प्रस्तुत बैंक गारन्टी से, राजस्थान आबकारी अधिनियम के तहत तथा भू-राजस्व की बकाया वसूली भाँति उनकी समस्त चल-अचल सम्पत्तियों से, उनके वारिसों/उत्तराधिकारियों से वसूल की जा सकेगी। ुज्ञाधारी की सम्पत्तियों तथा उनके वारिसों/उत्तराधिकारियों की सम्पत्तियों पर प्रथम प्रभार आबकारी विभाग रहेगा। यदि समूह के पुन: उठने पर कोई लाभ होगा तो अनुज्ञाधारी उसे पाने के हकदार नहीं होगा।

9. बकाया राशियों की वसूली—अनुज्ञाधारी के विरुद्ध किसी भी प्रकार का कोई आबकारी राजस्व ब्याज बकाया रहने की स्थिति में उसकी वसूली विभाग के पास जमा अनुज्ञाधारी की किसी भी राशि से, के द्वारा प्रस्तुत बैंक गारन्टी से, राजस्थान आबकारी अधिनियम के तहत तथा राजस्थान भू-राजस्व अधिनियम 56 एवं केन्द्रीय राजस्व वसूली अधिनियम 1890 के प्रावधानों के अनुसार भू-राजस्व की बकाया की भाँति ुज्ञाधारियों, उनके वारिसों/उत्तराधिकारियों से की जायेगी। अनुज्ञाधारी की सम्पत्तियों तथा उनके वारिसों/ राधिकारियों की सम्पत्तियों पर प्रथम प्रभार आबकारी विभाग का रहेगा।

10. अन्य बिन्दु—10.1 अनुज्ञाधारी के लिए अनिवार्य होगा कि वह आबकारी अधिनियम व कोटिक ड्रग्स एण्ड साइकोट्रोपिक सब्सटेन्सेज एक्ट के तहत गठित अपराध उसकी जानकारी में आने पर ला आबकारी अधिकारी या हल्के के आबकारी निरीक्षक को अविलम्ब सूचना देगा।

10.2 राजस्थान आबकारी अधिनियम, 1950 एवं इसके अन्तर्गत बनाये गये नियमों के समस्त प्रावधान ारूप में लागू होंगे।

10.3 इस अनुज्ञापत्र के संबंध में उत्पन्न होने वाले समस्त विवाद का न्याय क्षेत्र अनुज्ञापत्र जारीकर्त्ता धेकारी का मुख्यालय रहेगा।

अनुज्ञापत्र देने वाले के हस्ताक्षर

प्रतिसंविद

अनुज्ञापत्र संख्या ..... जिला.....

समूह का नाम.....

मैं/हम उपर्युक्त अनुज्ञापत्र के संबंध में इसमें निर्दिष्ट शर्तों तथा राजस्थान आबकारी अधिनियम, 1950 उसके अन्तर्गत बनाये गये नियमों, निविदा, निविदा के साथ संलग्न निर्देश एवं शर्तों, हमारे पक्ष में जारी की स्वीकृति एवं समय-समय पर प्रसारित विभागीय निर्देशों की पालना करना पूर्णत: स्वीकार करता हूं/करते

मेरे समक्ष हस्ताक्षर किये

हस्ताक्षर अनुज्ञाधारी

प्रतिहस्ताक्षर

आबकारी निरीक्षक

वृत .....

जिला आबकारी अधिकारी

राजस्थान सरकार

आबकारी विभाग

(4) विदेशी मदिरा एवं बीयर के थोक विक्रय का अनुज्ञापत्र राजस्थान विदेशी मदिरा (थोक व्यापार तथा खुदरा बहि:पान अनुज्ञप्ति प्रदाय) नियम, 1982 के अन्तर्गत

अनुज्ञापत्र संख्या..... दिनांक : .....

अनुज्ञाधारी का नाम	पिता/पति का नाम	आयु	जाति	पूर्ण पता
1	2	3	4	5

उपयुक्त व्यक्तियों को ..... स्थान (मोहल्ला) ..... शहर/गांव.....जिला स्थित अपने गोदाम से उस जिले के अन्य थोक अथवा रिटेल अनुज्ञाधारियों को विदेशी मदिरा व बीयर की बिक्री हेतु दिनांक..... से .....तक की अवधि में थोक विक्रय करने का अनुज्ञापत्र नीचे लिखी शर्तों पर जारी किया जाता है:-

1. अनुज्ञाधारी, राजस्थान आबकारी अधिनियम 1950 (राजस्थान अधिनियम संख्या-2, 1950) एवं उसके अन्तर्गत बने राजस्थान आबकारी नियम, 1956 तथा राजस्थान विदेशी मदिरा (थोक व्यापार तथा खुदरा बहि:पान अनुज्ञप्ति प्रदाय) नियम 1982 एवं समय-समय पर प्रसारित विभागीय निर्देशों से अनुज्ञापत्र तथा निविदा की शर्तो से पाबन्द रहेगा।

2.राजस्थान आबकारी नियम, 1956 के नियम 47 एवं राजस्थान विदेशी मदिरा (थोक व्यापार खुदरा बहि:पान अनुज्ञप्ति प्रदाय) नियम 1982 के नियम 3 के अन्तर्गत थोक अनुज्ञापत्र की वार्षिक लाईसेन्स फीस वर्ष 200---0--- (दिनांक 1-4-0--- से 31-3-0--) तक के लिए रू..... ... (अंकों में) रूपये.....(शब्दों में) का भुगतान करना होगा।

3. वर्ष 200---0--- की सम्पूर्ण लाईसेंस फीस अनुज्ञापत्र हेतु प्रार्थना-पत्र आमंत्रण के संदर्भ में दिये गये दिशा निर्देशों में निर्धारित अवधि में तथा हर हालत में व्यवसाय प्रारम्भ करने से पूर्व एक मुश्त जमा करानी होगी।

4. अनुज्ञाधारी में कोई रकम अदायगी से शेष रहने की दशा में इसकी वसूली राजस्थान आबकारी अधिनियम, 1950 के तहत तथा भू-राजस्व की बकाया की भांति राजस्थान भू-राजस्व अधिनियम, 1956 तथा केन्द्रीय राजस्व वसूली अधिनियम, 1890 के अन्तर्गत वसूल की जा सकेगी। अनुज्ञाधारी की सम्पत्तियों तथा उनके वारिसों/उत्तराधिकारियों की सम्पत्तियों पर प्रथम प्रभार आबकारी विभाग का रहेगा।

5. थोक अनुज्ञाधारी मदिरा की सम्पूर्ण आपूर्ति राज्य सरकार द्वारा इस उद्देश्य से गठित निगम राजस्थान स्टेट ब्रेवरेजेज कारपोरेशन लि. (आर.एस.बी.सी.एल) के डिपों से ही प्राप्त करेंगे। उन्हें इस व्यवहार पर देय

राशियों एवं परमिट फीस का भुगतान कर संबंधित जिला आबकारी अधिकारी से परमिट जारी कराना होगा। किसी जिले में समुचित संख्या में निजी थोक अनुज्ञाधारी नहीं होने पर अथवा थोक अनुज्ञाधारियों द्वारा विदेशी मदिरा व बीयर की आर.एस.बी.सी.एल. के स्थानीय डिपों पर उपलब्ध ब्रान्डस नहीं रखने पर एवं उनकी स्थानीय खुदरा अनुज्ञाधारियों में मांग होने पर वैकल्पिक व्यवस्था की जा सकेगी।

6. थोक अनुज्ञाधारी एक बार में खुदरा अनुज्ञापत्रधारी को विदेशी मदिरा के 6 लीटर एवं बीयर के 7 .8 लीटर से कम मात्रा नहीं बेच सकेगा। सामान्यत थोक अनुज्ञाधारी द्वारा खुदरा अनुज्ञाधारियों को पूर्ण केसेज/कार्टनस् में ही मदिरा का विक्रय किया जायेगा। अनुज्ञापत्रधारी समस्त विक्रय केवल विदेशी मदिरा खुदरा (रिटेल आन अनुज्ञाधारियों सहित) अनुज्ञापत्रधारियों को ही कर सकेंगा। थोक अनुज्ञाधारी आर.एस.बी.सी.एल को चुकाये गये क्रय मूल्य में अधिकतम 5 प्रतिशत मार्जिन लेकर ही खुदरा अनुज्ञाधारी को मदिरा/बीयर का विक्रय कर सकेगा। थोक अनुज्ञाधारियों द्वारा रूपये 0.25 प्रति बल्क लीटर की दर से अदा की जाने वाली परमिट फीस उन्हें देय मार्जिन की अधिकतमर सीमा 5% में सम्मिलित हैं।

7 (क) मदिरा का विक्रय केवल सीलबन्द बोलतों, अद्दों, पव्वों व लघु पव्वों में ही किया जा सकेगा। बेची जाने योग्य विदेशी मदिरा का प्राबल्य 25 यू.पी. से कम किसी भी दशा में नहीं होगा। आबकारी आयुक्त की विशेष अनुमति से ही उक्त से भिन्न प्राबल्य की मदिरा आधिपत्य में रखी एवं बेची जा सकेगी।

(ख) बीयर का विक्रय केवल सीलबंद बोतलों/केन में ही किया जा सकेगा।

8. विक्रय हेतु स्वीकृत थोक व्यवसाय स्थल पर किसी भी प्रकार मदिरापान करना/कराना निषिद्ध होगा।

9. विक्रय का समय प्रात 9.00 बजे से रात्रि 9.00 बजे तक रहेगा।

10. थोक अनुज्ञापत्रधारी का यह दायित्व होगा कि वह विक्रय करने से पूर्व भलीभांति संतुष्टि कर ले कि उसके द्वारा विक्रय की जाने वाली भारत निर्मित विदेशी मदिरा/बीयर पर निर्धारित राज्य आबकारी ड्यूटी चुका दी गयी है एवं राजस्थान आबकारी नियम 1956 के नियम 69-बी में वर्णित परमिट फीस क्रेता अनुज्ञापत्र धारी द्वारा चुका दी गई है।

11. अनुज्ञापत्रधारी को थोक व्यवसाय स्थल संबंधित जिला आबकारी अधिकारी से अनुमोदन कराना होगा। व्यवसाय स्थल पर एक 75x125 से.मी. नाम का नोटिस बोर्ड लगाना होगा। व्यवसाय स्थल आबकारी नियमों एवं समय-समय पर प्रसारित विभागीय आदेशों के अनुरूप रखना होगा। परिसर परिवर्तन जिला आबकारी अधिकारी की बिना पूर्वानुमति के नहीं किया जायेगा। विभाग को यह अधिकार होगा कि थोक दुकान को एक स्थान से उसी समूह क्षेत्र में दूसरे स्थान पर स्थानान्तरित कर दें। थोक दुकान स्थानान्तरण किये जाने की सूरत में अनुज्ञाधारी किसी प्रकार की क्षतिपूर्ति मांगने का अधिकारी नहीं होगा।

12. अनुज्ञापत्रधारी माल लाने व बेचने के लिए किसी वयस्क व्यक्ति को संबंधित जिला आबकारी अधिकारी की स्वीकृति से ही नौकर रख सकेगा, लेकिन ऐसे स्वीकृत नौकरे प्रत्येक काम के लिए अनुज्ञापत्रधारी स्वयं उत्तरदायी होगा। विशेष कारण होने पर अनुज्ञाधारी के पिता अथवा पत्नी एवं वयस्क पुत्र के लिए स्वीकृति की आवश्यकता नहीं रहेगी। ऐसे किसी भी व्यक्ति को नौकर नहीं रखा जा सकेगा, जिसे किसी प्रकार का संक्रामक रोग हो, जिसने किसी फौजदारी अथवा आबकारी के जुर्म में सजा पाई हो अथवा किसी आबकारी एवं फौजदारी जुर्म में आदतन अपराधी अथवा वाण्टेड हो।

13. थोक व्यवसाय स्थल पर विदेशी मदिरा एवं बीयर के अतिरिक्त अन्य मदाक पदार्थ जैसे देशी मदिरा, भांग, अफीस आदि रखना एवं बेचान पूर्ण रूप से निषिद्ध होगा। अनुज्ञापत्रधारी अपनी बिक्री बढ़ाने के लिए

किसी प्रकार के सार्वजनिक विज्ञापन का सहारा नहीं ले सकेगा। व्यवसाय स्थल पर किसी प्रकार का आवास निषिद्ध होगा।

14. लाईसेन्स की अवधि तक दुकान सुचारू रूप से बराबर संचालित रखनी होगी व सारा स्टॉक उसी दुकान या भण्डार पर ही रखना होगा जिसके लिए उसे स्वीकृति दी गई है।

15. अनुज्ञापत्रधारी को वर्ष 200---0--- हेतु नियम 3 शुष्क दिवसों पर एवं भविष्य में राज्य सरकार/आबकारी आयुक्त द्वारा नियत किये जाने वाले शुष्क दिवसों पर अपनी थोक दुकान बंद रखनी होगी। इसके अतिरिक्त किन्हीं विशिष्ट परिस्थितियों में राज्य सरकार अथवा आबकारी आयुक्त द्वारा समय-समय पर दुकान को बन्द रखने या बिक्री के समय पर जो नियंत्रण लगाये जावेंगे उनका भी पालन करना होगा जिसके लिए कोई क्षतिपूर्ति देय नहीं होगी। शुष्क दिवसों की पठनीय सूची भी व्यवसाय स्थल पर लगानी होगी। कानून व व्यवस्था संबंधी कारणों से दुकान बंद रहने पर भी अनुज्ञा राशि में किसी प्रकार की छूट नहीं दी जावेगी।

16. आबकारी निरीक्षक अथवा निरीक्षण के लिये अन्य प्राधिकृत अधिकारी द्वारा निरीक्षण करने पर अनुज्ञाधारी को अपना अनुज्ञापत्र, नौकर का नौकरनामा व बिक्री रजिस्टर, परमिट पास एवं मदिरा का तमाम स्टॉक, इत्यादि जांच हेतु बतलाना होगा तथा उसको दिन व रात में किसी भी समय दुकान में प्रविष्ट होने देगा और ऐसे अधिकारी को निरीक्षण के दौरान प्रत्येक प्रकार का सहयोग देगा। स्टॉक रजिस्टर एवं निरीक्षण पुस्तिका कीमत चुका कर जिला आबकारी अधिकारी के कार्यालय से प्राप्त करनी होगी।

17. अनुज्ञापत्र की अवधि के दौरान अनुज्ञाधारी के विरूद्ध राजस्थान आबकारी अधिनियम 1950 नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्स 1985 अथवा आबकारी अधिनियम 1950 की धारा 34 में उल्लेखित अधिनियमों तथा उसमें उल्लेखित धाराओं के अन्तर्गत अभियोग दर्ज होने या उसके सजायाब होने पर आबकारी आयुक्त द्वारा अनुज्ञापत्र निरस्त किया जा सकेगा।

18(क) अनुज्ञाधारी अनुज्ञापत्र देने वाले अधिकारी की लिखित स्वीकृति के बिना किसी अन्य व्यक्ति को अनुज्ञापत्र हस्तान्तरित नहीं कर सकेगा। अनुज्ञापत्र की अवधि में अनुज्ञाधारी की मृत्यु हो जाने पर यदि अनुज्ञाधारी का कोई वैध वयस्क उत्तराधिकारी हो, तो उसकी प्रार्थना पर अनुज्ञापत्र उसके नाम पर जारी किया जा सकेगा। किसी थोक के लिये एक से अधिक अनुज्ञाधारी होने की स्थिति में यदि किसी अनुज्ञाधारी की मृत्यु हो जाती है तो शेष अनुज्ञाधारी अनुज्ञापत्र की शर्तों से यथावत् बाध्य रहेंगे।

(ख) ''व्यक्तियों के समूह'' के नाम पर अनुज्ञापत्र स्वीकृति किये जाने की स्थिति में स्वीकृत ''व्यक्तियों के समूह'' में सम्मिलित समस्त व्यक्ति सह-अनुज्ञाधारी की श्रेणी में आयेंगे एवं अनुज्ञापत्र की शर्तों से बाध्य होंगे। सभी सह-अनुज्ञाधारी आबकारी बकाया एवं अन्य दायित्वों के लिए संयुक्त एवं पृथक-पृथक रूप से उत्तरदायी होंगे। दायित्वों के उनके आपसी बंटवारे संबंधी उनकी आन्तरिक व्यवस्था से विभाग को कोई सरोकार नहीं रहेगा। ऐसे ''व्यक्तियों के समूह'' में सम्मिलित व्यक्ति, अनुज्ञाधारियों द्वारा आयकर विभाग में प्रस्तुत की जाने वाली सूची से भिन्न नहीं होंगे।

(ग) व्यवसाय संचालन हेतु यदि कोई अनुज्ञाधारी किसी अन्य व्यक्ति को साथ लेकर ''व्यक्तियों को समूह'' बनाना चाहता हो अथवा ''व्यक्तियों के समूह'' में अन्य व्यक्तियों को सम्मिलित करना चाहता हो तो इसके लिए उसे अनुज्ञापत्र स्वीकृत करने वाले प्राधिकारी की पूर्व अनुमति लेना आवश्यक होगा। इस प्रकार नये सम्मिलित व्यक्ति भी अनुज्ञाधारी की श्रेणी में माने जावेंगे एवं वे आवेदन आमंत्रण के संबंध में जारी विस्तृत निर्देश एवं शर्तों तथा अनुज्ञापत्रों की शर्तों से बाध्य होंगे। साथ ही ऐसे व्यक्ति समूह के सभी दायित्वों की पूर्ति हेतु संयुक्त

एवं पृथक-पृथक रूप से उत्तरदायी होंगें। दायित्वों के उनके आपसी बंटवारे संबंधी उनकी आन्तरिक व्यवस्था से विभाग को कोई सरोकार नहीं रहेगा। ऐसे ''व्यक्तियों के समूह'' में सम्मिलित व्यक्ति अनुज्ञाधारियों द्वारा आयकर विभाग में प्रस्तुत की जाने वाली सूची से भिन्न नहीं होंगे।

19. राजस्थान आबकारी अधिनियम, 1950 अथवा इसके अन्तर्गत बने राजस्थान आबकारी नियम, 1956, राजस्थान विदेशी मदिरा (थोक व्यापार तथा खुदरा बहि:पान अनुज्ञप्ति प्रदाय) नियम, 1982 अथवा अनुज्ञापत्र एवं आवेदन आमंत्रण के संलग्न शर्तों एवं समय-समय पर जारी विभागीय निर्देशों की किसी भी प्रकार की अनुज्ञापत्रधारी अथवा उसके नौकर द्वारा अवहेलना पाये जाने पर लाईसेन्स देने वाले अधिकारी को अधिकार होगा कि अनुज्ञापत्रधारी का अनुज्ञापत्र रद्द कर दें एवं थोक दुकान को पुन: किसी अन्य तरह से उठा दें। अनुज्ञापत्र निरस्तीकरण पर शेष अवधि की लाईसेन्स फीस वापसी योग्य नहीं होगी।

20. अनुज्ञापत्रधारी को अपनी प्रत्येक माह की रिटेल अनुज्ञाधारीवार बिक्री एवं आमद का मासिक मानचित्र निर्धारित प्रपत्र में आगामी माह की 5 तारीख तक संबंधित आबकारी निरीक्षक व जिला आबकारी अधिकारी को प्रस्तुत करना होगा।

21. अनुज्ञापत्र की अवधि समाप्त होने अथवा किसी अन्य कारण से अनुज्ञापत्र रद्द होने की स्थिति में अनुज्ञाधारी को विदेशी मदिरा एवं बीयर के बचे हुए स्टॉक एवं समस्त रिकार्ड की सूचना अविलम्ब अपने क्षेत्र के आबकारी निरीक्षक को देनी होगी। समस्त रिकार्ड उसे आबकारी निरीक्षक के कार्यालय में अविलम्ब जमा कराना होगा। मदिरा का ऐसा अवशेष स्टॉक आर.एस.बी.सी. एल को हस्तान्तरित किया जाना होगा। थोक अनुज्ञाधारी मदिरा की ऐसी मात्रा पर आर.एस.बी.सी.एल. द्वारा इसकी बिक्री के समय वसूल किये गये मूल्य (आर.एस.बी.सी.एल. के मार्जिन को छोड़कर) या ऐसे हस्तान्तरण के समय निर्माता द्वारा घोषित मूल्य जो भी कम हो तथा उसके द्वारा चुकाई गई आबकारी शुल्क की राशि प्राप्त करने का अधिकारी होगा। निस्तारण होने तक बचा हुआ स्टॉक, आबकारी निरीक्षक एवं निवर्तमान अनुज्ञापत्र धारी के संयुक्त अभिरक्षण में ऐसे स्थान पर रहेगा, जहां व्यवसाय किया जा रहा था एवं निस्तारण करने तक उस स्थान का किराया बिजली व्यय एवं अन्य अधिभार निवर्तमान अनुज्ञाधारी को ही देने होंगे।

22. अनुज्ञापत्रधारी को अपनी थोक दुकान शुष्क दिवसों के अतिरिक्त नियमित रूप से चालू रखनी होगी एवं पर्याप्त मात्रा में स्टॉक रखना होगा।

23. राजस्थान आबकारी अधिनियम 1950 एवं इसके अन्तर्गत बनाये गये नियमों के समस्त प्रावधान यथा रूप से लागू होंगे।

24. इस अनुज्ञापत्र के संबंध में उत्पन्न होने वाले समस्त विवादों का न्याय क्षेत्र उदयपुर रहेगा।

स्थान:

दिनांक:

अनुज्ञापत्र देने वाले के हस्ताक्षर

प्रतिसंविद

अनुज्ञापत्र संख्या..... जिला.....समूह का नाम.....

मैं/ हम उपर्युक्त अनुज्ञापत्र के संबंध में इसमें निर्दिष्ट शर्तों तथा राजस्थान आबकारी अधिनियम, 1950 तथा उसके अन्तर्गत बनाये गये नियमों, अनुज्ञापत्र के आवेदन आमंत्रण के साथ संलग्न विस्तृत निर्देश एवं शर्तों,

हमारे पक्ष में जारी की गई स्वीकृति एवं समय-समय पर प्रसारित विभागीय निर्देशों की पालना करना पूर्णत: स्वीकार करता हूँ/करते हैं।

हस्ताक्षर अनुज्ञाधारी

प्रति हस्ताक्षर

मेरे समक्ष हस्ताक्षर किये

आबकारी निरीक्षक

वृत.....

जिला आबकारी अधिकारी

आबकारी विभाग, राजस्थान, उदयपुर

(5) [भांग खुदरा विक्रय का अनुज्ञापत्र (लाईसेन्स) (राजस्थान आबकारी अधिनियम, 1950 की धारा 42 (ई) व राजस्थान आबकारी नियम, 1956 के नियम 57 तथा राजस्थान नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज रूल्स 1985 के अन्तर्गत)

अनुज्ञापत्र संख्या..... दिनांक : .....

अनुज्ञाधारी का नाम	पिता/पति का नाम	आयु	जाति	पूर्ण पता
1	2	3	4	5

इस अनुज्ञापत्र की पालना सुनिश्चित करने के लिये उक्त अनुज्ञाधारी/अनुज्ञाधारियों ने:-

(1) स्वीकृत अनुज्ञा फीस की वांछित 33.33 प्रतिशत धरोहर राशि जमा करा दी है।

(2) स्वीकृत अनुज्ञा फीस की वांछित 10 प्रतिशत की राशि के बराबर की बैंक गारन्टी प्रस्तुत कर दी ।

उपर्युक्त व्यक्तियों को सरकारी गोदाम में भांग का स्टॉक उपलब्ध होने तक सरकारी गोदाम से निर्धारित पर भांग प्राप्त कर एवं तत्पश्चात अपने थोक अथवा राज्य में स्थित अन्य थोक विक्रय अनुज्ञाधारी से निम्न समूह क्षेत्र में भांग व भांग घोटा (गुलकन्द, बुकनी, माजूम, आदि सहित) के खुदरा विक्रय करने हेतु दिनांक..... .....तक की अवधि के लिए नीचे वर्णित शर्तों पर अनुज्ञा पत्र जारी किया जाता है।

भांग समूह का नाम : .....

समूह में सम्मिलित दुकानों की संख्या : .....

समूह में सम्मिलित दुकानों का विवरण : .....

.....

भांग खुदरा विक्रय अनुज्ञा पत्र (लाईसेन्स) की शर्ते

1. राजस्थान आबकारी अधिनियम 1950 एवं उसके अन्तर्गत बने नियमों तथा नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्स 1985 एवं राजस्थान नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज रूल्स 1985 आदि की पालना:-

अनुज्ञाधारी, राजस्थान आबकारी अधिनियम, 1950 (राजस्थान अधिनियम संख्या-2, 1950) एवं

आदेश क्रमांक प. 23 (1) आब/लेखा/2006/526 दिनांक 4-2-2006.

उसके अन्तर्गत बने राजस्थान आबकारी नियम, 1956 तथा नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्स 1985 एवं राजस्थान नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज रूल्स 1985 एवं निविदा, निविदा के साथ संलग्न विस्तृत निर्देश एवं शर्तों, अनुज्ञाधारियों के पक्ष में जारी की गई स्वीकृति, इस अनुज्ञापत्र की शर्तों तथा समय-समय पर प्रसारित विभागीय निर्देशों से पाबन्द रहेगा।

2. अनुज्ञा फीस एवं अन्य राशियाँ तथा उनका भुगतान:

2.1 अनुज्ञाधारी को राजस्थान आबकारी अधिनियम, 1950 राजस्थान आबकारी नियम, 1956 तथा नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्स 1985 एवं राजस्थान नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज रूल्स 1985 के अन्तर्गत वर्ष 200----0--- (दिनांक 1-4-0-- से 31-3-0--- तक) की अवधि के लिए अनुज्ञापत्र हेतु निर्धारित अनुज्ञा फीस रूपये.....(अंकों में) रूपये.....(शब्दों में) का भुगतान करना होगा।

2.2 अनुज्ञाधारी को सरकारी गोदाम में भांग उपलब्ध होने पर सरकारी गोदाम से दी जाने वाली भांग का निर्गम मूल्य (Issue Price) राजस्थान इश्यु एण्ड सेल प्राइस ऑफ भांग रूल्स 1964 के अनुसार अनुज्ञा फीस के अलावा भुगतान करना होगा। आबकारी आयुक्त को जब चाहे इससें परिवर्तन का अधिकार होगा। तथा अनुज्ञाधारी इन परिवर्तनों के प्रति किसी प्रकार की आपत्ति नहीं कर सकेगा तथा उनसे पाबंद रहेगा। इस परिवर्तन के लिए अनुज्ञाधारी किसी क्षतिपूर्ति की मांग नहीं कर सकेगा। सरकारी गोदाम में भांग उपलब्ध नहीं होने पर अनुज्ञाधारी अपने थोक अथवा राज्य में स्थित अन्य थोक अनुज्ञाधारी से खुदरा भांग का स्थानान्तरण जिला आबकारी अधिकारी द्वारा जारी परमिट के आधार पर ही कर सकेगा एवं उसे इस हेतु नियमानुसार परमिट फीस अदा करनी होगी।

2.3 उपर्युक्त राशियों के अलावा फीस एवं अन्य कर प्रभार, अगर कोई है, का अलग से भुगतान करना होगा।

2.4.1 उपर्युक्त अनुज्ञा फीस की पूर्ति बराबर मासिक किश्तों में करनी होगी। प्रत्येक माह की अनुज्ञा फीस की किश्त का भुगतान उसी माह के अंतिम कार्य दिवस तक करना होगा।

2.4.2 विलम्ब से जमा करायी गयी अनुज्ञा फीस पर राजस्थान आबकारी अधिनियम के अनुसार ब्याज भी वसूली योग्य होगा।

3. अनुज्ञापत्र की वैधानिक स्थिति:-

3.1 जिन व्यक्तियों के पक्ष में अनुज्ञापत्र स्वीकृत किया गया है वे व्यक्ति ही अनुज्ञाधारी की श्रेणी में माने जायेंगे तथा वे ही इस अनुज्ञापत्र के तहत समूह क्षेत्र में भांग की बिक्री करने हेतु अधिकृत होंगे।

3.2 अनुज्ञाधारी, अनुज्ञापत्र देने वाले अधिकारी की लिखित स्वीकृति के बिना किसी अन्य व्यक्ति को अनुज्ञा पत्र हस्तान्तरित नहीं कर सकेगा। अनुज्ञापत्र की अवधि में अनुज्ञाधारी की मृत्यु हो जाने पर भांग समूह को नियमानुसार फिर से उठाया जा सकेगा। यदि अनुज्ञाधारी का कोई वैध वयस्क उत्तराधिकारी हो, तो उसकी प्रार्थना पर अनुज्ञापत्र उसके नाम पर जारी किया जा सकेगा। किसी समूह में एक से अधिक अनुज्ञाधारी होने की स्थिति में यदि किसी अनुज्ञाधारी की मृत्यु हो जाती है तो शेष अनुज्ञाधारी अनुज्ञापत्र की शर्तों से यथावत बाध्य रहेंगे।

3.3 ''व्यक्तियों के समूह'' के नाम पर अनुज्ञापत्र स्वीकृत किये जाने की स्थिति में स्वीकृत ''व्यक्तियों के समूह'' में सम्मिलित समस्त व्यक्ति सह-अनुज्ञाधारी की श्रेणी में आयेंगे एवं अनुज्ञापत्र की शर्तों से बाध्य होंगे। सभी सह-अनुज्ञाधारी आबकारी बकाया एवं अन्य दायित्वों के लिए संयुक्त एवं पृथक-पृथक रूप से उत्तरदायी

गे। सभी सह-अनुज्ञाधारी आबकारी बकाया एवं अन्य दायित्वों के लिए संयुक्त एवं पृथक-पृथक् रूप से तरदायी होगें। दायित्वों के उनके आपसी बंटवारे संबंधी उनकी आन्तरिक व्यवस्था से विभाग को कोई सरोकार हीं रहेगा। ऐसे ''व्यक्तियों के समूह'' में सम्मिलित व्यक्ति, अनुज्ञाधारियों द्वारा आयकर विभाग में प्रस्तुत की ने वाली सूची से भिन्न नहीं होंगे।

3.4 व्यवसाय संचालन हेतु यदि कोई अनुज्ञाधारी किसी अन्य व्यक्ति को साथ लेकर ''व्यक्तियों का मूह'' बनाना चाहता हो अथवा ''व्यक्तियों के समूह'' में अन्य व्यक्तियों को सम्मिलित करना चाहता हो तो के लिए उसे नियमानुसार राशि जमा कराते हुए अनुज्ञा पत्र स्वीकृत करने वाले प्राधिकारी की पूर्व अनुमति ना आवश्यक होगा। इस प्रकार नये सम्मिलित व्यक्ति भी अनुज्ञाधारी की श्रेणी में माने जावेंगें एवं वे निविदा त्र, निविदा के संबंध में विस्तृत निर्देश एवं शर्तों तथा अनुज्ञापत्र की शर्तों से बाध्य होंगे। साथ ही ऐसे व्यक्ति मूह के सभी दायित्वों की पूर्ति हेतु संयुक्त एवं पृथक-पृथक रूप से उत्तरदायी होंगे। दायित्वों के उनके आपसी स्वारे संबंधी उनकी आन्तरिक व्यवस्था से विभाग को कोई सरोकार नहीं रहेगा। ऐसे ''व्यक्तियों के समूह'' सम्मिलित व्यक्ति, अनुज्ञाधारियों द्वारा आयकर विभाग में प्रस्तुत की जाने वाली सूची से भिन्न नहीं होंगे।

4. धरोहर राशि एवं बैंक गारन्टी:-

4.1. धरोहर राशि:धरोहर राशि स्वीकृत अनुज्ञाफीस की 33.33 प्रतिशत होगी। निविदा स्वीकृत ने पर निविदादाता को निविदा स्वीकृति की सूचना नोटिस बोर्ड पर चस्पा किये जाने की दिनांक से (चस्पा ांक का दोड़कर) 5 दिवस या ठेका अवधि प्रारम्भ होने से पूर्व, जो भी पहले हो, स्वीकृत अनुज्ञाफीस के ' प्रतिशत के बराबर धरोहर राशि (प्रस्तुत अमानत राशि का समायोजित करते हुए) नकद जमा करानी होगी। ीकृत अनुज्ञा राशि की 16.33 प्रतिशत को बराबर शेष धरोहर राशि स्वीकृति की सूचना नोटिस बोर्ड पर ्पा किये जाने की दिनांक से 10 दिवस अथवा ठेका प्रारम्भ होने से पूर्व, जो भी पहले हो, के अन्दर-अन्दर ा करानी आवश्यक होगी। अनुज्ञाधारी द्वारा स्वीकृति के अनुसार वर्ष 200...200.... हेतु देय अनुज्ञा शुल्क 66.67 प्रतिशत के बराबर अनुज्ञा शुल्क की राशि मय ब्याज (यदि कोई हो) जमा करवा देने तथा धरोहर शे जब्त नहीं होने या अन्यथा समायोजित नहीं किये जाने की स्थिति में जमा धरोहर राशि को वर्ष 200...200... शेष अवधि की अन्तिम मासिक किश्तों पेटे माह मार्च, 200... में समायोजित किया जा सकेगा। जमा धरोहर शे को अन्तिम किश्तों पेटे समायोजित करने पर अन्तिम किश्तों की राशि पर ब्याज देय नहीं होगा।

4.2 बैंक गारन्टी:अनुज्ञाधारी को निविदा स्वीकृति की सूचना नोटिस बोर्ड पर चस्पा किये जाने की ांक से (चस्पा दिनांक को छोड़कर) 10 दिवस में या ठेका अवधि प्रारम्भ होने से पूर्व, जो भी पहले हों, ीकृत अनुज्ञा फीस के 10 प्रतिशत के बराबर बैंक गारन्टी विभाग द्वारा निर्धारित प्रारूप में सम्बन्धित जिला बकारी अधिकारी कार्यालय में प्रस्तुत करनी होगी। बैंक गारंटी अधिसूचित बैंक द्वारा जारी की हुई होनी हिए जो राजस्थान में स्थित बैंक की किसी शाखा पर भुगतान योग्य हों। बैंक गारन्टी, गारन्टी अवधि के दौरान ाण्डनीय (Irrevocable) रहेगी तथा किसी भी आधार पर बैंक अथवा अनुज्ञाधारी उसमें कोई परिवर्तन नहीं सकेगा। आबकारी विभाग द्वारा बैंक गारन्टी के भुगतान की मांग (Invoke) किये जाने पर बैंक को इसका त्त नकद भुगतान करना होगा। भुगतान बाबत् बैंक अथवा अनुज्ञाधारी किसी प्रकार की कोई आपत्ति नहीं सकेगा।

5. दुकानों की अवस्थिति:-

5.1. अनुज्ञाधारी अनुज्ञा के लिए निर्धारित क्षेत्र में भांग की सम्मिलित दुकानों की संख्या तक किसी स्थान पर नियमानुसार दुकान लगा सकेगा परन्तु इसके लिये उसे अपने क्षेत्र के जिला आबकारी अधिकारी दुकानों की अवस्थिति स्वीकृत करानी होंगी। बिना स्वीकृति के अनुज्ञाधारी दुकानों का संचालन नहीं कर

सकेगा। पूर्व में स्वीकृत दुकानों के स्थानों की यथासम्भव जानकारी परिशिष्ट 'अ' एवं 'ब' में वर्णित हैं, जो उदाहरण स्वरूप है ।

5.2 अनुज्ञाधारी दुकानें प्रारम्भ करने से पूर्व दुकानों की अवस्थिति की स्वीकृति हेतु आवश्यक दस्तावेजों सहित, सम्बन्धित जिला आबकारी अधिकारी को आवेदन प्रस्तुत करेगा। तदुपरान्त आवेदन प्राप्ति के 15 दिवस में जिला आबकारी अधिकारी अपने निर्णय से अनुज्ञाधारी को अवगत करायेगा। उचित एवं पर्याप्त कारण होने पर जिला आबकारी अधिकारी अनुज्ञाधारी द्वारा चाही गई अवस्थिति पर दुकान लगाने की स्वीकृति देने से मना कर सकता है। ऐसी स्थिति में अनुज्ञाधारी किसी प्रकार की क्षतिपूर्ति अथवा अनुज्ञा फीस अथवा अन्य देय राशियों में छूट पाने का हकदान नहीं होगा। साथ ही वह अन्य स्थान पर नियमानुसार दुकान स्वीकृति कराने हेतु आवेदन जिला आबकारी अधिकारी को प्रस्तुत कर सकेगा।

5.3 जिला आबकारी अधिकारी को यह अधिकार है कि वह उचित एवं पर्याप्त कारण होने पर स्वीकृत स्थान से दुकान हटवा सकेगा। इस प्रकार स्वीकृत दुकानों को एक स्थान से उसी समूह क्षेत्र में दूसरे स्थान पर स्थानान्तरित करने या बन्द रहने या संचालन नहीं करने पर अनुज्ञाधारी किसी प्रकार की क्षतिपूर्ति अथवा अनुज्ञा फीस में छूट पाने का हकदान नहीं होगा।

5.4 समूह में सम्मिलित दुकानों की संख्या तक दुकानों की अवस्थिति स्वीकृत नहीं कराने अथवा किसी कारण वश उन्हें संचालित नहीं करने की स्थिति में अनुज्ञाधारी अनुज्ञा फीस एवं अन्य देय राशियों में किसी प्रकार की छूट पाने का हकदार नहीं होगा।

5.5 अनुज्ञाधारी को अपने समूह की सीमा के 2.5 किलोमीटर शुष्क क्षेत्र (Dry-Zone) में कोई नई दुकान संचालन करने की अनुमति नहीं होगी।

5.6 अनुज्ञाधारी भांग की दुकान अस्पताल, महाविद्यालय एवं सीनियर हायर सैकण्डरी शिक्षण संस्थानो, सभी स्तर के कन्या शिक्षण संस्थानों, धार्मिक स्थानों, सिनेमा हॉल और नाट्य गृह से 200 मीटर की परिधि में नहीं लगा सकेगा, परन्तु एक लाख से अधिक आबादी वाले शहरों में धार्मिक स्थानों से दूरी सम्बन्धी प्रतिबन्ध जिला आबकारी अधिकारी के कार्यालय में रखी हुई सूची में उल्लेखित धार्मिक स्थानों पर लागू होगा। महाविद्यालय, सीनियर हायर सैकण्डरी शिक्षा संस्थानों एवं सभी स्तर के कन्या शिक्षण संस्थानों को छोड़कर अन्य विद्यालयों के निकट की दुकानों के लिए यह प्रतिबन्ध रहेगा कि शिक्षा संस्थान बन्द होने के एक घण्टे बाद ही दुकान खोली जा सकेंगी।

5.7 अनुज्ञाधारी, फैक्ट्री अथवा श्रमिक व हरिजन बस्ती से 200 मीटर की परिधि में दुकान नहीं लगा सकेगा। हरिजन बस्ती से अभिप्राय ऐसे नगर पालिका वार्ड से होगा जिसमें अनुसूचित जातियों से सम्बन्धित व्यक्तियों की जनसंख्या नवीनतम जनगणना के अनुसार उस वार्ड की जनसंख्या की 50 प्रतिशत से अधिक है।

5.8 अनुज्ञाधारी राष्ट्रीय राज मार्ग व राज्य मार्ग के मध्य से दोनों और सार्वजनिक निर्माण विभाग द्वारा तय दूरियों पर विकसित बाजारों में दुकानों की अवस्थिति स्वीकृत करा सकेगा, किन्तु जहाँ ऐसे बाजार नहीं है वहाँ मार्ग के मध्य से दोनों और 150 मीटर की दूरी तक दुकान नहीं लगा सकेगा किन्तु यह शर्त नगर निगम/नगर परिषद/नगर पालिका की अधिकारिता एवं सीमा से गुजरने वाले उक्त मार्गों पर लागू नहीं होगी।

5.9 दुकानों की अवस्थिति बाबत् उक्त प्रतिबन्धों में पर्याप्त कारण होने पर आबकारी आयुक्त शिथिलता प्रदान कर सकेंगें।

5.10 अनुज्ञाधारी को अपनी दुकान के दरवाजे पर कम से कम 75x125 से.मी. आकार का एक साईन ई जिस पर अनुज्ञाधारी का नाम, भांग समूह का नाम व दुकान का विवरण लिखा हो, लगाना होगा। आमतौर भांग की दुकान इस प्रकार होनी चाहिए कि दरवाजे के बाहर से भीतर के सब हालात स्पष्टतया दिखाई दे सकें। ान का काउण्टर विहित रीति के अनुसार रखना होगा। जिस कमरे में दुकान होगी उसमें अनुज्ञाधारी एवं उसके धेकृत नौकर के अतिरिक्त किसी अन्य व्यक्ति को नहीं रख सकेगा। अपनी बिक्री बढ़ाने क लिए ग्राहक के सी प्रकार का प्रलोभन नहीं दे सकेगा, जैसे कि गाना, नाच व रेडियों/टेलीविजन का कार्यक्रम इत्यादि और किसी प्रकार का विज्ञापन ही इस विषय पर कर सकेगा।

5.11 कानून व व्यवस्था की दृष्टि से किसी दुकान की अवस्थिति वर्जित स्थान पर होने की दशा में ार उस दुकान को बन्द करवाया जाता है तो सक्षम अधिकारी की अनुमति से अनुज्ञाधारी उस समूह क्षेत्र में यत्र स्थान पर नियमानुसार दुकान खोल सकेगा परन्तु ऐसा करने पर भांग की अनुज्ञा फीस की पूर्ति में किसी ार की छूट अथवा क्षतिपूर्ति का हकदार नहीं होगा।

5.12 अनुज्ञाधारी नियमानुसार राशि का भुगतान कर जिला आबकारी अधिकारी की अनुमति से समूह स्वीकृत कराई गई दुकान को एक स्थान से दूसरे स्थान पर स्थानान्तरित कर सकेगा।

6. दुकानों का संचालन:-

6.1.1 अनुज्ञाधारी विभाग द्वारा निर्धारित समय के अनुसार दुकानें खुली रख सकेगा। परन्तु आबकारी युक्त द्वारा बिना पूर्व सूचना के समय में आवश्यकतानुसार परिवर्तन किया जा कसेगा।

6.1.2 वर्ष 200---200--- हेतु नियत 4 शुष्क दिवसों पर एवं भविष्य में राज्य सरकार/आबकारी युक्त द्वारा नियत किये जाने वाले शुष्क दिवसों पर दुकानें बन्द रखनी होगी। शुष्क दिवसों की सूचना अनुज्ञाधारी धित आबकारी निरीक्षक से प्राप्त करेगा। इसके अतिरिक्त दुकान को बन्द रखने व बिक्री समय पर जो नियन्त्रण य-समय पर लगाये जावेंगे उनका पालन भी अनुज्ञाधारी को करना होगा और इसके लिए उसे न तो कोई तेपूर्ति की जायेगी और न अनुज्ञा फीस में ही कोई कमी की जावेगी। यदि अनुज्ञाधारी की दुकानें व व्यवस्था न्धी कारणों से बन्द रहती हैं तो भी अनुज्ञा फीस में किसी प्रकार की छूट नहीं दी जावेगी। शुष्क दिवसों की नीय सूची दुकानों के काउण्टर के पास लगानी होगी।

6.1.3 राज्य सरकार, आबकारी आयुक्त अथवा अनुज्ञापत्र देने वाला अधिकारी अनुज्ञाधारी को बिना टेस दिये शुष्क दिवसों के अतिरिक्त किसी विशेष अवसर पर या विशेष कारणवश भांग के विक्रय के समय रिवर्तन कर सकेगा। या दुकान बन्द रखने की आज्ञा दे सकेगा। ऐसी दशा में अनुज्ञाधारी को इसके लिए न कोई क्षतिपूर्ति की जायेगी और न अनुज्ञा फीस में कोई कमी की जायेगी।

6.2 अनुज्ञाधारी अपनी दुकान पर राजकीय भण्डागार/अपनी थोक दुकान/अन्य थोक अनुज्ञाधारी अधिकृत रूप से क्रय की गई भांग ही विक्रय करेगा। यह भांग वह भण्डागार/थोक से तय मार्ग से निर्धारित यावधि में सुरक्षित अवस्था में लायेगा व परिवहन के समय पास साथ में रखना होगा। अपनी दुकान पर लाई भांग को किसी भी अन्य स्थान पर नहीं रखेगा।

6.3 लाईसेन्स देने वाले अथवा उससे उच्च अधिकारी को अधिकारी होगा कि बिना कारण बताये सी महीने में भांग के क्रय/विक्रय पर समुचित नियन्त्रय लगा सके। अनुज्ञाधारी इस नियन्त्रण के लिए कोई तेपूर्ति पाने या अनुज्ञा फीस में कमी कराने का हकदार नहीं होगा।

6.4 अनुज्ञाधारी अपनी दुकान पर अधिकृत रूप से लाई गई भांग की ही बिक्री करेगा। आबकारी युक्त की अनुमति के बिना अन्य किसी पदार्थ की बिक्री नहीं कर सकेगा।

6.5 अनुज्ञाधारी भांग लाने व बेचने के लिए वयस्क व्यक्ति को सम्बन्धित जिला आबकारी अधिकारी की स्वीकृति से ही नौकर रख सकेगा परन्तु ऐसे व्यक्ति के प्रत्येक काम के अनुज्ञाधारी स्वयं उत्तरदायी होगा। अनुज्ञाधारी की किसी विशेष कारण से अनुपस्थिति की अवस्था में अनुज्ञाधारी के माता, पिता पत्नी एवं वयस्क पुत्र के इस सम्बन्ध में लिखित स्वीकृति की आवश्यकता नहीं होगी। अनुज्ञाधारी भांग बेचने व लाने के लिए अपनी दुकान पर किसी ऐसे व्यक्ति को नौकर नहीं रख सकेगा जिसे कोई संक्रामक रोग हो या जो आबकारी एवं फौजदारी जुर्म में आदतन अपराधी अथवा वान्टेड हो।

6.6 अनुज्ञाधारी को अनुज्ञापत्र की अवधि तक अपनी दुकान नियमित रूप से संचालित रखनी होगी और हर समय स्टॉक में भांग इतनी मात्रा में रखनी होगी जो 15 दिन की बिक्री के लिए पर्याप्त हो। भांग का सारा स्टॉक उसी दुकान पर रखना होगा और उसी दुकान पर बेचना होगा, जिसके लिए उसे अनुज्ञापत्र दिया गया हैं।

6.7 अनुज्ञाधारी किसी एक व्यक्ति को एक समय में 200 ग्राम से अधिक भांग बिना सक्षम अधिकारी की आज्ञा के एक साथ नहीं बेच सकेगा, लेकिन राज्य सरकार जब भी उचित समझेगी तब अधिसूचना जारी कर इस मात्रा में कमी या वृद्धि कर सकेगी, जिसकी पालना अनुज्ञाधारी को करनी होगी। ऐसी आज्ञा के विरूद्ध वह कोई आपत्ति नहीं कर सकेगा और न ही किसी प्रकार की क्षतिपूर्ति की मांग कर सकेगा।

6.8.1 अनुज्ञाधारी 18 वर्ष से कम आयु वाले किसी व्यक्ति को या जिस व्यक्ति का होश हवास दुरूस्त न हो, भांग नहीं बेच सकेगा। इसी प्रकार पुलिस व सेना सिपाही या रेल व आबकारी के कर्मचारियों को भी जो वर्दी पहने हुए या ड्यूटी पर हो, भांग नहीं बेच सकेगा। वाहन चालकों को एवं हवाई जहाज के पायलटों को भी यात्रा के दौरान भांग नहीं बेच सकेगा

6.8.2 अनुज्ञाधारी अथवा उसका नौकर अपनी दुकान पर किसी प्रकार दंगा, फसाद या जुआ नहीं होने देगा और ऐसे लोगों को जो कुख्यात बदमाश हों, दुकान पर नहीं आने देगा और रात को ऐसे बदमाशों को अपनी दुकान पर नहीं ठहरायेगा। यदि कोई ऐसा व्यक्ति दुकान में आवे जिसके विषय में पुलिस द्वारा दस्तान्दाजी योग्य और जमानत के अयोग्य अपराध का सन्देह हो तो अनुज्ञाधारी या जो व्यक्ति उसकी ओर से दुकान पर काम करता हो तो उसका कर्त्तव्य होगा कि उसकी सूचना तुरन्त निकटवर्ती मजिस्ट्रेट या पुलिस अधिकारी को दें।

6.9 अनुज्ञाधारी को भांग का विक्रय निर्धारित तोल से करना होगा। तोल के बाट हर समय साफ व स्वच्छ हालत में रखने होंगे। भांग से कोई अन्य चीज नहीं बना सकेगा, न बेच सकेगा। भांग के विक्रय मूल्य की एवज में कोई अन्य वस्तु नहीं लेगा।

6.10 जिला आबकारी अधिकारी की पूर्व अनुमति के बिना अनुज्ञाधारी किसी मेले में अस्थाई तौर पर दुकान नहीं लगा सकेगा।

7. अभिलेखों का संधारण:-

7.1 अनुज्ञाधारी को भांग की आमद बिक्री और शेष बची मात्रा (Balance) का हिसाब निर्धारित रजिस्टर में दैनिक रूप से रखना होगा व एक निरीक्षण पंजिका भी रखनी होगी। यह रजिस्टर जिला आबकारी अधिकारी के कार्यालय में मूल्य चुका कर प्राप्त करना होगा। प्रतिदिन का हिसाब दुकान बंद करने के साथ उसी दिन ही लिखना होगा और मासिक आमद, बेचान व स्टॉक का नक्शा आगामी माह की 5 तारीख तक हलके के आबकारी निरीक्षक के पास पेश करना होगा।

7.2 आबकारी निरीक्षक अथवा निरीक्षण के लिये अन्य प्राधिकृत अधिकारी द्वारा निरीक्षण करने पर अनुज्ञाधारी को अपना अनुज्ञापत्र, नौकर का नौकरनामा व बिक्री रजिस्टर, परमिट पास एवं भांग का तमाम

क, इत्यादि जाँच हेतु बतलाना होगा तथा उसको दिन व रात में किसी भी समय दुकान में प्रविष्ट होने देगा र ऐसे अधिकारी को निरीक्षण के दौरान प्रत्येक प्रकार का सहयोग देगा।

7.3 अनुज्ञापत्र की अवधि समाप्त होने अथवा किसी अन्य कारण से अनुज्ञापत्र रद्द होने की स्थिति में ज्ञाधारी को भांग के बचे हुए स्टाक एवं समस्त रिकार्ड की सूचना अपने क्षेत्र के आबकारी निरीक्षक को होगी। समस्त रिकार्ड उसे आबकारी निरीक्षक के कार्यालय में अविलम्ब जमा कराना होगा एवं बचे हुए क का निस्तारण जिला आबकारी अधिकारी के आदेशानुसार करना होगाह। निस्तारण होने तक बचा हुआ क, आबकारी निरीक्षक एवं निवर्तमान अनुज्ञापत्र धारी के संयुक्त अभिरक्षण में ऐसे स्थान पर रहेगा, जहाँ सय किया जा रहा था एवं निस्तारण करने तक उस स्थान का किराया बिजली व्यय एवं अन्य अधिभार र्तमान अनुज्ञाधारी को ही देने होंगे।

8. अनुज्ञापत्र को निरस्त करना:-

8.1 अनुज्ञाधारी को अनुज्ञा फीस की मासिक किश्तों का भुगतान अनुज्ञापत्र की शर्त संख्या 2.4.1 तहत निर्धारित तिथि तक करना आवश्यक होगा। प्रत्येक माह की मासिक किश्त राशि की राशि को उसी के अन्तिम कार्य दिवस तक जमा नहीं कराने पर इसे अनुज्ञा पत्र की शर्तों का उल्लघंन माना जायेगा तथा आधार पर अनुज्ञापत्र को निरस्त किया जा सकेगा।

8.2 यदि अनुज्ञापत्र देने वाले अधिकारी अथवा उससे उच्च प्राधिकारी का किसी समय यह विश्वास के अनुज्ञाधारी अपनी दुकान चालू नहीं रखता है अथवा ठीक तौर पर नहीं चलाता है अथवा आवश्यक मात्रा ांग नहीं बेचता है या इस तरह से काम करता है कि जिससे सरकार को हानि होने की आशंका हो अथवा र कोई उचित एवं पर्याप्त कारण हों तो ऐसी दशा में अनुज्ञापत्र निरस्त किया जा सकेगा।

8.3 अनुज्ञापत्र की अवधि के दौरान अनुज्ञाधारी के विरूद्ध राजस्थान आबकारी अधिनियम 1950, कोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्ट 1985 अथवा आबकारी अधिनियम 1950 की धारा में उल्लेखित अधिनियमों तथा उसमें उल्लेखित धाराओं के अन्तर्गत अभियोग दर्ज होने या उसके सजायाब होने अनुज्ञापत्र निरस्त किया जा सकेगा।

8.4 यदि अनुज्ञाधारी अवैध रूप से भांग, अफीम, मदिरा या मादक पदार्थ रखता है या बेचता है या ी अन्य राज्य में अवैध रूप से भांग बेचने का या अफीम या मदिरा या अन्य मादक पदार्थ बेचने का काम ा है या किसी ऐसी जगह से उसका सम्बन्ध है जहाँ से ये वस्तुएं अवैध रूप से लाई जाने का सन्देह हो तो दशा में अनुज्ञापत्र निरस्त किया जा सकेगा।

8.5 यदि अनुज्ञाधारी अथवा उसके नौकर द्वारा राजस्थान आबकारी अधिनियम, 1950 उसके र्गत बने राजस्थान आबकारी नियम, 1956 अथवा नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्ट 35 एवं राजस्थान नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज रूल्स 1985 अथवा निविदा, निविदा ाथ संलग्न विस्तृत निर्देश एवं शर्तों, अनुज्ञाधारियों के पक्ष में जारी की गई स्वीकृति, इस अनुज्ञापत्र की शर्तों वा समय-समय पर प्रसारित विभागीय निर्देशों की अवहेलना किये जाने पर अनुज्ञापत्र निरस्त किया जा गा।

8.6 अनुज्ञापत्र स्वीकृत करने वाला अधिकारी अथवा उससे उच्च प्राधिकारी, अनुज्ञाधारी को अपना प्रस्तुत करने हेतु उचित अवसर प्रदान करने के उपरान्त अनुज्ञापत्र निरस्त कर सकेगा। अनुज्ञापत्र निरस्त किये पर अनुज्ञाधारी अथवा उसके वारिस किसी प्रकार की क्षति पूर्ति पाने के हकदार नहीं होंगे।

8.7 अनुज्ञापत्र निरस्त करने वाले अधिकारी को यह अधिकार होगा कि वह अनुज्ञापत्र को अनुज्ञाधारी की जोखिम एवं लागत पर निरस्त कर उसके द्वारा जमा कराई गई धरोहर राशि (अमानत राशि को सम्मिलित करते हुए) को जब्त सरकार कर सके। साथ ही समूह के पड़त रहने अथवा पुन: ठेका कम राशि पर उठने या अन्य तरीके से समूह के संचालन के परिणामस्वरूप राज्य सरकार को जो भी हानि होगी उसे सम्बन्धित अनुज्ञाधारी की विभाग के पास उनकी जमा किसी भी राशि से उनके द्वारा प्रस्तुत बैंक गारन्टी से, राजस्थान आबकारी अधिनियम 1950 के तहत तथा भू-राजस्व की बकाया वसूली की भाँति उनकी समस्त चल-अचल सम्पत्तियों से उनके वारिसों/उत्तराधिकारियों से वसूल की जा सकेगी। अनुज्ञाधारी की सम्पत्तियों तथा उनके वारिसों/उत्तराधिकारियों की सम्पत्तियों पर प्रथम प्रभार आबकारी विभाग का रहेगा। यदि समूह के पुन: उठने पर कोई लाभ होगा तो अनुज्ञाधारी उसे पाने के हकदार नहीं होंगे।

9. बकाया राशियों की वसूली:-

अनुज्ञाधारी के विरूद्ध किसी भी प्रकार का कोई आबकारी राजस्व मय ब्याज बकाया रहने की स्थिति में उसकी वसूली विभाग के पास अनुज्ञाधारी की किसी भी जमा राशि से, उनके द्वारा प्रस्तुत बैंक गारन्टी से तथा राजस्थान आबकार अधिनियम, 1950, राजस्थान भू-राजस्व अधिनियम 1956 एवं केन्द्रीय राजस्व वसूली अधिनियम 1890 के प्रावधानों के अनुसार भू-राजस्व की बकाया की भाँति अनुज्ञाधारियों, उनके वारिसों/उत्तराधिकारियों से की जायेगी। अनुज्ञाधारी की सम्पत्तियों तथा उनके वारिसों/उत्तराधिकारियों की सम्पत्तियों पर प्रथम प्रभार आबकारी विभाग का रहेगा।

10. अन्य बिन्दु:-

10.1 अनुज्ञाधारी के लिए अनिवार्य होगा कि वह आबकारी अधिनियम व नारकोटिक ड्रग्स एण्ड साइकोट्रोपिक सब्सटेन्सेज एक्ट के तहत घटित अपराध उसकी जानकारी में आने पर जिला आबकारी अधिकारी या हल्के के आबकारी निरीक्षक को अविलम्ब सूचना देगा।

10.2 राजस्थान आबकारी अधिनिय, 1950 एवं इसके अन्तर्गत बनाये गये नियमों, नारकोटिक ड्रग्स ए वं साईकोट्रोपिक सब्सटेन्सेज एक्ट 1985 एवं राजस्थान नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज रूल्स 1985 के समस्त प्रावधान यथारूप में लागू होंगे।

10.3 इस अनुज्ञापत्र के सम्बन्ध में उत्पन्न होने वाले समस्त विवाद का न्याय क्षेत्र अनुज्ञापत्र जारीकर्त्ता प्राधिकारी का मुख्यालय रहेगा।

अनुज्ञापत्र देने वाले के हस्ताक्षर

प्रतिसंविदा

अनुज्ञापत्र ..... जिला.....

समूह का नाम.....

मैं/हम उपर्युक्त अनुज्ञापत्र के सम्बन्ध में इसमें निर्दिष्ट शर्तों तथा राजस्थान आबकारी अधिनियम, 1950 तथा उसके अन्तर्गत बनाये गये नियमों, नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्ट 1985 एवं राजस्थान नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज रूल्स 1985, निविदा, निविदा के साथ संलग्न विस्तृत निर्देश एवं शर्तों, हमारे पक्ष में जारी की गई स्वीकृति एवं समय-समय पर प्रसारित विभागीय निर्देशों की पालना करना पूर्णत: स्वीकार करता हूँ/करते हैं।

हस्ताक्षर अनुज्ञाधारी

मेरे समक्ष हस्ताक्षर किये

आबकारी विभाग, राजस्थान, उदयपुर

(6) भांग थोक अनुज्ञापत्र

अनुज्ञापत्र संख्या.....दिनांक .....

श्री/सर्व श्री.....

निवासी.....जो कि भांग दुकानात समूह .....

के वर्ष ..... में खुदरा अनुज्ञाधारी हैं को उनके आवेदन पर रूपये 10,000/-(शब्दों में रूपये दस हजार) के वार्षिक अनुज्ञाशुल्क पर वर्ष.....के लिए भांग थोक अनुज्ञापत्र निम्न शर्तों पर प्रदान किया जाता है:-

1. भांग थोक अनुज्ञापत्र हेतु वार्षिक अनुज्ञाशुल्क की राशि रुपये 10,000/- जमा करानी होगी।
2. भांग का थोक गोदाम सम्बन्धित जिला आबकारी अधिकारी से अनुमोदित करवाना आवश्यक होगा।
3. इस अनुज्ञापत्र के अन्तर्गत अनुज्ञाधारी सम्बन्धित जिला आबकारी अधिकारी द्वारा जारी परमिट के अन्तर्गत अन्य राज्यों में स्थित भांग के थोक विक्रेताओं या राज्य के अन्य भांग थोक अनुज्ञाधारियों से ही भांग का क्रय कर सकेगा।
4. थोक अनुज्ञापत्र के अन्तर्गत प्राप्त भांग का विक्रय अपने खुदरा समूह की दुकानात, राज्य के अन्य थोक एवं खुदरा अनुज्ञाधारी एवं राज्य में भांगयुक्त औषधियों के निर्माण हेतु अधिकृत फार्मेसीज को ही कर सकेगा।
5. अनुज्ञाधारी को राजस्थान आबकारी नियम, 1956 के नियम 69-बी में उल्लेखित परमिट फीस तथा अन्य प्रभारों का नियमानुसार भुगतान करना होगा।
6. अनुज्ञाधारी अपने थोक से खुदरा में भांग का स्थानान्तरण जिला आबकारी अधिकारी द्वारा जारी परमिट के आधार पर ही कर सकेगा एवं उसे इस हेतु नियमानुसार परमिट फीस अदा करनी होगी।
7. अनुज्ञाधारी को भांग के आयात/परिवहन के दौरान परमिट एवं अन्य आवश्यक दस्तावेज साथ रखने होंगे।
8. अनुज्ञाधारी अपने थोक एवं खुदरा का लेखा पृथक-पृथक रखेगा।
9. अनुज्ञापत्र अवधि समाप्ति पर शेष रहे भांग के स्टाक पर नियमानुसार स्टॉक हस्तान्तरण शुल्क का भुगतान कर जिला आबकारी अधिकारी की अनुमति से आगामी वर्ष में अन्य अनुज्ञाधारी को एक माह की अवधि में भांग स्थानान्तरित करना आवश्यक होगा अन्यथा भांग का अवशेष स्टॉक राजसात किया जा सकेगा।
10. अनुज्ञाधारी को अपना गोदाम एवं लेखे आबकारी विभाग को निरीक्षण एवं अधिकारियों के निरीक्षण के वक्त मांगे जाने पर प्रस्तुत करने होंगे।
11. अनुज्ञाधारी को शुष्क दिवसों के दिन अपनी दुकान बन्द रखनी होगी।
12. अनुज्ञाधारी राजस्थान आबकारी अधिनियम, 1950 नारकोटिक ड्रग्स एण्ड साइकोट्रोपिक सब्सटेन्सेज एक्ट, 1985 एवं इनके अन्तर्गत बनाये गये नियमों, इस अनुज्ञापत्र की शर्तों एवं समय-समय पर जारी होने वाले विभागीय निर्देशों की पूर्ण पालना करेगा। इसमें से किसी का भी उल्लंघन होने पर यह अनुज्ञापत्र निरस्त किया जा सकेगा। वर्ष के दौरान यदि अनुज्ञाधारी का भांग खुदरा अनुज्ञापत्र किसी कारण से निरस्त हो जाता है तो यह थोक अनुज्ञापत्र स्वत: ही निरस्त माना जायेगा।

जिला आबकारी अधिकारी

प्रति संविद

अनुज्ञापत्र संख्या.....जिला.....समूह का नाम.....

.....मैं/हम उपयुक्त अनुज्ञापत्र के सम्बन्ध में इसमें निर्दिष्ट शर्तों तथा राजस्थान आबकारी अधिनियम, 1950 तथा उसके अन्तर्गत बनाये गये नियमों, नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज एक्ट 1985 एवं राजस्थान नारकोटिक ड्रग्स एवं साईकोट्रोपिक सब्सटेन्सेज रूल्स 1985, निविदा, निविदा, के साथ संलग्न विस्तृत निर्देश एवं शर्तों, हमारे पक्ष में जारी की गई स्वीकृति एवं समय-समय पर प्रसारित विभागीय निर्देशों की पालना करना पूर्णत: स्वीकार करता हूँ/करते हैं।

हस्ताक्षर अनुज्ञाधारी

प्रति हस्ताक्षर

मेरे समक्ष हस्ताक्षर किये

आबकारी निरीक्षक

वृत.....

जिला आबकारी अधिकारी

[6]

आबकारी विभाग

अधिसूचना संख्या प. 32/बी(48) आब/एल/71/1061, एस. ओ. 163, जुलाई 28, 1990 - राजस्थान आबकारी अधिनियम, 1950 (राजस्थान अधिनियम 2 सन् 1950) की धारा 42 के साथ पठित राजस्थान आबकारी कर अधिनियम, 1955 के नियम 93 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राज्य सरकार की पूर्व स्वीकृति से नियम 68(7) के अन्तर्गत लाईसेन्स की शर्तें तथा अनुज्ञा-पत्र (लाईसेन्स फार्म) निम्नलिखित रूप से निर्धारित किया जाता है -

परिशोधित स्पिरिट, पूर्ण अल्कोहल और विकृतिकृत स्पिरिट के विनिर्माण और थोक विक्रय के लिये अनुज्ञप्ति

[नियम 68(7)]

अनुज्ञप्ति संख्या :

जिला :

व्यवसाय स्थल :

नगर.....में भू-भवनादि.....में 31 मार्च 20.....को समाप्त होने वाले वर्ष के दौरान श्री.....आत्मज.....निवासी.....को.....रु. का शुल्क देने पर निम्नलिखित शर्तों तथा राजस्थान आबकारी अधिनियम, 1950 तथा तद्धीन बने नियमों के प्रावधानों के अधीन रहते हुए, परिशोधित स्पिरिट, पूर्ण अल्कोहल और विकृतिकृत स्पिरिट के विनिर्माण और थोक विक्रय के लिये अनुज्ञप्ति प्रदान की जाती है -

(1) इस अनुज्ञा-पत्र के अन्तर्गत परिशोधित स्पिरिट एवं पूर्ण अल्कोहल का विक्रय वह अनुज्ञाधिकारी ही कर पायेंगे जिनके पास नियम 68(6) के अन्तर्गत आसवनी के संनिर्माण और कार्यकरण के लिए अनुज्ञप्ति हो।

(2) परिशोधित स्पिरिट एवं पूर्ण अल्कोहल का विक्रय केवल उन्हीं व्यक्तियों को किया जा सकेगा जिनके पास वैध परमिट हो। खुदरा विक्रय की निर्धारित सीमा से अधिक मात्रा में विकृतिकृत स्पिरिट का विक्रय केवल इन व्यक्तियों को किया जायेगा -

(क) ऐसे व्यक्तियों को जिनके पास उस जिला आबकारी का परमिट हो जिसके अधिकार क्षेत्र में प्रासव का प्रयोग किया जाना है, और

(ख) अनुज्ञप्ति विक्रेताओं को, परन्तु ऐसी मात्राओं में जो उनकी अनुज्ञप्ति में विनिर्दिष्ट मात्रा से अधिक नहीं हो।

(3) सूर्यास्त और सूर्योदय के बीच के समय में बिक्री नहीं की जायेगी।

(4) इस अनुज्ञप्ति के अधीन समस्त विषय पारण-पत्र (पास) के आधार पर होंगे।

(5) लन्दन प्रूफ के ऊपर 50 डिग्री से कम प्राबल्य (Strength) की स्पिरिट बिना आबकारी आयुक्त की स्पष्ट अनुमति के नहीं बेची जायेगी।

(6) समस्त पात्रों (Container), जिसमें बोतलों, जार (Jars) ढोलों या पीपे (Casks) आदि सम्मिलित हैं, जिनके अन्दर विकृतिकृत स्पिरिट भरी हो, और जो व्यवसाय स्थल में बिक्री के लिए प्राप्त किये गये या रखे हुए हो, पर 'भारत में निर्मित और विकृत या....में निर्मित और....से विकृत', जैसी भी स्थिति हों, शब्दों के लेबल या चिन्ह (Brand) सुस्पष्टत: लगाये जायेंगे।

(7) अनुज्ञप्तिधारी स्पिरिट अल्कोहल का अपना सम्पूर्ण स्टाक उस भू-भवनादि में रखेगा जिसके लिये वहस यह अनुज्ञप्ति धारण करता है।

(8) अनुज्ञप्तिधारी अपने अनुज्ञप्ति भू-भवनादि में किसी भी व्यक्ति को तब तक विक्रय करने की अनुमति नहीं देगा जब तक कि ऐसे व्यक्ति का नाम अनुमोदन के लिए पहले ही जिला आबकारी अधिकारी को प्रस्तुत न कर दिया गया हो और अनुज्ञप्ति पर उसके द्वारा पृष्ठांकन न कर दिया गया हो।

(9) अनुज्ञप्तिधारी सही दैनिक लेखा रखेगा जिसमें प्रत्येक दिन की प्राप्तियाँ बिक्रियां और शेष दिखाये जायेंगे।

(10) आबकारी अधिकारियों, जो निरीक्षक की पदस्थिति से नीचे के न हों द्वारा माँगे जाने पर अनुज्ञप्तिधारी अपनी अनुज्ञप्ति, लेखे और स्पिरिट अल्कोहल का कुल स्टाक निरीक्षण के लिये प्रस्तुत करेगा।

(11) अनुज्ञप्तिधारी द्वारा या उसके सेवक या अभिकर्ता (एजेन्ट) द्वारा या, उसकी जानकारी में और उसकी स्वीकृति से, उसके प्राधिकाराधीन या उसकी ओर से कार्य करने वाले किसी भी व्यक्ति द्वारा इस अनुज्ञप्ति की किन्हीं भी शर्तों से या राजस्थान आबकारी, नारकोटिक ड्रग्ज एण्ड साईकट्रोपिक सब्स्टेन्सेज, अधिनियमों या तद्धीन बने नियमों के किन्हीं भी प्रावधानों या अनुज्ञापन प्राधिकारी के किन्हीं भी अनुदेशों, जो विधि की मंशा के असंगत न हों, में चूक या उनका अतिलंघन किये जाने की दशा में अनुज्ञापन-प्राधिकारी (इस बात पर बिना कोई प्रतिकूल प्रभाव डाले कि अनुज्ञप्तिधारी या कोई भी ऐसा व्यक्ति जिसके द्वारा विधि के अन्तर्गत दण्डनीय कोई अपराध किया गया हो, विधि के अन्तर्गत दण्ड का भागी हो) इस अनुज्ञप्ति को रद्द करने और अनुज्ञप्ति शुल्क जब्त करने या अनुज्ञप्तिधारी पर जुर्माना करने जो 500/- तक हो सकता है या दोनों करने, और सार्वजनिक बकाया वसूल करने के लिये प्रवृत्त किसी भी प्रक्रिया से जुर्माना की धनराशि उससे वसूल करने के लिये सक्षम होगा।

स्थान : लाइसेंसिंग अधिकारी

दिनांक :

प्रतिसंविद

मैं/हम.....अधोहस्ताक्षरी मुझे/हमें दिये गये अनुज्ञा-पत्र सं. .....को शर्तें स्वीकार करता हूँ/करते हैं तथा इस अनुज्ञा-पत्र के निबंधनों तथा प्रतिबंधों जिसके द्वारा मैं/मेरे/

हमारे उत्तराधिकारी और वैधिक प्रतिनिधि बद्ध होंगे, को एतद्द्वारा स्वीकार करता हूँ/करते हैं तथा उनका पालन करने का वचन देता हूँ/देते हैं।

अनुज्ञापत्रधारी के हस्ताक्षर

[Published in Raj. Gaz., Ex-ord. 4(Ga) (II)—Dt. 3.8.90 Page 443 (I).]

(7)

विकृत प्रासव तथा विकृत प्रासवीय पदार्थों के खुदरा विक्रय के लिये अनुज्ञप्ति

[अधिसूचना सं. फा. 2 (एफ) 27/आब/डी/ एक्स/66, दिनांक 23-5-69, राजस्थान राजपत्र, भाग 4 (ग) दिनांक 17-7-1969, पृ. 117-121]

जी.एस.आर. 29 - राजस्थान आबकारी अधिनियम, 1956 के नियम 93 द्वारा प्रदत्त शक्तियों के प्रयोग में, मैं आबकारी आयुक्त राजस्थान (1) विकृत प्रासव तथा विकृत प्रासवीय पदार्थों के खुदरा विक्रय की अनुज्ञप्ति तथा (2) विकृत प्रासव तथा विकृत प्रासवीय पदार्थों के थोक विक्रय की अनुज्ञप्ति के लिए प्रपत्र एतद्द्वारा निम्नलिखित रूप में निर्धारित करता हूँ -

(1) विकृत प्रासव (Denatured Spirit) तथा
विकृत प्रासवीय पदार्थों (Denatured Spirituous preparations) के
खुदरा विक्रय के लिए अनुज्ञप्ति)

[नियम 68(8)]

अनुज्ञप्ति संख्या.....

जिला.....

दुकान का स्थान.....

नगर..... ....में भू-भवनादि..... ....में 31 मार्च, 19..... ....को समाप्त होने वाले वर्ष के दौरान श्री..... ....आत्मज..... ....निवासी..... ..... को..... .....रु. का शुल्क देने पर, निम्नलिखित शर्तों तथा राजस्थान आबकारी अधिनियम, 1950 तथा तद्धीन बने नियमों के प्रावधानों के अधीन रहते हुए, विकृत प्रासव तथा विकृत प्रासवीय पदार्थों को बोतलों में भरने तथा बेचने के लिए एतद्द्वारा विकृत प्रासव तथा विक्रय प्रासवीय पदार्थों के खुदरा विक्रय को अनुज्ञप्ति प्रदान की जाती है।

1. अनुज्ञप्तिधारी के कब्जे में विकृत प्रासव की मात्रा किसी भी समय 50,000 लीटर से अधिक नहीं होगी।

2. किसी भी एक बार में -

(1) किन्हीं निजी औद्योगिक भिन्न प्रयोजनों के लिए तीन लीटर से अधिक विकृत प्रासव की अपेक्षा करने वाले किसी व्यक्ति को, जब तक ऐसा व्यक्ति जिला आबकारी अधिकारी द्वारा प्रदत्त अनुज्ञापत्र (Permit) प्रस्तुत न करे,

(2) किसी औद्योगिक प्रयोजन के लिए जिला आबकारी अधिकारी द्वारा प्रदत्त अनुज्ञापत्र के आधार पर 18 लीटर से अधिक प्रासव की अपेक्षा करने वाले किसी व्यक्ति को यदि उस स्थान में कोई थोक विक्रेता न हो,.....प्रासव नहीं बेचा जायेगा।

3. सूर्यास्त और सूर्योदय के बीच के समय में बिक्री नहीं की जायेगी।

4. लन्दन प्रूफ के ऊपर 500 या 50^0 डिग्री से कम प्राबल्य (Strength) की स्पिरिट बिना आबकारी आयुक्त की स्पष्ट अनुमति के नहीं बेची जायेगी।

5. समस्त पात्रों (Container), जिसमें बोतलों, जार (Jars) ढोलों या पीपे (Casks) आदि सम्मिलित हैं, जिनके अन्दर विकृतिकृत स्पीरिट भरी हो, और जो व्यवसाय स्थल में बिक्री के लिए प्राप्त किये गये या रखे हुए हों, पर 'भारत में निर्मित और विकृत या.....में निर्मित और.....से विकृत', जैसी भी स्थिति हो, शब्दों के लेबल या चिन्ह (Brand) सुस्पष्टत: लगाये जायेंगे। बिक्री के लिए दुकान में रखी हुई प्रत्येक बोतल सील की हुई होगी और उस पर निम्नलिखित शब्दों का एक लेबल होगा -

'.....में निर्मित और.....में विकृत किया गया विकृत प्रासव/विकृत प्रासवीय पदार्थ अनुज्ञापित विक्रेता का नाम....बोतल भरने वाले का नाम.....विक्रय का स्थान.....'

6. अनुज्ञप्तिधारी विकृत प्रासव तथा विकृत प्रासवीय पदार्थों का सम्पूर्ण स्टॉक जो उसकी दुकान से सम्बन्धित हो उस भू-भवनादि में रखेगा जिसके लिए वह यह अनुज्ञप्ति धारण करता है।

7. दुकान, विदेशी मदिरा या देशी मदिरा बेचने के लिए अनुज्ञापित दुकान के रूप में उसी इमारत में स्थित नहीं होगी।

8. अनुज्ञप्तिधारी अपने अनुज्ञापित भू-भवनादि में किसी भी व्यक्ति को तब तक विक्रय करने की अनुमति नहीं देगा जब तक कि ऐसे व्यक्ति का नाम अनुमोदन के लिए पहले ही जिला आबकारी अधिकारी को प्रस्तुत न कर दिया गया हो और अनुज्ञप्ति पर उसके द्वारा पृष्ठांकन कर दिया गया हो।

9. अनुज्ञप्तिधारी सही दैनिक लेखा रखेगा जिसमें प्रत्येक दिन की प्राप्तियाँ, बिक्रियां और शेष दिखाए जायेंगे।

[1] [9.-ए अनुज्ञप्तिधारी उसके द्वारा किए गए प्रत्येक विक्रय का केशमीमो जारी करेगा, जिसमें खरीददार का नाम, पता, दर, बेचान एवं विक्रय की गई प्रासव की मात्रा का उल्लेख करेगा। इसके अतिरिक्त अनुज्ञप्तिधारी विकृत प्रासव के बिक्री से सम्बन्धित एक पंजिका रखेगा, जिसमें विक्रय की तिथि, खरीददार का नाम मय पता, मात्रा जो बेची गई अंकित कर सम्बन्धित खरीददार के हस्ताक्षर अथवा निशानी अंगूठा करवायेगा। इस प्रकार प्रत्येक दिन की बिक्री का जोड़ शर्त सं. 9 में उल्लेखित पंजिका में किया जायेगा।]

10. क्रेता द्वारा यथार्थ प्रयोजनों के लिए मांगने पर अनुज्ञप्तिधारी विकृत प्रासव तथा विकृत प्रासवीय पदार्थ बेचने से स्वेच्छया इन्कार नहीं करेगा।

11. आबकारी अधिकारियों या निरीक्षकों की पद-स्थिति से नीचे के न हों, द्वारा मांगे जाने पर अनुज्ञप्तिधारी अपनी अनुज्ञप्ति, लेखे तथा प्रासव का कुल स्टाक निरीक्षण के लिए प्रस्तुत करेगा।

12. अनुज्ञप्तिधारी राजस्थान के बाहर से प्रासव का आयात नहीं करेगा वरन् राजस्थान के किसी भी थोक अनुज्ञप्तिधारी से खरीदेगा।

13. अनुज्ञप्तिधारी अपने दुकान के किसी दृष्टिगोचर स्थान पर एक बोर्ड लटकायेगा जिसमें 'विकृत या मेथीलेटेड प्रासव और विकृत प्रासवीय पदार्थ, फुटकर विक्रय अनुज्ञप्तिधारी, अनुज्ञप्ति सं.....' बतलाये गये हों।

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1. विज्ञप्ति सं. प. 1(14) आब/प्रासव/86/76 एस.ओ. 263 दिनांक 11 फरवरी 1987, जो राजस्थान राजपत्र, भाग 4(ग) II दि. 26-2-1987 के पृष्ठ 210 पर प्रकाशित

14. अनुज्ञप्तिधारी द्वारा या उसके सेवक या अभिकर्ता (एजेन्ट) द्वारा या उसकी जानकारी में और उसकी स्वीकृति से, उसके प्राधिकाराधीन या उसकी ओर से कार्य करने वाले किसी भी व्यक्ति द्वारा, अनुज्ञप्ति की किन्हीं भी शर्तों में या राजस्थान आबकारी, अफीम या हानिकारक भेषज अधिनियमों या तद्धीन बने नियमों से किन्हीं भी प्रावधानों या अनुज्ञापत्र-प्राधिकारी के किन्हीं भी अनुदेशों जो विधि की मंशा से असंगत न हों, में चूक या उनका अतिलंघन किये जाने की दशा में अनुज्ञापत्र-प्राधिकारी (इस बात पर बिना कोई प्रतिकूल प्रभाव डाले कि अनुज्ञप्तिधारी या कोई भी ऐसा व्यक्ति जिसके द्वारा विधि के अन्तर्गत दण्डनीय कोई अपराध किया गया हो, विधि के अन्तर्गत दण्ड का भागी होगा) इस अनुमति को रद्द करने और अनुज्ञप्ति शुल्क जप्त करने या अनुज्ञप्तिधारी पर जुर्माना करने जो 100 रुपये तक हो सकता है या दोनों करने, और सार्वजनिक बकाया वसूल करने के लिए प्रवृत्त किसी भी प्रक्रिया से जुर्माने की धनराशि उससे वसूल करने के लिए सक्षम होगा।

हस्ताक्षर अनुज्ञापत्र प्राधिकारी

(8)

मदिरा की बोतलें भरने के लिए अनुज्ञा-पत्र

अधिसूचना सं. प. 27/ई.एक्स/एल/65, दिनांक 18-3-1969, राजस्थान राजपत्र 4 (ग) दिनांक 26-6-1969, पृ. 103-111.

जी.एस.आर 28 - राजस्थान आबकारी अधिनियम, 1950 (राजस्थान अधिनियम 2 सन् 1950) की धारा 42 के साथ पठित राजस्थान आबकारी-कर-अधिनियम, 1956 के नियम 93 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राज्य सरकार की पूर्व स्वीकृति से नियम 68(11) तथा नियम 69(2) के अन्तर्गत लाइसेन्स की शर्तें तथा अनुज्ञापत्र (लाईसेन्स फार्म) निम्नलिखित रूप मे निर्धारित किये जाते हैं -

देशी मदिरा की बोतलें भरने के लिए अनुज्ञा-पत्र

(राजस्थान आबकारी-कर अधिनियम, 1950 की धारा 42(ई) तथा राजस्थान आबकारी-कर नियम, 1956 के नियम 68 (11) तथा 93 के अन्तर्गत)

अनुज्ञापत्र संख्या.....जिला.....स्थान.....

श्री/सर्वश्री.....पुत्र श्री.....निवासी.....

(जिसे/जिन्हें इसमें एतदपश्चात् अनुज्ञापत्रधारी कहा गया है) को उनके द्वारा निर्मित देशी मदिरा को बोतलों में भरने के लिए.....रुपये शुल्क देने पर दिनांक.....से.....तक की अवधि के लिए निम्नलिखित शर्तों के अधीन रहते हुए, अनुज्ञापत्र स्वीकृत किया जाता है -

शर्तें

1. बोतलें केवल आबकारी आयुक्त-द्वारा स्वीकृत भंडागारों (गोदामों) में ही भरी जा सकेंगी जहाँ से कि देशी मदिरा के परचून अनुज्ञापत्रधारियों को किया जाने की है।

2. उपयोग किये जाने के तुरन्त पूर्व बोतलें साढ़े चार लीटर पानी में 0.0648 ग्राम पर मेगनेट आफ पोटाश (Permanganate of Potash) के अनुपात से ताजा तैयार किये गये, विलयन (Solution) अथवा ऐसे ही प्राबल्य के किसी अन्य रोगाणुनाशक, जो कि समय-समय पर आबकारी आयुक्त द्वारा अधिसूचित किया जाय, से साफ की जायेगी, धोयी जायेगी, खगाली जायेगी।

3. बोतलों में कोई विजातीय कीट-कीटांग (Foreign body insect) अथवा कैसा भी कोई अन्य द्रव्य नहीं होना चाहिए। बोतलों के भरने के कार्य में भी कोई अन्य द्रव नहीं होना चाहिए। बोतलें भरने के कार्य में प्रयुक्त पात्र और भाजन भी साफ तथा अच्छी हालत में होंगे।

4. देशी मदिरा के लिए प्रयुक्त बोतलें, जब तक कि किसी अन्य प्रकार (ब्रांड) के लिए विशेष रूप में अनुमति नहीं दी गई हो, पारदर्शी होगी। प्रत्येक बोतल की अन्तर्वस्तु बोतल पर उभरे हुए अक्षरों में अंकित (embossed) की जायेगी तथा बोतलों के गले में एक छल्ला यह बताने के लिए होगा कि उसे यथोचित रूप से भरा गया है।

5. बोतलों के भरे जाते ही उनमें डाट (cork) लगाकर सील लगा दी जायेगी अथवा उन पर धातु का ढक्कन (capsule) लगा दिया जायेगा। प्रत्येक बोतल पर एक लेबल, डिजाइन तथा उपरिलेख (Superscription) होंगे जो कि आबकारी आयुक्त द्वारापूर्व अनुमोदित हो गये हों ओर उनमें यह दिखायें जायेंगे -

(अ) बोतलों में बन्द मदिरा की ब्रांड प्राबल्य तथा उसका वर्णन,

(ब) मूल निर्माण करने वाले राज्य, निर्माण एवं बोतल भराई स्थल का नाम,

(स) अनुज्ञापत्रधारी का पूरा नाम।

ऊपर निर्दिष्ट विवरण के अतिरिक्त कोई अन्य विवरण बोतल पर उसी लेबल अथवा किसी अन्य लेबल पर मुद्रित अथवा दिखाया नहीं जायेगा।

6. बोतलों में केवल निर्धारित प्राबल्य और प्रकार की मदिरा का तरल आधेय (Contents) निम्नरूपेण भरा जायेगा -

बोतलों की धारिता (Capacity) निम्नरूपेण होगी -

(1) 750 मिलिलिटर्स की एक स्टेन्डर्ड बोतल।

(2) 500 मिलिलिटर्स की एक 2/3 बोतल।

(3) 250 मिलिलिटर्स की एक 1/3 बोतल।

परन्तुक आबकारी आयुक्त किसी भी वर्णित की मदिरा को ऊपर वर्णित परिणामों से छोटी बोतलों में भरने के लिये अनुमति दे सकेगा।

7. बोतल भरने के कमरे में समस्त संकाय भण्डागार अधिकारी की देख-भाल में होंगे, जो कि, बोतलें भरने के संकायों का समस्त ब्यौरा, आबकारी आयुक्त द्वारा प्रयोजनार्थ निर्धारित पंजिका में अभिलिखित करेगा।

8. बोतलें भरने के प्रत्येक संकाय के पश्चात् भण्डागार, अनुज्ञापत्रधारी द्वारा भण्डागार अधिकारी की संतुष्टि के अनुसार साफ किया जायेगा।

9. लेबलों तथा ढक्कनों से इस बात का संकेत नहीं मिलेगा कि मदिरा आबकारी विभाग अथवा सरकारी पर्यवेक्षण में बोतलों में भरी गई है या बोतलों में भरी गयी मदिरा के सम्बन्ध में बोतलों तथा ढक्कनों पर किसी प्रकार से गलत वर्णन नहीं किया जायेगा :

परन्तुक सरकारीकरण-बद्ध भाण्डागारों (Bonded Warehouse) में बोतलों में भरी गई मदिरा की दशा में बोतलों पर 'आबकारीकरण बद्ध भाण्डागार में बोतलों में भरी गई' का लेबल अथवा ढक्कन लगाया जा सकता है।

10. भाण्डागार अधिकारी इस बात को देख लेगा कि बोतलों पर लेबिल तथा डाट लगाने में इन्डियन मरकेन्डाइज मार्क्स एक्ट, 1889 (केन्द्रीय अधिनियम 4, 1889) के प्रावधानों का उल्लंघन नहीं किया गया है।

11. किसी आधान में रखी हुई पूरी मदिरा का भरा जाना एक ही क्रियाकरण में किया जायेगा। बोतलें भरने की क्रिया पूर्ण हो जाने पर भाण्डागार अधिकारी मात्रा सुनिश्चित करेगा और नियमानुसार छीजन तथा क्षय को अपलिखित करके अनुज्ञापत्रधारी के लेखों का समायोजन करेगा।

12. बोतल भर जाने के तुरन्त बाद पेक कर दी जायेगी। प्रत्येक पैकेज में आधी दर्जन, एक दर्जन अथवा एक क्वार्ट बोतलों का गुणित होगा तथा प्रत्येक पैकेज की बोतलों का एकसा परिमाण होगा। भाण्डागार अधिकारी इस बात से अपने आपको सन्तुष्ट कर लेगा कि प्रत्येक पैकेज में उचित संख्या में बोतलें हैं तथा यह ध्यान रखेगा कि पैकेज फौरन बन्द करके बांध दिये गये हैं।

13. आबकारी आयुक्त की पूर्व अनुमति के बिना बोतलें पुनः नहीं भरी जायेंगी।

14. प्रत्येक किस्म की मदिरा का नमूना एक क्वार्ट बोतल तक, जब कभी भाण्डागार अधिकारी द्वारा सरकार के रसायनिक विश्लेषक अथवा आबकारी विभाग के रसायनिक विश्लेषक की विश्लेषण हेतु भेजे जाने के लिये अपेक्षित हो, निःशुल्क लेने के लिये अनुज्ञापत्रधारी द्वारा उसको अनुमति दी जायेगी। भाण्डागार अधिकारी उसके द्वारा विश्लेषण हेतु लिये गये नमूने अथवा नमूनों की प्राप्ति की लिखित रसीद अनुज्ञापत्रधारी को देगा।

15. अनुज्ञा-पत्रधारी अनुज्ञा-पत्र की शर्तों की पूर्ति के लिये प्रतिभूति के रूप में 1,000 रुपये (एक हजार रुपये) की राशि नकद अथवा इसी राशि के बराबर अंकित मूल्य की सरकारी प्रतिभूति जो आबकारी आयुक्त के लेख में पृष्ठांकित होगी सम्बन्धित जिला आबकारी अधिकारी के पास जमा करायेगा।

16. अनुज्ञापत्रधारी आबकारी आयुक्त की पूर्व स्वीकृति लिये बिना अनुज्ञा-पत्र को अन्तरित नहीं करेगा अथवा उसको शिकमी पट्टे पर नहीं देगा अथवा किसी व्यक्ति से साझेदारी नहीं करेगा।

17. अनुज्ञापत्रधारी द्वारा उसके नौकरों या ऐजेण्टों या उसके प्राधिकरण से या उसकी ओर से प्रतिकार्य करने वाले किसी व्यक्ति द्वारा किसी चूक की दशा में या अनुज्ञापत्र के किसी निबंधन या प्रतिबंध अथवा अनुज्ञा-पत्र प्राधिकारी के किसी लिखित अनुदेश उल्लंघन की दशा में अनुज्ञा-पत्र प्राधिकारी को यह अधिकार होगा (अनुज्ञापत्रधारी अथवा किसी भी व्यक्ति, जिसके द्वारा ऐसा अपराध कर दिया गया हो, जो कानून के अन्तर्गत दण्डनीय हो, को कानून अधीन दण्ड देने की संभाव्यता पर प्रतिकूल प्रभाव डाले बिना) कि वह उसका अनुज्ञा-पत्र रद्द करदे तथा उसकी प्रतिभूति निक्षेप की रकम का कोई भाग अथवा प्रतिभूति निक्षेप की पूरी रकम जब्त कर ले। अनुज्ञापत्र प्राधिकारी अनुज्ञा-पत्रधारी से अधिक शुल्क की दुगनी राशि अथवा किसी हानि या लेखों में पाये गये किसी विभेद को वसूल करने में सक्षम होगा।

अनुज्ञापत्र प्राधिकारी

प्रति-संविदा

मैं/हम.....अधोहस्ताक्षरी मुझे/हमें दिये गये अनुज्ञा-पत्र संख्या.....की प्राप्ति स्वीकार करता हूँ/करते हैं तथा इस अनुज्ञा-पत्र के निबन्धनों तथा प्रतिबंधों जिसके द्वारा मैं/मेरे/हमारे उत्तराधिकारी और वैधिक प्रतिनिधिबद्ध होंगे को एतद्द्वारा स्वीकार करता हूँ/करते हैं तथा उनका पालन करने का वचन देता हूँ/देते हैं।

अनुज्ञापत्रधारी के हस्ताक्षर

[9]

आसवक के लिये भारत निर्मित विदेशी मदिरा की बोतलें भरने के लिये अनुज्ञा-पत्र

(राजस्थान आबकारी अधिनियम, 1950 की धारा 42 (ई) तथा राजस्थान आबकारी नियम, 1956 के नियम 69 (2) तथा 92 के अन्तर्गत)

अनुज्ञा-पत्र संख्या.....जिला.....स्थान.....

श्री/सर्वश्री.....निवासी.....

(जिसे इसमें एतद्पश्चात् अनुज्ञा-पत्रधारी कहा गया है) को उसके/उनके द्वारा भारत में निर्मित विदेशी मदिरा, जिसमें पेय प्रयोग के लिए उपयुक्त मद्य (Wine) और बीयर सम्मिलित है, को बोतलों में भरने के लिये दिनांक.....से.....तक की अवधि के लिये निम्नलिखित शर्तों के अधीन रहते हुये अनुज्ञा-पत्र स्वीकृत किया जाता है -

[1][1. अनुज्ञाधारी प्रत्येक माह की 15 तारीख तक अपने द्वारा भरी गई बोतल, अद्दे, पव्वे या अन्य धारिता का पात्र जिसकी उसने अनुमति ले रखी है, का सही लेखा व उस पर राजस्थान आबकारी नियम, 1956 के नियम 69(2) में वर्णित बोटलिंग फीस जमा करवाकर चालान/प्रमाण की प्रति 18 तारीख तक प्रस्तुत करेगा। इसी प्रकार माह की शेष अवधि में मदिरा भराई का विवरण व उस पर देय बोटलिंग फीस जमा कराने का प्रमाण आगामी माह की 3 तारीख तक प्रस्तुत करना होगा।]

[1][2. शर्त संख्या 2 को विलोपित किया गया]

3. बोतलें भरने का कार्य अनुज्ञापत्रित आसवनशाला भवन में ही सम्बन्धित जिला आबकारी अधिकारी द्वारा स्वीकृत एवं सुरक्षित कक्ष अथवा प्रकोष्ठ में सम्पन्न किया जाएगा और उसे पूर्ण रूपेण स्वच्छ रखा जायेगा।

पृथक् कक्ष अथवा प्रकोष्ठ, जिसमें कि लोहे की जाली हो और सीमेंट की फर्श हो, का उपयोग अनुज्ञा-पत्रधारी द्वारा बोतल भराई के लिए किया जावेगा तथा ऐसे प्रत्येक पृथक् कक्ष को प्रकोष्ठ को निम्नलिखित कार्यों में से किसी कार्य के लिए उपयोग में लाया जा सकता है -

1. बोतल भराई से पूर्व मदिरा को संग्रह करने में

2. बोतल में मदिरा भराई की क्रिया-प्रक्रिया सम्पन्न करने हेतु,

3. मदिरा भरी सीलबन्द बोतलों को रखने हेतु।

4. बोतल भराई के लिए काम में ली जाने वाली बोतल, लेबल, डाट (cork) तथा सील (Seal) उपयोग में लिए जाने से पूर्व आबकारी आयुक्त से स्वीकृति करानी जायेगी तथा समस्त बोतलें, लेबल्स, डाट (Cork) तथा (Seal) जो बोतल भराई के लिये क्रय किये गए हैं अथवा बोतल भराई की प्रक्रिया में काम में लिये गये हों, का लेखा रखा जावेगा और ऐसा कोई भी सामान जो क्रय किये जाने के बाद

1. संख्या प. 32 (बी) (397) आबाएल/72-पार्ट-II जी.एस.आर. 31 दिनांक 18 मई, 2001 द्वारा प्रतिस्थापित तथा शर्त सं. 2 विलोपित, राजस्थान राज-पत्र विशेषांक-4(ग), दिनांक 4 जून, 2002, पृष्ठ 45 पर प्रकाशित।

परिवहन के समय अथवा बोतल भराई की क्रिया-प्रक्रिया में उपयोग के अयोग्य समझा गया हो उसका भी समुचित लेखा जिला आबकारी अधिकारी के सन्तोष के अनुरूप रखा जायेगा।

5. अनुज्ञापत्रधारी मदिरा एवं यव मदिरा सहित भारत निर्मित विदेशी मदिरा, जिसे बोतलों में भरना है, का विवरण देते हुए आसवनशाला पर नियत आबकारी अधिकारी को प्रार्थना पत्र देगा और उसी एक माह पूर्व सूचना किये बिना बोतलें भरने का संकार्य बंद नहीं करेगा।

6. (क) बोतलों में केवल निर्धारित प्राबल्य व प्रकार की भारत निर्मित विदेशी मदिरा का तरल आधेय (Contents) निम्नरूपेण भरा जायेगा :—

बोतलों की धारिता (Capacity) निम्नरूपेण होगी -

(1) मदिरा - 750 मिलीलिटर, 600 मिलीलिटर, 500 मिलीलिटर, 375 मिलीलिटर, 300 मिलीलिटर, 250 मिलीलिटर एवं 180 मिलीलिटर

(2) यव मदिरा - 650 मिलीलिटर एवं 325 मिलीलिटर परन्तु आबकारी आयुक्त किसी भी वर्णन को मदिरा के ऊपर वर्णित परिमाणों से छोटी बोतलों में भरने के लिए अनुति दे सकेगा।

'परन्तु उपरोक्त उल्लेखित धारिता से भिन्न धारिता की बोतलों में भराई की अनुमति राज्य सरकार की पूर्व अनुमति से आबकारी-आयुक्त द्वारा दी जा सकेगी।'

(ख) कोई भी मदिरा जिससे काष्ठ मद्य कुण्ड (Wooden Vats) अथवा पात्र में मम्मिश्रण पश्चात् 35 घण्टे तक के पूर्व बोतलों में नहीं भरी जायेगी।

(ग) उपयोग किये जाने के तुरन्त पूर्व बोतलें साढ़े चार लीटर पानी में 0.0648 ग्राम पर मेगनेट आफ पोटाश (Permanganate of Potash) के अनुपात से ताजा तैयार किये गये, विलयन (Solution) अथवा ऐसे ही प्राबल्य के किसी अन्य रोगाणुनाशक, जो कि समय-समय पर आबकारी आयुक्त द्वारा अधिसूचित किया जाय, से साफ की जायेगी, धोयी जायेगी, खगाली जायेगी।

(घ) बोतलों में कोई विजातीय कीट-कीटांग (Foreign body insect) अथवा कैसा भी कोई अन्य द्रव्य नहीं होना चाहिए। बोतलों के भरने के कार्य में भी कोई अन्य द्रव नहीं होना चाहिए। बोतलें भरने के कार्य में प्रयुक्त पात्र और भाजन भी साफ तथा अच्छी हालत में होगा।

(ङ) भारत निर्मित विदेशी मदिरा के लिए प्रयुक्त बोतलें, जब किसी अन्य प्रकार (ब्रांड) के लिए विशेष रूप में अनुमति नहीं दी गई हो, पारदर्शी होगी। प्रत्येक बोतल की अन्तर्गत बोतल पर उभरे हुए अक्षरों में अंकित (embossed) की जायेगी तथा बोतल के गले में एक छल्ला यह बताने के लिए होगा कि उसे यथोचित रूप से भरा गया है।

7. बोतल में भरा हुआ तरल पदार्थ तत्व शर्त संख्या 6 (क) व बोतल की क्षमतानुसार होना चाहिए तथा मोटे-मोटे अक्षरों में लेबिल पर साफ-साफ अंकित होना चाहिए, जिसमें मदिरा की किस्म, तेजी व निर्माता का नाम भी अंकित होना चाहिए।

1. सं. प. 32(बी) (1147) आ.बा./एल/74-II/236, एस. ओ. 152 दिनांक 12 फरवरी 1992 द्वारा प्रतिस्थापित, राजस्थान राजपत्र, भाग 4 (ग) दिनांक 27-2-1992 पृष्ठ 167 पर प्रकाशित।

8. प्रत्येक किस्म की मदिरा का नमूना एक क्वार्ट बोतल तक, जब कभी भांडागार अधिकारी रा सरकार के रसायनिक विश्लेषण अथवा आबकारी विभाग के रसायनिक विश्लेषक को रसायनिक विश्लेषण तु भेजे जाने के लिए अपेक्षित हो निःशुल्क लेने के लिये अनुज्ञापत्रधारी द्वारा उसकी अनुमति दी जायेगी। ंडागार अधिकारी उसके द्वारा विश्लेषण हेतु लिए गये नमूने अथवा नमूनों की प्राप्ति की लिखित रसीद नुज्ञा-पत्रधारी को देगा।

9. बोतलों के भरे जाते ही उनमें डाट (cork) लगाकर सील लगा दी जायेगी अथवा उन पर धातु ा ढक्कन (capsule) लगा दिया जायेगा। प्रत्येक बोतल पर एक लेबल, डिजाइन तथा उपरिलेख Superscription) होंगे जो कि आबकारी आयुक्त द्वारा पूर्व अनुमोदित हो गये हों और उनमें यह दिखाये यें -

(क) बोतलों में मदिरा की ब्रांड, प्राबल्य तथा उसका वर्णन,

(ख) मूल निर्माण का राज्य अथवा निर्माण व बोतल भरने का स्थान,

(ग) निर्माता और अनुज्ञापत्रधारी का पूरा नाम।

1[xxx..... xxx.....बोतल के लेबल, सील व केप्सूल में यह उल्लेख नहीं होना चाहिए कि आबकारी धिकारियों के पर्यवेक्षण में बोतल भराई गई है और न भरी हुई बोतल की मदिरा के विषय में गलत विवरण या जावेगा।]

10. मदिरा से भरी हुई बोतलों पर पिलफर-प्रूफ सील लगाई जावेगी या केप्सूलींग यन्त्र द्वारा समुचित ति से लगाया गया शीर्ष का केप्सूल्स अथवा आबकारी आयुक्त द्वारा अनुमोदित किसी अन्य नमूने के ागज के ढक्कन होंगे जिससे डाट के ऊपर और बोतल की गर्दन में चारों ओर गोंद से चिपका दिया जायेगा।

11. भांडागार अधिकारी इस बात को देख लेगा कि बोतलों पर लेबल तथा डाट लगाने में इण्डियन र्वेन्डायज मार्क्स एक्ट, 1889 (केन्द्रीय अधिनियम, 4 सन् 1889) के प्रावधानों का उल्लंघन नहीं किया ा है।

12. बोतल भरने के कमरे में समस्त पदार्थ संकार्य भांडागार अधिकारी की देखरेख में होंगे जो ; बोतल भरने के संकार्यों का समस्त ब्यौरा आबकारी आयुक्त द्वारा प्रयोजनार्थ निर्धारित पंजिका में भिलिखित करेगा।

13. बोतलें भरने के प्रत्येक संकार्य के पश्चात् भांडागार, अनुज्ञापत्रधारी द्वारा भांडागार अधिकारी ा संतुष्टि के अनुसार साफ किया जायेगा।

14. लेबलों अथवा ढक्कनों से इस बात का संकेत नहीं मिलेगा कि मदिरा आबकारी विभाग अथवा कारी पर्यवेक्षण में बोतलों में भरी गई है या बोतलों में भरी गई मदिरा के सम्बन्ध में बोतलों तथा ढक्कनों किसी प्रकार से गलत वर्णन नहीं किया जायेगा।

15. किसी आधान में रखी हुई पूरी मदिरा का भरा जाना एक ही क्रियाकरण में किया जायेगा। तलें भरने की क्रिया पूर्ण हो जाने पर भाण्डागार अधिकारी मात्रा तथा प्रासवों की दिशा में प्राबल्य भी नेश्चित करेगा और छीजन अथवा क्षय को अपलिखित करके अनुज्ञापत्रधारी के लेखों का समायोजन ंगा।

निम्न वाक्यांश अधिसूचना सं. पं. 32 (बी)/993/आब/एल 73-74, एस.ओ. 73 दिनांक 27-12-1983 द्वारा विलोपित—

"ऊपर निर्दिष्ट विवरण के अतिरिक्त कोई अन्य विवरण बोतल पर उसी लेबल अथवा किसी अन्य लेबल पर मुद्रित अथवा दिखाया नहीं जायेगा—

राजस्थान राजपत्र, भाग 4(ग) II दिनांक 20-1-86 के पृष्ठ 98 पर प्रकाशित—.

16. बोतलें भरे जाने के तुरन्त बाद पैक कर दी जायेंगी। प्रत्येक पैकेज में आधी दर्जन, एक दर्जन अथवा एक क्वार्ट बोतलों का गुणित होगा तथा प्रत्येक पैकेज की बोतलों का एकसा परिमाण होगा। भाण्डागार अधिकारी इस बात से अपने आपको सन्तुष्ट कर लेगा कि प्रत्येक पैकेज में उचित संख्या में बोतलें हैं तथा यह ध्यान रखेगा कि पैकेज फौरन बन्द करके बांध दिये गये हैं।

17. आबकारी आयुक्त की पूर्व अनुमति के बिना बोतलें पुनः नहीं भरी जायेंगी।

18. अनुज्ञापत्रधारी आबकारी आयुक्त की पूर्व स्वीकृति लिए बिना अनुज्ञा-पत्र को अन्तरित नहीं करेगा अथवा उसको शिकमी पट्टे पर नहीं देगा अथवा किसी व्यक्ति से साझेदारी नहीं करेगा।

19. अनुज्ञापत्रधारी अनुज्ञा-पत्र की शर्तों की पूर्ति के लिये प्रतिभूति के रूप में 1,000 रुपये (एक हजार रुपये) की राशि नकद अथवा इसी राशि के बराबर अंकित मूल्य की सरकारी प्रतिभूति जो आबकारी आयुक्त के लेखे में पृष्ठांकित होगी सम्बन्धित जिला आबकारी अधिकारी के पास जमा करायेगा। अनुज्ञाधारी एक विश्वास योग्य जमानतदार भी प्रस्तुत करेगा।

20. अनुज्ञापत्रधारी अथवा उसके नौकरों या ऐजेन्टों या उसकी ओर से प्रतिकार्य करने वाले किसी व्यक्ति द्वारा किसी चूक की दशा में या अनुज्ञापत्र के किसी निबंधन या प्रतिबंध अथवा अनुज्ञा-पत्र प्राधिकारी के किसी लिखित अनुदेश उल्लंघन की दशा में अनुज्ञा-पत्र प्राधिकारी को यह अधिकार होगा (अनुज्ञापत्रधारी अथवा किसी भी व्यक्ति, जिसके द्वारा ऐसा अपराध कर दिया गया हो, जो कानून के अन्तर्गत दण्डनीय हो, को कानून के अधीन दण्ड देने की संभाव्यता पर प्रतिकूल प्रभाव डाले बिना) कि वह उसका अनुज्ञा-पत्र रद्द करदे तथा उसकी प्रतिभूति निक्षेप की रकम का कोई भाग अथवा प्रतिभूति निक्षेप की पूरी रकम जब्त कर ले। अनुज्ञापत्र प्राधिकारी अनुज्ञा-पत्रधारी से अधिक शुल्क की दुगनी राशि अथवा किसी हानि या लेखों में पाये गये किसी विभेद को वसूल करने में सक्षम होगा।

अनुज्ञापत्र प्राधिकारी

प्रति-संविदा

मैं/हम..... ....

(10)

आबकारी विभाग

अधिसूचना संख्या F 18 (रेक्टी.) 77, उदयपुर दिनांक नवम्बर 18, 1977

एस.ओ. 549 : राजस्थान आबकारी अधिनियम, 1956 के नियम 93 द्वारा प्रदत्त शक्तियों का ा करते हुए मैं आबकारी आयुक्त, औद्योगिक प्रयोजनों के लिए परिशोधित स्प्रीट या परिशुद्ध मध्यसार कब्जा रखने और उसका उपयोग करने के लिए अनुज्ञप्ति का, एतद्द्वारा, निम्नलिखित प्रारूप निर्धारित ा हूँ।

औद्योगिक प्रयोजनों के लिए परिशोधित स्प्रीट या परिशुद्ध मद्यसार का कब्जे रखने एवं उसका उपयोग करने के लिए अनुज्ञप्ति का प्ररूप। नियम 68 (2) (क) और (93)

अनुज्ञप्ति संख्या····· ····· ·····दिनांक····· ····· ·····स्थान····· ····· ····· ·····नगर····· ····· ····· ि, भवन आदि में 31 मार्च, 199····· को समाप्त होने वाले वर्ष के दौरान सर्वश्री····· ····· ····· ····· ·····पुत्र श्री····· ····· ····· ····· ·····निवासी····· ····· ·····को (जिसे/जिन्हें इसमें इसके पश्चात् ाप्तिधारी कहा गया है उनके द्वारा रुपये ····· ····· ····· का शुल्क देने पर निम्नलिखित शर्तों तथा थान आबकारी अधिनियम, 1950 तथा तद्धीन बने नियमों के उपबंधों के अध्यधीन परिशोधित या परिशुद्ध मध्यसार का कब्जा रखने एवं उनका उपयोग करने के लिए अनुज्ञप्ति प्रदान की जाती

1. अनुज्ञप्तिधारी इस अनुज्ञप्ति के अन्तर्गत आसव नहीं बेच सकेगा।

2. अनुज्ञप्तिधारी परिशोधित स्प्रीट या परिशुद्ध मध्यसार का उपयोग उसी स्थान में करेगा, जो स्थान आबकारी अधिकारी इस प्रयोजन के लिये उपयुक्त समझे। ऐसे स्थान पर धूम्रपान व आग वर्जित ोर्ड लटकायेगा।

3. अनुज्ञप्तिधारी देशी मदिरा अथवा विकृत आसव की बिक्री के व्यवसाय से किसी प्रकार का ध एवं साझा नहीं रखेगा।

4. अनुज्ञप्तिधारी द्वारा जिस स्थान में परिशोभित स्प्रीट या परिशुद्ध मध्यसार का भण्डारण किया है उसमें जलती हुई दियासलाई, दीपक, लेन्टर्न, एवं आग नहीं रखेगा, न ले जायेगा और न किसी को ले जाने देगा। वह परिशोधित स्प्रीट या परिशुद्ध मध्यसार भरे हुए समस्त आदानों को ढक्कन ा हुए सुरक्षित रखेगा ताकि कमरों में उनका धुआं (फ्यूम) एकत्रित न हो सके।

5. अनुज्ञप्तिधारी विदेशी मदिरा के अनुज्ञा-पत्र के लिए लागू सामान्य शर्तों का पालन करेगा।

6. अनुज्ञप्तिधारी अपने भू-भवनादि में किसी भी व्यक्ति को आने की अनुमति न देगा जब तक से व्यक्ति के नाम का अनुमोदन पहले ही जिला आबकारी अधिकारी से प्राप्त न करले।

7. अनुज्ञप्तिधारी आबकारी अधिकारियों, जो निरीक्षक के पद से नीचे न हों, द्वारा मांगे जाने पर अनुज्ञप्ति लेखे और परिशोधित स्प्रीट एवं परिशुद्ध मध्यसार, का कुल स्टाक परीक्षण के लिये प्रस्तुत ।

8. अनुज्ञप्तिधारी उसके कब्जे एवं उपयोग के लिए नियत किये गये स्थान के किसी समय दृश्य पर एक बोर्ड लटकायेगा जिसमें परिशोधित स्प्रीट परिशुद्ध मध्यसार, अनुज्ञप्तिधारी का नाम व पता अनुज्ञप्ति संख्या बतलाये गये हों।

9. अनुज्ञप्तिधारी आबकारी आयुक्त द्वारा निर्धारित रकम की जमानत नकद या सरकारी प्रतिभूति ा में जैसी उसको हिदायत की जावे, प्रस्तुत करेगा।

10. अनुज्ञप्तिधारी उस स्थान में ही परिशोधित स्प्रीट या परिशुद्ध मध्यसार को कब्जे में रखेगा, उपयोग करेगा जिसके लिये वह पूर्व में जिला आबकारी अधिकारी को सूचना देकर उसका अनुमोदन जिला आबकारी अधिकारी से करालें। औद्योगिकि प्रयोजनों के अतिरिक्त परिशोधित स्प्रीट या परिशुद्ध मध्यसार किसी अन्य काम में नहीं लेगा। ऐसे औद्योगिक प्रयोजनों की एक सूची, अनुज्ञप्ति की प्राप्ति से पूर्व जिला आबकारी अधिकारी को प्रस्तुत करेगा और उसकी एक सूची, जो प्राधिकृत व्यक्ति द्वारा हस्ताक्षरित होगी परीक्षण के लिए उसके पास रखेगा। यह सूची उद्योग विभाग द्वारा अनुमोदित होगी।

11. अनुज्ञप्तिधारी परिशोधित स्प्रीट या परिशुद्ध मध्यसार जिस प्राबल्य को प्राप्ति होवे या जिसको आबकारी आयुक्त निर्धारित करे, उसका पूर्ण लेखा-जोखा रखेगा एवं ऐसे आबकारी अधिकारियों द्वारा जो निरीक्षक के पद से नीचे न हो, मांगे जाने पर परिशोधित स्प्रीट या परिशुद्ध मध्यसार को अनुज्ञप्तिधारी रसायनिक जांच के लिये अपने खर्चे पर उपलब्ध करायेगा।

12. अनुज्ञप्तिधारी इतनी मात्रा में परिशोधित स्प्रीट या परिशुद्ध मध्यसार अपने कब्जे में रख सकेगा जो आबकारी आयुक्त द्वारा आर्थिक वर्ष के लिये समय-समय पर निर्धारित की जाये।

13. परिशोधित स्प्रीट या परिशुद्ध मध्यसार निर्धारित स्थान के बाहर जिला आबकारी अधिकारी की अनुमति बिना नहीं ले जाई जायेगी।

14. अनुज्ञप्तिधारी के पास ज्योंही परिशोधित स्प्रीट या परिशुद्ध मद्यसार पहुँचे त्योंही उसकी मात्रा तथा प्राबल्य का इन्द्राज अनुज्ञप्तिधारी द्वारा रजिस्टर में किया जाना अनिवार्य है।

15. अनुज्ञप्तिधारी या उसके सेवक या अभिकर्ता (एजेन्ट) द्वारा या उसकी जानकारी में और उसकी स्वीकृति से उसके प्राधिकाराधीन व उसकी ओर से कार्य करने वाले किसी भी व्यक्ति द्वारा इस अनुज्ञप्ति की किन्हीं भी शर्तों में या राजस्थान आबकारी अफीम या हानिकारक भेषक अधिनियमों तथा तद्धीन बने नियमों के किन्हीं भी प्रावधानों या अनुज्ञापन प्राधिकारी के किन्हीं भी अनुदेशों में, जो विधि की मन्शा से असंगत नहीं, चूंकि या उसका अधिलंघन किये जाने की दशा में अनुज्ञापन प्राधिकारी (इस बात पर बिना कोई प्रतिकूल प्रभाव डाले कि अनुज्ञप्तिधारी या कोई भी ऐसा व्यक्ति जिसके द्वारा विधि के अधीन दण्डनीय कोई अपराध किया गया हो और विधि के अन्तर्गत दण्ड का भागी होगा। इस अनुज्ञप्ति को रद्द करने या अनुज्ञप्ति शुल्क जप्त करने या अनुज्ञप्तिधारी पर ऐसा जुर्माना करने जो 1,000 रुपये तक हो सकेगा या दोनों करने और लोक बकाया वसूल करने के लिये प्रवृत्त किसी भी प्रक्रिया से जुर्माना की धनराशि उससे वसूल करने के लिये समक्ष होगा।

दिनांक·····

अनुज्ञापन प्राधिकारी,

[संख्या एफ. 18/रेक्टी/77]

[राज. राजपत्र भाग 4 ग दिनांक 8-12-1977 पृष्ठ 362 पर प्रकाशित]

(11)

औद्योगिक प्रयोजन हेतु विकृत स्पिरिट (Denatured Spirit) रखने व प्रयोग करने हेतु अनुज्ञप्ति-पत्र

[नियम 68 (9) के अधीन]

अनुज्ञप्ति सं.·····

प्रभाग (डिवीजन)·····

जिला·····

राजस्थान आबकारी अधिनियम, 1950 व इसके अन्तर्गत बनाये गये नियमों के उपबन्धों के अन्तर्गत ।.....पिता.....निवासी (जो कि आगे अनुज्ञप्तिधारी कहे जायेंगे) । पांच सौ रुपये (500/-) अनुज्ञप्ति-शुल्क जमा कराने पर.....स्थित परिसर..... .....(अनुज्ञप्त परिसर).....में औद्योगिक प्रयोजन हेतु विकृत स्पिरिट रखने व प्रयोग रने या विकृत स्पिरिट से बनाये जाने वाले पदार्थ या विकृत स्पिरिट से बनाये जाने वाले पदार्थ के सदृश ार्थ (जो कि अनुज्ञप्त परिसर में बनाये जायेंगे) के लिए निम्नलिखित शर्तों पर मार्च 199 - 199..... ह यह अनुज्ञप्ति स्वीकृत की जाती है।

शर्तें

(1) अनुज्ञप्तिधारी किसी भी परिस्थिति में इस अनुज्ञप्ति के अन्तर्गत स्पिरिट नहीं बेचेगा।

(2) अनुज्ञप्तिधारी अनुज्ञप्ति-प्रपत्र में वर्णित अनुज्ञप्त परिसर में ही निम्नलिखित सामग्री बनायेगा। के अलावा किसी अन्य प्रयोजन हेतु स्पिरिट का प्रयोग नहीं करेगा -

(1) (2) (3) (4)

(3) स्पिरिट से तैयार किये जाने वाले पदार्थ में प्रयोग किया जाने वाला स्पिरिट तेजी में 50 डिग्री वर प्रूफ से कम नहीं होगा तथा उसमें कम से कम .05 प्रतिशत कुचुसिन (Caoutohoucine) या परिडीन /ridine) होगा, जो कि 99 प्रतिशत एल्कोहल (Alcohal) से मेल खाती हो या ऐसी मात्रा हो, जो आबकारी आयुक्त द्वारा समय-समय पर निर्धारित की जाये।

[1](4) x x विलोपित।

(5) अनुज्ञप्तिधारी सारे विकृत स्पिरिट को उपरोक्त अनुज्ञप्ति प्रपत्र में दर्शाये गये अनुज्ञप्त परिसर में संग्रहीत करेगा। अनुज्ञप्तिधारी के पास विकृत स्पिरिट की मात्रा.....लीटर से ज्यादा नहीं होगी।

(6) एक वित्त वर्ष में प्रयोग मे लाई जाने वाली स्पिरिट की मात्रा.....लीटर से ज्यादा नहीं होगी।

(7) जिला आबकारी अधिकारी की लिखित अनुज्ञा के बिना स्पिरिट अनुज्ञप्त परिसर से दूसरी ह हटायी नहीं जा सकेगी।

(8) स्पिरिट को ध्यानाकर्षक लेबल लगे बर्तन में या ऐसे तरीके से जो कि आबकारी आयुक्त य-समय पर निर्धारित करे, संग्रह करना होगा।

(9) अनुज्ञप्तिधारी स्पिरिट या इससे निर्मित पदार्थ किसी ऐसे भवन में संग्रहीत नहीं करेगा, जिसमें देशी या विदेशी शराब या विकृत स्पिरिट की बिक्री होती हो।

(10) अनुज्ञप्ति धारी को स्पिरिट की मात्रा (क्वान्टिटी) व परेषण (कन्साइनमेंट) की संख्या का ण की प्रविष्टि स्पिरिट प्राप्ति के दिन ही करना होगा। अनुज्ञप्तिधारी को प्राप्त किये गये स्पिरिट की , प्रयोग में ली गई मात्रा व स्पिरिट युक्त निर्मित पदार्थ की मात्रा व इसके बाद के बचे हुए स्पिरिट रोजाना सही हिसाब रखना होगा।

(11) आबकारी अधिकारी (जो कि आबकारी निरीक्षक के पद से नीचे का न हो) को अनुज्ञप्त र में प्रवेश करने देगा तथा रसायनज्ञ द्वारा परीक्षण हेतु स्पिरिट या स्पिरिट से निर्मित पदार्थों का नमूना की अनुज्ञा आबकारी अधिकारी को देनी होगी।

सं. पं. 32 बी. (101) आब./एल/85/2230, एस.ओ. 214 दि. 31 अक्टूबर 1987 द्वारा विलोपित

(12) आबकारी अधिकारी (जो कि आबकारी निरीक्षक के पद से नीचे का न हो) के मांगने पर अनुज्ञप्तिधारी को निरीक्षण हेतु अनुज्ञप्ति-प्रपत्र, खाता व हिसाब, अनुमति-पत्र पास व कुल स्पिरिट का स्टाक तथा स्पिरिट से निर्मित पदार्थ दिन या रात के किसी भी समय देना होगा।

स्पिरिट के बर्तनों की चाबियाँ अनुज्ञप्त परिसर के प्रभारी व्यवस्थापक या किसी अन्य उत्तरदायी व्यक्ति के पास रखनी होगी तथा इन व्यक्तियों को आबकारी अधिकारी के रहने पर तुरन्त स्पिरिट बर्तनों के ताले खोलने होंगे।

(13) सूर्यास्त व सूर्योदय के बीच के समय में अनुज्ञप्त-परिसर को बन्द रखना होगा।

[1][(14) अनुज्ञाधारी राजस्थान से बाहर से विकृत आसव का आयात आबकारी आयुक्त की पूर्वानुमति से सम्बन्धित जिला आबकारी अधिकारी द्वारा जारी परमिट के आधार पर ही कर सकेगा।]

(15) अनुज्ञप्तिधारी स्वयं या उसका नौकर या अभिकर्ता या कोई अन्य व्यक्ति या अनुज्ञप्तिधारी द्वारा प्राधिकृत व्यक्ति यदि अनुज्ञप्तिधारी की जानकारी या सहमति से अनुज्ञप्ति की किसी शर्त या राजस्थान आबकारी अधिनियम, अफीम अधिनियम या भेषज अधिनियम या इसके अन्तर्गत बनाये गये नियम या उपबन्ध या अनुज्ञप्तिदाता के अनुदेश या हिदायत (जो कि कानून से सुसंगत हो) की अवहेलना करेगा या चूक करेगा तो अनुज्ञप्ति दाता को, अनुज्ञप्ति निरस्त करने तथा अनुज्ञप्ति-शुल्क को जब्त करने या जुर्माना (जो कि लोक ऋण वसूल की जाने की प्रक्रिया द्वारा वसूल किया जा सकेगा) करने का पूरा-पूरा अधिकार होगा।

1. उपरोक्त द्वारा प्रतिस्थापित राजस्थान राजपत्र, भाग 4(ग) II दिनांक 19-11-87, पृष्ठ 169 पर प्रकाशित।

2

The Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975

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[2]

The Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975

G.S.R. 230 - In exercise of the powers conferred by clauses(e) and (f) of Section of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government reby makes the following rules, namely :-

RULES

1. Short title & commencement—(a) These rules may be called the Rajasthan cise (Closure of Country Liquor Shop by Local Option) Rules, 1975.

(b) They shall come into force on their publication in the Rajasthan Gazette.[1]

2. Definitions—(A) In these rules, unless the context otherwise requires-

(a) "Collector" means Collector of the district.

(b) "Liquor shop" means a shop for retail sale of country liquor and includes its sub-shop.

(c) "Panchayat" means a Panchayat established under the Rajasthan Panchayat Act, 1953.

(d) "Panchayat Circle" means the local area over which a Nyaya Panchayat exercises jurisdiction.

(e) "Sub-divisional Officer" and "Tehsildar" means officers appointed to hold charge of a revenue sub-division and Tehsil respectively.

(f) "Voter" means a person whose name is entered in the electoral roll of the Panchayat for the time being in force, and

(g) "year" means a financial year commencing on 1st April and ending on 31st March next following.

(B) Words and expressions not defind in these rules but defined in the Rajasthan cise Act, 1950 would have the same meaning as assigned under the aforesaid Act.

3. Option of closure by voters of Panchayat—A liquor shop in any Panchayat rcle shall be closed if the voters in the Panchayat Circle opt for such closure with t less than 2/3 of the total number of voters of the Panchayat (Circle)1 voting for e closure of the shop in the manner hereinafter laid down, from the commencement the year immediately following the one in which such voting takes place.

Notification No. F. 2(3)/EX. 73 dated December 16, 1976 published in Rajasthan Gazette, Part-IV-C, dated 8-1-1976, Pages 783 to 792.

4. Application for closure—An application in Form 1 may be made by voters of any Panchayat circle to the concerned sub-divisional Officer for ascertaining public opinion on the question of closure of any or all liquor shops or sub-shops, functioning in the Panchayat circle:

Provided that no such application shall be entertained unless not less than one-tenth of the total number of the Panchayat circle have signed/affixed their thumb-impressions on the application in support of the demand

5. Enquiry by SDO on application and Report—On receipt of such an application, the Sub-divisional Officer shall make on the spot enquiry and if he is satisfied that the number of applicants who are voters of the Panchayat circle and who have actually signed/affixed their-impressions on the application is not less than one-tenth of the total number of voters of the Panchayat Circle, he shall send the application to the Excise Commissioner with his endorsement thereon to this effect.

6. Excise Commissioner to consider SDO's Report—On receipt of the application alongwith the report of the Sub-divisional Officer under Rule 5, the Excise Commissioner shall, unless he considers that the application is not in accordance with the provisions of these rules or he deems it necessary to call for further report from the Sub-divisional Officer, ask the Collector concerned to ascertain the public opinion in the Panchayat circle on the question of closure of the liquor shop as demanded in the application by holding a poll :

Provided that if in the opinion of the Excise Commissioner the application is not in accordance with the rules, he shall send a report to the Government whose decision will be final and will be communicated to the Panchayat for informing the applicants.

7. Issue of public notice by Collector—The Collector shall there-upon issue a public notice of intended poll in Form 2 and shall public it on the notice Board of the Panchayat and such other places in the Panchayat Circle as he deems fit. The Collector shall allow a period of at least fiften days to intervene between the date of publication of the public notice in the Panchayat circle and the date of the poll.

8. Appointment of presiding officer—The Collector shall appoint a Presiding Officer not below the rank of the Tehsildar for conducting the poll and polling officers to assist him in the conduct of the poll.

9. Polling-Mode of—The polling shall be conducted in their manner laid down for election of Panchas in the rules prescribed under the Rajasthan Panchayat Act, 1953 mutatis mutandis.

10. Ballot paper—The ballot paper used for the purpose of poll shall be printed in Form 3.

11. Counting—After the polloing is over, the Presiding Officer shall count number of votes polled for and against the closure of the liquor shop, declare the result and send a report in duplicate to the Collector in Form 4 alongwith the record of the poll.

12. Report of the result of polling—The Collector shall forward one copy of the report to the excise Commissioner with his remarks, if any.

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1. Inserted vide G.S.R. 70, Notification No. F. 2(3)/FD/Ex-73, dated 20-8-1976, Pub in Raj Gaz., Part IV-C, dated 20-9-1976, Page 269.

13. Excise Commissioner's duty on receipt of report—On receipt of the report of the Presiding Officer, the Excise Commissioner shall if not less than two-third of total number of voters of the Panchayat Circle had voted for the closure of the shop, order the closure of the said shop in the Panchayat circle from the commencement of the year next following the year in which the voting taken place.

14. Strength of voters favouring closure—If the any poll organised in the manner laid down abdove, not less than 2/3rd of the total number of voters in the Panchayat circle do not vote for a closure of any liquor shop or sub-shop, no application for ascertaining the public opinion in the Panchayat circle for closure of the same shop or sub- shop shall be entertained before expiry of a period of twelve months from the date on which such poll was last held.

15. Record of polling—The record of the poll including the electoral rolls and ballot papers used and unused shall be preserved for a period of twelve months after the date of poll unless otherwise directed by the Government or any competent court.

FORM 1

[See Rule 4 of the Rajasthan Excise (Closure of Country Liquor Shops by Local Option) Rules, 1975]

To.

The S.D.O.

Sir,

We, the following registered voters of the Panchayat ——————— Tehsil——————District——————demanded that the Country/Liquor Shop——————— sub-shop ——————— within our Nyaya Panchayat (mention name of place) Circle should be closed. We request that poll may be held to ascertain public opinion in our Panchayat Circle on the above demand.

Yours faithfully,

S. No.	Full name of voter	Number in Electoral Roll at which the voter's name appears	Signature/Left hand thumb impression of the voter
1	2	3	4

FORM 2

(See Rule 7 of the Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975

Notice of Poll

Notice is hereby given that a poll is to be held in the office of the Panchayat .....Tehsil ..... District .....to ascertain the public opinion in the Panchayat Circle on the question of closure of country liquor shop .....sub-shop.....situated in the Panchayat Circle on .....between the hours of .....

Place .....

Date .....

Collector

District.....

FORM 3

[See Rule 10 of the Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975]

Ballot Paper

ग्राम पंचायत क्षेत्र.....में स्थित देशी मदिरा.....
की दुकान.....उप दुकान.....
बंद कर दी जाय ।
हां नहीं

FORM 4

[See Rule 11 of the Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975]

To

The Collector

Result of poll under the Rajasthan Excise (Closure of Country Liquor Shop by Local Option) Rules, 1975 for closure of Country Liquor Shop..... Tehsil .....

District..... Date of Poll.....

1. Total number of registered voters in Panchayat Circle according to the electrol roll in force .....
2. Total number of votes cast .....
3. Total number of votes rejected .....
4. Total number of valid votes cast .....
5. Total number of votes cast in favour of closing of the country liquor shop .....
6. Total number of votes cast against closing the country liquor shop. .....

Ballot Papers Account

Serial number Remarks
No. from ..... to .....

1. Total number of ballot papers received .....
2. Total number of ballot papers cancelled .....
3. Total number of ballot papers issued to voter .....
4. Balance .....

(Signature and seal of Presiding Officer)
Name and designation of
the Presiding Officer.....

3

The Rajasthan Excise (Grant of Hotel Bar/ Club Bar Licences) Rules, 1973

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[3]

[1]The Rajasthan Excise (Grant of Hotel Bar/Club Bar [2][xxx] Licences) Rules, 1973

❑ INTRODUCTORY NOTE

(a) **Rules**—These Rules were originally applicable to Hotel Bars only. Thereafter in 1984 the club bars were included bars, but in 1994 "Restaurant Beer Bar" was also included in these Rules, but now in 1999, the word "Restaurant Beer Bar" has been dropped and now these Rules are applicable only to—

(a) Hotel Bar

(b) Club Bar, as defined in Rule 2, as a result of New Excise Policy of the Government.

Rules 3 enumerates the persons who are eligible for grant of these licences and provides for detailed procedure of granting such licences.

In case of default in payment of licence fee or failure to start sale, the sanction may be cancelled by the Excise Commissioner under R.U. Even on grounds of disqualifications mentioned under R. 3(8) or in case of fraud and questionable method of obtaining sanction, the licence may be cancelled after giving opportunity of hearing by Excise Commissioner.

Renewal of licences is dealt with in R. 7A. These rules have been given overiding effect over the Rajasthan Excise Rules, 1956 Vide Rule 8 of these rules.

Licence for Beer Bar, when found illegal-[Ss. 4, 41 and Rule 75 (2)—Notification dated 15.2.57] Licence for Beer Bar was granted. Beer is included in foreign liquor and there is prohibition under Rule 75(2) for running a retail shop of country or foregin liquor within area of 200 meters of school or institution. Held that grant of licence for Beer Bar was illegal, hence was quashed.[3]

(c) State Policy - Repeal of Licence—On various complaints that consumption of liquor in Bars resulted in law and order problems and women folk is being harassed, certainly, in public interest the Government can take a decision to repeal the grant of bar licencees. There is nothing unreasonable in it. Held, it is not necessary to constitute a committee for this purpose. It is matter of policy which the Government alone is competent to formulate. It is for the Government to see how best to augment its revenue.[4]

1 Notification No. 69/F4(3)FD/EX/70-I, dated 22-3-73 published in Raj Gaz Pt IV-C (1) Ext. dated 22-3-73.

2 Expression "Restaurant Beer Bar" which was inserted vide G.S.R. 89 dated 26-10-94 has now been deleted vide G.S.R.-2 dated 1-4-99, published in Raj.. Gaz-EO-4(Ga)II dated 1-4-99 pages 4-6.

3. St. Soldiers Public School v. State of Raj., 1996 WLC (UC) 340 (Raj.)

4. Madras City Wine Merchants' Association v. State of Tamol Nadu (1994) 5 SCC 509.

RULES

In exercise of the powers conferred by section 41 of the Rajasthan Excise Act, 950 (Rajasthan Act 2 of 1950), the State Government is hereby pleased to make the llowing rules and orders with references to proviso to sub-section (3) of the said section at previous publication of these rules be dispensed with as the State Government nsiders that the said rules be brought into force at once, namely—

1. Short title and commencement– These rules may be called the Rajasthan Excise Grant of Hotel Bar/Club Bar [3][xxx] Licences) Rules, 1973 and shall come into force on eir publication in the Official Gazette.

2. Definitions—

[1](a) **'Hotel'** means all Tourist Bungalows and hotels run by the Department of ourism and Hotel Corporation of the State Government and the Government of India including Hotels recognised by the Government of India as Heritage Hotels] and shall so include any other hotel with at least 20 bedrooms which is adjudged to be of at ast Two Star Category by the Department of Tourism Government of India or any other uthority authorised specially for this purpose by the Government of India].

(b) **"Hotel Bar/Club Bar [3][xxx] Licence"** means a retail on licence for the sale foreign liquor granted to a hotel which makes sales to foreign and Indian tourists id visitors staying or residing in it for consumption in a room earmarked for serving quor or dining hall or drawing room or such other part of the hotel as may be approved the State Government.

[4][(c) **'Club'** means a duly registered association of persons for social and recreational urposes or for the promotion of some common object on joint expenses.

(d) **'Club bar licence'** means a licence granted to a club for retail sale of foreign quor by it, to its bonafide members for consumption in the club premises.]

[5][xxx (dd) and (ddd) xx-deleted.]

[6][(e) The words and expressions defined in the Rajasthan Excise Act, 1950 and ajasthan Excise Rules, 1956 and not defined in these rules shall have the meaning as fined in the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950) and the Rajasthan cise Rules, 1955 as the case may be.

3. Eligibility and procedure for grant of hotel licence—(1) Any person who owns d runs a hotel as defined in these rules and who does not possess any of the squalifications mentioned in sub-rule (8) below shall be eligible to apply for a [Hotel ar/club Bar [7][xxx] Licence)

Substituted by G.S.R. 27 of 22.3.86.
Inserted by G.S.R. 49 of 3-2-93
Expression "Restaurant Beer Bar" deleted by G.S.R. 2 dated 1-4-99
Clauses (c) & (d) inserted by G.S.R. 27 of 13-8-1984.
Clauses (dd) and (ddd), inserted by G.S.R. 89 of 26-10-94, have been deleted by G.S.R 2 dated 1-4-1999.The text of these clauses was as under

[dd] 'Restaurant' means any place to which the public are admitted for the Consumption of food or drink, for consideration.

(ddd) 'Restaurant Licence' means a 'retail on licence' for the sale of Beer granted to a Restaurant which makes sale to customers for consumption in a Restaurant.]
Clauses(c) re-numberd as (e) by G.S.R. 27 of 13-8-84.
Expression "Restaurant Beer Bar" deleted by G.S.R. 2 dated 1-4-99

[1]["Provided that the Government may, if it so pleases, set up a committee to make recommendations on an application for grant of Hotel bar license/Club bar license to any establishment even if does not fulfil the criteria laid down in Rule 2 and other criteria with regard to eligibility of a hotel for hotel bar licence, specified by the State Government. Excise Commissioner may grant or renew licence on recommendations of such committee."]

[2]इस विभाग की आज्ञा क्रमांक प. 3(2) वित्त/आब/96 दिनांक 4-9-1996 में आंशिक संशोधन करते हुए राजस्थान आबकारी (ग्रांट ऑफ होटल बार/क्लब बार लाईसेन्स) रूल्स, 1973 के नियम 3 के उपनियम (1) के नीचे दिये गये परन्तुक के अंतर्गत बार लाइसेंस के सम्बन्ध में अनुशंषा करने हेतु गठित समिति का निम्नानुसार पुर्नगठन किया जाता है—

क्र.सं.	नाम अधिकारी	पद
1.	अतिरिक्त आयुक्त आबकारी, जोन	अध्यक्ष
2.	जिला कलेक्टर द्वारा नियुक्त प्रतिनिधि जो उप-खण्ड अधिकारी से कम स्तर का न हो	सदस्य
3.	सम्बन्धित मुख्यालय पर पदस्थापित पर्यटन विभाग का उप-सहायक निदेशक या जिला पर्यटन अधिकारी	सदस्य सचिव
4.	सम्बन्धित जिला आबकारी अधिकारी	सदस्य

[3][(1-A) The President or the Secretary of the club who has been duly elected and who does not suffer from any of the disqualifications mentioned in sub-rule (8) shall be eligible to apply in Form A for a club bar licence, while applying for the said licence, a No Objection Certificate obtained from the District Magistrate of the place, where the club is situated, shall be produced.]

[4][(1-B) (i) & (ii) xx deleted]

[5][(2) Any person, eligible for a licence and desiring to obtain a Hotel bar Licence or a club bar licence [6][or Restaurant beer bar licence] shall apply for sanction to the Excise Commissioner through the District Excise Officer concerned in Form A which can be obtained from his office on payment of a fee of [7][Rs. 10/-].

[8][(3)Every application for a Hotel Bar/club Bar [9][xxx] Licence shall be properly signed and shall be accompanied by the following amount of initial fee which shall be in addition to the usual annual fee payable under rule 69(1) of the Rajasthan Excise Rules, 1956 :

Where application is for a Hotel Bar/club Bar [9][xxx] Licence in the town with the

1. Substituted by Amendment Rule, 2006 by Notification No. F. 4(44)FD/Excise/2005, dated 1-4-2006
2. आज्ञा प. 3(2) वित्त/आब/96 दिनांक 13 मार्च, 2006
3. Inserted by G.S.R. 27 of 13-8-84.
4. Clause (1-B)(i) & (ii), which were inserted by G.S.R. 89 of 26-10-94, have been deleted by G.S.R 2 of 1-4-1999- Text reproduced hereunder for reference .

[(1-B) (i) Any person who owns and runs a Restaurant as defined in these rules in the towns or category of towns notified for the purpose of grant of Restaurant Licence and who does not possess any of the disqualifications mentioned in rule 8 of these rules, shall be eligible to apply in proforma 'A' for Restaurant Licence

(ii) The Government may constitute a committee of officers on the recommendation of which the Excise Commissioner grant a Beer Bar Licence to Restaurant concerned in proforma 'E' appended to these rules.]
5. Substituted by G.S.R 27 of 13-8-1984.
6. Expression "Restaurant Beer Bar" deleted by G.S.R. 2 dated 1-4-99
7. Substituted by G.S.R. 21 of 7-9-1992
8. Substituted by No. 17 of 9-12-93.
9. Inserted by G.S.R. 89 of 26-10-94, now deleted by G.S.R 2 of 1-4-1999

population indicated below, the initial fee shall be as under :

S.No.	Category	Initial fee for licence for year or part there of (Rs. In lacs)
1	2	3
A	**Luxury Hotel/Train**	
	1. Five Star Hotel	5.00
	2. Four Star Hotel	4.00
	3. Three Star Hotel	4.00
	4. Luxuary Train	4.00
[2]B	**Heritage Hotel:**	
	1. Category A	5.00
	2. Category B	1.00
	3. Category C	0.50]
	(Note: The category of a heritage hotel shall be decided by a committee constituted by the State Government in this behalf, whose decision shall be final)	
C	**Other Hotel:**	
	1. Hotels situated in and within 10 Km. of the municipal or urban agglomeration limits which ever is the farther, of :	
	(a) Jaipur and Jodhpur	3.00
	[(b) Other Divisional Head Quarters, Mt. Abu and Jaisalmer	2.50
	(c) Other District Headquarters	2.00
	(d) Other Municipalities and Bhiwari (District Alwar)	1.50
	2. Situated in other places not recovered by Clause 1	0.75
D	**CLUB BAR**	
	1. In Jaipur	0.75
	2. In other Places	0.50

All previous Table Substituted by S.O. 1. Notification No. F. 4(17) FD/Excise/2004 dated 1-4-2005.

S.No. B Substituted by Notification No. F. 4 (44) Excise/2005 dated 1-4-2006.

[1][xx Note Deleted]

[2]["Provided that in case of restaurant, beer bar, the same fees, applicable for divisional headquarter towns and for cities with the population of 1 lac or more, shall be chargeable upto 10 Km. area contiguous to the said town/city."]

[3][Provided further that every application for a Hotel Bar licence where a duly constituted Committee is required to visit the site for recommending grant of Licence, shall be accompanied by the non-refundable process fee equivalent to an amount of 10% of prevaling initial fee or Rs. 10,000 which ever is higher.]

Explanation :

(i) The aforesaid initial fee [4][and process fee] shall be deposited in the State Treasury and a copy of the challan supplied by the Treasury to the applicant, shall be enclosed by him with his application. Cheques shall not be accepted.

(ii) The application shall be signed - (a) by the individual if it is made in an individual capacity ;

(b) by each partner if the applicant is an unregistered firm. The name with parentage and correct address of each partner shall be mentioned in the application;

(c) by the Managing Director or Manager if the applicant is a company, the registered name and address of the company shall be clearly mentioned in the application along with the names of the directors, managers, managing Agents,

(d) by duly elected President or Secretary, if the application is for or on behalf of a club. The application shall mention the registration number and address of the club along with the name and address of its President and Secretary.]

(4) The District Excise Officer concerned shall initial the application noting the date of receipt and cause each application to be entered in a register in Form B. The particulars of each application entered in the register shall be attested by the District Excise Officer. The Register shall be paged and each page shall bear the stamp of the office of the District Excise Officer concerned.

(5) Each application shall then be scrutinized by the District Excise Officer with regard to the suitability of the applicant for holding the licence for which application has been made. Thereafter the District Excise Officer shall forward the application to the Excise Commissioner with his recommendation. He shall also record a note whether or not the applicant is suffering from any of the disabilities to hold a licence mentioned in sub-rule (8) below.

[5][(6) The Excise Commissioner shall also cause all applications received by him through the District Excise Officer, concerned to be entered in a register prepared on

1. Deleted vide F.1(5)FD/Ex/99 dated 1-4-1999.
2. Added vide Notification No. F. 4(75) FD/EX/97 dated 30-9-97
3. Substituted vide No. F1(12) FD/Ex/98 dated 6-11-1998.
4. G.S.R. 21, dated 7-9-92.
5. Substituted by G.S.R. 8 dated 18-5-83.

e model of Form 'B'. He shall then consider each application in the light of the commendations of the District Excise Officer concerned taking into account any other levant factor which may come to his notice, and pass necessary orders in writing either nctioning or rejecting the application for licence. Where an application for licence is jected, the Excise Commissioner, shall record reasons in writing. He may, if considers :cessary, hear the applicant before rejecting his application].

[1][(7)xxx]

(8) An application for licence shall be liable to be rejected for the following reasons:

(a) if it has not been signed by the competent person or is incomplete.

(b) If the applicant has been convicted for any offence under the Rajasthan Excise Act, 1950 the Opium Act, 1878 or the Rules framed thereunder or if he has been punished for any serious breach of any licence issued under the said laws.

(c) If the applicant is found to have been convicted for any non bailable offence by a criminal court; provided that the application of such a convicted person may be considered by the Excise Commissioner if the same is accompanied by a recent certificate of good character from the Superintendent of Police or Probation Officer appointed under the Rajasthan Probation of Offenders Act, 1958.

(d) If there are arrears of excise dues outstanding against him.

(e) If the applicant is below the age of 18 years.

[1][(9) XXX]

(10) As soon as the applicant receives the sanction of licence to him he shall within days, deposit into the Treasury the minimum fee prescribed under rule 69(1) of the jasthan Excise Rules, 1956.

(11) The District Excise Officer concerned, after satisfying himself that the minimum has been deposited into the Treasry shall inspect the location of the premises where the 'eign liquor shall be stored and the counters where it shall be sold and submit his report the Excise Commissioner who will issue the licence accordingly, under his signature and seal of his office in [2][Form 'C' or in Form 'D' or in Form 'E' as the case may be].

[3][3-A. Notwithstanding anything contained in these rules, club bar licence may also granted by the licensing authority to the clubs operated by unregistered association of rsons from the pre-independence period, if they submit verification in this regard given the District Collector and subject to recommendation as to suitability by the committee istituted under these rules for grant of Hotel Bar licenses.]

4. Cancellation of sanction for Default of the Applicant—(1) Where a person in ose favour a licence has been sanctioned does not deposit the fee prescribed under rule (1) of the, Rajasthan Excise Rules, 1956 within 15 days of the receipt of the sanction, the

Deleted by G.S.R. 8 dated 18-5-83.
Substituted by G.S.R. 89 of 26-10-94.
Added by G.S.R. 39–Noti. No. F 1(12) FD/Ex/98 dated 10-8-2000, pub. in Raj. Gaz-EO-IV C(I) dated 11-8-2000, page 73.

[1][Excise Commissioner] may cancel the sanction issued in his favour for grant of licence and forfeit the amount of initial fee deposited by him.

(2) Where a person in whose favour a licence has been sanctioned does not start sale of foreign liquor [2][in the permises of the hotel or club] within 15 days of the date of receipt of licence, the [1][Excise Commissioner) may cancel the licence and forfeit the amount of initial fee and also the fee deposited under rule 69(10) of the Rajasthan Excise Rules, 1956.

(3) Where it is brought to the notice of the [1][Excise Commissioner] that :

(a) the applicant suffers from any of the disqualifications mentioned in sub-rule (8) of rule 3 above;

(b) the sanction for grant of licence has been obtained by the applicant by fraud and questionable methods; the [1][Excise Commissioner) shall after giving a reasonable opportunity of being heard to the applicant, cancel the sanction issued for grant of licence and forfeit the fees paid by him.

5. Exemption—The provisions relating to initial fee is these rules shall not be applicable in respect of persons holding licence for sale of foreign liquor on the premises of the hotel on the date of coming into force of these rules.

[3][5-A. Any person holding a licence under these rules may import into Rajasthan, foreign liquor from outside India under an import licence from the Chief Controller, Imports and Exports, Government of India, with the prior permission of the Excise Commissioner and after depositing necessary vend fee mentioned in sub-rule (1) of rule 69 of the Rajasthan Excise Rules, 1956.]

[4]["Provided that permission by the Excise Commissioner shall be subject to such restriction on the purchase of liquor by the bar licensees as may be specified by the State Government from time to time."]

[5][5-B Licence may be granted on special permission by Excise Commissioner to procure, store and sell draught beer on such fees, terms and conditions an may be determined from time to time]

6. Refund of initial fee for licence not sanctioned—In case an application for licence is not sanctioned and is rejected for no fault on the part of the applicant, the applicant shall be entitled to refund of initial fee paid by him; provided that the application for refund is made within six months of the date of the order of rejection.

7. Power of the [Excise Commissioner] to reject application—Notwithstanding anything contained in these rules, the [4][Excise Commissioner] shall be competent to reject any application for licence without assigning any reason whatsoever.

[6][7-A **Fees for the renewal of licences**—(1) A licence granted under the principal rule shall expire on the 31st day of March every year.

1. Substituted by G.S.R. 8 dated 18-5-83.
2. Substituted by G.S.R. 27 of 13-8-84.
3. Inserted by No. 8 of dated 22-3-86.
4. Inserted by GSR 53 dated 19-2-2004 w.e.f. 1-4-2004.
5. Inserted by G.S.R. 106 dated 9-7-98.
6. Inserted by No. 2 of 30-3-77.

[1][(2) A person possessing a licence under these rules and seeking renewal of same shall apply in accordance with Rule 72-A of the Rajasthan Excise Rules, 1956 (such application shall be accompanied by a treasury receipt showing the payment (i) renewal fee equivalent to the initial fee prescribed in Rule 3(3), and (ii) the usual nce fee payable under Rule 69(1) of the Rajasthan Excise Rules, 1956.

8. Rules to have overriding effect—In case there is any conflict between the visions of these rules and the Rajasthan Excise Rules, 1956, the former shall prevail.

[2][**8-A. Any licence issued for retail**—On sale of Foreign and Indian made Foreign uor to any hotel under the Rajasthan Excise Act, 1950 or the rules made thereunder under any corresponding law before the commencement of these rules, and in force such commencement shall be deemed to have been issued under these rules.]

FORM A

[Rule 3(2)]

Form of application for Grant of Hotel Bar/Club Bar [3][XXX] Licences

Form—Name or names, age and the address or addresses of the person or persons lying (if the applicant is a firm, the name and address of every partner of the firm if a company, the registered name and address thereof, the names of the Directors, nagers and Managing Agents, and if there is a Managing Director, the name of such ector should be mentioned).

The Excise Commissioner,
Rajasthan, Udaipur,
Through : The District Excise Officer,

1. I/We.....son of.....residing at .....District ..... test that I/we may be granted hotel Bar/club Bar/[3][XXX] for the retail sale of foreign or for consumption on the premises as defined in Rule 2(a) of the Rajasthan Excise nt of Hotel Bar/Club Bar Licence] Rule, 1973 for the year ending 31st March.....

2. I/We have deposited a sum of Rs..... as initial fee for the above licence reasury..... vide challan No. ..... dated.....20.....enclosed herewith.

3. I/We agree to abide by the provision of the Rajasthan Excise Act, 1950 and es framed thereunder.

4. I/We declare that I/We do not suffer from any of the disqualifications prescribed he rules which may render me/us ineligible to hold the licence applied for.

5. I/We declare that to the best of my/our knowledge and belief the information ished herein is true and complete.

Place.....
Date.....

Signature(s) of the applicant (s)

Note. - Please strike off the words which are not applicable.

Substituted by No. 4 of 6-9-88.
Inserted by No. 4 of 30-3-78.
Deleted by GSR 2 of 1-4-1999 expressin "Restaurant Beer Bar".

FORM-B

[Rule 3(4)]

Register of Applications received for Grant of Hotel Bar/Club Bar [1][xxx] Licence

Serial No.	Name/Parentage and tage of applicant	Place for which licence desired	District in which situated	Amount of initial fee deposited.
1	2	3	4	5

Name of treasury where deposited	Challan No. and date entries from Cols. 1 to 7	Intial of the District Excise Officer in respect of rwarded to the Excise Commissioner	No. & date of the letter under which case fo-
6	7	8	9

No. and date of the letter of Excise Commissioner under which decision conveyed	Decision of the Excise Commissioner whether licence sanctioned or application rejected	Initials of the district excise officer	Remarks
10	11	12	13

FORM-C

[Rule3(II)]

Licence for the Retail on Sale of Foreign Liquor at Hotels.

Licence No..... District
Locality..... .....
Name of license holder .....
Name of approved salesman

Licence for retail sale of foreign liquor is hereby granted to Shri..... for sale of foreign liquor in his Hotel situated at premises.....during the year ending March 31, 20.....on pre-payment of initial fee of Rs. ..... (in words.....) prescribed under sub-rule (3) of rule 3 and minimum fee of Rs.....(in words .....) prescribed under rule 69(1) of the Rajasthan Excise Rules, 1956 subject to the following special conditions and such other conditions as may be prescribed in this behalf from time to time by the Excise Commissioner and the provisions of the Rajasthan Excise Act, 1950 and the rule framed thereunder.

SPECIAL CONDITIONS

1. The licensee shall in addition to initial fee pay for the retail sale of Foreign Liquor fee per litre at the rate prescribed in rule 69(1) of the Rajasthan Excise Rule 1956 subject to the minimum fee of Rs..... (in words.....) per year or a part thereof which shall be paid before the grant of licence.

1. Deleted by G.S.R 2 of 1-4-1999 Expression "Restaurant Beer Bar".

2. If at any time the fee assessed per litre exceeds the minimum fee paid such excess shall be id by the licensee before he obtain liquor from the wholesale [1][or retail] dealer for sale:

[2][Provided that with the prior permission of the [3][District Excise Officer concerned], the ensee can also import into Rajasthan Foreign liquor from outside India after obtaining an import ence from the Chief Controller Imports and Exports Government of India, after depositing necessary nd fee as required under rule 5-A of the Rajasthan Excise Hotel Bar/Club Bar/ [4][XXX] Licences ules, 1973.]

[5]["Provided further that the licensee may directly purchase wine from a whole sale licensee olding a licence under rule 47 (1) (a) of Rajasthan Excise Rules, 1956 on the basis of permit issued the District Excise Officer. The licensee shall also have to pay wholesale licence fee prescribed ider rule 69 (1) of Rajasthan Excise Rules, 1956."]

[6] [" Provided further that with the permission of Excise Commissioner, a bar licensee can nsfer, during the currency of licence, liquor to another bar licensee after paying an amount at the me rates as prescribed for stock transfer in rule 69-D of Rajasthan Excise Rules, 1956."]

[7][Under this licensee liquor including the drought beer is allowed to be consumed in whole the licenced premises. The licensee shall however get the bar and 'store' for liquor approved by e 'Excise Commissioner"]

3. Sale of liquor shall be made only at the licensed premises of the hotel. The Foregin Liquor all be served to [8][all customers and visitors who visit such hotel]. Foreign Liquor shall be served the foreign and Indian tourists and visitors' only in the room earmarked for the purpose or dining ll or drawing room or such other place in the hotel as may be approved by the Excise Commissioner.

[9][provided that the service of liquor in dining hall shall be made only to the foreign tourists d visitors.]

[10][3A. Speical permission may be accorded by Excise Commissioner to procure, store and sale aught beer on the following terms and conditions among others as are determined from time to time.

(a) Licence shall be solely liable for the quality of draught beer.

(b) No refund of duty/fee shall be allowed on destruction of beer, for any reason whatsoever including deteroration of quality.

(c) To preserve the quality of draught beer, licensee shall have to manage for proper refrigeration of stock.

4. No sales shall be made on dry days prescribed by the Excise Commissioner provided that is restrictions shall not apply to foreign tourists and visitors who can be served liquor on dry days so.

[11][5. 24 Hours service/sale of Foreign Liquor will be allowed in the Hotel premises.]

6.(i) A true and detailed account of the licence fee on the balance of stock on 1st April of every ar and the quantity purchased after that date through permits till the date of application of every ansport permit along with the amount deposited for the fresh intended purchase shall be submitted the District Excise Officer concerned along with the application of every permit for transport.

(ii) A separate register of accounts of liquor served to the foreign tourists and visitors on dry ys shall be maintained in the following proforma:-

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Inserted vide Notification No. F.4 (62) FD/Ex/96-dated 31-3-1997 & Omitted vide No. G.S.R. 3 dated 7-4-1998 and Substituted by G.S.R. 11 dated 31-3-1997.
Inserted by G.S.R. 127 of 22-3-86.
Substituted by G.S.R. 66 of 5-8-94.
"Deleted by G.S.R. 2 dated 1-1-1999.
Substituted by No. F. 4 (12) FD/Ex/02 dated 1-4-2002
Added by No. F 4 (85) FD/Ex/2003 dated 19-2-2004, w.e.f. 1-4-2004
Inserted by No. F. 4 (12) FD/Ex/02 dated 1-4-2002
Substituted by G.S.R. 112 of 31-3-1996.
Inserted by G.S.R. 15(66) of 18-6-1996.
). Inserted by S.O. 106 dated 9-7-98
1. Substituted by G.S.R. 66 of 5-8-94.

Serial No.	Date	Name and address of foreign tourist and vistors	Nationality	Passport No.	Quantity of liquor served
1	2	3	4	5	6

7. In regard to any matter arising out of this licence, the licensee will not be entitled to bring any action in a court at a place other than Udaipur.

8. In case of default or infringement by the licensee or his servant any condition of this licence or of any provisions of the Rajasthan Excise Act, 1950, or the provisions of the Opium Act, 1878 or rules framed thereunder or any order passed by the Excise Commissioner, it shall be competent for the Excise Commissioner [1][xxx] to cancel this licence and to forfeit the initial fee and the licence fee and to impose on the licensee a penalty which may extend to [2][upto the amount of annual renewal fees] and to recover from him the amount of penalty as arrear of land revenue.

Date of issue ..... Excise Commissioner.

I.....Licence No.....of Hotel.....place.....acknowledge the receipt of the licence granted to me and do hereby accept and undertake to abide by its terms and conditions.

Date..... Signature of Licensee

[3]FORM D

Licence for the retail sale of foreign liquor at club.

Licence No..... District.....

Locality.....

Name of licence holder.....

Name of approved salesman.....

Licence for retail sale of foreign liquor is hereby granted to Shri..... ..for sale of foreign liquor in the Club situated at premises.....during the year ending March 31, 20.....on prepayment of initial fee of Rs.....(in words.....) Prescribed under Rule 69(1) of the Rajasthan Excise Rules, 1956 subject to the following special conditions and such other conditions as may be prescribed in this behalf from time to time by the Excise Commissioner and provisions of the Rajasthan Excise Act, 1950 and the rules framed thereunder.

SPECIAL CONDITIONS

1. The licensee shall in addition to initial fee pay for the retail sale of foreign liquor fee per litre at the rate prescribed in Rule 69(1) of the Rajasthan Excise Rules, 1956 subject to the minimum fee of Rs..... (in words.....) per year or a part thereof which shall be paid before the grant of licence.

2. If any time the fee assessed per litre exceeds the minimum fee paid, such excess

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1. Deleted by G.S.R. 8 of 18-5-83.
2. Substituted by S.O. 221 dated 30-9-97 for "Rs. 500/-"
3. Added by G.S.R. 27 of 13-8-84.

ıll be paid by the licensee before he obtain liquor from the wholesale [1][or retail] dealer sale.

[1]["Provided further that the licensee may directly purchase wine from a wholesale ensee holding a licence under rule 47 (1) (a) of Rajasthan Excise Rules, 1956 on the basis a permit issued by the District Excise Officer. The licensee shall have to pay whole sale ence fee prescribed under rule 69 (1) of Rajasthan Excise Rules, 1956"]

3. Sale of liquor shall be made only at the licensed premises of the club. The ·eign liquor shall be served only to the Bonafide members of the Club and their guest. le of liquor shall not to be made to the minor members of the Club. Foreign liquor ıll be served only in the room earmaked for the purpose of such other place in the ub as may be approved by the Excise Commissioner.

4. Guest of the Club will be allowed to consume liquor on the Club-premises on ecial occasion/function with the prior permission of the District Excise Officer provided ıt such occasions/functions should not exceed twelve in one year.

5. Sale of liquor shall be made in glasses or by been bottles only' such bottles ll, on no account, be removed by the members from the premises.

6. No sales shall be made on dry days prescribed by the Excise Commissioner, ovided that this restriction shall not apply to the Foreign Embassy.

7. No sale shall be made after 11 P.M. and before 7 A.M.

8. A true and detailed account of the licence fee on the balance of stock on Ist ɔril of every year and the quantity purchased after that date through permit till the te of application of every transport permit alongwith the amount deposited for the ·sh intended purchase shall be submitted to the District Excise Officer concerned ɔngwith the application of every permit for transport.

9. With regard to any matter arising out of this licence, the licensee will not be titled to bring any action in court at place other than Udaipur.

10. In case of default or infringement by the licensee or his servant any condition this licence or any provision of the Rajasthan Excise Act, 1950 or the provisions of e Opium Act. 1878 or rules framed thereunder or any order passed by the Excise ɔmmissioner it shall be competent for the Excise Commissioner to cancel this licence ıd to forfeit the initial fee and the licence fee and to impose on the licensee a penalty hich may extend to [upto the amount of annual renewal fees][3] and to recover from m the amount of penalty as arrear of land revenue.

ate of Issue..... Excise Commissioner,
Rajasthan, Udaipur

I.....Licence No.....Club.....Place.....acknowledge the ceipt of the licence granted to me and do hereby accept and undertake to abide by rms and conditions.

ate..... Signature of licensee.

[3][XX FORM-E XX]

Notification No. F. 4 (12) FD/Ex/02 dated 1-4-2002 Amendment in form 'D' Printed in Raj. Gaz. Part IV dated 1-4-2002

Inserted by Notification No. F.4(62)FD/Ex/96 dated 31-3-97 & omitted vide G.S.R. 3 dated 7-4-98 and substituted again vide G.S.R. 11 dated 31-3-97.

Substituted by S.O. 221 dated 30-9-1997 for Rs. 500/-

Form "E" deleted vide G.S.R. 2 dated 1-4-1999.

[4]

[1]The Rajasthan Foreign Liquor (Grant of Wholesale Trade & Retail off Licences) Rules, 1982

G.S.R. 116.—In exercise of the powers conferred by section 41 of the Rajasthan Excise Act, 1950 (Rajasthan Act 11 of 1950). The State Government hereby makes the following rules and orders with reference to the proviso to sub-section (3) of the said section, that previous publication of these rules is dispensed with as the State Government considers that they should be brought into force at once namely :-

1. Short title and commencement—(i) These rules may be called the Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail off Licences) Rules, 1982.

(ii) They shall come into force on their publication in the Official Gazette.[2]

2. Definition—In these rules unless the subject or context otherwise requires the words and expression used shall, have the same meanings as defined in the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) & Rajasthan Excise Rules, 1956.

3. Eligibility and procedure of grant of wholesale trade and retail-off licences for sale of foreign liquor—Licence for a wholesale vend of foreign liquor under rule 47(1) or a retail licence for sale of foreign liquor consumption off the premises under rule 49 read with rule 48 of the Rajasthan Excise Rules, 1956 shall be granted by auction as per procedure prescribed under rule 4 of these rules. [2][or on commission basis or by negotiation with the existing licencees or by any other system sanctioned by the Government from time to time.]

[3][Deleted w.e.f. 31-3-1997]

[3][Proviso - (1) Deleted]

1. Notification No. F. 1(2) FD/Ex-81 dated, February 20.1982. Pub. in Raj. Gaz. Extra Ordi. Part IV-C (ii) dt. 20-2-1982 at Pp. 433-440.
2. Added by Notification No. F. 1(12) FD/Ex/81, dt. 31-3-1982. vide GSR 129, Pub. in Raj. Gaz. Extra-ordi., Part IV-C, dt. 31-3-1982 at Pp. 463 to 466.
3. Deleted by S.O. 6, Notification No. F.4(17) FD/EX/2004 dated 1-4-2005 following Proviso—
Provided that—
(1) A person granted licence for wholesale trade of Indian made foreign liquor and beer shall pay a composite brand fee for a year or part thereof to trade with units located in Rajasthan at the following rates—
(a) In the case of Indian made foreign liquor Rs. 50,000/- upto 10 brands and Rs. 1,00,000/- when the brands exceeds ten.
(b) In the case of beer Rs. 25,000/- upto 10 brands and Rs. 50,000/- upto 10 brands and Rs. 50,000/- when the number of brands exceeds ten.

(2) Rs. 25,000/- per brand for a year or part there of shall be charged before import y wholesaler from units not having bounded ware house in Rajasthan.]

[1][In second proviso to rule 3 of the Rajasthan foreign liquor (Grant of wholesale ade & retail off licences) Rules, 1982, the expression Rs. 25,000/- shall be substituted y Rs. 50,000/-.

[2][**3A Grant of licence for exclusive privilege**—(1) Licences for the wholesale and tail sale of foreign liquor for exclusive privilege of selling of foreign liquor within any cal area under section 24 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), ay be granted either on condition of payment of such lump-sum instead of, or in addition excise duty as may be determined by the Excise Commissioner and subject to such her terms and conditions as may be laid down by him.

(2) Licence for exclusive privilege of selling foreign liquor by wholesale or by retail ff at a shop may be granted either by negotiation with the existing licensees, or by ction in accordance with the procedure prescribed in rule 4 of these rules or on mmission basis or any other system sanctioned by the Government from time to time.]

[3][Proviso – First Three deleted].

[4]["Provided further that nothing in these rules shall prevent allowing a duty free op at International airport in the State to sell foreign liquor manufactured in other untries on such fee as the State Government may decide and on such conditions as e Excise Commissioner may specify."]

4. Procedure for Auction—(1) (a) The District Exicse Officer or any other officer thorised by the Excise Commissioner shall be presiding officer for auctions.

(b) Subject to such terms and conditions as may be laid down by the Excise ommissioner the presiding officer shall call bids to be offered regarding the fee to be id for the licence concerned.

(c) The presiding officer shall not be bound to accept the highest or any and reasons will be required to be given for not accepting higher bid or any bid.

Notification No. F. 4(18) FD/EX/98 dated 9-7-98.

Added vide G.S.R. 129 dated 31-3-1982.

Deleted by S.O. 6 Notification No. F. 4 (17) FD/Excise/2004 dated 1-4-2005, which run as follows:—

+[Provided that nothing in these rules shall prevent granting of licence for beer under more than one system to different agencies or persons in the same area].

@Provided that in Tribal sub-plan area as notified in the official Gazette from time to time, the licence for the retail sale of foreign liquor for consumption off the premises may be granted by the Excise Commissioner on condition of payment of initial fee as mentioned below. -

		Rs.
1.	Where population is upto 10,000 (According to 1981 census)	10,000/-
2.	Where population is more than 10,000 but less than 50,000 (According to 1981 census)	20,000/-
3.	Where population is more than 50,000, but than lac (According to 1981 census)	35,000/-

#["Provided further that the licence for Retail sale of IMFL & Beer in rural areas through Country Liquor shop may be granted on payment of annual initial fee of Rs. 15,000/- per shop."]

+. Added vide S.O. 240 dated 10-2-89, pub. in Raj. Gaz. EO-4 (Ga) II dated 14-2-89, p. 443.

@. Inserted by No. F. 1(12) FD/EX/81. G.S.R. 20 dated 17-2-1990, published in Raj. Gaz. EO. 4(Ga) I dated 17-12-90, pages 65, deemed to have come into force w.e.f. 31-3-82.

Added by S.O. 100 dated 17-8-1995.

Added vide Notification No. F. 4 (91) FD/Ex./2003 dated 1-6-2004 Pub. in Raj. Gaz. part 4(Ga) dated 1-6-2004 page 17 (3)

(d) Every bidder will be liable to be held to his bid whether it be the highest or not.

(e) The presiding officer shall, in accepting or rejecting the bids, exercise his discretion in such manner as to exclude bids which are the result of speculation or unhealthy rivalry or disproportionate with reference to the market value of the licence or which are likely to lead to undesirable monopoly or to malpractices. He shall have also discretion to reject bid by persons of doubtful solvency or with doubtful moral antecedents.

(f) Where the highest bid is not accepted the presiding officer shall record his reasons in writing.

(g) If the amount offered by highest suitable bidder is not adequate the grant of the licence may be with held for re-auction at a subsequent date, or for grant on commission.

(h) After the bid has been accepted by the presiding officer, no subsequent bid at that auction shall be considered.

(i) The acceptance of the bid or any other alternative system by the presiding officer shall be subject to confirmation by the Excise Commissioner.

(2) (a) As soon as the auction has been held its result shall be reported by the presiding officer to the Excise Commissioner for sanction.

(b) The Excise Commissioner may either sanction the auction or pass such other orders as he may think fit regarding the disposal of all or any of the licences.

(3) Without prejudice to the provisions of sub-rule (1) of rule 4 of these rules, the following restrictions shall apply regarding persons who can after bid at auctions:-

(i) Former licensees who are in arrears to the Government as regards payment of Excise Revenue or who have been guilty of serious breaches of the Rajasthan Excise Act, 1950; the Opium Act, 1973, any law repealed by either of these two Acts, any rule made under either or these two acts or under such repealed laws, or any conditions of any licence in respect of any excisable articles or opium, shall not be entitled to bid without the consent of the presiding officer.

(ii) An agent shall not be allowed to bid unless he holds a due authority or unless the principal is present and authorises the agent to bid on his behalf.

(iii) Without the express sanction of the District Excise Officer, no person shall bid for a licence or exercise a privilege who holds and who is the agent or servant of any person holding a similar licence in an adjoining area in any other State in India.

(iv) No person below the age of eighteen years shall be entitled to bid at auction.

(4) A copy of the notice issued for auction shall be made available before the commencement of the auction for the inspection of the intending bidders.

(5) Even District Excise Officer shall keep a register of licences auctioned by him.

(6) (a) The Excise Commissioner may at his discretion direct the adoption in a particular types of cases of a method other than auction for the grant of a licence.

(b) In Particular when a licence is cancelled under section 34 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950) a fresh licence may with the previous approval of the Excise Commissioner, be granted by re-auction or on commission basis.

(7) The Excise Commissioner may delegate all or any of his powers under these rules to subordinate officer.

[1]["4A. **Licence for group of shop**—Nothing in these rules shall prevent group of shops being put to auction for granting licences.

5. Cancellation of sanction for dafault by licensee—(1) Where a person in whose favour a wholesale trade licence or a licence for retail sale of foreign liquor off the permises has been sanctioned under these rules does not deposit the fee prescribed by rule 69(I) of the Rajasthan Excise Rules, 1956 within 15 days of the date of receipt of the sanction, the Excise Commissioner may cancel the sanction issued in his favour for grant of the licence and forfeit the amount deposited by him.

(2) Where a person in whose favour a licence has been sanctioned does not start the shop within 15 days of the receipt of licence, the Excise Commissioner may cancel the licence and forfeit the amount of auction money and also the amount of fee deposited under rule 69(1) of the Rajasthan Excise Rules, 1956.

Provided that before taking any action under sub-rule (1) and (2) above the Excise Commissioner shall give a reasonable opportunity of being heard.

(3) Where it is brought to the notice of the Excise Commissioner that :-

(a) the licensee suffers from any of the disqualifications as mentioned in sub-rule (3) of rule 4 of these rules, or

(b) the sanction for grant of licence has been obtained by the licensee by fraud and questionable methods, he shall after giving a reasonable opportunity of being heard to the licensee cancel the sanction issued for grant of licnece and forfeit the entire amount deposited by him.

6. Exemptions—(1) The provisions of these rules shall not apply to the Centeen Stores Department (India) or the Commanding Officers of the Armed Forces of the Union of India or the Border Security Force Personnel stationed in Rajasthan who are holding requisite licence under the provisions of Rajasthan Excise Rules, 1956.

[2][(2) Deleted]

7. **Fee for the renewal of licences** - (1) A licence granted or deemed to have been granted under these rules shall expire on the 31st day of March, unless it is further renewed by the licensing authority for a part of the year][3]

(2) A person seeking renewal of the licence shall apply in accordance with rule 72-A of the Rajasthan Excise Rules, 1956 and such application shall be accompanied by a treasury receipt showing the payment of :

(a) renewal fees at the rates prescribed by the State Government from time to time.

(b) the usual licence fees payable under rule 69(1) of the Rajasthan Excise Rules, 1956.

1. Added by Notification No. F. 1(12)FD/Ex/81, dt. 31-3-1982, vide G.S.R. 129, Pub. in Raj. Gaz. Extra-ordi., Part IV-C, dt. 31-3-1982 at Pp. 463 to 466.
2. Deleted by Notification No. F. 1(12)FD/Ex/81, dt. 31-9-1982 G.S.R. 129, Pub. in Raj. Gaz. Extra-ordi., Part IV-C, dt. 31-3-1982 at Page. 463 to 466.
3. Substituted for the original expression "31st day of March" G.S.R. 124 dated 24-3-1982.

[1][Provided that where the licensing authority has renewed the licence for a part of the year, the licensee shall pay the prescribed proportionate fee for such part of the year and the excess amount, if any, deposite by him while applying for license for the whole of the year shall be refunded to him".]

[2][Provided further that no person to whom a licence has been granted under these rules shall have any claim to the renewal of such licence or to any claim for compensation on the determination or non renewal thereof."]

8. Rules to have overriding effect—In case there is any conflict between the provisions of these rules and the Rajasthan Excise Rules, 1956 the former shall prevail.

9. Repeal and Saving—[3][The Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail of Licences) Rules, 1972 are hereby repealed :

Provided that any action taken and any licence granted under the rules so repealed shall be deemed to have been taken and granted under the provisions of these rules.]

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NOTIFICATIONS

[1] Notification No. 1(12) FD/EX/81, dated March, 24,1982. G.S.R. 125—In exercise of the powers conferred by clause (a) of sub-rule (2) of Rule 7 of the Rajasthan Foreign Liquor (Grant of wholesale Trade and Retail off Licences) Rules, 1982 the State Government hereby prescribes the following renewal fees for renewal of wholesale and Retail off licences of Indian Made Foreign Liquor. This will come into force the renewal of the licences with effect from 1-4-1982:-

(a)	Renewal fee for wholesale liquor licence	Rs. 15,000.00 per annum.
(b)	Renewal fee for Foreign Liquor retail off licence for the cities of Jaipur, Jodhpur, Ajmer, Kota, Bikaner and Sriganganagar.	Rs. 10,000.00 per annum
(c)	Renewal fee for Foreign Liquor retail off licence for the places other than those mentioned in (b) above	Rs. 6,000.00 per annum

[Pub. in Raj. Gaz. Extra ordi, Part IV-C dated 24-3-1982, at page 456.]

[2] NOTIFICATION–S.O. 101.–Dated May, 6, 1999—In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950) the Government of Rajasthan pleased to order that the minimum licence fees recoverable under rule 69(1) and 69(AA) of Rajasthan Excise Rules, 1956 and annual initial fee recoverable under second proviso to Rule 3-A(2) of the Rajasthan Foreign Liquor (Grant of wholesale trade and Retail of Licences) Rules, 1982 for the licences granted under exclusive privilege system shall be recoverable on proportionate basis from the licenses for the periods during which the licences were granted in the year 1996-97 and accordingly exempted from payment of these fees for the period for which licences were not granted.

[Pub. in Raj. Gaz-EO-IV Ga II—dated 12.5.99 page 113-114]

1. Added by Notification No. F. 1(12)FD/Ex/82, dt. 24-3-1982 G.S.R. 124, Pub. in Raj. Gaz Extra-ordi., Part IV-C, dt. 24-3-1982 at Page 454.
2. Added by G.S.R. 129 dated 31-3-1982.
3. Pub. in Raj. Gaz., Extra-ordi., Part iv-C, dated 29-9-1967, p. 362-371.

[3] S.O. 108.- July 9, 1998—In exercise of the powers conferred by section 41 he Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950), the State Government eby makes the following rules further to amend the Rajasthan Foreign Liquor (Grant Wholesale Trade and Retail Off Licences) Rules, 1982 and order with reference to proviso to sub-section (3) of the said section that the previous publication of these es is dispensed with as the State Government considers that they should be brought o force with immediate effect, namely:-

1. Short title and commencement—(i) These rules may be called the Rajasthan reign Liquor (Grant of Wholesale Trade and Retail Off Licences) (Amendment) Rules, 8.

(ii) They shall come into force at once.

2.Amendement of rule 3—In second proviso to rule 3 of the Rajasthan Foreign uor (Grant of Wholesale Trade and Retail Off Licences) Rules, 1982, the expression s. 25,000/-" shall be substituted by "Rs. 50,000/-".

[No. F.4 (18) FD/EX/98.] Dated 9-7-98 Pub. in Raj. Gaz-EO-IV (aa) II-dated 9.7.1998-ge 165 (9)(10)].

5

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[5]
The Rajasthan Liquor Prohibition Rules, 1967

[1][Notification No F-1 (62) FD/Ex/67/3013, dated 29-9-1967.]

In exercise of the powers conferred by sub-section (1) of Section 41 of the Rajasthan cise Act, 1950 (Rajasthan Act II of 1950), read with sub-section (4) of Section 19 thereof, State Government hereby makes the Rajasthan Liquor Prohibition Rules, 1967 and lers with reference to the proviso to sub-section (3) of said Section 41 that previous plication of these rules be dispensed with as the State Government considers that rules should be brought into force at once, namely:-

THE RAJASTHAN LIQUOR PROHIBITION RULES, 1967

A–Preliminary

1. Short title, extent and commencement—(a) These rules may be called the asthan Liquor Prohibition Rules, 1967.

(b) They shall apply to all prohibition areas in the State to which the Act extends.

(c) They shall come into force on and from the 2nd day of October 1967.

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NOTIFICATION

[2][Notification No. F. 2(7) FD/Ex/81, dated August 21, 1981

G.S.R. 53-In exercise of the power conferred by sub-section (4) of section 19 of Rajasthan Excise Act, 1950 (Rajasthant Act 2 of 1950) read with section 13 thereof, State Government hereby rescinds with immediate effect, the following Notifications ied by the State Government under the said sections from time to time, namely:-

1. Notification No. F.1(62)FD/Ex/67/3012, dated 29-9-67.
2. Notification No. F. 2(1) FD/Ex/68, dated 20-3-68, Pub. in Raj. Gaz. Extra Ordi, Part IV-C, dated 20-3-68.
3. Notification No. F 2(1) FD/Ex/68, dated 28-2-1970. Pub. in Raj. Gaz. Extra Ordi, IV-C, dated 28-2-1970
4. Notification No. F. 2(4) FD/Ex/74 dated 11-12-1974, S.O. 205 Pub. in Raj. Gaz. Extra Ordi Part IV-C dated 11-12-1974.

Pub. in Raj. Gaz., Extra-Ordi., Part IV-C, dated 29-9-1967, p 362-371.
Pub. in Raj. Gaz. Extra Ordi. Part IV-C, dated 21-8-1981 P. 131(7)

5. Notification No. F. 2(4) FD/Ex/74 dated 12-9-77 vide S.O. 19. Pub. in Raj. Gaz. Extra Ordi. Part IV-C dated 22-9-77 P 169.
6. Notification No. F. 2(4) FD/Ex/77 dated 20-9-77 vide S.O. 108. Pub. in Raj. Gaz. Extra Ordi. Part IV-C dated 20-10-77 P. 199.
7. Notification No. F. 2(4) FD/Ex/77-I dated 14-3-78 S.O. 301. Pub. in Raj. Gaz Extra Ordi. Part IV C (II) dated 14-3-1978 P. 368.
8. Notification No. F. 2(5) FD/Ex/79-I dated 31-3-79. S.O. 238 Pub in Raj Gaz. Extra Ordi. Part IV-C(II) dated 31-3-1979 p. 472.
9. Notification No.F. 2(5) FD/Ex/79-IV dated 31-3-79 S.O. 241. Pub in Raj. Gaz. Extra Ordi. Part IV-C (II) dated 31-3-79 P. 476
10. Notification No. F. 2(5) FD/Ex/79-VII dated 31-3-79 S.O. 244. Pub. in Raj. Gaz. Extra Ordi. Part IV-C (II) dated 31-3-1979 P. 479:

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2. Definitions—In these rules, unless there is anything repugnant in the subject or context,-

(a) "Act" means the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950);

[1](aa) "Country Liquor" means such Liquor as has been declared to be a country Liquor under sub-section (2) of section 4 of the Act.

[2](b) "Foreign liquor" means such liquor as has been declared to be foreign liquor under sub-section (2) of Section 4 of the Act.

(c) "Form" means a form appended to these rules;

(d) "Government" means the Government of the Rajasthan;

(e) the expression "import" "transport" or "sale" have the same meaning as are assigned to them under the Act;

(f) "medical certificate" means a certificate given by a registered medical practitioner to a person, certifying the quantity of [3][foreign and country liquor][3] to be possessed by the latter for his bonafide medicinal use;

(g) "Prohibition area" means any area where under Section 13 and sub-section (4) of Section 19 of the Act the State Government has, by notification, prohibited the possession (for sale or otherwise) & the import or transport of any kind of liquor save under the provisions made in these rules;

(h) "registered medical practitioner" means any person who is entitled to practice any system of medicine in the State under any law relating to medical practitioners; and

(i) "section" means a section of the Act

1. Added by No. F. 3(7) FD/Ex/77 dated 22-2-1980, vide G.S.R. 78, pub in Raj Gaz. Extra Ordi. part IV-C dated 22-2-1980 at 557-559.
2. Subs. by No. F. 1(2) FD/ED/Ex/70, dated 16-11-1970, published in Raj Gazette, Part IV-C, dated 17-11-1970.
3. Substituted by No. F.1 (2) FD/Ex 70 dated 16-11-1970 Pub. in Raj Gaz Part IV-C dated 17-11-1970.

B–Possession

3. Possession import and transort of liquor in prohibited area—Save as herein provided, no person shall possess (for sale or otherwise) and import or transport any kind of liquor in the prohibition area,-

(a) denatured spirit not exceeding 0.75 litres and denatured spirituous preparation not exceeding 1.75 litres;

(b) denatured spirit or denatured spirituous preparation for industrial, scientific, educational or other similar purpose, held under a permit granted by the District Excise Officer;

(c) rectified spirit in the possession of chemists, medical practitioners and persons-in-charge of laboratories under a licence granted under Rule 56 of the Rajasthan Excise Rules, 1956;

(d) rectified spirit and absolute alcohal for educational and scientific purposes in the possession of schools, colleges, institutions and hospital, under a licence granted under the Rajasthan Excise Rules 1956;

[1](e)(i) lawfully obtained liqour meant for members of the Armed Forces of the Union of India serving in prohibition Area; and

(ii) lawfully obtained liquor carried through or possessed in the prohibition area by the members of the Armed Forces of Union of India while on leave shall be exempted upto the following quantities:

Entitled personnel	Whisky Brandey Gin & Rum units 3	Wines Units 2	Bear & Cider Units 15
Officers			
C.Os and equivalents–			
P.Os/PSs Navy–			
enior N.C.Os/I.A.A.–	2 Rum		6
ther ranks	1 Rum		
imit for Senior Officers	—	2	48
ieut General	8	2	48
Major General	6	2	48
rigadiers equivalents—			
nd P.S.Os. of Navy—	4	2	48

Explanation- A unit means one quart bottle of spir it or liquor or there quart bottle of wines or vermouth or six quart bottles of malt liquor.]

(f) liquor upto the limit of private possession, as indicated below, in the possession any foreigner residing in the prohibition area :-

(i) Foreign liquor whether imported or made in India.	One bottle of the capacity of 750 milliliters or upto 12 such bottles on payment of permit fee according to the following graduated scale for a financial year or a part

Substituted by No. F. 1(2) FD/Ex 70 dated 16-11-1970 Pub. in Raj. Gaz. Part IV C dated 17-11-1970

Quantity	Permit fee
Exceeding one but not exceeding three bottle each of the capacity of 750 millilitres.	Five Rupees
Exceeding three but not exceeding six bottles each of the capacity of 750 millilitres.	Ten Rupees
Exceeding six but not exceeding Twelve bottles each of capacity of 750 millilitres.	Twenty Rupees
(ii) Beer whether importor or made in India	Six bottles each of the capacity of 750 millilitres
(iii) Cider (liquor manufactured by fermentation of the juice of any fruits) whether imported or made in India	Six bottles each of the capacity of 750 millilitres.

(g) liquor covered by necessary passes while in transit in the prohibition area transported for other area;

(h) liquor possessed by any Excise Officer of Government, acting in his official capacity :

(i) Medical and toilet preparations.

(j) Consignments of liquor in transit by rail or road through the prohibition area for destinations outside such area, provided the consignments are not tampered with or used during transit;

(k) Foreign tourists, who are in possession of a liquor permit issued by the Director of Tourism or any competent authority of any State of Centrally Administered area of the Government of India. Tourist Office in India or abroad or the Indian Missions abroad up to the quantities covered by liquor permits in their prossession.

(l) Any person or institution may keep in his possession and use any liquor for a religious purpose in accordance with ancient custom, under a permit granted by the Excise Commissioner.

4. Permits and licences for possession etc. of liquor—Notwithstanding anything contained in Rule 3:-

(a) Any person on application may be obtained brandy on the authority of a permit in Form R Pn 1 granted by the District Excise Officer or Assistant Excise Officer [1][or Tourist officer of the department of tourism] for his bonafide medicinal use on the production of a medical certificate in Form R. Pn. 2 :

[2][Provided that no permit in Form R.Pn.1 shall be granted to a [3][person who is less than 30 years of age] and that the quality to be prescribed by a registered medical practitioner for bonafide medicinal use shall not exceed:-

1. Added by No. F 3(3) FD/Ex/79 dated 31-3-1979, vide G.S.R 52, pub in Raj. Gaz Extra ordi. part IV-C(1) dated 24-7-1980 p. 108.
2. Substituted by No. F. 1 (2) FD/ED/Ex./20. dated 15-11-1970. published in Rajasthan Gazette. Part IV-C, dated 17-5-1973.
3. substituted for the word "minor' by No. F. 1 (15) FD ED/Ex./78. dated 20-4-1980 vide G.S.R 15, published in Rajasthan Gazette, Part IV-C(1), dated 11-5-1978, p. 85 w.e.f 11-5-1978 atonce.

(i) two units at a time or six units in the aggregate during a month in the case of a person residing in the prohibition area :

(ii) two units at a time or six units in the aggregate during a month in the case of a person who has to travel frequently in the prohibition area :

(iii) one and a half unit at a time during a week or part thereof for a maximum period not exceeding one month in the case of a person coming from non-prohibition area of the State or from other States:

Provided further that a person having obtained certificate in Forces of the Union of India, who are stationed in the prohibition area or who visit the prohibition area on leave or otherwise.

Explanation-A unit means one quart bottle spirt of liquor or three quart bottles of wines or vermouth or six quart bottles of malt liquor.

(b) A medical practitioner in managing and supervising change of Government, Local Fund, Railway or charitable hospital or dispensary, may possess brandy not exceeding the requirement of such hospital or dispensary for twelve months under a permit issued by the District Excise Officer[1] [or Assistant Excise Officer].

C–Import and Transport of Brandy

5. Import and transport of [2][foreign [3][and country Liquor by licensed vendor]—A licensed vendor may import or transport [2][foreign [3][and Country Liquor on the authority of a permit and a pass, as the case may be, granted by the District Excise Officer.

6. Import or transport of brandy for hospitals and dispensaries etc.—A medical practitioner in managing or supervising charge of a Government, Local fund, Railway, or charitable hospital or dispensary may import or transport such quantity of brandy as may be specified in a permit issued by the District Excise Officer [4][or Assistant Excise Officer].

D–Sale of Foreign [4][and Country Liquor]

7. Sale of [2][foreign [3][and Country Liquor] by licensee—A licensee shall sell foreign [3][and Country Liquor] to a person holding permit issued under these rules.

8. Authority to grant licence—The Excise Commissioner may grant a licence in form Pn. 3 for retail vend of brandy.

9. Procedure for grant of licence—A person desirous of obtaining a licence in form R. Pn. 3 shall apply to the Excise Commissioner through the District Excise Officers

Sub. by No. F. 1 (2) FD/ED/Ex./70, dt. 16-11-1970, pub. in Raj. Gaz. Part IV-C. dt 17-5-1973

The expression "foreign Liquor" was substituted for the expression "Brandy" by No. F. 1 (2) FD/ED/Ex./70, dated 16-11-1970, vide G.S.R. 39, published in Rajasthan Gazette, Part IV-C, dated 17-5-1973.

Substituted by No. F. 3 (7) FD/ED/Ex./77, dated 22-3-1980, vide G.S.R. 78, published in Rajasthan Gazette, Part IV-C, dated 22-2-1980, w.e.f. 22-2-1980.

Sub. by No. F. 1 (2) FD/ED/Ex./70, dt. 16-11-1970, pub. in Raj. Gaz. Part IV-C, dt 17-5-1973.

in Form R. Pn. 4. The Excise Commissioner may for reasons to be recorded in writing: refuse to grant the licence.

☐ COMMENTARY

Raj. Excise Rules, 1955, R. 72 A-Renewal of Licence—No time limit prescribed in R. 9 or 72 A for filing an application for obtaining licence-No claim to renewal of licence-Held, no illegality committed when licence granted to Ganganagar Sugar Mills Ltd.[1]

[2][9-A Fees for the renewal of licence—(1) A licence granted under [these rule] shall expire on the 31st day of March every year.

(2) A person possessing a licence under the Rajasthan Liquor Prohibition Rules 1957 and seeking renwal of the same shall apply in accordance with Rule 72-A of the Rajasthan Excise Rules, 1956 and such application shall be accompanied by a treasury receipt showing the payment of (1) Renewal fees of [3][Rs. 4000/- four thousand], and (2) the usual licence fee payable under Rule 69 of the Rajasthan Excise Rules, 1956][4]

E–Maintenance of Account

10. Register of permits—A register in Form R. Pn 5 showing the particulars of the persons granted permits under these Rules, shall be maintained in the office of the District Excise Officer or Assisant Excise Officer or [5][Tourist Officer of the Department of Tourism]

11. Maintenance of accounts by licensee—The licensee shall maintain regular accounts of his daily transactions in Form R. Pn 6 and shall submit a monthly return thereof in Form R Pn. 7 by the 5th of the next month to the District Excise Officer.

12. Licensee bound by other rules under the Act—The licensee shall, in addition to these rules, be bound to observe all the rules under the Act, which may applicable to his licence.

13. Fee for licence and other matters relating thereto - (i) The fee for the licence in Form R.Pn I shall be the same and shall be assessed and recovered in the same manner, as is prescribed for a licence for sale of foreign liquor on the permises under the Rajasthan Excise Rules, 1956.

1. Gauri Lal v. State, 1978 WLN 651.
2. Added by No. F. 4 (22) FD/Ex./ IV 77-11 dated 30-5-1977 , published in Rajasthan Gazette, Extra ordinary, Part IV-C, dated 30-5-1977, page 515.
3. Substituted for "Rs. 2000" by No. F. 4 (2) FD/Ex. IV dated 6-3-1978, published in Rajasthan Gazette, Part IV-C, dated 6-3-1978 at page 386
4. Substituted for the expression "Principle rule' by No. F. 3 (7) FD/Ex. 77, dated 22-2-1980 vide G.S.R. 78, published in Rajasthan Gazette, Part IV-C, dated 22-2-1980 at Page 558-559 w.e.f. 22-2-1978.
5. Added by No. F. 3 (3) FD/Ex 79, dated 31-3-1980 vide G.S.R 52 published in Rajasthan Gazette, Part IV-C, dated 24-7-1980 at Page 108.

[1][deleted]

2[i A) The licence fee for a year or part thereof for the retail sale of Country Liquor for each shop in a village/town with the population mentioned below (according to 1971 census), shall be as under:-

(i)	Upto 10,000	Rs. 5000/-
(ii)	More than 10,000 but less than 50,000	Rs. 10,000/-
(iii)	50 thousand and above	Rs. 20,000/-]

(iv) In all matters not specified in these rules, the Rajasthan Excise Rules, 1956 shall apply *mutatis mutandis*.

FORM R. Pn.1

[Rule 4(a)]

Permit for Purchase, Possession and Transport of liquor in the Prohibition Areas.

District.....

Permit.....

Date of issue of permit.....

Name.....Father's Name.....

Profession.....Residence.....

Street/Ward.....Police Station.....

District (in which situated).....

is permitted to purchase.....[Units (s) of [foreign and country liquor at a time during a week/month] from.....

.....(place) to.....(place) for bonafide medicinal use.

Note — This permit will remain in force upto.....

Important Conditions

1. The permit-holder shall use the liquor only as medicine. Except without permission from the authority who issued the permit, the permit holder shall have no power to pass on the liquor to any one but member of the family.

2. The permit may be cancelled on breach of any of the conditions as written on the permit.

3. The permit-holder shall keep the liquor purchased under permit in his own custody.

4. The permit-holder shall abide by the Rajasthan Liquor Prohibition Rules, 1967.

---

1 The original expression "The fee for the licence for sale of country liquor by the retail shall be rupees one hundred per year or part thereof" was deleted by Notification No. F. 2(3) FD/Ex. 81, dated 31-3-1981 published in Rajasthan Gazette, Extra ordinary, Part IV-C, dated 31-3-1981 at page 228. This expression was added by Amending Notification No. F. 3 (7) FD/Ex. 77, dated 22-2-1978, vide G.S.R. 78, published in Rajasthan Gazette, Part IV-C, dated 22-2-1980 at Page 557-550 w.e.f. 22-2-80.

2. Inserted vide No. F. 2 by ED/Ex. 81, G.S.R. 52 dated 21-8-1981, published in Rajasthan Gazette, EO, 4(Ga) 1 dated 21-8-81, Page 13(O) 1981 II KI. 393.

[1][Note– A unit means one quart bottle of spirit or liquor or three quart bottles of witness or vermouth or six quart bottles of malt liquor]

District Excise Officer/
[2][Assistant Excise Officer]
[3][Tourist Officer of the Department of Tourism]
(Rubber Stamp)

FORM R. Pn. 2

(Rule 3)

Form of Medical Certificate to be granted under the Rajasthan Liquor Prohibition Rules, 1967

Certified that Shri.....son of.....
age.....years (male or female).....
residing in.....House No.....Mohalla or Ward.....Police Station.....in.....district is suffering from disease, namely.....
and that.....[4][Unit (s) of foreign [5][and country] liquor at a time during a week/month].....is prescribed as a medicine.

Place..... Signature of Medical Practitioner,

Date..... Registered No.....

By order of the Governor.

[6][Note. — Unit means one quart bottle of spirit or liquor or three quart bottles of wine or vermouth or six quarts bottles of malt liquor.]

FORM R.Pn. 3

(Rule 8)

Licence for the retail vend of brandy for consumption of the premises in prahibition area

District.....

Registered No.....

This licence authorising the retail vend of brandy for off consumption" only on the permises specified below and the period from.....

---

1. Inserted vide No. F. 1(2) FD/ED/EX/70 dated 16-11-1970 vide GSR 39, Published in Rajasthan Gazette, Part IV-C(1), dated 17-5-1973.
2. Substituted by ibid.
3. Added by No. F. 3(3) FD/Ex. 79, dated 31-3-1980 vide G.S.R. 52, published in Rajasthan Gazette, Extra-ordinary Part IV-C, dated 24-7-1980, Page 108.
4. Substituted by No. F. 1(2) FD/Ex. 70, dated 16-11-1970 vide G.S.R. 39, published in Rajasthan Gazette, Extra-ordinary Part IVC(1), dated 17-5-1973.
5. Substituted by No. F. (7) FD/Ex. 77, dated 22-2-1980 vide G.S.R. 78, published in Rajasthan Gazette, Extra-ordinary Part IV-C, dated 22-2-1980 w.e.f 22-2-1980 at Page 557-559
6. Inserted by No. F. 1(2) FD/Ex. 70, dated 16-11-70 vide G.S.R. 39, published in Rajasthan Gazette, Part IVC(1) dated 17-5-73.

to.....is granted to Shri.....son of.....resident of..... police station in.....district.

Shop No.....Ward No.....in.....(town or city).

Description of premises

Shop No.....Ward No.....in.....(town or city).

Boundaries

North East South West

This licence is granted subject to the provisions of the Rajasthan Liquor Prohibition Rules, 1967, and subject to the payment of the licece to prescribed in the said Rules.

Special Conditions.

(1) The licensee shall not sell brandy except to persons holding permits issued under these rules upto the quantity specified therein for consumption off the premises only.

(2) The licensee shall keep his permises closed on days and during hour endorsed on the licence or specially ordered by the Excise Commissioner.

(3) The license shall furnish such information as may be demanded from him by any Excise Officer of the district.

(4) The licensee shall keep brandy of such brands and sell it at such price as may be directed by the Excise Commissioner from time to time.

(5) The licensee shall, in addition to these conditions, be bound to observe all the general conditions which may be applicable to a foreign [1][and country Liquor] licence issued under a Rajasthan Excise Rules, 1956.

Signature of the licensee. Excise Commissioner, Rajasthan

FORM R. Pn. 4

(Rule 9)

Form of application for the grant of licence for the sale of brandy in prohibition area

1. Name of applicant .....
2. Father's Name .....
3. Resident of : .....
   (1) House No. .....
   (2) Ward No .....
   (3) Town or City .....
   (4) Police Station .....
4. Brief history of the previous business

1. Added by No. F. 3(7) FD/Ex. 77, dated 22-2-1980 vide G.S.R. 78, published in Rajasthan Gazette, Extra-ordinary Part IVC(1) dated 22-2-1980 page 559 w.e.f. 22-2-1980

5. Locality of the premises to be licenced

(Full particulars to be given)

6. Name of the shop or establishment

(Whether firm, society, partner shop or company)

I do hereby declare that I shall abide by the law in force in respect of the import, transport, possession and sale of brandy.

Date.....20 Signature of applicant.

(This application is to be submitted to the Excise Officer of the district who shall transmit it to the Excise Commissioner with comments

(Rule 10)

Register showing the particulars of persons granted permits under the Rajasthan Liquor prohibition Rules, 1967

Serial No.	Date of issue of permit and form of permit	Name, Parentage, caste, residence and occupation of permit-holder	Quantity allowed (millilitres/litres)	Period of validity	Date and number of the medical Certificate in Form R. Pn. 2 and name of the medical practitioner issuing the certificate and his Registered No.	Remarks
1	2	3	4	5	6	7

FORM R.Pn. No. 6

(Rule 11)

Register to be maintained by a person holding a licence 1[xxx] under the Rajasthan Liquor Prohibition Rules, 1967

Month & date	Particulars of place whence and the pass under which each consignment of brandy was received							Issue		
	Name and address of the distiller of the licensee from whom received	No. and date of pass	Quantity				Number and date of permits	Particulars of the permit holder	Quantity in Millilitres	
			Imported		Indian				Imported	Indian
			Litres	Millilitres	Litres	Millilitres				
1	2	3	4	5	6	7	8	9	10	11

1 Deleted by the expression ""in form R Pn. 6" by Notification No. F. 3(7) FD/Ex. 77, dated G.S.R. 78, published in Rajasthan Gazette, Part IV-C dated 22-2-1978 page 559.

Balance				Remarks
Imported		Indian		
Litres	Milliliters	Litres	Millilitres	
12	13	14	15	16

FORM R. Pn. 7

(Rule 11)

Name of the Licensee.....Place.....

Month & year	Balance at the close of previous month	Receipt during the month	Total of columns 2 and 3	Sale during the month	Balance at the close of the month	Remarks
1	2	3	4	5	6	7
	Imported Indian	Imported Indian	Imported Indian	Imported Indian	Imported Indian	

Date.....

Place.....

Signature of the licensee

Rajasthan Spirituous Preparations Import, Export, Transport, Possession & Sale Rules, 1989

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Rajasthan Spirituous Preparations Import, Export, Transport, Possession & Sale Rules, 1989

❑ INTRODUCTORY NOTE

These rules came into force w.e.f. 6-11.89 which deals with the above mentioned transactions relating to "Spirituous Preparations"

"Spirituous Preparations" - means such preparations declared by the Government to be "liquor" from time to time The Government of Rajasthan declared all medicinal and toilet preparations and other spirituous preparations containing more than 20%proof alcohol to be liquor for the purpose of the Act and the Rules vide Notification S.O. 25 dated 8-5-1990.

The Government has approved the list of 26 intoxicating preparations to be for the purposes of R.26, incapable of being misused for portable purposes and therefore exempted from the operation of these rules vide S.O. 31 dated 23-1-1990.

Rule 5 provides for the following spirituous preparations which may be possessed without licence by various persons and registered practioners of various pathies within prescribed limits without a licence or permit:-

(1) Allopathic Preparations.
(2) Homoeopathic Preparations.
(3) Ayurvedic Preparations.
(4) Toilet Preparations.
(5) Essencess and
(6) All kind of Intoxicating Spirituous Preparations.

Rules 6 to 9 deal with the issuing permit or pass for import, export and transport of these preparations.

Sale of these preparation are to be regulated by licences, permits or passed issued the authorities in pursuance of Rules 10 to 23 of these Rules.

Infringement of provisions of these rules would be an offence under S. 54 of the Rajasthan Excise Act, 1950 as provided by Rule 24 (ii)

The District Excise Officer may also revoke the licence or permit on such infringement, but in cases of minor nature the District Excise Officer may restore such licence or permit on payment of an amount not exeeding Rs. 500/- by compounding the default.

Duty (Rules 25)—Where the duty is not leviable under the Medicinal & Toilet Preparations (Excise Duties) Act, 1955, the provision of the Rajasthan Excise Act, 1950 shall apply and the duty may be imposed accordingly.

Exemption (Rule 26)—The Excise Commissioner will issue a list of preparations incapable of being misused for portable purposes and these Rules shall not apply to those preparations. Vide S.O. 31 dated 23-1-1990 a list of 26 such intoixicating preparations have been exempted from operation of these rules.

Forms—The following forms have been prescribed and appended to these Rules:—

1. Application for issue of I.S.P. licence for the sale of Ayurvedic Drugs.
2. Forms of Application for the grant of licence for the sale of Intoxicating Spirituous Preparations.
3. Licence for the Sale of Intoxicating Spirituous Preparations (Form I.S.P.1.)
4. Permit for the possession of Intoxicating Spirituous Preparations. (Form I.S.P.2A.)
5. Form of Permit for import/transport of Intoxiacting Spirituous parations (Form I.S.P.3)
6. Pass for the Export/Transport of Intoxications Spirituous Preparations. (Form I.S.P.-4)
7. Register showing stock of each kind of Intoxicating Spirituous Preparations. (Form I.S.P. 5)

RULES

Notification No. F.1(2) FD/EX/89, G.S.R. 24 November 6, 1989-In exercise of the powers conferred by, Section 41 of the Rajasthan Excise Act, 1950 (RajasthanAct II of 1950) the State Government hereby makes the following rules and orders with reference to the proviso to sub-section (3) of the said section, that previous publication of these rules is dispensed with, as the State Government consideres that they should be brought into force at once, namely:-

1. These rules may be called the Rajasthan Intoxicating Spirituous Preparations, Import, Export, Transport, Possession and Sales Rules, 1989.
2. They shall extend to the whole of the State of Rajasthan.

DEFINITION

3. In these rules, unless the context otherwise requires-

(a) "Act" means the Rajasthan Excise Act, 1950 (Act II of 1950).

(b) "Excise Commissioner" means the Excise Commissioner appointed by the State Government under the Act;

(c) District Excise Officer" means the Officer appointed as such under the Act;

(d) "Form" means a form appended to these rules;

(e) "Homoeopathic Practitioner", for the purpose of these Rules means a practitioner whose name is for the time being entered in the Register Homoeopathic Medicine, Rajasthan under the Rajasthan Homoeopathic Medicine Act, 1969 or has been incorporared as a 'listed' member on a separate register maintained by the said Board;

(f) The expressions, "Import, Export and Transport" shall have the same meaning as are assigned to them under the Act;

(g) "Intoxicating Spirituous Preparations" means the Spirituous preparations notified as liquor by the Government from time to time;

(h) "Licensee" means a person licensed to possess, manufacture or for dispensing or for selling intoxicating spirituous preparations;

(i) "Prescription" means a prescription given by a registered medical practitioner to a bonafide patient,

(j) "Private medical practitioner" means a medical practitioner of modern system of medicines holding a licence under The Drug and Cosmetic Act, 1940 and the Rules made thereunder;

(k) "Registered Practitioner" means a medical practitioner registered in any State in India under any law for the registration of medical practitioners,

(l) "Ayurvedic Unani Practitioner" means a practitioner registered under any law for the registration of Indian systems of medicine for the time being in force in any State.

B. Possession

4. No person shall have, except to the extent permitted by rule 5, in his possession any quantity of any intoxicating spirituous preparations except under the authority and in accordance with the terms and conditions of a licence or permit granted under these rules.

5. The following intoxicating spirituous preparations may be possessed without a licence or permit by the persons and to the extent noted against each :-

(1) Allopathic Preparations

(a) A patient on the authority and upto the extent of a prescription issued by a registered practitioner;

(b) A registered practitioner upto 9000 milli-litre of each such preparation at any one time;

(c) A registered practitioner as Manager or Supervisor of a hospital, dispensary or clinic run either by private individual/s or organisation/s or Government or Municipal Council/Board or any other local body upto the requirement of such hospital/dispensary/clinic for a period of 12 months.

A private medical practitioner may keep in his possession at any time such intoxicating spirituous preparations as mentioned in his Drug licence to the extent of 900 ml of each preparation for the purpose of dispensing his own prescriptions :

(2) Homoeopathic Preparations

(a) A patient on the authority and upto the extent of a prescription issued by a homoepathic practitioner;

(b) A homoeopath practitioner upto 550 ml. of each such preparation at any one time;

(c) A homoeopathic practioner as Manager or Supervisor of a homoeopathic hospital/dispensary/clinic run either by private individual/s or organisation/ or Government or Municipal Council/Board or any other local body upto the requirement of such hospital/dispensary/clinic for a period of 12 months;

(3) Ayurvedic and Unani Preparations

(a) A patient on the authority and upto the extent of a prescription issued by an Ayurvedic or Unani Practitioner;

(b) An Ayurvedic or Unani Practitioner upto 900 milli-liters of each such preparations at any one time;

(c) An Ayurvedic or Unani practititioner as Manager or Supervisor of an Ayurvedic or Unani hospital/dispensary/clinic run either by private indvidual/s or organisation/s or Government or Municipal Council/Board or any other local body upto the retirement of such hospital/dispensary/clinic for a period of 12 months;

(4) Toilet Preparations

A bonafide consumer. upto 275 milli-liters of each variety.

(5) Essences

(a) A bonafide consumer upto 110 milli-liters of each variety at any one time.

(b) A manufacture of aerated water. upto 4.5 litres of each variety.

(6) All kinds of Intoxicating Supirituous Preparations

An excise officer of the Government, acting in his official capacity, upto any quantity.

C. Import, Export and Transport

6. A licensee, registered practitioner, homoeopathic practitioner, private medical practitioner, Ayurvedic or Unani practitioner or a permit holder may, subject to rule 5 above, import, export or transport intoxicating spirituous preparations on the authority of a permit or a pass under these rules.

7. A registered practitioner or a homoeopathic practitioner or an Ayurvedic or a Unani practitioner as Manager or Supervisor or a hospital/dispensary/clinic run either by private individual/s or organisation/s or Government or Municipal Council/Board or any other local body may import and transport such quantities intoxicating spirituous preparations as may be specified on the indent but not exceeding the requirements for 12 months. The indent shall be valid only when countersigned by the Chief Medicial and Health Officer for allopathic preparations by the District Ayurvedic Officer for Homoeopathic, Ayurvedic and Unani preparations. Indent for veterinary hospitals/ dispensaries will be countersigned by the District Animal Husbandry Officer. A copy of the indent shall be furnished, in advance, to the District Excise Officer for record and for such action as he may deem expedient in relation to the indent in regard to the quantity to be imported to transported

8. A permit holder may import such quantity of intoxicating spirituous preparations as may be authorised under the permit granted to him.

9. Subject to the provisions of rule 5 and 7 every consignment of intoxicating spirituous preparations imported, exported or transported shall be accompanied by a permit or pass issued under these rules.

D. Sale

10. A manufacture shall subject to the conditions of his licence, sell intoxicating spirituous preparations to :-

(a) a registered practitioner;
(b) a homoepathic practitioner;
(c) Ayurvedic or Unani practitioner;
(d) a licensee.
(e) a permit holder; or
(f) a private medical practitioner;

only in such quantity and for such purpose, as he may be authorised under the rules and/or as may be specified in his licence or permit.

11. A licensee shall, subject to the conditions of his licence, sell intoxicating spirituous preparations to:-

(a) a registered or homoeopathic or a homeopathic practioner or an Ayurvedic or a Unani practitioner or a private medical practitioner;

(b) a registered or homoeopathic practitioner or an Ayurvedic or a Unani practitioners in-charge of a hospital/dispensary/clinic;

(c) another licensee;

(d) a permit holder;

(e) a person holding a precription of a registered practioner/homoeopathic practitioner, a private medical practitioner or an Ayurvedic or Unani practitioner in accordance with such prescription; and

(f) to any person in any quantity which he permitted to possess without permit/ licence under rule 5 and rule 26.

12. A registered practitioner or a homoeopathic practitioner or an Ayurvedic or a Unani practitioner shall sell intoxicating spirituous preparations only for dispensing his own prescription or the prescription of another registered practitioner, a homoeopathic practitioner or an Ayurvedic/Unani practitioner.

13. A private medical practitioner shall sell intoxicating spirituous preparations only for dispensing his own prescripitions.

14. Unless otherwise mentioned on the prescription by a Registerred practitioner or a Homoeopathic practitioner or an Ayurvedic or Unani practitioner, the licensee or the Registered practitioner or Homoeopathic practitioner or Ayurvedic of Unani practitioner shall sell the intoxicating spirituous preparations only once. After noting the date of sale, Seal & Designation on the prescription and making an entry in the sale register, the prescription shall be returned to that patient or his representative.

E. Approval authorisation, Licences, Passes and Permits

15. The District Excise Officer on the recommendations of the Excise Inspector concerned may grant a licence in form I.S.P. 1 to-

(a) any chemist and/or drugist holding a licence under the Drugs Control Act;

(b) a homoeopathic chemist or homoeopathic practitioner (for homoeopathic preparations only); or

(c) any person engaged in sale of general stores or toilet preparations and/or essences, or Ayurvedic or Unani medicines

16. The licence fee shall be annual and as fixed by the Excise Commissioner, Rajasthan from time to time subject to the approval of the Government.

17. A person desirous of obtaining a licence may apply in from I.S.P. 2 to the District Excise Officer. The District Excise Officer, may, for reasons to be recorded in writing, refuse to grant the licence.

18. The District Excise Officer on the recommendations of the Excise Inspector concerned shall be competent to grant a licence for the possession and sale of intoxicating spirituous preparations.

19 (1) No permit for the possession of a intoxicating spirituous preparations in excess of the quantities specified in rule 5 shall be granted except in respect of such kinds thereof, as are described in column 1 of the Schedule below to the persons specified in column 2 to the extent specified in column 3 and for the purpose specified in column 4 of the said Schedule:-

(1) Allopathic Medicinal preparations	(i) Manufacturer of Homoeopathic dilutions.	2.25 litre each	For manufacturing some other preparation
	(ii) Any person.	550 ml. each	For private home consumption
(2) Toilet preparation	(i) Institution	2.25 litres each	For external use
	(ii) Any person	550 ml. each	For private Home consumption.
(3) Essences	(i) Manufacturer of areated water	9 litres each.	
	(ii) Manufacturer of Ice-creams.	2.25 litres each	
	(iii) Any person for bonafide private consumption	550 ml. each.	
(4) Intoxicating spirituous preparations	(i) Institutions	As fixed by the Excise Commissioner	For bonafide home consumption.
	(ii) Any person		

(2) permit in form I.S.P. 2A may be granted by the District Excise Officer to any person mentioned in sub-rule (1) on payment of a fee of Rs. 5/-

20. The District Excise Officer shall grant permits in form I.S.P 3 for the import or transport of intoxicating spirituous preparations.

21. The District Excise Officer shall issue export and transport passes in Form I.S.P.4.

22. (1) The licensee shall maintain correct account of his daily transaction in form I.S.P. 5 and submit a monthly return in Form I.S.P. 6 to the District Excise Officer concerned:

Provided that the Excise Commissioner, in his discretion may relax in full or in part, the provisions for the maintenance of accounts in form I.S.P. 5 in the case of an individual or certain class of licensees.

(2) The permit holder shall maintain a correct account of receipt and consumption of intoxicating spirituous preparations under his permit.

23. The Excise Commissioner, Rajasthan, may, by special order, authorise any officer of the Excise Department to issue export passes for the export of the Intoxicating Spirituous Preparations.

24. (i) The licensee, shall, in addition to these rules, be bound to observe all the rules under the Act applicable to his licence.

(ii) Any infringement of the provisions of these rules would be an offence under section 54 of the Act;

Provided that if the licensee or permit holder infringes or causes or permits any person to infringe any of these rules or any of the conditions of his licence/permit the District Excise Officer may without prejudice to the remedy of prosecuting the offender, revoke the licence/permit:

Provided further that ifthe infringement is of a major nature, the licence or permit; as the case may be, may be restored on payment of such sum not exceeding Rs. 500/- as the District Excise Officer may determine.

25. (i) In the matter of duty to be paid on intoxicating spirituous preparations and not leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 the provisions of the Rajasthan Excise Act, 1950 shall apply.

(ii) In all other matters not specified in these rules the provisions of Rajasthan Excise Ruls, 1956 shall apply ***mutatis mutandis.***

26. These rules shall not apply to the inotoxicating spirituous preparations:-

(i) As are considered by the Excise Commissioner from time to time to be incapable of being misused for potable purposes and declared as such by him by issue of notification.

FORMS

To

The District Excise Officer,

_____

_____

Through : Excise Inspector.....

Subject :- Issue of I.S.P. licence for the sale of Ayurvedic Drugs.

Dear Sir,

I am enclosing herewith the following documents for the issue of ISP-I licence for the sale of Ayurvedic Drugs. I/We hope that you will find the documents in order and favour me/us by issing the ISI Licence at an early date.

1. Application in the form-ISP-II.
2. Site Plan of the Shop (Two copies).
3. Bank Draft for Rs. 1,000/- in favour of the District Excise Officer.....
4. Rent Receipt/proof of ownership of the property.

Thanking you.

Your faithfully.

Form of application for the grant of licence for the sale of Intoxicating Spirituous eparation.

1. Name of the Applicant .....
2. Father's name .....
3. Resident of .....
   1. House .....
   2. Ward .....
   3. Town or City .....
   4. Police Station .....
4. Brief History of the Previous Business .....
5. Locality of the premises to be licenced (full particulars to be given) .....
6. Name of the shop or establishment (Whether firm, society, partnership or company) .....
7. If convicted for any offence, details thereof .....
8. Details of criminal cases Pending against the applicant, if any .....
9. Details of the sale of Intoxicating Spirituous Preparations made during the three years prior to application .....
10. Particulars of the Intoxicating Spirituous Preparations for which licence is required and quality of each such preparations .....

I do hereby declare that I shall abide by the laws in force in respect of the import, ort, transport, Possession and sale of intoxicating spirituous preparation.

Dated.. ..... (Signature of the Applicant)

FORM I.S.P. 1

(see Rule 15)

ICENCE FOR THE SALE OF INTOXICATING SPIRITUOUS PREPARATIONS

. of licence..... Date.....

Licence for the sale of intoxicating spirituous preparations mentioned on the reveres ranted to Shri.....proprietor/manager of .....having place of business at.. ..... the period from.....to 31st March, 199.....on payment of annual fee of Rs.....paid) the treasury on

This licence is granted subject to the Rajasthan I.S.P. Improt, Export Transport Possession and Sale Rules, 1989 and to the terms and conditions specified below.

Description of the licenced premises

Dated : ..... (Licensing Authority)

CONDITIONS

1. On the termination or the cancellation of the licence, the licensee shall surrender the licence, stock and account books to the competent authority. The Distt. Excise Officer or any other licensing authority may, after such enquiry as may be deemed necessary, direct any licence to whom the stok is transferred, to pay much price of the stock, as he/it may deem fit. The stock, unfit for human consumption, shall be liable to destruction at the cost of the licensee whose license is terminated or cancelled.

2. The licensee shall permit the Excise Officer of the Excise Deptt. to enter the premises and examine the stock and accounts connected with the licence.

3. The licensee shall not import from other State any I.S.P except under an import permit granted by the competent excise authority of Rajasthan Such an import permit will, however, not be necessary in case supplies I.S.Ps. are obtained in bond, from a licensed manufactory or bonded warehouse in accordance with the Medicinal and Toilet Preparations (Excise Duty) Rules, 1956.

4. As soon as the consignment of the I.S.Ps. is received by the licensee, he shall inform the said competent authority, who shall depute an officer of the Department to check and verify the contents with the pass covering the consignment. The licensee shall then enter the receipt in his sales register before making sale of it.

5. The licensee shall maintain all permits passes and copies of the prescriptions and produce them before the inspecting officer in order to enable him to check the receipts and sales of such preparations.

6. The licensee shall keep the stock of such preparations separately at the licensed premises and nowhere els.

7. The licensee shall maintain accounts in the prescribed form and shall submit the prescribed returns monthly.

8. The licensee shall not possess and sell, any ISPs, except the following :

Name of Intoxicating Spirituous preparations	Quantity allowed to be possessed and sold during the year
1.	
2.	
3.	
4.	
5.	

FORM I.S.P. 2-A

[See Rule 19-(2)]

Permit for the possession of Intoxicating Spirituous preparations.

No. of permit..... Date of permit .....

Permit authorising the possession of intoxicating spirituous preparation in privileged quantities only in the premises herein specified viz..... and for

the period from.....to 31st March, 20.....is granted to.....of .....in the district of.....subject to the provisions of the Rajasthan Intoxicating Spirituous Preparations Import, Export, Transport, Possession and Sale Rules, 1989 and the conditions specified below :-

CONDITIONS

1. The permit holder may possess such of the intoxicating spirituous preparations and in such quantities as are mentioned below:-

2. The permit holder shall use in one year only such quantities of Intoxicating Spirituous Preparations as are mentioned against each.

3. The permit-holder shall, in regard to such matters as are not specifically prescribed, carryout the directions of the authority granting the permit or superior in rank.

4. The permit-holder shall keep an up-to-date account of receipt and consumption of intoxicating spirituous preparations and manner as may be required by the authority granting the permit.

5. The permit-holder shall permit the excise officers of the excise department to enter the premises and examine the stock and accounts connected with the permit.

Date..... (Authority granting the permit)

FORM I.S.P. 3

(See Rule 20)

Form of permit for Import / Transport of Intoxicating Spirituous perpapations

Number of permit
Date of permit
Name of Licensee

(or Registered Medical Practitioner)

licenced to sell intoxicating spirituous preparations at.....in the..... district, is hereby permitted to Import / Transport the intoxicating spirituous.

to his vend permises.

This permit is valid upto the.....day.....of.....20.

District Excise Officer

Name of the Intoxicating spiritous preparations.	quantity	Rate of duty to be charged before issue (if any)	Remarks

(To be prepared in duplicate, one copy to be given to the applicant)

FORM I.S.P.- 4

(See Rule 217)

Pass for the Export of intoxicating spirituous preparations.

Transport

Pass No..... Dated the.....

for the Export of the intoxicating spirituous preparations from the premises

Transport

of.....at.....to the permises of M/s.....at.....on the authority of the permit No..... dated,.....signed by the competent authority of.....District.

S. No.	Name of preparation	Batch No.	No. of containers	Qty.	Strength	Proof Gallon contents	Rate of Duty

Amount of duty	Remarks	District Excise Officer

The pass is valid to the.....

The Licensee shall not open the bulk unless it has been chacked by an Officer of the Excise Department.

(To be prepared in triplicate-one part will accompany the consignment, another will be sent to the Excise Officer fo the district issuing the permit against which supply is being made, the counterfoil to be kept by the office issuing this pass).

FORM I.S.P.-5

(See Rule 22)

Register showing the stock of each kind of intoxicating spirituous preparations.
Name of Licensee.
Particulars of the licensed premises
Number of the Licence

Date	Opening Balance	Receipt				Issue	
		No and date of pass	Name of the licensee/ manufacturer from whom purchased	Qty.	No. and date of pass if any	particulars of the purchaser	Qty. sold

Balance in hand (Quantity)	Initial of licensee	Remarks

Note :— Entries relating to each intoxicating spirituous preparation will be made on a separate page.

FORM I.S.P.-6

(See Rule 22)

(Monthly return to be submitted to the District Excise Officer)

lame of the Licensee

articulars of licensed premises.

lame of ie month	Total Quantity of intoxicating Spirituous preparation in hand at the close of the preceding month	Total quantity received during the month	Total Quantity sold during the month	Bal. in hand at the close of the month	Remarks

ate :

(Signature of the Licensee)

o be submitted by the following month)

NOTIFICATIONS

1. No. F D1(2) FD/EX/6.11.1989 In exercise of the powers conferred by clause (ii) Rule 26 of the Rajasthan Intoxicating Spirituous Preparations, Import, Export, Transport, ssession and Sale Rules, 1989, I,.....,Excise Commissioner, Rajasthan hereby clare, with the prior approval of the Government, the following intoxicating spirituous eparation to be for the purposes of rule 26 of the aforesaid rules, incapable of being isused for portable purposes and; therefore, exempted from the operation of the said les:-

1. Tr. Aconite.
2. Tr. Belladonna.
3. Liq. Fer. Porchlor.
4. Tr. Hyoscyamous.
5. Tr. Ipecar.
6. Iodine Solution Strong
7. Iodine Solution Weak.
8. Tr. Lebelia Ether.
9. Tr. Stramonium.
10. Camphor Liniment Ammoniated.
11. Aromatic Spirit of Ammonia.
12. Cadamon Tincture Compound.
13. Chloroform Spirit
14. Liq. Ext. of Colchium Corm.
15. Liq. Ext. of Nuxvomica.
16. Ext. of Digitalis.

17. Micoren Drops (Geigy).
18. Mophenesin Injection and Elixir.
19. Tonics containing upto 20 degree proof alcohol
20. Tr. Iodine.
21. Tr. Benzoin Co. I.P.
22. Lig Ext. Glycerrizha I.P.
23. Gum Paints.
24. Disinfectants, Antispeptics, Hair Tonics/Lotions Vitalizer, After Shave Lotions/ Sprays/Cologne and perfumes with cartons displaying the words "for external use only"
25. Homoeopathic Dilutions.
26. Homoeopathic Specialities approved under the Drugs and Cosmetic Rules, 1945.

(Published in Raj. Gaz. Ex. ordi. 4 (Ga) (I)-Dt 6-11-89 page 140)

2. (No. F1 (2) FD/Ex/89, S. O. 25-dated 8-5-1990)-In exercise of the power conferred by sub-section (15) of section 3 and sub-section (1) of Section 4 of the Rajasthan Excise Act, 1950 (Raj. Act No. 2 of 1950), read with rule 3 (9) of the Rajasthan Intoxicating Spirituous Preparations, Import, Export, Transport,Possession and Sales Rules, 1989 and in Contituation of Notification No F 49/(8) SR.53 dates 15-2-1957, R G.G.I (B) dated 28-2-57, the State Government is pleased to declare all medicinal and toilet preparations and other spirituous preparations containing more than 200 proof alcohol to liquor for the purpose of the said Act and Rules,

[Published in Raj. Gaz. EO, 4 (Ga) (II) dated 8-5-1990. Page 29 (2)]

Centain Intoxicating Spirituous preparations, declared incapable for potable purposes ans exempted from operation of said rule.

3. (अधिसूचना संख्या प. 33 (फार्मेसी)/77/124, एस.ओ. 31, जनवरी 23, 1990)—राजस्थान मादक स्पिरिटयुक्त निर्वितियां, आयात, निर्यात, परिवहन, कब्जा और विक्रय नियम, 1989 के नियम 26 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, एस.डी. श्रीवास्तव, आबकारी आयुक्त, राजस्थान सरकार के पूर्व अनुमोदन से, निम्नलिखित मादक स्पिरिटयुक्त निर्मितियों को उपर्युक्त नियमों के नियम 26 के प्रयोजनों के लिए पेय प्रयोजनों के लिए दुरुपयोग के अयोग्य घोषित करता हूं और अतः इन्हें उक्त नियमों के प्रवर्तन से इसके द्वारा छूट देता हूँ :—

1. टिंचर एकोनाइट
2. टिंचर बेलेडोना
3. लिक्विड फैरी पेरकलर,
4. टिंचर आसिएमस
5. टिंचर एपेकाका
6. आयोडिन सोल्यूशन स्ट्रांग
7. आयोडीन सोल्यूशन वीक
8. टिंचर लोबेलिया ईथर

9. टिंचर स्ट्रेमोनियम
10. कैम्फर लिनिमैन्ट एमोनियेटिड
11. अमोनिया की ऐरेमिटिक स्प्रिट
12. काडेमम टिंचर मिश्रण
13. क्लोरोफार्म स्प्रिट
14. कोलक्किम कोर्म का जिंक एक्शाट
15. नक्सवोमिका का लिंक एक्शाट
16. डिजिटेलिस का एक्शाट
17. माइकोरेन ड्राप्स
18. मैंफेनेसिन इंजेक्शन तथा एलिक्सिर
19. 20 डिग्री तक प्रूफ एल्कोहल वाले टानिक
20. टिंचर आयोडिन
21. टिंचर वेनजोइन को आई. पी.
22. लिंक एक्शाट ग्लाईसेरिझा आई. पी.
23. गम पेंट
24. डिसईफैक्टैट्, ऐंटीसेप्टिक्स, हेयरटॉनिक/लोशन वाईटालाजर, आफ्टर शेव लोशन स्प्रे/कोलोन एण्ड परफ्यूम्स विद कार्ट्स डिस्पेलेयिंग दी वर्ड्स फार एक्सटर्नल यूज ओनली
25. होमियोपैथिक डियल्यूशन
26. औषधि और प्रसाधन सामग्री नियम 1945 के अधीन अनुमोदित होमियोपैथिक स्पेशलिटिज [Published in Raj. Gaz. 4(Ga) (II) Dt. 23-8-90 Page 43.]

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[7]
THE RAJASTHAN BREWERY RULES, 1972

THE RAJASTHAN BREWERY RULES, 1972

[1]NOTIFICATION

G.S.R. 56.—In Exercise of the powers conferred by Section 42 read with Section 17 of the Rajasthan Excise Act, 1950. (Rajasthan Act, II of 1950), the Excise Commissioner, with previous sanctions of th State Government hereby makes the following rules, namely;-

1. Short title and commencement—These rules may be called the Rajasthan Brewery Rules, 1972 and shall come into force with effect from the date of their publication in the Gazette.

2. Definitions—In these Rules, unless the context otherwise requires.—

(a) 'Act' means the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950).

(b) 'Beer' means any liquor prepared from malt or grain, with/without addition of sugar and hops and includes sale port and stout

(c) 'Brewer' means a person holding a licence in form [2][R.B.I.(B)] for running a brewery;

(d) 'Brewery' means a building where beer is brewed and includes every place therein where or beer is stored wherefrom it is issued;

(e) 'Copper' means any vessel in which either worts or water is boiled or heated in the course of brewing;

(f) 'Excise year' means the period commencing from 1st days of April and ending on 31st day of March following;

(g) 'Fermenting vessel; means any vessel in which worts are formented by the action of yeast;

(h) 'form' means from appended to these rules;

(i) 'Gravity' means the proportion which the weight of a liquid beers to that of an equal bulk of distilled water, the gravity of distilled water at 60.F, being taken to be 10000;

(j) 'Hops' means the ripe female flowers of the hop plant or its other parts used in brewing for giving bitter taste to beer and for preserving and clarifying it;

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1. Notification No. F. 32-(15) 63 EX-1-73, dt. 9-1-73. Pub in Raj. Gaz., Extra-ordi., Part 1/-C (1) dated 12-1-73 at P. 361, Came into force on 12-1-73
2. Substituted vide GSR 158 dated 28-8-75 Pub in Raj. Gaz-ordy-4-Cl- dated 4-9-75

(k) 'Hop back' means any vessel into which worts are run after boiling for removal of the spent hops;

(l) 'Licence' means a licence granted for a brewery under Section 16 of the Act;

(m) 'Licensee' means a holder of such licence;

(n) 'Malt' means the basic germinated grain used for brewing obtained as result of diastatic fermentation or subjecting grain to the process of steeping and couching;

(o) 'Malt substiutes' means sugars or starches mixed in proper proportion for being used as a substitute for malt for brewing purpose;

(p) 'Mashtum' means any vessel in which malt or grain is exhausted of its fermentable contents in the course of brewing;

(q) 'Offier-in-charge' Means the Excise Inspector or any other office of the Excise Department not below the rank of Excise Inspector appointed by the Excise Commissioner to hold charge of a brewery;

(r) 'Backing or setting back' means any vessel into which worts are passed from a fermenting vessel and run off into store vats or casks;

(s) 'Under back' means any vessel into which worts are run either from the Mashtum or hop back;

(t) 'Worts' means the liquor obtained by the exhaustion of malt or grain or by the solution of saccharine in the process of brewing.

A-Establishment of Breweries

[1]["3. **Grant of"No objection Certificate**—Any person desiring to construct and work rewery shall first apply for grant of "no objection certificate' to the Excise Commissioner ough the District Excise Officer concerned after having deposited the fee prescribed this purpose. Excise Commissioner, subject to general or specific instructions of the ite Government, may issue "no objection certificae.']

[1][4 **Grant of permission for construction:**—The holder of "no objection certificate' ill seek the permission of Excise Commissioner for construction of brewery after having mpleted the formalities prescribed by Excise Commissioner in this behalf and depositing fee prescribed for this purpose. Along with the application, the applicant shall file a n and full description of his premises and vessels, clearly specifying the purpose of, d distinguishing mark on each room and vessel. Excise Commissioner, if he is satisfied t there is no objection to doing so, may grant permission for construction by way of ence in form RB 1 (A)]

[1]["**5.Grant of licence for working of brewery-**On receipt of intimation of completion construction from the person holding licence in form R.B.1. (A) and after satisfying that prescribed for this purpose has been deposited and there is no objection to doing Excise Commissioner may grant licence in Form R.B. 1(B) for manufacture of beer."]

Substituted by Notification No.32 (B) (49) Ex/L88-IV/3302 dated 28-01-2006.

6. Power to refuse or grant licence—The Excise Commissioner shall have power to grant or refuse any application for licence or for renewal of a licence having regard to actual requirments in the State.

[1["**7 Permission for addition/alteration-**Any addition to or alteration of brewery plant or building shall be made with the prior permission of Excise Commissioner and no such permission shall be given unless the fee prescribed for this purpose has been deposited."]

8. Forfeiture of and deduction from the security deposit—In the event of any breach of the Excise laws for the time being in force being proved against the brewer or any person in his employ or acting on his behalf, the Excise Commissioner may forfeit the whole or part of the security and may also cancel the brewery licence. The Excise Commissioner may also direct deduction therefrom all sums which become due to the State Government by way of duty, licence fee, penalty or fine.

9. Renewal of licene—(1) Application for renewal of licence for the following Excise year shall be made to the Excise Commissioner through the District Excise Officer on or before February 28 each year. If there has been alteration in either plant or building, fresh application must be submitted. If there has been no alteration, a certificate to this effect from officer-in-charge should be attached with the application for renewal of the licence.

(2) The renewal of licences shall not be made a matter of course.

(3) In renewing licences the Excise Commissioner shall keep due regard to the following:-

(a) any direction issued by the State Government on matters of Excise or prohibition policy;

(b) any alteration of plant or building by the brewer without the proper consent of the State Government; and

(c) contravention of any provision of the Act or the rules made thereunder.

10. Unrenewed licences to be void—Unrenewed licences shall be null and void and the beer produced in the brewery after the expiry of the licence shall be liable to seizure and confiscation and the parties working the brewery to the penalties provided by law for illicit brewing:

Provided that in the event of renewal of licence being refused, permission may be granted for continuing operations temporarily for a reasonable time, pending an appeal or revision, as the case may be, before approproate authority.

11. Transfer of licence—Ever licence shall be deemed to have been granted or renewed personally to the licence and no licensee shall be sold or transferred without obtaining the previous permission in writing of the licensing authority.

12. Removal of beer etc. after expiry of licence—On the expiry or his licence unless a fresh licence is granted to him licence is cancelled or suspended the brewer shall be bound forthwith to pay duty on and to remove all beer remaining within the brewery in

1. Substituted by Notification No.32 (B) (49) Ex/L88-IV/3302 dated 28-01-2006.

cordance with the rules in force. Failure to do so within 10 days of receipt of writteh ·tice from the District Excise Officer shall entail on the brewer the libility of meeting the st of any establishment which it may be necessary to employ at the brewery. In the ent of the failure continuing for more than three weeks, the Beer shall be liable to be rfeited at the discretion of the Excise Commissioner.

13. Office for officer-in-chage to be provided by the brewer—The brewer shall ovide, within the brewery enlosure an office for the officer-in-charge duly equipped with fice furniture and no rent shall be chargeable therefor.

14. Residential quarters for Excise Supervisory staff to be provided by the brewer—ıe brewer shall also provide rent-free residential quarters to the satisfaction of the Excise ›mmissioner for the Government Excise Establishment posted to the brewery.

15. Government not liable for loss etc. of beer in a brewery—The State Government all not be liable for the destruction,loss or damage of any beer stored in a brewery by e or theft, or by gauging or by any other accident, cause whatsover in case fire or other cident the officer-in-charge shall immediately attend to open the premises at any hour the day or night.

B-General Arrangement and Management of Breweries

16. Distinguishing mark to be painted on each room, place and vessel—On the tside of the door of every room and place in which business is carried on and on some nspicuous part of each vessel there shall be, legibly painted in oil colour the name of ssel, utensil room or place according to the purpose for which it is intended to be used. more than one room or vessel is used for the same purpose each shall be distinguished a progressive number.

17. Manner of fixing of vessels—Mashtuns, under backs, wort receivers, coppers d collecting and fermenting vessels shall be so placed and fixed that contents of each n be accurately guaged or measured.

18. All mashtuns and other vessels to be gauged—All mashtuns and frementing ssel shall be guaged jointly by the officer-in-charge and the licence. Tables in Forms 3-2 shall be prepared by the officer-in-charge showing the total capacity of each vessel litres (or in case of mashtuns, in imperial bushes) and the capacity of each tenth of ntimetre in depth.

19. Placement of Mashtuns, etc, to admit of gauging and alterations to be intimated the officer-in-charge—All mashtuns' underbacks, Coolers fermenting vessels and settling cks shall be so placed and fixed as to admit of their contents being accurately ascertained guage or measure and shall not be altered in shape position or capacity without two ys' notice in writing to the officer-in-charge.

20. Re-gauging necessary after alteration in placement of mashtuns etc.—No ssel which has been altered in shape, position or capacity shall again be taken into use less it has been re-gauged by the officer-in-charge and new tables worked out by him necessary.

21. Brewers to provide weights, scales and other appliances.—The brewer must provide and maintain adequate number of scales in good working order and weight of correct specification and other necessary and reasonable appliances to enable the officer-in-charge and other officers to take account of or check by weight guage or measure, all materials and liquids produced in brewing and provide sufficient (lights.lader and facilities to enable the excise staff to perfrom their duties.

C-Control of Breweries

22. Excise Commissioner to appoint officer-in-charge of brewery.—Every brewer shall be placed by the Excise Commissioner under the charge of an Excise Inspector to be designated as officer-in-charge of the brewery, The Excise Commissioner will further, appoint such other officers of the Excise Department as he may deem fit to the charge of brewers. The pay of all such officers shall be met by the Government.

23. Control—The officer-in-charge will otherwise directed to work under the supervision of and correspond with the District Excise Officer in whose jurisdiction the brewery lies. In all ordinary matters regarding the working of the breweries, the brewers should in the instance apply to the officer-in-charge, who will if necessary secure orders.

24. Control of officer-in-charge over admittance and behaviour of persons to brewery premises—Rules governing admittance and behaviour of persons within distillery premises, shall apply mutatis mutandis,to admittance within brewery premises of persons and their behaviour within the premises.

25. Hours of attendance and holidays to excise official—Rules governing the hours of attendance of excise officials posted to distilleries holidays allowed to them and overtime work by them shall govern excise official posted to breweries also.

26. Special duties of officer-in-charge posted to brewery—It shall be the special duty of the officer-in-charge to see that-

(i) the brewer's licence in the prescribed [1][Form R.B.I-B is renewed in time;

(ii) the brewer markes entry of this premises and utensils in From R.B. 3;

(iii) the vessels and rooms in the brewery are properly numbered and marked;

(iv) the entries made by the brewer in the brewing book in Form R.B 4, promptly and correctly made;

(v) no materials other than those entered by the brewer in the brewing book are used;

(vi) no worts are removed from the brewery until an account of them has been taken;and

(vii) the rules prescribed for the management of breweries are strictly followed.

27. Instruments to be supplied—The officer-in-charge shall place indent on Excise

1. Substituted vide GSR 158 dated 28-8-75.

Commissioner through the District Excise Officer for instruments, such as Saccharometers and thermometers, as are necessary and will maintain an account thereof in Form R.B.5. He will be reponsible for their safe custody,and if any instrument is broken or lost for want of proper care, he may be required to make good such loss or damage.

28. Brewery open to inspection by officers—The brewer shall, at any time permit the Excise Commissioner, District Excise Officer of any officer of the Excise Department not below the rank of Excise Inspector, in whose jurisdiction the brewery lies, to inspect and examine his brewery the premises, warehouse, utensil connected therewith, any room, place or utensils and the beer made or stored therein and shall render the inspecting officer all assistance in making such inspection and examination.

29. Notice before brewing—The Excise Commissioner may require any brewer to send to the officer-in-charge forty eight (48) hours before brewing, a written notice of his intention to brew.

30. Use of deleterious matter prohibited—The excise Commissioner may prohibit the use of any material in the manufacture of beer, which in his opinion, is of deleterious nature.

31. Analysis of sample—The Officer-in-charge or any inspecting officer may take without payment for the purpose of analysis, samples of any beer of material used in the manufacture thereof, and all expenses connection with packing, despatch chemical analysis etc. shall be borne by the brewer.

32. Sampling—All samples taken will be recorded by the officer-in-charge in the register in Form R.B.6 and will forwarded by him direct in the Chief Public Analyst Government of Rajasthan, Jaipur along with an advice note, stating the nature of the examination of analysis required.

D-Mode of Working

33. Brewer's book—The brewer shall keep a book in Form R.B.4 and shall observe the following rules in relation to it and to the entries to be made therein;

(1) He shall keep the book in some part of his licensed premises, ready at all times, for the inspection of the Excise Commissioner, the officer-in-charge or any other officer of the Excise Department, and shall permit any such officer who is authorised to inspect the brewery, at any time to inspect the same and take extracts therefrom.

(2) He shall enter separately in the book the quantity of malt, corn, sugar, hops and hops substitutes which he intends to use in his next brewing and also the days and hour when such next brewing is intended to take place.

(3) He shall make such entry, so far as respects the day and hour of brewing, at least twenty-four before he begins to mash any malt or dissolve and sugar, and so far as respects the quantity so malt, corn, sugar, hops and substitutes at least two hours before the hour entered for brewing.

(4) He shall at least two hours before the hour entered for brewing enter the when all the worts will be drawn off the grawn off the grains in the mashtun.

(5) He shall within one hour of the worts being collected in the formenting vessel or, if the worts be not collected before six in the after-noon before eight in the forenoon on the following days, enter the dip and gravity of worts produced from each brewing, and also the description and number of the vessels into the worts have been conveyed.

(6) He shall at the time of making any entry, insert the date when the entry is made.

(7) He shall not cancel, obliterate or alter any entry in the book or make therein any entry which is untrue in any respect, should it be necessary to correct any entry a line shall be drawn through the incorrect entry in such a manner as to leave it distinctly visible, and the amended entry shall be inserted above it;every correction shall be initialled by the person making it at the time.

34. Produce of any brewing not to be fixed with that of another unless accounted for—The brewer shall keep produce of any brewing separate from the prouduce of any brewing unless an account (regarding bulk and gravity) of each has been taken by the officer-in-charge.

35. Notice to be given when mixing to take place—The brewer shall not mix the produce to one brewing with that of another except in store vats or casks, unless he shall have given previous notice in writing to the officer-in-charge. When Mixed the brewer shall specify the quantity and gravity of the resultant mixture.

36. Time prescribed for grain to remove in mashtuns after the worts are drawn off—All grain in a mashtun must be kept untouched for one hour after the time entered in the book as the time for the worts to be drawn off, unless the officer-in-charge has attended and taken account of such grain.

37. Worts to be drawn off in the order of production—All worts shall be removed successively, and in the customary order of brewing, to the under back copper cooler and fermenting vessels and shall not be removed from the last named vessel until an account has been taken by the officer-in-charge or until after the expiry of twenty-four hours from the time at which the worts are collected in these vessels.

38. Time fixed for collection of the product of brewing—When worts shall have commenced running into a fermenting vessel, the whole of the prouduce of the brewing shall be collected within eighteen hours.

39. Extraction of spirit from refuse prohibited—No liquor except beer shall be manufactured within the brewery premises. No attempt shall be made to extract spirit from gram or the refuse of the brewery,

[1][Provided that Excise Commissioner, with the previous sanction of State Government,

1. No. F. 32(B) (105) Ex/L/96 dated 9-7-98 Pub. in Raj. Gaz. E.O. IV (Ga) II-dated 9-7-98 page 163(5) & (6).

ay allow in the same plant to manufacture, store and issue of other potable drinks g. soft drink on following amongst other terms and conditions as may be determined om time to time. Such permission shall be subject to strict observance of the rerevant ct, rules and regulations by which the said item is governed :—

(a) The unit shall put a blockade lock at the divert panel as well as on the starting point of main supply line of finished goods for filling purposes as and when for filling of soft drink is resumed by switching over.

(b) The unit shall have to pay additional fee at par with fees for brewery licence applicable from time to time.

(c) Since the Excise staff will remain deployed during the course of filling of soft drink solely, the additional bottling fees at the rate of 50% of the bottling fee of the beer as applicable from time to time would be chargeable on soft drink also so as to commensurate/compensate the expenses being incurred by the department on deployment of staff.

(d) The unit will have to provide time schedule for filling of soft drink 15 days in advance enabling the excise officials to exercise proper precautions.

(e) Filling of soft drink shall be restricted to one week at a time subject to extension with prior permission of the Excise Commissioner.

(f) The key of blockade lock shall remain with the State Excise Officials posted at the unit.

(g) State Excise Department shall not be responsible for any vicarious liability whatsoever arising out of filling-up of soft drink.

(h) The Excise Commissioner may at any time terminate the permission without previous notice and may also impose such other conditions as may be deemed proper.

(i) The violation of any term and condition shall attract penalty not exceeding ten time of fees for brewery licence."]

40. Addition to beer of material other than finings prohibited–The brewer shall ot dilute alternate or add anything to beer except finings or other matters sanctioned y the Excise Commissioner.

E-Issues of Beer

41. Beer not to be issued until duty paid or bond executed—No beer shall be moved from a brewery until the duty imposed under Section 28 of the Act has been aid or until a bond under Section 18 of the Act in Form R B 11 or R B 12 has been xecuted by the brewer for export of beer outside the State, direct from the brewery.

42. Modes of realising duty—Duty shall be realised in either of the two ways, iz,

(i) by payment in cash either in the sub-treasury or in the treasury of the district if there is no sub-treasury in the station:

(ii) by book credit from any advance account kept for the purpose

43. Mode of tendering duty in cash—If the brewer wishes to pay duty in cash he shall present an application in Form R.B. 7 in triplicate at the treasury or sub-treasury, as the case may be, correctness where of shall be duly verified by the officer in charge. The Accountant of the treasury or sub-treasury shall, after verifying that the amount tendered has been deposited with the treasurer, fill up the figure in the endorsement in all the copies of the application. He shall then present them to the officer-in charge of the treasury or sub-treasury who shall sign them in token of receipt of the amount tendered and stamp them. One copy of the application shall be given to the applicant and the second copy forwarded to the officer-in-charge of the brewery and the third copy retained for record.

44. Payment of duty from brewer's advance deposit—Brewers are permitted to make advance payments on account of excise duty on beer to be removed from time to time from the brewery, Such removals shall be permitted up to the limit of the advance, without separate payment of duty on account of each consignment of beer removed. No original advance deposit shall be less than Rs. 3,000, and if each time an advance is replenished, it must be of a sum which brings it up to less than that amount.

45. Form of application for removal of beer against advance deposit—

(a) Applications for the removal of beer on which the duty will be debited against the advance will be in Form R B 9.

(b) The register of advance deposit will be in Form R. B. 9.

46. Removal of beer from brewery not permitted save under a pass—No beer shall be removed except under a pass in Form R. B. 10 granted by the officer-in-charge empowered in this behalf. The pass shall be issued either on proof of full payment of duty or on proof of execution of bond. It shall be in triplicate one copy shall be made over to cover the transport or export, the second forwarded to the District Excise Officer of the district of import or transport and the third retained for record.

47. Mode of issue of beer from brewery—Issues may be made from the brewery as under-

(i) On pre-payment of duty for transport to the wholesale premises of the brewers:

(ii) For export under bond to other States in India.

48. Pass required for export under bond—Any person may export under bond beer manufactured as a brewery in Rajasthan to any place in India under pass in Form R B 10 granted by the officer-in-charge of the brewery empowered in this behalf and in accordance with the rules relating to export of foreign spirit under bond. The general bond to be executed shall be in Form R. B. 11 and the special in Form R. B. 12.

F.-Allowable Wastage and Refund of Duty

49. Destruction by accident—When any malt liquor on which duty has been charged or paid is destroyed by accident fire or other unavoidable causes while the same is on the specified premises of a brewer, as given in his entry, the State Government may on proof of such loss to their satisfaction, remit or order to lie report the duty so charged or paid.

[1]**49 A. Wastage on production**—Allowance for wastage on production of Beer shall be allowed at the rate of 7% of the total quantity brewed or actual wastage, whichever is less.

50. Refund of duty—(1) When beers on which duty has been charged and paid becomes unfit for consumption as such, the Excise Commissioner may, order refund of duty provided such claim is preferred within six months of payment of duty.

(2) If the beer has been returned the fact must be reported to the officer-in-charge as soon as the invoice is received. The consignment shall on receipt be got checked by the officer-in-charge and claim preferred shall be got attested by him.

(3) The claim must contain-(a) a declaration that the beer which is the subject of claim was brewed by the brewers, (b) a statement of the circumstances to which the claim is duty (c) a statement of date or dates on which as beer was brewed, and the quantity and the original gravity of each lot of beer referred to in the claim : and (d) a statement that it is proposed to dispose of the beer either (i) by destroying or (ii) by converting into vinegar.

(4) When required to do so the brewer must given satisfactory proof or any fact mentioned in the claim.

(5) The Excise commissioner shall make the refund as soon as the District Excise Officer of the charge furnishes certificate in Form R.B. 13 or R.B. 14 that the beer has been (i) destroyed in his presence, or (ii) turned into vinegar.

51. Beer on which refund of duty is claimed may be examined—In the case of refunds on beer returned to the brewery of issue the District Excise Officer may require to applicant to produce, in whole or part the beer on which refund of duty is claimed and may have any portion of the beer on which refund is claimed tested or analised in any way he thinks fit and may depute any officer to make any inquiry or examination concerning the said beer which the District Excise Officer may consider necessary.

52. Quarterly account—On the 7th of the first month after close of each quarter of the excise year, an amount in Form R.B. 15 shall be forwarded by every brewery to the District Excise Officer of the charge, in which shall be shown the total quantity of beer returned unsold to the brewery, and the amount claimed or received as refund of duty. The District Excise Officer shall after testing the correctness of the entries forward a copy to the Excise Commissioner for record in his office on the 15th of the month succeeding the close of the quarter.

1. Inserted vide Notification No. F. 32(B) (868) EX/L/73-III/1542 dated 1-8-96.

53. Quarterly examination of stock—The account of a brewery and the stock of beer in hand in the brewery shall be examined by the District Excise Officer once a quarter. If the quantity of the beer in stock in the brewery on such examination be found to exceed the quantity shown as in hand in the stock account, the brewer shall be liable to pay duty on such excess at double the rate prescribed for ordinary issue. If the quantity be found less than that shown in the stock account, the cause of the deficiency shall be inquired into and the result reported to the Excise Commissioner, who may direct the levy of a fine not exceeding double the amount represented by the duty on such defect. Provided that any deficiency not exceeding 10 per cent. shall be disregarded, allowance to the extent being made to cover loss in bulk due to avaporation, sullage and other contingencies within the brewery. This allowance shall be calculated upon the amount represented by the actual ascertained balances in hand at the date of the last stock taking together with the total quantity since manufactured or received, as shown in columns 2 and 3 of the register of manufacture and issue (Form R.B. 10).

G-Supervision

54. Inspection by District Excise Officer—The Disstrict Excise Officer-in-charge will inspect the brewery at least once in every two months

55. Trade secrets—The officer-in-charge is strictly to abstain form divulging to any person the nature or extent of the brewer's operations.

56. Gauging of mashtuns—Mashtuns should be ganged by the dry method, the measurements being taken above the false bottom, but the tables should be worked out by the wet method, that is from the top of the false bottom, and no drip need be taken into account.

57. Intermediate gauges and gravities in breweries to be checked only—All gauges and gravities taken during the course of a brewing are to be deemed checks only, and should not form the basis of any charge for duty or calculation of out-turn

58. Officer-in-charge not to ascertain dips and gravities for licensees—The officer-in-charge may not ascertain for the licensee the quantity or gravity of any worts collected.

H-General

59. Registers to be maintained by the officer-in-charge and the brewer—The following registers shall be maintained in a brewery-

(a) by the officer-in-charge—

(i) Register in a Form R.B. 6 samples of malts and works taken for analysis.
(ii) Register or gauge table in Form R.B.2.
(iii) Register in Form R.B. 9 of issues of beer against deposit of duty.
(iv) Register of manufacture and issue of beer in Form R.B. 16.
(v) Register in Form R.B. 17 of beer returned unsold to the brewery.

(b) by the brewer—

(i) Register in Form R.B. 3 showing details entry regarding premises and utensils.
(ii) Brewing book in Form R.B 4.

60. Submission of Annual Statement of brewery—Every brewer shall submit to the District Excise Officer through the officer-in-charge a statement in the duplicate, in

Form R.B. 18 relating to his brewery in respect of the excise year by 1st July. The District Excise Officer after satisfying himself that the entries made are correct, shall forward one copy of the Statement to the Excise Commissioner by July 15. The Excise Commissioner shall submit to the State Government by August 15. a consolidate statement in Form R.B. 18.

61. The brewer shall be bound to report to the officer-in-charge any case in which any person employed by him has been foud to have committed any breach of the excise laws or of the terms and conditions of service regulating his employment.

List of Forms Prescribed under the Brewery Rules

Form No.	Subject	Reference to Rules
1	2	3
[1][R.B. 1(A)	Licence to consumer and establish a brewery	4 and 5(a)
R.B. 1(B)	Licence to work a brewery in private	2(c), 5(b)
R.B. 2	Table showing capacity of each vessel	18, 59 (a) (ii)
R.B. 3	Entry of premises and utensils	26 (ii), 59 (b) (i)
R.B. 4	Brewing book	26 (iv), 33, 59 (b)
R.B. 5	Account of instruments	27
R.B. 6	Register of samples	32, 59 (a) (i)
R.B. 7	Application by brewer for payment of duty in cash	43
R.B. 8	Application by brewer for removal of beer the duty on which shall be debited against advance	45
R.B. 9	Register of advance deposit	45, 59 (a) (iii)
R.B. 10	Pass for removal of beer from brewery	46
R.B. 11	General bond for export of beer	41, 48
R.B. 12	Form of special bond for export of beer	41, 48
R.B. 13	Certificate by D.E.O. that the beer has been destroyed	50 (5)
R.B. 14	Cartificate by the D.E.O. that beer has been turned into vinegar	50 (5)
R.B. 15	Statement of account of the licensed brewery at for the quarter	52
R.B. 16	Register of manufacture and issue of beer by the officer-in-charge	53, 59 (a) (iv)
R.B. 17	Register of beer returned unsold by the brewery	59 (a) (v)
R.B. 18	Annual statement of breweries	60

1. Substituted vide GSR 158 dated 28.8.75.

[1][Form R.B. 1(A)

Rule 4 and 5 (a)

Licence to construct and to Establish a Brewery.

Name of the licence holder (s).....licence is have by granted to.....resident (s) of.....to construct and to establish a Brewery at.....subject to Rajasthan Brewery Rules, 1972 and to such other rules as may from time to time be made by the Excise Commissioner.

The licence shall be valid for excise year.....the licensee shall apply to the Excise Commissioner on or before February 28, in each year, for renwal of their licence for the excise year following till the construction and establishment is complete and licence in Form R.B. 1 (B) is obtained by the licensee.

Dated.....

Excise Commissioner
Rajasthan, Udaipur

FORM R.B. 1 (B)

[1][Rule 2(c), 5(b), 7(1) and 26(i)]

Licence to work a Brewery in Private

Name of the licence holder (s).....licence is hereby granted to.....resident (s) of.....to manufacture beer in brewery situated at.....subject to Rajasthan Brewery Rules, 1972 and to such other rules as may from time to time made by the Excise Commissioner for the security of excise revenue and for regulating the manufacture, sale, supply and prices of beer. The infractions of any of the rules here in before enumerated shall involve for feiture of the licence in addition to such other penalties as any be prescribed under the Rajasthan Excise Act, 1950.

The licence shall be valid for the Excise year.....The brewery shall apply to the Excise Commissioner through the District Excise Officer on or before February 28, in each year for the renewal of their licence for the excise year following. Any modification or expansion of the plant, vessels and other apparatus may be made only with the prior permission of the Excise Commissioner.

Dated.....

Excise Commissioner,
Rajasthan, Udaipur

[2][FORM R.B.-1(C)

(Rule-5)

LICENCE FOR MANUFACTURE AND BOTTLING OF BEER UNDER FRANCHISE ARRANGEMENT

Under Rule 5 (C) of the Rajasthan Brewery Rules, 1972 and in consideration of an annual licence fee, of Rs.....this special licence is granted to..... for manufacturing and botting beer at premises described in scehedule-I below situated

1. Substituted vide GSR 158 dated 28-8-75.
2. Inserted by S.O. 103- No.F. 32 (B) (2) EX.L/98 dated 9-7-1998- Pub in Raj. Gaz-EO-IV-C (II) dated 9-7-1998- Page 163 (7) to (10)

L..... ..... in Town of..... .... District.....from..... . ..... to.... ... .
ubject to the following conditions :-

CONDITIONS

The licensee shall pay botting fee and other levies, if any, prescribed from time to time.

The licensee shall manufacture/bottle only those brands/lables that have been listed in Schedule-II annexed to this licence and for which he has been duly and specially franchised/authorised by..... .....

All operations relating to manufacture and bottling of the brands listed in Schedule-II shall be conducted at the licensed premises as per the map plan approved by Excise Commissioner.

The labels pasted on the bottle shall specify all the details as per prvailing preovisions and orders.

No ingredient injurious to health shall be used in manufacturing/bottling process.

The licensee may procure raw material from any part of India Subject to observance of prevailing legal provisions.

Beer manufactured in one operation shall be bottled and labelled immediately and shall given the same batch number.

The licensee shall maintain day to day labelwise and bottle-size-wise true account of beer manufactured, bottled and disposed off.

He shall comply with Rajasthan Excise Act and rules made thereunder as well as instructions issued by the Excise Commissioner from time to time during the currency of this licence.

). If R.B.-1 (A) and/or R.B.-1 (B) licence to which this licence has been granted stands suspended, cancelled or withdrawn, this licence shall automatically stand suspended/cancelled/withdrawn or discontinued, as the case may be

i. The licensee shall be bound by all the conditions of licence granted in his favour

2. On breach of any condition of licence or provisions of Rajasthan Excise Act,1950 or rules made thereunder or order issued by the Excise Commissioner, this licence may be suspended or cancelled or compounded by the Licencing Authority.

Dated : ....

Excise Commissioner.
Rajasthan, Udaipur

SCHEDULE-I

escriptions of the	Boundaries of the licensed premises			
.censed Premises	North	East	South	West
1	2	3	4	5

SCHEDULE-II

S.No.	Details of the brand/brands for which the licensee holds franchise	Full particulars alongwith complete address of the franchisor
1	2	3

Dated :

Excise Commissioner.
Rajasthan, Udaipur.

R.B. 2.

[Rules 18, 59 (a) (ii)]

Register of Gauging Tables

Depth	Diameteres 1 2 3 4 Mean	Encumbrances Depth Area	Area Gross Net	Contents in litres
(1)	(2)(3)(4)(5)(6)	(7) (8)	(9) (10)	(11)

Tabulation

Dry centi-metres	Litres	Area of a tenth of a Centimetre	Dry Centimetres	Litres	Area of a tenth of a centimetre
(12)	(13)	(14)	(15)	(16)	(17)

R.B. 3

[Rules 26 (ii), 59 (b) (ii)]

Brewer's entry in respect of premises and utensils licensed. I/We licensed brewer do hereby withdraw all former entries and do now make entry of the following rooms, places and vessels in my/our brewery situated at ....in the district of.... . ...

Name..... ..... Residence..... ..... Date ....

Here enter Full particulars of each room, place or vessel.

A plan as required by Rule 3(2) of the Rajasthan Brewery Rules, 1972 is attached hereto.

Name..... . ...Date ....

Received by me this.....day of.....20.... Entry examined and checked ith the places rooms and vessels shows herein and found correct (with the following ceptions):

If incorrect the correct details should be here specified . . . .If correct. ike out the, words in brackets

ate

Officer-in-charge

xamine and passed date District Excise Officer Charge.

R.B. 4

[Rules 26 (iv), 33, 52 (b) (ii)]

Brewing Book

hen entry made ite (1) Hour (2)	Number of brewing (3)	Notice to mash malt or corn dissolve sugar Date (4) Hour (5) Date (6) Hour (7)	
alt Unmalted ca litres (8) ca litres (9)	Quantity to be used of Corn sugar Kags. (10)	Hops Kgs (11)	Hop substitute Kgs (12)
me when wort will drawn off grants the mashtun ite (13) Hour 14	Worts collected When collected Date (15) Hour (16)	Vessels Number (17)	Dip Name (18) (19)
avity (20)	Brewer's (21)	Inspecto's Initials (22)	Remarks (23)

R. B. 5

(Rule 27)

Account of Instruments

ock-book of Government property for the office of the.....

une and description of article (e.g. chairs almirahs, etc.)

ite of receipt	Number of pieces	initial cost (purchase price)	Initial of officer-in-charge	Date of inspection	Remarks about the condition of the article, etc. as found at time of inspection, orders regarding condemnation etc.
1	2	3	4	5	6

tails of icle/property mber of ices dissed of	Date of disposal	Value realised	Number and date of Treasury challan	Initial of officer-in-charge	Remarks regarding reference to papers etc.
7	8	9	10	11	12

Instructions

1. This form should be ruled on ordinary foolscape papers. The same stock book may be used for a number of years.

2. A sparate page (or more page than one, where a larger number of receipts of the article are expected) should be assigned to each class of article.

3. Every article must be entered in the proper stock-book immediately on receipt.

4. Every entry should be initialed by official concerned.

5. Whenever an article is condemned, a note about the condemnation should be recorded in column 6.

6. The number of articles should be totalled at the end of each page and also on the expiry of the financial year.

R.B.6

[Rules 32,59 (a) (i)]

Register of Samples of malt worts etc. taken for analysis.

Serial No.	Description of sample	Purpose for which taken	Date when taken	If worts or beer, initial gravity	Date of receipt of report from the chemical examiner	Result of analysis

R.B.7

(Rule 43)

Application for tendering duty on Beer

To the officer-in-charge of the Sub-Treasury or Treasury at .....

Please receive Rs.....being the duty on.....litres of beer as specified below to be removed from the.....brewery in the district, and to be consigned to here in the district of.

Quantity in bulk liters	Contained in barrels, quarts, pints, half-pints etc (give description number etc. on each	Rate of duty per bulk litre	Total amount of duty to be realized
1	2	3	4

Date.....20.....(Signed).....Checked by .....officer-in-charge.

Brewery, Number of challan.....Received Rs.....

Date.....20

Treasury or Sub-Treasury Officer

Note:— This application must be presented in triplicate, one copy will be retured to the tenderer the second forwarded to the officer-in-charge, Brewery and third retained for record.

R. B. 8

(Rules 45)

Application for issue of Beer against advance deposit

No..... ..... Date..... ....

To The officer-in-charge.... ....Brewery.

Sir,

Kindly grant us passes for the issue of beer as detailed below. the duty on which is to be debited against our advance deposit.

Yours faithfully. (SD). . ...(Brewers)..... ....

Name and address of consignee	Description of beer with the name and number of containers	Quantity	Amount of duty to be debited against advance deposit

R.B.9

(Rules 45, 59 (a) (iii))

Register of Advance desposit

Register of issues of beer against advance deposit of duty for the month ..... 20 ....

Rs. P. Balance of advance outstanding to the credit of brewer

Amout paid in advances as per challan No Dated

Ditto Ditto No. Ditto Total

Deduct duty on issues shown hereunder. Balance carried forward

Issues

Pass No.	Duty Rs.	Progressive total Rs.	Pass No.	Duty Rs.	Progressive total Rs. (in triplicate)

R.B. 10

[Rules 46, 48]

Pass for removal of beer from brewery

Pass for the removal of beer Form Sarvashri

Brewery Dated 20

No.

Current upto:

1. Name of consignor
2. Name of consignee
3. Name of place to which issued
4. Description of the container with number of and quantity in each
5. No.& date of permit (if any)

6. Amount of duty realised
7. Under bond

Officer-in-charge. Brewery

* Strike out whichever is not applicable.

Note:-The form No. R.B. 10 must be used in triplicate.

R.B.11

[Rules 41 & 48]

General Bond for Export of Beer

Form of general bond to be executed for the removal of beer from a brewery for export to other States in India without pre-payment of duty.

THIS INDEMNITY BOND made the... ....day of..... . . 20... ... .

BETWEEN.....son of.....resident of (and. ....son of..... .. resident of include *the brewer/the brewers which expression shall include *his/their heirs. respectives successors and assigns) of the part AND the Government of Rajasthan(hereinafter called "the Governor" which expression shall include his successors and assigns) of the other part.

Whereas under the rules of the Government of Rajasthan in the Excise Department the *brewer is/brewer are permitted from time to time export beer from *his/their brewery at.....to any State in India without previous payment of duty on the *brewer/brewers executing an indemnity bond on the terms and conditions hereinafter mentioned.

R.B. 12

[Rules 41 and 48]

Form of Special Bond for Export Beer

Form of special bond to be executed for the removal of beer from a brewery for export to other States in India without pre-payment of duty.

THIS INDEMNITY BOND made the.....day of.....20.....BETWEEN .. son of.....resident of..... (and..... ..son of.....resident of.....) (hereinafter called *breuers which expression shall include *his/their heirs representatives. successors and assigns) of the one part AND the Governor of Rajasthan (hereinafter called "the Governor" which expression shall include his successors and assigns) of the other part.

WHEREAS the *brewer has/*brewers have been permitted to remove beer.....from.....*his/their brewery at to any State in India, without previous payment of duty thereon the brewer/*brewers executing an indemnity bond on the terms and conditions hereinafter appearing.

AND WHEREAS the duty on the said quantity of beer the present rate of Rs. ....per bulk litres amount to Rs.....

NOW THIS BOND WITNESSES AND THE: *brewer/brewers hereby *covenants/ covenant with the Governor as follows:-

(1) That the *brewer/brewers shall on or before the expiration of.. ..days from the date whereof or within such further time as may be granted by way of extension by the District Excise Officer of.. ....District, deliver or cause to be delivered the above

mentioned.....litres of beer into the custody of the consignee mentioned in the pass in Form R.B.10

(2) That if the above mentioned.....litres of beer. shall not have been delivered at the destination is hereinbefore agreed, the brewer/brewers shall indemnify the Governor for any loss of duty which the Governor may suffer by reason of such non delivery or short delivery by paying on demand the duty at the rate of Rs....per bulk live of beer live of beer not so delivered.

IN WITNESSES WHEROF the *brewer has/brewers have herein to set*[1]*his hand/ *their hands the day and the year first above written. Signed by.....*brewer/brewers in the presence of.. .....and of.....

R.B.13

[Rules 50 (6)]

Destruction Certificate

I hereby certify that.....litres of beer, brewed by Shri/Sarvshri.....licensed brewer (s) at on which duty has been recovered, were this day taken account of by me under Excise Commissioner's Order No.....date.....and destroyed in my presence.

Dated this.....day of.....20 District Excise Officer.

To The Excise Commissioner, Udaipur.

R.B.14

[Rule 50 (5)]

Certificate as to spoilt beer used for conversion into vinegar

I hereby certify that.....litres of beer, brewed by.....licensed brewer at.....on which duty has been recovered, were taken into account of by me,under Excise Commissioner's order No.....on.....and I further certify that the beer in question has been turned into vinegar.

Dated this.....day of.....20..... District Excise Officer

To The Excise Commissioner, Udaipur.

R.B.15

[Rule 52]

Statement of Quarterly Accounts

Statement of account of the licensed brewery at.....for the quarter.....

Month (1)	Duty pre-paid (2)	Issue from brewery under bond for (3)	Duty pre-paid (4)	Returned Under bond for payment (5)	Unsold issued total returned unsold column 5 & 6 (6)
	Litres	Litres	Litres	Litres	Litres

1. Cancel whichever entry is inappropriate, in Form 11 & 12.

Payments					Remarks
In advance in col 2 (7)	At close of quarter on issued in Col. 2(8)	Total payments (9)	Refunds claimed and admited each quantity in colum (10)	Amount secured by bond (11)	(12)
Litres	Rs.	Rs.	Rs.	Rs.	
Total for quarter					

Dated

Certify that the accounts of the brewery and the stock of beer in hand has been examined as required by rule 52 and have found to be correct

District Excise Officer.

Here explain any difference between the issues in columns 2 and 3 and the duty realized during the quarter in column 8 & 9.

R.B. 16

[Rules 33, 59 (a) iv)]

Register of Beer manufactured, issued and blance remaining is store in the brewery

Date (1)	Balance at beginning of day (2)	Quantity Manufactured (3)

Issues

Quantity issued (4)	Person to whom consigned (5)	Place to which consigned (6)	Balance at close of day (7)

Notes - (1) The closing balance should be entered on any day on which either manufacture or issue takes place.

(2) When stock-taking takes place, a note of the actual balance ascertained should be made and this balance carried from the beginning of the next day.

R.R. 17

[Rule 59 (a) (v)]

Register for Beer Returned Unsold to the Brewery

Quantity returned unsold (1)	Original gravity (2)	Date of issue (3)	Date of return (4)	Person by whom returned (5)
Place from which returned (6)	Cause of return (7)	How disposed of (8)	Date of disposal (9)	

R.B. 18

[Rule 60)]

Annual Statement

atement of Breweries on operation in .....during the year. ....

. o.	Name of town of station at which located (2)	Year in which established (3)	Average daily number of person employed during the year (4)	Estimated out-turn in litres of malt liquor during the Year (5)	Remarks (6)

otes – (1) The figures in column 4 should be taken from the statement prepared under the Factories Act or in the case of breweries for which returns under the Factory Act are not required worked out by dividing the aggregate number of daily attendance of both permanent and temporary employees by the number of days in each year during which the factory or business was working.

(2) The same form is used in submitting the statement to the Excise Commissioner.

THIS BOND WITNESSES AND THE[1] brewer/brewers hereby covenants/convent .th the Governor as follows :

1. That the brewer/brewers shall not at any one time so export any quantity of er the duty on which at the rate prescribed therefor at the time or the aggregate of ch duty and the duty as the aforesaid rate on any quantity previously exported and ɪt yet delivered at destination shall exceed the sum of Rs.....provided that any quantity ɪt delivered at destination for which duty has been paid under clause ( ) hereinafter llowing shall not be included in the calculation of the quantity not delivered at destination.

2. That the [1]brewer/brewers shall within the time mentioned in his/their pass in rm R.B. 10 issued by the officer-in-charge of the brewery on each occassion of the port of beer or within such further time as may be granted by way of extension by e District Excise Officer of the exporting district, deliver or cause to be delivered Excise fficer of the exporting district, deliver or cause to be delivered the beer so exported ı that occasion into the custody of the consignee mentioned in the pass.

3. That if the whole of or any quantity of beer exported on any occasion shall ɪt have been delivered at the destination as hereinafter agreed, the brewer/brewers shall demnify the Governor of any loss of duty which Governor may suffer by reason of ch non delivery or short delivery by paying to him on demand the duty at the rate en in force on any quantity of beer not so delivered IN WITNESS THEREOF THE ewer has/brewers have hereinto set. This hand/their hands hereunder on the day and ar first above written.

Signed by [1]brewer/brewers in the presence of .....and of ..... .

Cancel whichever entry inappropriate.

8

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THE RAJASTHAN DISTILLERIES RULES, 1976

[1]THE RAJASTHAN DISTILLERIES RULES, 1976.

[Notification No. F. 32(b)514/Ex/L/77-26, dated February 24, 1977]

G.S.R.99-In exercise of the powers conferred by section 42 of the Rajasthan Excise Act,1950 (Rajasthan Act 2 of 1950) read with secction 16 & 17 thereof , the Excise Commissioner with the previous sanction of the State Government hereby makes the following rules, namely:-

1. Short title—These rules may be called the Rajasthan Distilleries Rules, 1977, and shall come into force on their publication in the Gazette

2. Definitions—In these rules, unless the context otherwise requires:—

(a) "Act" means the Rajasthan Excise Act, 1950 (Rajasthan Act 2 of 1950.

(b) "Feints" means impure spirit produced from the distillation of low wine;

(c) "Low wines" means impure spirit from the distillation of wash;

(d) "Obscuration" means the difference, caused by matter in solution, between the true strength of spirit and the apparent strength as indicated by the hydrometer;

(e) "Officer-In-charge" means the Excise Inspector or Assistant Excise Officer-in-charge of a distillery;

(f) "Receiver" means any vessel into which the work of still discharges;

(g) "Receiver room" means the part of a distillary where the receivers are kept.

(h) "Spent less" is the residue left after impure spirit has been redistilled;

(i) "Spent wash" is the residue left after wash has been exhausted of spirit;

(j) "Vat" means any fixed vessel used for the storage of spirit;

(k) "Warehouse" means the part of a distillery in which spirt in a fit state of consumption is stored;

(l) "Wash" means a saccharine solution from which spirit is obtained by distillation; it includes fermented wash or wort;

(m) "Wash back" means a vessel in which fermentation is carried on;

(n) "Form" means a form appended to these rules.

1. First Published in the Raj. Gaz., Part IV-C (1), dt. 23-6-1977, Pages 247 to 320, came into force w.e.f. 23-6-1977.

A-Establishment of Distilleries

[1][" 3(1). **Grant of "No objection Certificate'**—Any person desiring to construct and work a distillery shall first apply for grant of 'no objection certificate' to the Excise Commissioner through the District Excise Officer concerned after having deposited the fee prescribed for this purpose. Excise Commissioner, subject to general or specific instructions of the State Government, may issue 'no objection certificate."

(2) Grant of permission for Construction:—The holder of "no objection certificate' shall seek the permission of Excise Commissioner for construction of distillery after having completed the formalities prescribed by Excise Commissioner inthis behalf and depositing the fee prescribed for this purpose. Along with the application the applicant shall file for approval description and plans of the building in which he proposes to establish his distillery; and also an inventory giving the description and size of the stills and all other permanent apparatus. These plans shall be drawn to scale showing the exact position and dimensions of each vessel to be used, and tracing the course of all pipes or channels in the colours which would be actually used under rule 34 together with elevations of all the more important parts of the distillery, such as the receiver room and warehouse. Excise Commissioner, if he is satisfied that there is no objection to doing so, may grant permisssion for construction of distillery.

(3) Grant of licence for working of distillery:—On receipt of intimation of completion of construction from the person holding permission under sub-rule (2) and after satisfying that fee prescribed for this purpose has been deposited and there is no objection to doing so, Excise Commissioner may grant licence to work a distillery.

(4) Permission for addition/alteration:—Any addition to or alteration of distillery plant or building shall be made with the prior permission of Excise Commissioner and no such permission shall be given unless the fee prescribed for this purpose has been deposited."]

4. Distillery Licence—A licence for the construction and working of a private distillery shall be granted in form R.D.1. A Licence to work a distillery in premises owned by Government will be in form R.D.2. persons who desire to construct and work a distillery for the purpose of manufacturing Indian Made Foreign Liquors shall be required to set up a patent still of good model to the satisfaction of the Excise Commissioner. Such a patent still should be new and not an old one.

The distiller who is licenced to manufacture Indian Made Foreign Liquor shall not be allowed to manufacture potable or non-potable products of any other kind on the same premises.

❑ Commentary

Rajasthan Distillery Rules, 1977—R. 4 and Rajasthan Stock-taking and wastage of Liquor Rules, 1959-R. 4 (1) & (5)-Duty on Excess Wastage not tax or duty, but consideration for licence-Measure thereof-Validity of demand notice The so called duty on excess wastage as demanded in the instant case, is neither a tax nor a duty of excess imposed under section 28 of the Act. It is strictly speaking, not a fee in the name of a quid proquo for services rendered, but it is a price or consideration which the Government Sharges to the licencee for parting with the privilege of manufacturing liquor. There is no legal bar to the distiller agreeing to compensate loss of revenue which may be suffered

1. Substituted by Notification F.32 (B) (49)/Ex/L/88-IV/3301 dated 28-01-2006.

by the State Government as a consequence of such excessive wastage by him in consideration of the privilege of manufacturing liquor granted to him by the State Government. The petitioner had agreed in the instant case to compensate the State Government for the loss of revenue which in might have suffered on account of the excessive wastage of rectified spirit by the petitioner. The measure of the loss is the excise duty which the State Government would have earned on the excessively wasted rectified spirit if such spirit had been converted into IMFL for consumption by human being.[1]

"Bottling"-What it is ?-It is a process of sale—liquor is to be bottled under a licence and such a licence has been obtained by the petioners for the purpose of sale of liquor meant for human consumption, where by it has been presenoed what will be the strength of a particular quality of wine and what will be its colour and in what quantity it will be sold and will be its price. The Distilleries Rules, 1976 under which licence has been granted to petitioners also provide that in what conditions the liquor is to be sold, (Para 21)[2]

5. Renewal of licences.—Application for the renewal of licences for the following excise year must be made to the excise Commissioner through the District Excise officer on or before February 28, each year accompanied by treasury preceipt showing payment of the prrescribed fee provided that where application for renewal is not made within the prescribed period it shall be accompanied by an additional fee equivalent to 25% of such fee. If there have been alterations in either plant or building fresh plans must be submitted. If there have been no alterations, a certificate from the Officer-in-charge so this effect be forwarded with the application for the renewal of the licence. If application for renewal of licence is not properly submitted in time & renewal consequently delayed, the spirit produced in the distillery will be liable to seizure and confiscation, or the parties working the distillery will be liable to the penalties provided by law for the illicit manufacture of spirit: Provided that in the event of a licence being refused for a distillery, which had previously been licensed permission may be granted to continue operations temporarily, for a reasonable time pending appeal.

6. Sale, Transfer or subletting etc. Prohibited—Except with the written permission of the excise Commissioner the Distiller shall not sell, transfer or sublet the right of manufacture conferred upon him by his licence, nor shall he in connection with the exercise of the said right enter into any agreement of arrangement which is in the nature of a sub-lease. He shall not also admit any person and his partner in the concern without prior sanction in writing of the Excise Commissioner

[3]["Provided that manufacturing and bottling of brands of other unit, holding similar licence in any part of Country, may be allowed on such terms and conditions as prescribed from time to time."]

7. Removal of spirt etc. after expiry of licence:—On the expiry of his licence (unless a fresh licence shall have been granted to him), or if his licence shall be cancelled or

1. M/s Sona Distilleries Ltd.v. Excise Commissioner 1984 WLN 489 : 1984 RLR 773
2. Udaipur Distillery Co. Ltd. V. State of Rajasthan, 1996 (2) WLC (Raj.) 413 (DB).
3. Added by S.O. 100-No. F. 32(B)(2) Ex/L/98 dated 9-7-1999, pub. in Raj Gaz E.O. 4 (Ga) dated 9-7-1998 page 163 (1) (4).

suspended, every distiller shall be found forthwith to pay the duty on. and to remove all spirit remaining within the distillery in accordance with the rules in force; and if he shall fail to do so within ten days of receipt of written notice from the District Excise Officer, the cost of any establishment which it may be necessary to employ at the distillery or warehouse may be recovered from the defaulter. In the event of continuous neglect, the spirit shall be liable to be forfeited at the discretion of the Excise Commissioner.

8. Distiller to deposit security—Every distiller shall deposit with the Excise Commissioner the security not exceeding Rs. 10,000 as may be directed by the Excise Commissioner for the paymant of all sums which may become due to State Goverment by way of duty, rents, penalties, fines and under the provision of his licence or to which the distiller may be liable by law or by rules having the force of law or under any engagement or bond into which he may have entered. Securities to be furnished shall be in any one of the form of securities provided under General Finance and Accounts Rules.

9. Officer Accommodation—Distiller shall provide office furniture for the use of the Officer-in-charge of the distillery and his staff. If a distillery is established at a place where suitable quarters for such officers are not available for hire at reasonable rates, the distiller shall provide suitable quarters to the satisfaction the Excise Commissioner.

The Distiller shall be bound to keep the quarters and their appurtenances in proper repair and not to interrupt or annoy any officer residing therein, in his use or enjoyment thereof. In case any question should arise as to whether the rent demanded by the owner of such quarters is just and reasonable taking into consideration the nature and extent of the accommodation, the question shall be referred to the Excise Commissioner whose decision thereupon shall be final and binding on the distillery concerned.

10. Government not liable for loss of spirit in distilleries—Government shall not be liable for the distruction loss or damage of any spirit stored in distilleries by fire or theft; or by gauging, or proof or by any other cause whatsoever. In case of fire or other accident office-in-charge of distilleries shall immediately attend to open the premises at any hour by day or night.

11. Safe custody of stock of spirit—Shall be responsible for the safe custody of stock of spirit in their distilleries and shall be liable to make good any loss of revenue caused to Government by their negligence.

12. Fermentation and distillation efficiencies—The distillers shall be responsible for maintaining such minimum fermentation and distillation efficiencies as may be prescribed by the Excise Commissioner.

13. Noxious material & unhygenic water not to be used—(1) The material to be used in distilling shall be good quality and no ingredients noxious to health shall be used in the distillation or be put in the spirit. The spirit shall be liable to analysis on the order of the Excise Commissioner and the distiller shall be bound to take steps to remedy defects which the Excise Commissioner may consider material. If spirit found to be of inferior quality and unsuitable for the purpose for which it was made, it may be rejected and destroyed or otherwise dealt with under the order of the Excise Commissioner. Officers-in-charge of distilleries are empowered to stop pending the orders of the Excise Commissioner the issue of spirit which they consider bad. and are required to send samples of such spirit for analysis without delay.

(2) Certification of water to be used-No water which has not been certified by the competent authorities of the Public Health Department in writing to have been obtained from as uncontaminated source shall be used in the process of fermentation. distillation or for reducing the strength or washing the bottles unless,it has been raised to a temperature of not less that 2120 F and has been kept at the temperature for at least 10 minutes and has been effectively filtered and chemically treated to make it safe for portable use by human beings.

[1]**14. Manufacture of Indian made Foreign Spirit**—The distillers holding a licence in form RD– or RO–2 shall not be allowed to manufacture in their licensed distilleries, Indian Made Foreign Spirit for potable purposes from Neutral-Spirit or Rectified Spirit Grade 1, which does not conform to the specifications laid down from time to time by the "Bureau of Indian Standards"in this regard".

15. Flavouring and colouring etc.—Except in the case of coloured rum the addition of any flavouring,colouring or similar matter is prohibited untilthe spirit has paid duty for issue. The addition of caramel to run is regulated by rules 75 and 76.

The sanction of the Excise Commissioner is required to the use of any flavouring or colouring matter and to the proportionate quantity that may be added.

16. Distiller bound to report breaches of law, etc. committed by their servants—If it comes to the knowledge of a distiller that any person employed by him has committed any breach of the excise laws or of the engagements entered into by him. it shall be his duty to report the matter to the District Excise Officer and to comply with the directions of the latter officer requesting the continued employment of such person.

17. Accounts to be kept by distillers—Distillers shall keep regular daily accounts. The accounts shall show the quantities and descriptions of the materials use. the quantity of wash and of spirit manufactured, the quantity of spirit passed out and the quantities of wash and of spirit in store in each vat or other receptacle.

18. Distiller's accounts to be open to inspection—Such accounts shall be open at all times to the inspection of the Officer-in-charge distillery and of all superior officers

19. Distillers bound to obey all rules already in force or which may here-after be prescribed—Distillers shall be bound by all the general rules for the management of distilleries and for the issue of spirit therefrom which may already be in force or which may hereafter be prescribed under the existing excise law. or under any law which may hereafter be enacted, and by all special orders issued by the Excise Commissioner with regard to individual distilleries, and shall cause all persons employed by them in the manufacture. issue etc. of spirit to obey all such rules

20. Appointment of agents and other servants—(1) The appointment of Agents and all other servants by the distillers shall be subject to the approval of the District Excise Officer who will have the power to order the removal from service or prohibit the appointment of any person whom he considers undesirable

Provided that no order for the removal from service of person, covered by the definition of the term "workman" as given in section 2(s) of the Industrial Disputes Act.

1. Substituted by S.O. 236 dated 18-3-93.

)47 (Act No XIV of 1947) shall be passed without prior consultation with the Labour ommissioner, Rajasthan:

Provided further that in the event of a difference of opinion between the Labour ommissioner and the District Excise Officer on any particular point relating to the removal a person from service, the matter shall be referred immediately through the Excise ommissioner to the State Government for orders

(2) The order of removal passed by the District Excise Officer or his decision to ohibit employment of any person shall be appealable to the Excise Commissioner, ajasthan.

(3) Whenever any workman is suspected of pilferage of excisable goods and his mediate removal from the distillery is considered necessary to safeguard revenue interest in the interest of discipline, the contractors may be asked to depute the defaulting orkman to some other section, which does not involve his entry into the Distiller pending e receipt of the Labour Commissioner's concurrence for his removal.

B-Control of Distilleries

21. The Excise Commissioner to appoint Officer to the charge of distilleries—ne Excise Commissioner will appoint such Officers of the Excise Department as he may e fit to the charge of distilleries. The pay of such officers will be met by Government ovided that when the annual establishment charges exceed the sum of total of 10 percent the duty leviable on the issues made from the distillery to districts in the State, us 60 percent of the export duty levied on all exports of liquor during the year, this cess shall be realized from the distillers.

22. Control—The Officer-in-charge will, unless otherwise directed, work under the pervision of and correspond with the District Excise Officers in whose territorial charge e distilleries lie. In all ordinary matters regarding the working of distilleries, the proprietors ould in the first instance apply to the officer-in-charge, who will, if necessary apply r orders.

23. The admittance into distilleries of persons not having business therein rbidden—Distilleries shall be open only for the entrance and exit of persons who have isiness within them. No one except officers of the Excise Department and superior officers other Government Departments, distillers, their servents and licensed vendors who ave come to purchase spirit shall be allowed to enter the premises on any pretext Others ay only enter with the premission of the Officer-in-charge, provided that permission all not be granted to persons whose admission to the distillery may be objected to the distillers.

24. Control over persons entering distilleries—All persons entering a distillery warehouse shall be under the orders of the officer-in-charge in receipt of their conduct id proceeding within the distillery or warehouse, and shall be liable to search on their itting the premises, at the discretion of the officer-in-charge.

25. Guard posted to distilleries holding R.D. 2 Licence—In the case of distilleries orking within Government buildings:-

(1) If the Excise Commissioner considers it necessary an excise guard, consisting one Jamadar and three constables, may be stationed at the distillery for watch and

ward duty. It shall furnish a sentry to guard the gate day and night. A sheet prescribing the duties of the guard shall be in the possession of the Jamadar commanding the guard.

(2) The gate of the distillery shall be unlocked at day break for the admission of the distillery officials, distillers and workmen and shall be locked at sunset when all persons must leave the distillery. The key of the distillery gate shall remain during the day with they sentry on duty and at night in charge of the Jamadar. Ordinarily the gate of the distillery shall be kept closed, and it shall only be opened to allow authorised persons to pass in and out, for the admission of materials, fuel, or plant and for the passing out of spirit and waste products.

(3) A list of persons authorised to enter the distillery shall be made over to the Jamadar in charge of the guard by the Officer-in-charge of the distillery

26. Ejection of riotous persons, etc.—The Officer-in-charge of a distillery or warehouse may eject and exclude from the premises any person as to whom he has reason to believe that he has committed or is about to commit any breach of these rules or of the Rajasthan Excise Act, 1950 or who is intoxicated or disorderly. All action taken by any such officer under this rule shall forthwith be recorded by him in writing in his official dairy for the information of his official superiors.

27. Smoking prohibited—Smoking in any portion of a building used for fermentation, or of storage of spirit is forbidden. The use of naked lights within a distillery is strictly prohibited.

28. Hours of attendance of excise officials—The hours of attendance of the excise supervisory staff shall be the same as observed in the Distillery under the Factory Act

29. Holidays—The holidays allowed to officer-in-charge and clerks at distilleries shall be the same as fixed for the distiller for his staff under the Negotiable Instruments Act.

In case, the excise staff stationed at a distillery is required to attend the distillery on any of the above mentioned holidays, or after working hours of the distillery, the distiller shall be required to pay to Government overtimes fee according to the scale as is payable to their own staff of the status of Excise Department Staff posted at the Distillery.

The overtime fee so realized, shall be credited to Government and shall be paid to the Excise Staff according to the financial rules of the State Government.

30. Power to withdraw establishment—In case a distiller shall cease distilling or issuing spirit for a period exceeding one month, the Excise Commissioner may withdraw the establishment stationed at the distillery except such staff as can be required for guard duties and may prohibit all further distillation and issue of spirit until the distiller has given the Excise Commissioner fifteen days notice in writing of the date on which he proposes to recommence distilling or issuing spirit, as the case may be

C-General Arrangement and Management of Distilleries

31. Wash and spirit to be conveyed through closed pipes—Wash shall be conveyed from the wash backs to the stills in closed pipes. The distilling to the time when the spirit is issued from the store vats the distillate shall be contained in closed receptacles and conveyed through closed pipes.

Spent wash and spent less shall be carried off in closed pipes or covered drains.

32. Pipes to be visible throughout—Pipes intended for the conveyance of wash nd spirit must be so fixed that they can be examined throughout their entire length.

33. Joints to be revitted or bolted—All joints in spirit pipes must either be rivetted r be joined with bolts. In the later case the flanges bolted together must have, in addintion › the bolts, at least two holes for wires to pass through. which shall be secured with lead disc bearing a departmental seal.

34. Ends of the pipes to be securely fixed—The ends of still worms, and all pipes hich convey spirit or serve spirit receptacles shall be firmly fixed into the receptacles ıey serve.

35. Pipes to be painted—Pipes in distilleries must be painted as follows-If intended ɔr conveyance of wash, green; if for the conveyance of spirit red; if for the conveyance f feints, brown; if for the conveyance of spent wash or molasses, blue. The officers-ı-charge will be held strictly responsible for the colour of every pipe being correct and ıe paint bright

36. Distillers responsible for leakage from pipes—The distiller shall be responsible ɔr preventing any leakage from pipes.

37. Lock fastenings to be on all spirit pipes and vessels—The charging and ischarging pipes of stills, all spirit safes, all mondoors, cocks or other openings in stills, pirit vates, spirit receives and other receptacles for spirit shall be so fitted as to enable ıem to be secured by an excise lock of a pattern approved by the Excise Commissioner.

38. Storage rooms to be provided with Double Locks—The doors of all buildings r rooms which are used for the storage of spirit shall be provided with double locks, ıe keys of which are not interchangeable, and of which one lock shall be an excise ɔck in the charge of the officer-in-charge and the other a distillery lock in the charge f proprietor.

39. Openings and cocks not opened for long period may be secured by wire and ead excise seal—With the approval of the District Excise Officer openings and cocks ı still, receivers, vats or connecting pipes which are not likely to be opened for long eriods may be secured by means of wire and lead excise seals.

40. Locks on fastening to be changed once a month—The locks used for the everal parts of the distillery, etc., should be changed once a month at irregular intervals, o that the same lock may not be known to be continuously in use in any particular astening.

41. Lock fastening to be constructed—Lock fastenings are to be constructed as nuch as possible in one piece. When hings in them are necessary the hinges must be ormed by welded joints and not by revetted pins,. if a part of any fastening is attached ɔ a vessel or utensil, it must be by rivets and not by screws. The fastenings for cocks nust be fitted so closely as not to admit of any Cock being partially turned or opended, ɔr the plug or key lifted up or taken out, after the fastening is applied. Chain fastenings .re not to be used execept in case where it would be impracticable to apply fastening ɔf any other description.

42. Working fastenings—When it is necessary for the distillers operations the ocks upon closed pipes be left open when officer-in-charge is not present working astening must be provided. Such fastening must be so constructed that the excise lock

shall not interfere with the free use of the cock, and so fitted that no abstraction of spirit is possible.

43. Locks not be picked or forced but hasp filed—Should it happen at any time that a lock cannot be opened in the usual manner, it is not to be picked or forced, but must be removed by filing through the hasp, or if the distiller has no objection through the fastening. All defective locks should be sent with the Keys to the Excise Commissioner for examination and repair. On no accont are they to be given out locally for repair.

44. Supply of ticket books—Officers Incharge or distilleries will be supplied with books of ticket in form R.D. 3 for use with the excise locks. Tickets must be used in the consecutive orders of their number.

45. Instructions regarding use of lock ticket—Whenever an excise lock is affixed to any pipe, cock receptacle, door, etc. the officer affixing it shall first take a ticket out of the book and enter on it and its counterfoil with his initial the date hour and minute of the affixing of the lock, after the word "on" with the description of the pipe, cork, etc. on which he is about to affix it. The hours should be numbered 1 to 24 and counted from midnight. He will then place the ticket in space provided for the purpose under the part of the flap which is hinged on to the front of the lock taking care that the ticket is pierced by the spikes which stand up in the space in question. The flap should then be firmly closed on to the top of the ticket and the lock be locked on the pipe, cock, etc. as the case may be.

46. Entries on lock ticket and counter foils to be abbreviated—The entries on tickets and their counterfoils should be abbreviated thus:-

For still, write SL.

For receiver, write R.

For receiver room, write R.R.

and so on, the number of the still, etc., being added when there is more than one. Care should be taken to make the entries on the tickets in such part thereof that they may be defaced as little as possible by the revolution of the spikes and tearing of the tickets on the opening of the locks.

47. Instructions for removing lock from any pipe, etc. and for dealing with a case of tampering—When an excise lock has to be removed from any pipe, etc, the officer should first move the key-hole cover to one side so as to expose the ticket, which will be visible through the upper hole in the flap, and which he should carefully examine to ascertain if it has in any way been tampered with . If it should appear to have been tampered with, he should at-once send for his own immediate superior, if at hand, or for an officer of police or a superior officer of some other department or other trust worthy person, and should cause such officer of person to make a careful note of the exact state of the ticket, after which the lock may be opened. In every case when a lock has been opened the officer will at once remove the ticket, enter on it the date hour and minute of removal with his initials, as shown after the word "off" carefully smooth it out, and gum it on the blank space left for the purpose at the edge of its counterfoil. A full report should at once be made by the officer to the Excise Commissioner every case in which a ticket has been found to be tampered with a careful examination having previously been made as to whether any spirit has been removed or other infraction of the law committed.

48. Number of ticket put on and taken off to be entered—In the form of diary (R.D.5) prescribed for use by officer-in-charge, columns have been provided for the numbers of the tickets put on and taken off in connection with all operations. These columns must be filled up at the time when the various transactions take place.

49. Ticket book and keys of lock to be kept in personal custody of officer-in-charge—All ticket books and the keys of all locks whether in use or not, must variably be kept in the personal castody of the officer-in-charge when not actually in use they must be locked in the iron safe provided for the purpose. This safe must be secured with one of the locks, so that the officer-in-charge may have one key only to carry about with him. Tickets will be used with this lock as with all others, according to the above direction; the officer-in-charge will be held personally responsible for the safe custody of the key, and for its proper use.

50. Failure to use lock without ticket or make proper entries in diary treated as very serious offence—The use of a lock without a ticket or the failure to make the proper entries in a ticket or its counterfoil fully or to account for the use of ticket will be treated as very serious offences. Such occurrences must invariable be reported to the Excise Commissioner for orders It will be the duty of inspecting officers to see that these orders are must strictly carried out and that all pipes, cocks etc. are so made and secured as to render the abstraction of spirit impossible without immediate detection. They should also examine the lock to see that no means have been resorted to by which the ticket box might be opened without breaking the ticket.

51. Receptacles to be used for wash and spirit—Vessels used as receptacles for wash and spirit may be constructed of any material approved by the Excise Commissioner, they shall be regular shape and covered vessels shall be fitted with proper manholes. In the case of every vessel proper arrangements shall be made for gauging by dipping rod and tables shall be provided showing the number of litres contained in each vessel when filled to every 1/5th of one centimeter, When the wet method of gaguing is applied to any vessel a permanent dipping rod of a pattern approved by the Excise Commissioner must be provided by the distiller and fixed by him to such vessel in a manner approved by the Excise Commissioner.

No gauging rode shall be brought into use till it has been verified and approved by the officer-in-charge.

52. Rooms and vessels to be marked and numbered—The distiller shall cause to be painted with oil colour and shall keep so painted upon the outside of every room or place and upon a conspicuous part of every vessel and utensil the name of such room, place, vessel, or utensil, according to the purpose for which it is used, and when more than one room, place, vessel or utensil, is used for the same purpose, he shall also paint a progressive number on each, begining with the number one. Each vessel or utensil shall also have its capacity painted on it.

53. Receptacles to be gauged and passed—(a) No receptacle, whose contents are to be estimated by a gauge rod, shall be brought originally into use till it has been gauged and passed by the officer-in-charge and if any gauged receptacle is repaired or moved it may not be brought again into use until it has been reganged and passed by the officer-in-charge.

(b) Dipping place or level of vessel not to be altered—The distiller shall not cause or allow the dipping place or level of any vessel to be altered or any devise to be used to deceive the officer-in-charge in taking the guage or any vessel, or to prevent him from taking a true account of all wash or spirit in any vessel.

54. Receptacles to be fixed at proper height and fitted with cocks—Receptacles must be fixed at a proper height and be fitted with cocks so that they can be emptied without being moved. It is better that they should be placed on slightly sloped stands on foundations, so that they may draindry through the cocks without difficulty. The use of casks for storage purposes in forbidden except with the special permission of the Excise Commissioner,

55. Wash Backs—The wash backs for the fermentation of wash shall be placed in a room or building exclusively set apart for them, which shall be kept securely locked if the Excise Commissioner so directs.

56. No wash except that prepared in distillery to be used; no wash to be removed from distillery—No wash shall be used except such as has been prepared within the distillery nor shall any wash be removed from the distillery.

57. Notice to be given to officer-in-charge when wash is to be prepared—When wash is about to be prepared the distiller shall give notice to the officer-in-charge and as soon as the wash is ready for gauging and proving, submit to him a declaration in writing on the prescribed form (R.D.8) specifying the kind quantity of material, use. The number of litres of wash made, and its initial specific gravity corrected for temperature.

58. Officer-in-charge to verify wash declaration—The officer-in-charge, on receipt of the distillers' declaration, shall proceed to verify the same, and enter the result in his diary.

59. Wash ready for distillation to be gauged by officer-in-charge—As soon as the wash is fully attenuated and ready for distillation the distiller shall again inform the officer-in-charge and that officer shall by gaughing and the saccharometer, and the alcoholometer (where one has been supplied), ascertain the quantity and specific gravity of the attenuated wash and record the particulars in his diary. The initial gravity shall be determined by adding the degress of attenuation as ascertained by the alcoholometer to the actual gravity indicated by the saccharometer.

60. Stills to be securely closed—There shall be no openings into any still except those in connection with the charging and discharge pipes, condensers, mandoors and air cocks or valves upon the breast of head. The external orifice of an air valve must be so constructed and covered be a perforated metal plate as to make it impracticable by means of it either to introduce wash or to abstract spirit, or to convey spirit vapour away for condensation elsewhere

61. Re-distillation in pot-stills to be supervised by officer-in-charge—When a pot-still is being used for the re-distillation of unfinished spirit the mandoor and the charging and discharge pipes shall be secured by the officer-in-charge with closed fastening and such still be charged and discharged only after notice has been given to the officer-in-charge & under his supervision. The officer-in-charge on being required to open the discharge cock for the discharge of spentlies, shall satisfy himself that the spirit contained in the unfinished spirit with which the still was charged has been completely extracted by distillation.

In the case of continuous stills, re-distillation may be allowed by feeding the spirit be re-distilled in the rectifying column or mixing the spirit with the wash which has en fully attenuated and the alcoholic contents of which have been calculated or termined before mixing. In case unfinished spirit is not mixed with it should be put o and locked up into wash charger wash for re-distillation, or other vessel in which pump works. The Distillers are free to carry out such re-distillation in separate still, ecially meant for the purpose to avoid the risk of excess wastage.

62. Safes to be fitted to stills—There shall be placed between every still and the eiver or receiver into which it discharges, a glass "safe" furnished with a hydrometer pable of showing the strength of liquor down to the zero of water. There may be separate fes between each still and its receiver or receivers, or a central safe which controls worm ends between a number of stills and their receivers.

63. Sampling apparatus—If desired, a sampling apparatus may also be used. ovided that it is so constructed that for every sample drawn off, and exactly equal anity is discharge into a closed and locked receiver. The samples shall be produced fore the officer-in-charge, who on finding that they agree in measurement and strenght th corresponding quantity discharge into the receiver, shall pass them into store. Should y deficiency occur the matter must be reported for orders

64. Arrangement of still etc.—The distiller shall so arrange his stills that spirit all discharge into closed and locked receivers of such pattern that no spirit can be noved from them unless they are unlocked. The Excise Commissioner may require the stiller to affix to any receiver an apparatus which will prevent the supply and discharge cks being open at the same time.

65. Size of Receivers—Should ordinarily be of suffcient size to hold all the spirit ely to be made in the stills during the 72 hours of continuous working and must be iced that a free passage is left round them and a clear space below them to permit their being easily examined.

66. Working of cocks on charging and discharge pipes of receivers—Both the arging and the discharge pipes of receivers must be fitted with cocks which can be ked. The cock on the charging pipe must be shut and locked whenever that on the charge pipe is open and vice-versa, except when both are required to remain open multaneously for repairs or for other proper reason, in which case either the whole paratus must be disengaged from the still and be so secured and locked, that it cannot used the offcer-in-charge has removed the lock, or the still itself must be locked up that it cannot be used. When spirit runs from the receiver into the warehouse, that charge cock of the receiver is to be frequently tested to see that it does not permit y leakage when shut be shutting for half an hour or longer the inlet cocks at the ts while spirit collecting in the receiver,and ascertaining whether any accumulation takes ice in the pipe. The date of such tests and their resultt should be entered in the diary.

67. All spirits to be run in empty receiver—The spirit, whether finished or unfinished oduced by any one distillation, shall be run into an empty receiver or receivers and ch spirit shall be gauged and proved by the officer-in-charge in the receiver of the ll in which it is produced, before it is passed out of such receiver or receivers or xed with spirit produced by any other distillation. The particulars of such gauging d proof will be recorded in the diary.

68. Produce of distillation—The produce of a single distillation should not exceed the quantity that can be held in a single receiver, nor shall such produce consist of the distillate of the contents of a number of complete wash backs than has been run into the still for a period than seventy-two hours.

69. Store vats to be kept in warehouse—Store vats shall be kept in a room or building set apart entirely for them and provided with only one door, such rooms or building will be designed "the warehouse."

70. Separate store vats to be used for different kinds of spirit—Separate store vats are to be used for the storage of different kind of spirit. If issues are made direct to vendors of country spirit special vats must be provided for the issue of such spirit at the fixed strength prescribed for such issues.

[1]**[70.-A.** With the previous sanction of the Excise Commissioner Country Spirit of Indian Made Foreign Spirit intended to undergo the process of maturing may be stored, without prepayment of duty, in casks/vats in a room within the distillery encloure specially set apart and used only for this purpose and secured under the double lock of the officer-in-charge and the licensee. The spirit for maturation may-with the special permission of the Excise Commissioner, be kept in wooden vats and in spirit store-room, which shall for the purposes of this rule be demed to be matured spirit warehouse. Deposits in and withdrawals from the warehouse will be governed by the following rules,

(1) An application for the removal of country spirit of Indian made forign spirit from the store-room to the matured spirit wharehouse must be made in writing to the officer-in-charge. The application on presentation, must specify the serial number of each cask/vat and before removal takes place, must be completed by specifyign for each cask/vat its full capacity the quantity and strength of the spirit it contains.

(2) Removals may be made at any strength not below the strength prescribed for the issue of spirit.

(3) No cask/vat of less than 36 litres capacity shall be removed for deposit in the matured spirit warehouse.

(4) In preparation for removals, the rate or weight empty, of each cask/vat must first be ascertained, the cask/vat thereafter filled to the bunghole with the spirit intended for removal or the capacity determined in the manner prescribed by the Excise Commissioner.

(5) All particulars of gauge and proof must be recorded at the time of removal in the appropriate columns of the warehouse register (in Form R.D 10 B) instead of the pass as in the case of ordinary issues. The quantity removed (in proof litres) will be shown as transferred to the warehouse in the appropraiate column of the issue register (in Form R.D, 10-A) but it is important that the removal should not be classed with the issue

1. Inserted vide No. F. 37 (A) (9) Ex/75 GSR 74. Pub in Raj. Gaz. 4(Ga) dated 9-1-86, page 240.

(6) On the outside of the heads of every cask/vat removed from the storeroom for deposit in the matured spirit warehouse must be legibly printed with oil colour the progressive number of the cask vat beginning with number one on the 1st April in each year, also the financial year in the deposit is made, and the full capacity to the nearest tenth of a litre

(7) No pass will be necessary to cover transport from the spirit-room to the matured spirit warehouse but the distiller will have to declare the period for which be intended to keep the quantity of sprit for maturation.

(8) Immediately preparation for removal has been completed the officer-in-charge must see the cask/vat or casks/vats safely deposited in the ware house.

(9) Each cask/vat deposited in the warehouse must be closed with a bung of hard wood, fitted flush with the outside of the bung stave. The licensee may, in his discretion, insert a spigot into the hard wood bung, to serve as a safety value

Cask/vats must be so arranged in the warehouse as to allow easy access to them, in order that a correct account of their contents may be taken at any time and leakages may be readily discovered

(10) It will be unnecessary to take account of the spirit in stock in the matured spirit warehouse monthly sa in the case of spirit in the store rooms. The stock of spirit in the warehouse will invariably be the total quantity in proof litres as shown in the warehouse register in form R.D. 10-B. The officer of the Excise Department at their periodical visits should however check the quantity of spirit in a few of the casks/vats in the warehouse and record the result briefly in the register in From R.D. 10-B, where they find that the deficiency is in excess of the seal prescribed under sub-rule 4 of Rajasthan Stock Taking and Wastage of Liquor Rules, 1959 they should enquire into the cause and satisfy themselves that no illict abstraction from the cask/vat has occured. The officer-in-incharge will be responsible that casks/vats while in the warehouse are not tampres with, unless in his presence, for necessay irepairs or for examination of the spirit by the officers of the Excise Department, or his manager. The officer-in-charge should make, each month, a careful inspection of the apparent condition of each cask/vat lying in the matured spirit warehouse and arrange for the immediate tranference of the contents of a cask found leaking. The result of each inspection should be briefly recorded in the warehouse register in Form R.D. 10-B and a note that the usual inspection has been made should also be entered in the Officer-in charge's diary in Form R.D.5

(11) Wherever cask/vat can be transferred to the new cask/vat whose full capacity has been frist ascertained, which must be marked the same number similar to the old one in the presence of the Officer-in-charge of the licensee. The note of such transfer will be made in the warehouse register.

(12) No removal of part of the contents of a cask/vat is permitted from the warehouse to the store- room.

(13) Removal will be made from the warehouse to the store-room on the written application of the licensee specifying the progressive number of the cask/vat, the year when it was deposited in warehouse and (on its removal) the ullage quantity and strength.

(14) On receipt of licensee's application the Officer-in-charge will after taking account of the spirit is the cask/vat by mean of bung rod in the manner prescribed by the Excise Commissioner, see the cask/vat removed to the store-room from which the issue of matured spirit will be made under the ordinary rules and procedure. The actual quantity of spirit in proof litre removed from the warehouse to the store-room will be recorded in the ware-house register as passing in to the stock of the latter.

(15) The deficiency allowable during the period of storge in the warehouse is calculated according to the scale prescribed under the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959. In the event of the deficiency being in excess of the prescribed sacle, the officer-in-charge will make a brief report in the ware-house register. In From R.D. 10-B on the condition of the cork on delivery i e."no apparent cause" in cases where the cask/vat is in apparently sound condition, and a few brief remark where such cause as leaks defective staces.broken hoops. porous wood, etc. might account for the excess any officer of Excise Department specially authorised by the Excise Commissioner to inspect the Distilleries of their inspection will enquire into the reasons given for the excess and if they are satisfied that will initial the officer-in-charge's entry in the warehouse register in from R.D. 10-A. If they are not satisfied that the excess is due to natural of accidental cause he will submit a report, recording their reasons at full length to the District Excise Officer so that action for recovery of duty on the excess may be taken.]"

71. Grogged liquor to be destroyed—Water which has been poured into empty liquor vats to prevent shriankage of the wood, and has become alcoholic by abstracation of the spirit absorted by the wood should be run off into a sewer in the presence of the officer-in-charge. When water is added to a vat to prevent shrinkage, the vat should be kept locked.

72. Minor alteration in distillery arrangement—The previous sanction of the Excise Commissioner should be obtained to all alterations in and additions to buildings or permanent apparatus actually used in the preparation, conveyance or storage of liquor, except in the following case, in which officer-in-charge may sanction the alterations, subject to immediate report to and subsequent approval by the Excise Commissioner-

(a) Additions, alterations or repairs to wash vessels, pipes used for the conveyance of wash, steam, gas or water, stills not actually in used furnances and fluses, mixing apparatus and wash or water pumps.

(b) Necessary repairs to gauged vessels or spirit pipes.

(c) Repairs of an emergent nature.

As regards works coming under head (a) the officer-in-charge may, on receipt of twenty-four hours written notice from the distiller or his authorised agent, permit the work to be proceeded with, but any case of doubt he should refer the matter to the Excise Commissioner. All such applications be filed for future reference.

In the case of works coming under head (b) the officer-in-charge may, on similar notice being given permit the work to proceed if he is convinced that any delay in proceeding with it would cause inconvenience. He will be held responsible that the work is performed without risk or loss to the revenue

Repairs of an ostensibly urgent may be allowed to proceed immediately on receipt of a written application. Care must be taken to see that no risk to the revenue is involved.

73. Repairs etc. to be reported—In all cases a full report detailing the repairs, additions or alterations that have been permitted should be submitted to the Excise Commissioner within twenty-four hours of the grant of the permission, and the matter should also be noted in the diary of the officer-in-charge.

74. Blending and reduction of spirit—Blending and reduction of plain spirit is permitted in the store vats, provided such blending and reduction is done in the presence of the officer-in-charge and under his supervision. The officer-in-charge must see that through admixture has been affected and may then, if the distiller do desires, prove the spirit to see the required strength has been obtained. He should, however, take no proof for the purpose of issue from a vat in which blending or reduction has taken place, untill the lapse of at least twenty-four hours such blending or reduction. In cases of emergency this rule may be relaxed, but in no case can a proof for issue be taken until after lapse of two hours.

75. Colouring in store vats not permitted—The colouring of spirit in the store vats is not permitted.

76. Coloured rum warehouse—Spirit to which it is desired to add caremel at the time of strong, instead of at the time of issue, must be stored in a separate " Coloured Rum" warehouse.

After the gauging and proving of the plain spirit, the caremel will be added in such quantities as the distiller may desire.

The volume of the caramel added will be noted by the officer-in-charge in Form R.D. 14 and on the following day, the contents of the vat will again be gauged and proved. The apparent loss in proof litres due to obscuration will be shown as an 'Issue in columns 8 and 16 of the Form 14, duty will be assessed on this apparent loss and will be debited against the distiller's advance in form R.D. 23 The fact that this has been done will be noted in the column of remarks in form R.D. 14.The item must also be shown to register R.D. 11 although no pass is actually issued

When spirit has been coloured and duty charged in the above manner no further addition of spirit can be made to the vat previous to its being emptied.

All spirit finally issued from the coloured rum warehouse will pay duty on the apperent strength at the time of issue

77. Obscuration and mode of taking sample for analysis—Great care must be taken that no sugar, salt, or other matter soluble in spirit and heavier than water is added to the spirit before it is proved so as to effect the action of the hydrometer, or in other words, 'to obscure' the strength. If anything of the kind is suspected three samples of the spirit (of about 4 ounces each shall be taken, whereof, one sample be sealed and sent for analysis one sealed and kept under lock any key until the result of the analysis are known & one sealed & handed over to the distiller or his manager each

of the three samples should be marked with the same distinctive mark or number and should be verified by the initials or signature of the officer-in-charge. The officer-in-charge must not in any case make the distiller aware of his intention to take samples, but he should request the distiller or his manager to be present at the time of taking them, and inform him that the samples are taken for the purpose of eximination. These instructions as to the mode of taking samples apply also to cases in which district Excise Officer desire to take samples in order to ascertain whether substance deleterious to health although not such as to effect the indication of the hydrometer, are present in spirit.

78. Calculation of duty in case of obscuration—When it is known or suspected that saccharine or other matter of such a nature as prevent the true strength being ascertained by means of the hydrometer, is present in spirit, the number of degree to be added to the apparent strength on account of obscuration shall be certified by the Chief Chemical Analyst, Government of Rajasthan, Jaipur on analysis of a smaple of the spirit submitted to him and duty shall be calculated on the quantity and strength of such spirit after the addition of the number of degrees of proof certified as necessery to be added to the apperent strength, as ascertained by the hydrometer

79. Test for ascertaining presence Foreign matter—In case in which an officer-in-charge suspects that salt, suger or other substance likely to affect the indication of the hydrometer has been dissolved in the spirit, but his suspicious are not sufficiently definite to warrant his taking samples he should from time to time evaporate a small quantity of spirit in a watch glass when the presence of solid matter will be easily detected. Vegetable substances such as sugar may be distinguished from salt by their being blanked and dissipated by heat after the spirit and water have been driven off. Form of the ordinary impurities in the water used in the manufacture of spirit few samples will be found which do not leave some trace of solid matter after evaporation, but these may always be distinguished from foreign matter added in such quantities as would affect the strength indicated by hydrometer. It will be for officer-in-charge occasionally to apply this simple test even when they have no suspicious that such substances as sugar, etc. have been dissolved in the distillery under their charge

D-Denaturation of Spirit

[1]**[80. (1) [2][Spirt may be denatured in following ways, viz.:-**

(i) With crotonaldehyde, Pyridine and Methyleneblus or pyridine and caout choucine, or

(ii) With wood naphtha, or

(iii) With 1 per cent of caster oil and 5 per cent of caustic soda solution by volume, or

[3][(iv) in other ways laid down by the Bureau of Indian Standards from time to time in this regard.]

1. Substituted by GSR 155 dated 3-9-83
2. Title substituted by S.O. 236 dated 18-3-93.
3. Inserted by S.O. 236 dated 18-3-93.

(2) The frist kind of denatured spirit is meant for general use and may be issued o all licenced vendors of denatured spirit for sale in retail to the public. It shall be ırepared by adding one half precent by volume of light caoutchoucine and one half ıer cent by volume of mineral phyridine bases to the whole valume of rectified spirit ıf strength not less than 60 overproof.

(3) The second kind of denatured spirit is intended for use in the manufacture ıf transparent soap only and may be issued to any maufacturer of transparent soap o whom a licence in form F.L.-19 has been issued by the Excise Commissioner in accordance vith conditions of his licence. It shall be prepared by the addition of 5 per cent of approved vood naphtha to the whole volume of rectified spirit of a strength not less than 600 ıverproof

(4) The third kind of denatured spirit is also intended for use in the manufacture ıf transparent soap only and may be issued to a holder of a licence in Form F.L. 9. It shall be prepared by the addition of 1 per cent of caster oil and 0.5 per cent of austic soda to the whole volume of rectified spirit of a strength of not less then 600 ıver proof.

[1][**81. Specification or Prescribed denaturants**—The specifications of the denaturants rotonaldhyde, pyridine, methylene blue caoustic coauchoucine and naptha [2][and other lenaturants shall be those as laid down by the Burean of Indian standards from time o time in this regard.]

Provided that, if it be proved to the satisfaction of the Government that the above pecified denaturants will render the spirit unsuitable for the industrial process or other ırpose for which it is required, special sanction may be given the use of some other enaturant subject to such additional safeguards and conditions as may be deemed ecessary under the special circumstances of the case.

82. Denaturant to be tested—All ingredients intended for denaturing spirit shall odged with the officer-in-charge of the distillery and before any denaturant is brought nto use that officer shall send samples (one point from each cask or drum) in a separate attle sealed and labelled to the Chief Chemical Analyst to Government of Rajasthan, aipur or such other officer as State Government may appoint in that behalf. for examination nd report.

Provided that it each cask or drum is presented to the officer-in-charge duly sealed vith seal of the said Chief Chemical Analyst (or other officer duly appointed) and ccompanied by a certificate from the officer that the denaturant contained therein complies vith the specifications referred to in the preceding paragraph. the sending of a sample vill not be necessary.

But all the denaturants which have been in storage for a period exceeding six ıonth after their test by the Chief Chemical Analyst to Government of Rajasthan, Jaipur or other officer duly appointed), shall not, in any case be allowed to be used unless ıey are re-examined by the above mentioned officer and certified to be fit for use.

A copy of the report shall be submitted to the Excise Commissioner. The denaturant assed for use shall remain in Excise custody untill consumed. while those rejected

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Substituted by GSR 155 dated 3-9-83.

Substituted by S.O. 236 dated 18-3-93 w.e.f. 1-7-93.

shall be returned to the distiller. A correct account of all denaturants received into and used from the stores shall be maintained by the officer-in-charge.

83. Special process of denaturation for spisit used in manufacture of soap-The following additioanl rules are prescribed for the preparation of the second kind of denatured spirit to be used in the manufacture of transparent soap only :

1. All wood naphtha submitted for approval as suitable for denaturing purpose shall consist of substance or mixture obtained from any other source.

2. The wood naphtha, must be sufficiently impure to import to denatured spirits prepared by mixing 5 per cent of it with 95 percent of spirit such an amount of nauseousness as will, in the opinion of the Chief Chemical Analyst to Government of Rajasthan, Jaipur render such spirit incapable of being used as a beveragage or of being mixed with potable spirits of any kind without rendering them unfit for human consumption. Wood naphtha submitted for approval should conform to the following test:-

(a) Not more than 30 c.c. of the naphtha should be required to decolourise a solution containing 0.5gram of bromine.

(b) The naphtha which must be neutral or only slightly alkaline to litmus should require at least 5 c.c. of decinormal acid to neutralise 25 c.c. of the spirit when methyl orange is used as the indicater.

3. No wood naphtha will be approved which contains-

(a) less than 72 percent by volume of methyl alcohol;

(b) more than 12 grams per 100 c.c. of acetone aldehydes. and higher ketones estimated as "acetone " by the formation of iodoform according to Messenger's Method;

(c) more than 3 grams per 100 c.c. of essters estimated as methyl acetate by hydrolysis. Wood naphtha, which when fractionally distilled in the following manner, gives the indications stated below, will, as a rule, be found to contain a sufficient porportion of methly alcohol, and to be from an excess of "acetone " or methyl acetate.

100 c.c. of the samples are to be slowly heated in a small copper flask fitted with a glass fractionating column 7 inches high and 3.25 inches in diameter. filled to the extent of 4 inches of its height with small glass beads provided with a thermometer placed opposite the exit tube about on inch above the beads, and connected with a spiral condencer. Not more than 10c.c. of distillate should be collected in the receiver when the thermometer in the fractionating column marks a temperature of just under 149^{0}F (65°C) from 80 c.c. to 85 c.c..should pass a temperature of just under 149°F (65^{0}C) from 80 c.c. to 85 c.c. should pass over between 149^{0}F) (65°C) and 162°F (72.2^{o}C), and a total quantity of 79° c.c. to 98° c.c. should have been passed over before the thermometer marks 212° F. (100C).

4. Wood naphtha may be miscible or immiscible with water, but must be of a strength not lower than 60 O.P. as indicated by hydrometer and must not be used until a sample has been approved.

5. The spirit denatured with wood naphtha must be stored in a separate receptacle and accounted for separately.

84. The third kind of denatured spirit to be used in the manufacture of transparent soap only shall contain one part of Kerosene oil and 0.5 part of caustic soda solution in 100 parts of spirits, all by volume. The caustic soda solution is to be prepared by dissolving one part of solid caustic soda of 98-99 per cent (NaOH) in 3 parts of water. Take the kerosene oil and add to it 1.5 times its volume of alcohol while stirring and finally add the soda solution. A clear solution will be obtained which is to be added to the bulk of the alcohol.

85. Separate premises to be provided for process of denaturation and for storage of the denaturing agents—Separate premises previously for the purpose by the Excise Commissioner shall be provided for the process of denaturation and for the storage of denaturing agents and the vessels and receptacles in the process. Denaturation shall take place in these premises only and issue and storage of denatured spirit shall only be made from or in these premises the premises shall be secured by an exise lock, and denaturation shall take place under the direct supervision of the officer-in-charge.

86. Spirit denatured to be tested—For the purpose of ascertaining that the spirit has been denatures in the prescribed manner the officer-in-charge of the distillery shall on each occasion that spirit is denatured, cause to be taken from each separate bulk of denatured spirit a sample, amounting. to one pint in a bottle sealed and labelled. and shall send such sample to the officer referred to in paragraph 82 for examination and report. The label on the bottle shall bear for number and date of the Chief Chemical Analys's report passing the denaturants used. A copy of the report shall be submitted to be Excise Commissioner who will issued order as to the disposal of spirit not denatured in the prescribed manner.

E-Issue of Spirit

87. Spirit not to be removed unless gauged and proved—No spirit shall be removed from a distillery untill it has been gauged and proved by the officer appointed for the purpose. Sach gauging must be by actual measurement or by weighment.

88. Spirit not to be removed unless except under a pass—No spirit shall be removed except under a pass granted by the officer empowered in this behalf.

89. Maintenance of account of rectified and denatured spirit and absolute alcohol issued to purchase—The officer-in-charge of distillery shall maintain an accurate and up-to-date account of issues of rectified and denatured spirits and absolute alcohol made from the distillery in respect of all purchasers in the form prescribed by the Excise Commissioner;

The register for the purpose shall have separate pages allotted for individual purchasers arranged-in alphabetical order.

The Officer-in-charge of distillery while issuing rectified spirit,denatured spirit or absolute alcohol to the purchaser shall see that the issues of such spirit already taken do not exceed the monthly or annual maximum quota, if any prescribed for the purchaser.

A copy of the entry in the above form shall also be made by the officer-in-charge immediately after making issues to the purchaser on the back of the licence or the permit.

Any attempt on the part of the licensee or permit-holder to obain spirit fraudulently in excess of the monthly or the annual quota fixed for him shall make him liable to cancellation

of the licence or permit in addition to the penalties that may be imposed under the Excise and other Acts for the time being in force.

90. When pass may be issued—A pass shall be issued only either on proof of full payment of duty or on proof of execution of a bond by persons premitted to remove spirit under bond may be for any quantity upto the quantity covered by the duty paid or the bond. Duty may be paid either by cash payment at the by treasury in respect of such issue or by debit against advance deposit:

Provided that spirit which, by general or special order, is issuable free of duty or at a reduced rate of duty, may be issued in quantities of not less than 5 litres on production of the general or special order, permit or pass, as the case may be, to the officer-in-charge of the distillery.

91. Indian made foreign spirit or liquor (excluding beer) & country liquor of approved varieties and strength only to be manufactured, bottled and issued—(1) The distiller shall manufacture and bottle Indian made foreign spirit or liquor (excluding beer) and country liquor, when authorised to do so of such varieties and such strength as may be prescribed and approved by the Excise Commissioner

(2) Issuses of the above liquor shall be subject to the following exceptions :

(a) Issues of country spirit to shops, when a portion of the distillery has been constituted a bonded warehouse, must be made at the prescribed strengths only. A margin of 0.5 above these fixed strengths is allowed for error

(b) The minimum strength for whisky, brandy and rum is 25 U.P. gin 35 U.P. rectified spirit 60 O.P., and denatured spirit 50 OP.

[1]{Provided that the Excise Commissioner may allow the manufacture of the liquor of lesser strength for supply to army units}.

(3) Arrangement for bottling–The Excise Commissioner may specify wherever possible that mechanical arrangement may be for all operations upto the stage of bottling, and may also lay down that bottling operations must be carried on under proper supervision, in conformity with high standards of hygine and the products should not be touched by human hand at any stage. The equipment shall be so designed that rodents, birds, lizards, beetles or other foreign matter do not get mixed up with the stuff at any stage of its manufacture of bottling.

92. Minimum stock for distillery and warehouse attached to it—The Excise Commissioner may prescribe the minimum stock of each kind of spirit to be maintained in distilleries and warehouse attached to them to ensure regular supply of spirit to the licenses.

93. What spirit may be issued—Issues may be made by distilleries as follows:–

1. Plain spirit excised as country spirit for consumption in Rajasthan, may be issued only to bonded warehouses in the areas for which the distillers hold the supply contracts. If a portion of the distillery has been constitued a bonded warehouse, the issue therefrom shall be in accordance with the rules applicable to bonded warehouses

1. Added by Notification No F 32(6) 1463-Ex I.78 dt., 25-10-1979 vide G.S.R 45 Pub. in Raj. Gaz., Ext, Ordi, part IV dt. 12-11-1979 page 1-2 w.e.f. 12-11-1979

2. Plain spirit may be exported to any State or Union Territory in India (which has entered into reciprocal arrangement with the Rajasthan Government for refund of duty)

3. Plain spirit may be exported to any State or Union Territory in India in bond according to rules,

4. Rectified spirit may be issued in bond to persons holding L-1 licence under the Medical and Toilet Preparations (Excise Duties) Act. 1955 and Rules 1956 made thereunder for the manufacture of medicinal and toilet preparations.

5. Indian Made Foreign spirit or liquor manufactued in the distillery may be issued in bond to persons and place as provided in the governing the export and transport of foreign liquor.

6. Indian made foreign spirit or liquor manufactured in distillery may be issued on payment of duty to–

(i) The premises in respect of which the distiller holds a wholesale licence for the vend fo foreign liquor;

(ii) Army units in Rajasthan and in India holding a requisite licence as provided in the export and transport rules, on payment of duty at the prescribed rates:

(iii) Persons holding L-2 licence for the manufacture of Medicinal and Toilet preparations entitled to purchase rectified spirit on payment of duty and production of licence.

7. Rectified spirit and absolute alcohol may be issued duty free to licensed institutions specifically entited to its possession duty free.

8. Denatured spirit may be issued to–

(i) Licensed wholesale vendors of denatured spirit in the State on payment of the prescribed duty provided that the issues shall not exceed the quantity, if any, specified on the licence.

(ii) Hospitals, dispensaries, charitable and educational institutions and other State Government departments on payment of duty upto a quantity allowed by the Excise Commissioner, under an excise permit issued by the District Officer.

(iii) A person or firm, holding licence for the possession and use of specifically denatured spirit in the manufacture of soap on payment of the prescribed vend fee.

(iv) Persons or institutions allowed to possess and use specially denatured spirit by the Excise Commissioner for special purposes on payment of the prescribed vend fee.

9. (a) If the distiller has a laboratory attached to his distillers and requires spirit for use in the Laboratory he shall be entitled to remove to the laboratory from the distillery fee of duty, from either, the safes or the stills or the spirit receivers of the spirit store. finished spirit, or unfinshed spirit, to such extent as may be authorised by the Excise Commissioner in each case: provided that the spirit so removed shall not be used, in the laboratory of the distillery otherwise that for experimental work connected with distillery operations only. The distiller shall keep a regular account of the disposal of such duty-free spirit which will be subject to examination by excise officers. All spirit which becomes

waste in the laboratory and does not by the addition of any chemicals or otherwise become deleterious shall be returned to the distillery for redistillation.

(b) An application for every quantity of spirit required to be removed from the distillery which shall recored thereon the quatity and strength of the spirit taken and make a note of the same in his diary other relevant distillery registers.

(c) If spirit removed under this connections used otherwise than as permitted by sub-rule, (a) of this rule the concession may be withdrawn.

94. Issue of country spirit under bond to contract supply areas—Issues of country spirit under bond to bonded warehouses in the contract supply areas of a distiller are regulated as follows:-

(1) The distiller shall execute a general bond in form R.D 15 in respect of each contract for such sum as the Excise Commissioner shall in each case direct. Applications for issue of passes shall be made to the officer in charge of the distillery in Form R.D. 18. The distiller shall also execute a special bond in form R.D. 16 when required to do so by the Excise Commissioner.

(2) The Officer in charge will then prepare a pass in triplicate in form R.D.24 and issue the spirit. One copy of the pass will be given to the distiller and one copy be posted to the officer-in-charge of the bonded warehouse who will endorse the result of his gauge and proof of the consignment on the back of the pass, and return the same to the Inspector of the issuing distilery. The counterfoil of the pass will remain at the distillery.

(3) In the case of issue in bond to contract bonded warehouses an advice in form R.D. 25 will also be sent with form R.D. 24 and will be retained at the bonded warehouse until the necessary certificate on the back thereof has been obtained. The date of its return to the distillery should be noted in colum 17 of form R.D.11

95. Issue to vendors in distiller's contract area may be made from distillery warehouse—Where a distillery is situated in the district in distiller's contract area, issue to shop-keepers in that district will generally be permitted from the distillery bonded warehouse direct.

96. Issue under bond for export—Issue under bond for export are governed by the Rajasthan Excise Rules, 1956. The Officer-in-charge will issue pass in form R.D.24. The duplicate Copy of the pass will be sent direct to the officer-in-charge of the warehouse to which export takes place and advice in form R.D. 25 will be sent to the officer granting to the authority to import.

97. Issue of duty paid foreign spirit to be made on passes and only to the distiller's wholesale premises—Except in the case of issue of foreign spirits (other than denatured spirits) issued free of duty or at a reduced rate of duty, all foreign spirit on which is prepaid, will be made on passes and to the premises in connection will which the distiller hold a licence for the wholesale vend of foreign spirit. The subsequent treatment to such spirit will be the same as that applying to imported foreign spirit.

98. Procedure for payment of duty—The Distiller shall deposit duty in cash by challan prescribed under the financial rules in the State treasury and present the receipted copy to the Excise Officer-in-charge of the Distillery so as to secure issues or spirit or liquor as the case may be.

99. Issue of spirit on production of receipted application—On production of the copy of the receipted Treasury challan, the officer-in-charge of the distillery shall verify that the duty deposited is correct before R.D. 24, one copy being given the distiller, the second being forwarded to the officer concerned at the destination and retaining the counterpart.

100. Issue against advance deposit of duty—Distillers are permitted to make advance payments on account of excise duty on spirit to be removed from time to time from their distilleries. Such removals are permitted up to the limit of the advances, without separate payment of duty on account of each separate consignment of spirit removed. No original deposit advance payment shall be less than Rs. 2000/- and each time an advance is replenished it must be by a sum which will bring it up to not less than that amount.

Application for the removal of spirit the duty on which will be debited against the advance will be in form R.D. 19.

101. Advances to be paid into headquaraters treasury—Advances must be paid in the treasury at the headquarters of the district in which distillery is situated by means of challan prescribed under the financial Rules omitting the particulars as to rate of duty, description of spirit, etc, and mentioning the words 'advance duty'.

102. (a) Institutions authorised to receive supplies to retified spirit free of duty—Desiring to obtain, it shall send their permit together with their indent to the distillers who shall present it alongwith the application in form R.D. 20 to the officer-in-charge of the distillery. The officer-in-charge of satisfed will make the issue under a pass in form R.D. 24. One part of it will be given to the distillers, the duplicate will be sent to the District Excise Officer of the district to which the spirit is consigned and the counterpart will be retained for record. The officer-in-charge will also make necessary endorsement in the permit as required under rule 90 supra.

(b) On arrival of the spirit at the destination the Excise Inspector or of the district in whose jurisidiction the premises are situated or such other officer as may be authorised by the Excise Commissioner in this behalf shall examine and verify the contents. The officer after recording the result of his verification on the pass will return it to the officer-in-charge of the distillary who, if he finds that there an excess transit wastage, will report the case to the District Excise Officer under whose charge the distillery lies. The District Excise Officer will report the case with the explanation of the distillers and his own views to the Excise Commissioner for orders.

(c) A register of duty free issues will be maintained in form R.D. 23 which will enable the officer-in-charge to see that the quantity sanctioned is not exceeded.

(d) Permits in form F.L. 32 will be issued by the Excise Commissioner, Rajasthan, in favour of officers and institutions authorised to receive duty-free supplies of rectified spirit except-

(i) where indents have to be countersigned by heads of departments, or

(ii) under rules in force in other States or Union Territories, permits are issued by officers in those states or Union Territories, under the authority of their respetive Government.

(e) Duty free issues of both finished and unfinished spirit may also be made to distillers for experimental work connected with distillery operations only in accordance with the provisions of rule 94 (9).

103. The officer granting passes in respect of issues must—(a) In the case duty-paid spirit see that the correct amount of duty has been prepared or debited against the advance deposit before issues :

(b) In case of spirit under bond or duty free, see that spirit leaves the distillery, the issue of which is not covered by the bond executed by a general or special permission of the Excise Commissioner of the importing State or Union Territory :

(c) In all cases where an export duty is to be levied, see that the export duty has been correctly levied and paid; and

(d) In all cases where vend fee is to be levied see that the vend fee has been correctly levied and paid.

Any case of neglect of these instruction will be taken serious notice of.

104. Vessels in which spirit may be issued—Spirit other than denatured spirit may be issued from distilleries in (1) casks, and (2) metal tanks or drums, in quantities not less than 25 liters unless issued duty-free or at a reduced rate of duty. Bottling of liquor in bond is permitted only in case of (a) spiced country spirit, and (b) plain country spirit : Provided that such bottled spirit shall be issued only to warehouses in the area for which the distiller holds a contract for supply.

105. Proving of spirit before issue—If the casks other receptacles in which removal is to be made are to be filled from a vat, it will suffice to prove the strength of the spirit in such vat, once for all, before any of the receptacles are filled. But in this case the officer-in-charge must be careful to see that no addition to the contents of the vat is made while the filling of the receptacles is in progress. If such vat is in communication with any other room or part of the distillery, by a pipe through which liquor can be passed into it such pipe must during the operation of filling cask, etc. for issue, be securely closed by a valve or stop cock on which an excise lock has been fixed. If these conditions are not complied with the liquor in every cask or receptance must be separately proved before it is passed out.

106. Margin of strength allowed—In proving spirit issued at fixed strengths of 25^0, 35^0 and 50^0 UP it will be sufficient for the officer-in-charge to satisfy himself that the strength is within 0.5^0 over the reputed strength. The issue of spirit below the fixed strength is not permitted.

107. Gauging of issues—The gauging of issues may be by the litre measure, by both authorised measuring appliance or by weighment. All litre measures must be compared with the standard litre measure at least once a month. Other sanctioned measuring appliances must be tested at the beginning of each week. Where gauging is made by weighment distillers must provide the necessary scales and weights, the correctness of which should be frequently tested by officer-in-charge, and by inspecting officers. In testing platform weighing machines, the arm weights should be adjusted as accurately as possible against standard dead weights placed on the platform. No machine in which the error amounts to or exceeds 0.5 per cent should be permitted to be used until it has been property adjusted.

108. Making of casks and metal drums—Casks or metal drums after being filled ɔr issue, must have legible cut, branded or marked in oil paint on one head the capacity ı litres, the consecutive number of the cask and the name or other distinctive mark r trade mark of the distillery.

109. Registering of casks etc.—Numbers may be assigned to casks in series in ıe order that they are filed for issue thus-A 1 to A 1,000, B 1 to B 1,000 and so on ıstead of from 1 to 10,000 or higher number. The full capacity may be 1 to 10,000 or igher number. The fall capacity may be weighment.

110. Casks and drums returned to distillery to be regauged and renumbered—nd cask or drum on being returned to the distillery for refilling must be gauged and ımbered as if an entirely new receptacles.

111. Procedure in gauging by weight—The procedure to ascertain the capacity a cask or a drum by weighment is given in the Technical Excise Manual paragraph 37. The register referred to therein is prescribed in form R.D. 10.

112. Selling of issue vessels—All vessels containing spirt, other than duty paid reign spirit shall, before issue be sealed by officer-in-charge before issue of a pass. 'hen spirit passes through a higher duty zone to a lower duty area, issues shall only : allowed in sound casks free from the necessary holes. The holes actually in use in l casks must be sealed in all cases. The duty of preparing the cask for sealing to satisfaction the officer-in-charge falls upon the distiller. The duty of the officer-in-charge is simply do the sealing. The seal used should be hollow lead disc, which, on compression the sealer supplied by the department, will confine the strands of wire and will be ıpre with the excise mark. Where the bung is cut level with the staves, instead of using retched wire and lead seal, it is permissable to use a tape or string stretched across e bung and sealed at both ends by impressed sealing wax. The wax must lie in counter nk holes and the tape and seals must be protected by having a piece of tin tracked 'er them.

F-Instruction for Maintaining Forms and Registers

113. General rules to be observed—The prescribed registers and Forms of account ɜ not to be diviated from or added to without the special orders of the Excise Commissioner. l fractions of litres and of degree of strength are to be shown to the nearest first ·int of decimals. To preserve uniformity the system of increasing the first figures of cimals by one when the second is 5 or more should be adopted in proof conversions.

Overwriting and erasures and forbidden any; necessary corrections must be clearly ıde and must be initialled.

114. Certain registers open to distillers—Distiller or their authorised agents should a written requisition to the Officer-in-charge be permitted to see the registers R.D. 7,9,10,11,13,14 and B.W.L. 2. They are at liberty to bring to notice and to appeal in iting against any entry therein to which they may object, but this must be done within e week of the date of the entry having been made. If any corrections are necessary these registers they must be made in red ink, and must be initialled and dated by : Officer-in-charge and the distiller or his authorised agent, must be simultaneously vited by written notice to note them.

115. Stock register of Government Property—(1) A stock book of all property belonging to Government and kept at the distillery must be maintained in form R.D. 4. Separate pages should be allotted to–

(a) furniture;
(b) excise lock s;
(c) hydoometers, saccharometers theremometers and test glasses;
(d) litre measures, bungrods and other measuring appliances;
(e) books; and
(f) miscellaneous

All sets of instruments in boxes should be recorded as complete set and not by items. No items is to be written off except under the signature of the Distirct Exices Officer.

(2) Whenever an Excise Inspector/Assistant Excise Officer taken over charge of distillery, he must verify each article in the stock register and give a formal certificate that his has been done, should any article be missing or be unfit for use, he should report accordingly to the District Exicse Officer..

(3) All loss, damage or breakage should be reported at once to the District Excise Officer concerned under intimation to the Excise Commissioner.

(4) At his periodical inspections the District Excise Officer should examine the stock book and he should compare not less than once a year all appliances used for proving and gauging with the standard instruments and measures in his possession. A note showing the result of the comparision should be made in the column of 'remarks'

116. Officer-in-charge's diary form R.D. 5.—A diary in form R.D. 5 is to be kept by the officer-in-charge. In it he will record in ink the date, the exact hour of his arrival at, and departure from, in the same manner, record therein all gauges, proofs and gravities taken in surveving the manufacturing operations of the distillery, the various transactions in connection with lock tickets the particulars of his night visits to the distillery (which should be made not less oftern than twice a week at irregular intervals and between the hours of 10 p.m. and 6 a.m.) and all other action taken by him in reference by him in reference to his duties. Particular attention must be given to this book as it forms the basis for the maintenance of form R.D. 9 the various entries must be made on the spot and the time, a short explanatory note being made in the 'remarks' column opposite each. One line must be allotted to each entry and no interlineation or erasure is allowed. Alterations must be made in red ink and initialled. Superior officers inspecting disitleries should invariably initial the diary after entry of such remarks as they find necessary and should append to their initials the hour and date of their visits.

117. Monthly round by the Officer-in-charge.—The Officer-in-charge of a distillery shall once in every month, carefully inspect the entire distillery enclosure to ensure that there is no opening, passage or crack in any building receptacle or pipe through which liquor could be extracted unlawfully. Every such inspection should be noted in the Officer-in-charge's diary. Any defects noted in the course of the inspection should be reported immediately to the District Officer.

118. Gauge register of receivers, vats and wash back forms R.D.6 and 7.—Gauge registers of receivers, vats and wash backs must be compiled from the figures obtained

n the gauging of vessels. Receivers and vate will be entered in register R.D.6 whilest n the case of wash-backs, where the measurements are in dry centimeteres from the op, register R.D.7 will be used.

119. Distillers declaration of wash form R.D.8—Distillers must thoroghly dissolve he saccharin materials used by them when they set up the wash; and declare in form R.D.8 the kind and quantity if material used, the actual saccharometric gravity corrected or temperature before fermentation commenced and the total quantity of wash made.

120. Wash and spirit out-turn form R.D.9—All data for the maintenance of the vash and spirit out trun register will be got from records R.D.5 & 8 the results of each distillation being entered from time to time as it is completed.

Unless otherwise directed, the officer-in-charge need only ascertain the gravities n the day when the wash is set up and when it goes to the still.,

The 'attenuation' of the wash is the number of degrees on the Saccharometer y which the highest or initial gravity and the final or lowest one differ Thus in the ase of wash intial gravity of 60° and final one 20° the attenuation would be 40° and ne calculation for column 20° would be as follows-

Multiply the proff litres of spirit out turned (column 18) by 100: divide the product y the number or litres of wash made (Columa 4; by the figures thus obtained divide ne degrees of attenuation (column 5 minus column 6) the quotient will be the result equired i.e. the degree of attenuation for each litre of proof spirit per 450 litres of wash.

xample- 1,200 litres of wash initial gravity 60^0 final gravity 20^0 proof spirit out turned 96 litres.

$$\text{Thus } 96 \times \frac{100}{1,200} = \frac{60-20}{8} = \frac{40}{8} = 5$$

In other words the out-turn of roof spirit is 8 litres per 100 litres of wash and s the production of this percentage is accompanied by a loss of gravity of 40^0 the 'ash has attenuated 5^0 for each litre of proof spirit obtained.

Where the working is satisfactory and the wash thoroughly exhausted of its spirit ne result should invariable be between 4 and 5, never above the latter figure in other 'ords the out-turn should never be below the minimum yield. Any great variation from ne standard should be explained in colum 21, as should also considerable variation in ne spirit out-turn from either single or combined distillation.

When the spirit from two or more lots of wash is collected in one receiver the uantities of wash used (column-4) should be brecketted together and the spirit out urn be shown, together with all the necessary calculations one line only. The average tenuation would, of course, be calculated on the whole of the wash used.

Officer-in-charge should ensure the thorough mixing of the raw materials in the ash before taking the initial gravity. The highest gravity, as declared by the distiller, found by the Officer-in-charge is to taken as the basis of account.

In order to ascertain the yield from a single distillation, the number of litre of ash distilled should first be multiplied by the degrees of attenuation; the product should ien be divided by 400 to give the maximum yield and be 500 to give the minimum yield. hus is the example given above if the out-turn had not been known.

(a) the maximum yield should be 120 L.P.

(b) the minimum yield should be 96 L.P.

Note:- Paragraph 29 to 35, 55 to 58 and rule 119 may be relaxed in the case of distilleries working with post ill by the premision of the Excise Commissioner.

121. Fermentation and distillation register R.D. 9-A and the monthly statement in respect thereof—With a view to improve the effciency of distilleries, all the distillers will maintain a 'Fermentation and Distillation Register in form R.D. 9-A. In order to ensure watch over the inperovement in the working of distilleries, relevant in formation from this register will be furnished to the Excise Commissioner. Accordingly a monthly statement of 'fermentation and distillation efficiency' in the distilleries in the form prescribed shall be submitted to the Excise Commissioner, Rajasthan, by every distiller.

122. Weighment register, form R.D. 10.—Issue by weighment are recorded in the weighment register, the object being to ascertain the contents of each cask or drum as consigned. Before any spirit is put into drum or cask, the weight of each cask empty with its screw plug or bung should be ascertained and recorded in column 3 of the register. After the cask or drum is filled to the bung, the distiller may be permitted to draw off, a measured quantity from the full cask before the bung a finally inserted. In such cases, the quantity drawn of should be recorded in column 9' The gross weight of the cask or drum shall then be ascertained and recorded in column 4. The other coulmns are self explanatory Colums 11 and 12 need not be filled in when issue are made in metal drums.

123. Register in form R.D.11—All issues, other than at fixed strengths, whether on pass or not, will be recorded in register R.D.11 Gauge and proof of each issue must be recorded therein immediately after they are taken. After issues are completed, the appropriate entries in register R.D.12, 13 and 14 must be made. Issues at fixed strengths will be recorded in register B.W.L. 2 and the totals thereof in R.D.12

Abstract of registers R.D.11 and B.W.L.5 will be forwarded to the District Excise Officer of the District in which the distillery is situated as the close of each month. They must show the total issues ex-distillery to the district and be supproted by receipted treasury challan showing amount of duty deposited by the distiller, and distiller's application in form R.D. 18, 19 and 20 and by the 'account current' in form R.D.22. These enclosure except treasury challan will after examination be returned by the District Excise Officer to the distillery and deposited there.

Issues to other districts must be shown underneath the district abstract in full detail.

124. Warehouse ledger for plain and rectified spirit form R.D 12—The register for plain and rectified spirit is maintained to show how plain and rectified spirits are disposed off after receipt into the warehouse stock.

The entry in colums 2 must be made in From R.D.9. Other columns need no instructions. At the end each calendar month actual balance must be taken from B.W.L. 5 and monthly wastage ascertained and recorded.

125. Ledger for denatured spirit Form R.D.13—In maintaining the ledger for denatrured spirit the figures for column 1 are obtained from form B.W.L 5

Issues of spirit from the warehouse or from the spirit receiver to the denaturing n for denaturation will in the first place, be recorded in the appropriate columns egister R.D. 11, the total LP litres being recorded thereafter in colums 5 of register .12 and colums 6 of this register (RD, 13). Account taken for issues, after denaturation be recorded in the appropriate colums of R.D.11 after which the entries appropriate ach issue will be recorded in the columns provided for the purpose in this register) 13). Stock is taken monthly in accordance with paragraph 12.

126. Ledger for sophisticated spirit—The figures for colums 1 of R.D.14 will be ined from register B.W.L.5, Issuen of plain spirit from the warehouse for sophisti on either in cask at time of issue or in for subsequent issue will, in the firts place, ecorded in columns 5,8,9,10 and 11 of registe R.D. 11 the appropriate entries being e, thereafter in column 5 of register (R.D. 12) and column 2 to 8 of this register (R.D. Issue after sophistication will be recorded in columns 7,8,9.10 and 13 of R.D. 11 afterwards in the appropriate columns of this register (R.D. 14). This stock of isticated spirit remaining at the end of each month will be taken in accordance with graph 12 and a balance struck in this register

127. Stock book, form B. W. L. 5—The particulars of the gauges, etc. taken at nonthly stock taking will be recorded in from B.W.L 5. A total will be made of the Liters remaining of each of spirit to enable balance to be struck in forms RD 12, nd 14.

128. Register of bond, form R.D.17—The register of bonds will be maintained orm RD 17 and every issue in bond will, on the day it is made, be entered in this ster. On the receipt of intimation that the consignment has duly arrived. column 6 e register will be filed in, and the bond, so far as that consignment is concserned, be discharged.

As soon as the entries relating to a consignment are complete. the officer-in-charge draw a red line through them. He will thus be able to see at a glance the quantity pirit that is transit, and to restrict issues to the amount covered by the bond.

129. Register of issue of spirit againt advance deposit of duty-Form R.D. 21—following instructions are to be observed in maintainig form R.D.21

On the strength of the receipt granted at the foot of form R.D. 19 the officer-harge of the distillery will make the necessary entries in form R.D. 21 by crediting istiller with the amount of the advance and debiting him with the duty on the quantity pirit removed from time to time. As each entry is made, the amount of all the issues ed on the same will be totalled; and it will be the duty of the officer-in-charge to hat such total is not allowed to exceed the total of the entries of balance and of advances appearing at the head of the page. He should also daily send a memorandum e manager of the distillery of the amount standing to the distiller's credit so that atter may replenish his advance, if necessary. No balance need ever be struck in register except when the bottom of a page is reached in which the balance then ling to credit will be carried forward to a fresh page. Particulars of issues made ist advance payment will be entered in the register of issues R.D. 11, in the usual se,in column 16 the word advance will be noted. At the end of each month the er-in-charge will submit to the Distict Excise Officer together with the abstract of ter R.D. 11 an 'account' of excise duty paid in advance in form R.D. 22.

130. Dip-book—Particulars of all gauges and proofs taken in connection with all transactions in receivers and vats should be recorded in form BWL. 4. Separate pages should be allotted to each receiver or vat and all entries will be made by the officer-in-charge as soon as the gauges and proofs are taken.

In addition to the above, B.W.L.2 and will be maintained where issues are made direct from the warehouse to shops in the distiller's contract area under paragraph 94.

131. Abstract of issues—A return of issues in form R.D. 26 showing in abstract, the total issues for the month under head will be forwarded monthly to the Excise Commissioner, the date for filling in the form will be obtained from register. R.D. 12, 13 and 14.

R.D.1

(Rule 4)

Licence to work a Distillery in Premises

Name of licence-holder(s).....

Period for which licence is granted.....

Licence is hereby granted to.....resident(s) of.....(1) to manufacture spirit in their distillery situated at.....(2) to supply it to warehouses within her/their contract area. (3) to sell it to State Government or to such licensed vendors and other persons as are entitled to purchase spirit direct from distillery, and (4) to use according to quota fixed in the manufacture of Indian made foreign liquors if a licence to that effect is held subject to (1) rules relating to import, export and transport of spirit contained in chapters II and III of the Rajasthan Excise Rules, 1956 (ii) rules relating to manufacture of sprit in distilleries and (iii) to such others rules as may from time to time be made by the Excise Commissioner and the State Government for the security of excise revenue and for regulating the manufacture, sale supply and prices of Indian-made foreign liquor, including rectified spirit, denatured spirit, power and fuel alcohols. The infraction of any of the rules herein before enumerated shall involve forfeiture of the licence and or part or whole of security by the licensee in adition to such other penalties as may be prescribed under the Rajasthan Excise Act 1950.

Dated..... Excise Commissioner.

Rajasthan.

R.D.2

(Rule 4)

Licence to work a Distillery in Government Premises.

Name of licence-holder(s).....

Period for which licence is granted.....

Licence is hereby granted to.....resident(s) of.....(1) to manufacture spirit in the distillery situated at..... ....., (2) to supply it to warehouse within his/their contract area, (3) to sell it to such licensed vendors and other persons as are entitled to use it according to quota fixed in the manufacture of to purchase spirit direct from distillery, and (4) Indian made foreign liquor of a licence to that affect is held subject to (i) rules relating to import export and transport of spirit contained in chapter II and

II of the Rajasthan Excise Rules, 1956, (ii) rule relaing to manufacture of spirit in distilleries,(iii) to such other rules as may from time to time be made by the Excise Commissioner for the security of excise revenue and for regulating the manufacture, sale, supply and prices of Indian made foreign liquor (including rectified spirit and drenatured spirit), and (iv) to the following condition. The infraction of any of the rule hereinbefore enumerated or of conditions noted below shall involved forfeiture of the licence and for part or whole of security deposited by the licensee in addition to such other penalties as may be prescribed under the Rajasthan Excise Act, 1950.

CONDITIONS

- The State Government will erect and maintain in proper order all permanent building wells, water channels and drains necessary for a distillery.
- The licensee shall, subject to the previous approval of the Excise Commissioner, supply and erect all plant and appliance necessary for the production storage and transport of spirit.
- No alterations in the buildings or fixed shall be made without the previous sanction of the Excise Commissioner.
- The licensee shall make such arrangements as may directed to remove waste water and refuse or to abate any nuisance caused in working the distillery.
- The licensee shall pay rent as may be specified by the State Government.
- The licensee shall be responsible for all damage to Government property beyond that done by fair wear and tear
- At the expiration of the contract for the supply of country spirit in connection with which this licence is granted, the licence will be entitled to demand that all sanctioned plant used at the distillery in connection with the manufacture and storage of country spirit be brought from him by the succeeding contractor at a valuation made either by mutual settlement or under the orders of the Excise Commissioner :

  Provided--

  (i) that if the licensee wishes to claim the benefits of this clause, he shall give notice of his intention six months before the expiry of the contract;

  (ii) That the claim under this clause shall be permissible of only such plant as was necessary and regularly used for the manufacture and storage of country spirits for supply under this agreement.

  Similarly the licensee shall be bound to purchase the above mentioned articles from the outgoing contractor on the above conditions. Commissioner the contract shall be liable to be cancelled and the Excise Commissioner may pay the price to the outgoing contractor from any sum which may be lying to the credit of the new contractor in any Government treasury in Rajasthan.

  As Security for the due fulfilment of the conditions of this licence the licensee shall deposit with the Excise Commissioner Rs. 10,000/- in Government promissory notes of equivalent market-value or in such other form as the Excise Commissioner may approve.

Excise Commissioner,
Rajasthan.

Counter Part Agreement

I.....the above named licensee for myself and my heirs, legal representatives and assignees hereby agree to all the terms and conditions herebefore written and expressed.

Dated.....20 Signature

Witness—

1.....

2.....

[1][FORM R.D.-2A

(Rule-6)

LICENCE FOR MANUFACTURE AND BOTTLING OF BEER UNDER FRANCHISE ARRANGEMENT

Under Rule 6 (C) of the Rajasthan Distillery Rules, 1977 and in consideration of an annual licence fee, of Rs.....this licence is granted to ..... for manufacturing and botting foreign liquor at premises described in schedule-I below situated at.....in Town of..... District..... .....from. . ... .to .... subject to the following conditions:-

CONDITIONS

1. The licensee shall pay botting fee and other levies, if any, prescribed from time to time.
2. The licensee shall manufacture/bottle only those brands/lables that have been listed in Schedule-II annexed to this licence and for which he has been duly and specially franchised/authorised by. ....
3. All opertions relating to manufacture and bottling of the brands listed in Schedule-II shall be conducted at the licensed premises as per the map plan approved by Excise Commissioner.
4. The labels pasted on the bottle shall specify all the destails as per prevailing provisions and orders.
5. No ingredient injurious to health shall be used in manufacturing/bottling process.
6. The licensee may procure sprit from any Distillery situated in India on being permitted by the Excise Commissioner, for manufacturing the permitted brands of Foreign Liquor. He may also be permitted to import specially blended/flavoured sprits for blending purposes.
7. All Foreign Liquor manufactured in one operation shall be bottled and labelled immediately and shall given the same batch number.
8. The licensee shall maintain day to day brand/labelwise and container-wise true account of Foreign Liquor manufactured, bottled and disposed off. He will also maintain an accurate account of sprit used

1. Appended by S.O. 100 dated 9-7-1999.

9. He shall comply with Rajasthan Excise Act and rules made thereunder as well as instructions issued by the Excise Commissioner from time to time during the currency of this licence.
10. If R.D.-1 and/or R.D.-2 licence to which this licence has been granted stands suspended, cancelled or withdrawn, this licence shall automatically stand suspended/cancelled/withdrawn or discontinued, as the case may be.
11. The licensee shall be bound by all the conditions of licence granted in his favour.
12. On breach of any condition of licence or provisions of Rajasthan Excise Act,1950 or rules made thereunder or order issued by the Excise Commissioner, this licence may be suspended or cancelled or compounded by the Licencing Authority.

Dated : .....

Excise Commissioner,
Rajasthan, Udaipur.

SCHEDULE-I

Descriptions of the Licensed Premises	Boundaries of the licensed premises			
	North	East	South	West
1	2	3	4	5

SCHEDULE-II

S.No.	Details of the brand/brands for which the licensee holds franchise	Full particulars alongwith complete address of the franchisor
1	2	3

Dated :

Excise Commissioner,
Rajasthan, Udaipur.

R.D. 3

(Rule 45)

LOCK TICKET

On 1 Off		On 1 Off
On 2 Off		On 2 Off
On 3 Off		On 1 Off

R.D. 4

(Rule 115)

Stock-book of Government property for the office of the.....

Name and description of articles–(e.g. Chairs. almirahs, etc.)

Date of receipt	Number of pieces.	Initial cost (Purchase Price)	Initials of Officer-in-Charge.	Date of Inspection.
1	2	3	4	5

Remarks about the condition of the article, etc. as found at time of inspection orders regarding condemnation etc.	Articles Number Details of-disposed Property of pieces.	Date of disposal.	Value realized.	Number and date of Treasury Challan	Initials of Officer-in-Charge.	Remarks (regarding reference to papers, etc.)
6	7	8	9	10	11	12

INSTRUCTIONS

1. This form should be ruled on ordinary foolscap paper. Spare specimen copies of the form can be obtained from the Superintendent. Printing and Stationery The same stock book may be used for a number of years.
2. A separate page (or more pages than one, where a large number of receipts of the article are expected should be assigned to each class of article.
3. Every article must be initialled by the official concerned.
4. Every entry should be initialled by official concerned.
5. Whenever an article is condemned, a note about the condemnation should be recorded in column 6.
6. The number of articles should be totalled at the end of each page, and also on the expiry of the financial year.

R.D. 5

(Rule 116)

Officer-in-charge's Diary

Date	Hour		Gauge, Gravities and Proofs taken					
		No. of Bub	Bubs (Prefermenters)			3		
			As declared by Distiller (b)			As found by Officer-in-charge (c)		
(1)	(2)	(a)	Dip. (i)	Quantity (ii)	Gravity (iii)	Dip (i)	Quantity (ii)	Gravity (iii)

GAUGE, GRAVITIES AND PROOFS TAKEN

Wash backs (fermenters) (4)

No. of	As declared by Distiller (b)			As found by Officer-in-charge (c)			Gravities taken by the Officer-in-charge before going to still.
	Dip.	Quantity	Gravity	Dip	Quantity	Gravity	
(a)	(i)	(ii)	(iii)	(i)	(ii)	(iii)	(d)

GAUGE GRAVITIES AND PROOF TAKEN

	Spirit (5)					No. of lock ticket (6)	
No. of receiver or vat	Dip	Quantity (in B.L.)	Temperature	Indication	Strength	Put on	Taken off.
(a)	(b)	(c)	(d)	(e)	(f)	(a)	(b)

GAUGE, GRAVITIES AND PROOF TAKEN

	Defects noted and action taken (7)							
Storage of raw materials	Dilution	Fermentation House	Distillation House	Receiver Storage issue rooms	Bottling and casking room	Any other place in distillery premises	Remarks	Officer-in charge's
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)

R.D. 6

(Rule 118)

Gauge register of receivers and vats

o. .....

Table of dimension	Wet Centimetres.	LITRES								
		Tenths of a centimetre								
		0	1	2	3	4	5	6	7	8	9

R.D. 7

(Rule 119)

Gauge register of wash-backs

io.

able of dimention	Dry Centimeters	Litres	Area of tenth

R.D. 8

(Rule 120)

Distiller's declaration of wash.

I hereby declare that the gravity of wash made this day is according to the prescribed accharometer for temperature.....degrees, that the total quantity made is..... litres and that the quantity of materials used is as follows:–

Quintals	Kilograms	Number of wash back	Quantity of wash in litres
Gur			
Molasses			
Mahuwa			

Dated this..... . day of . 20

Distiller or Manager.

R.D. 9

(Rule 120)

Statement of Wash made and spirit obtained therefrom

MATERIALS USED		OUT TURN																			
Wash		L.P. Litres																			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Date when set up	Date when sent to still	Wash back number	Bulk litres of wash in each wash back	Initial gravity	Final gravity	Degrees of attenuation	Impure Spirits L.P. Litres	Receiver number	Dip	Temperature	Indication	Strength	Bulk Litres	Of impure spirit	Of finished spirit passed into store	Date when passed	Total produce of distillation (L.P.) Columns 15 & 16)	Percentage of outturn of proof spirit	Degrees of attenuation for each litres Proof spirit per 100 litres of wash.	Remarks

R.D. 7A

(Rule 121)

Fermentation and Distillation Register.

SECTION I

1	2	3				4			5			6			7	8
		Details of molasses/base used (3)				Molasses/base used in yeast vessels.			Molasses/base used in perfermenters.			Molasses/base used in all-fermenters.				
Date Batch No.		Total percent invert sugar (as reducing sugar)	Per cent (fermentable sugar)	Per cent (Unfermentable sugar)	PH	Vessel No.	Quantity of (in quintals of molasses/bases used)	Quantity of (in quintals) of fermentable sugar	Tank No	Quantity of (in quintals) Molasses bases used	Quantity (inquintals) of fermentable sugar	Tank No.	Quantity (in quintals) of molasses/base	Quantity (in quintals) of fermentable sugar	Total quantity (in quintals) of molasses/base sugar.	Total quantity (in quintals) of fermentable sugar.
	(a)	(b)	(c)	(d)	(e)	(a)	(b)	(c)	(a)	(b)	(c)	(a)	(b)	(c)		

Wash Tanks

SECTION II

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
When set up								When ready								
(a) Date	(b) Time	Batch No.	Wash Back No.	Dip.	Quantity (in B.L.) molasses/base used	Quantity (in quantiles) of molasses/based used	Quantity (in quintals) of fermentable sugar	P.H. of work	Initial gravity	Date	Time	Quantity (in B.L.) of wash	Final gravity	Attenuation figures	P.H. of wash	Duration of fermentation.	Aldehyde per cent in wash	Alcohol per cent in the wash (by distilation)
18		19	20			21	22			23		24		25	26	27
Alcohol content (Litres 100 per cent)			Total unfermented sugar in wash (in Quintals				Fermentation loss per cent of theoritical fermentation yield									
For each tank separetely	(a) Total of all (b) tanks in the batch	Per cent unfermented sugar in the wash	(a) Fermentable Sugar.	(b) Unfermentable	Theoritical fermentation yield of alcohol (litres 100 per cent) (in quintals) fermentable invert sugar 5.2995.		Due to unfermented fermentable (a) Sugar in the wash.	(b) Unknown Losses.	(c) Total losses (in B.L.) Col. 21 minus col. 18(b)		Fermentation efficiency per cent col. 18(b)X100 col. 27.		Sludge discarded in (B.L.)	Alcohol in (litres 100 percent) lost with sludge.	Wash (in B.L.) sent to stills.	

SECTION III

| 1 | | | 2 | | | | 3 | | | |

(Rules 111 & 122)

Weighment Register

Number and marks of cask	Date of issue.	Weight in Kilograms: Of empty cask	Of cask ready for despatch	Of issued	Hydrometer indication	Weight per litre	Contents of cask	Quantity drawn off by measure before weighment	Quantity issued (bulk litres)	Bang diameter of cask (centimetres and tenths)	Net centimetres and tenths	Temperature	Indicatoin	Strength	L.P. Litres issued
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

Register R.D. 10-A[1]

Storage Warehoue, Rule 70 (A)

Date	Dip. in C.M.	Opening Balance: R.L.	Strength	L.P.L.	From vat or Receiver or other sources	Receipt: B.L.	Strength	S.P.L. Receiver	L.P.L. transferred	Import trans-	Total: B.L.	L.P.L.
1	2	3	4	5	6	7	8	9	10	11	12	13

Issues: Vat No	B.L.	Strength	LPL For	redistillatiion	Duty Paid: B.L.	Strength	LPL	Under Bond: BL	Strength	LPL	For Reduction in LPL
14	15	16	17	18	19	20	21	22	23	24	25

Wastage: Blending: BL	LPL	Storage: BL	LPL	Total: BL	LPL	Closing Balance: BL	Strength	LPL	Dip.	Remaks
26	27	28	29	30	31	32	33	34	35	36

1 Inserted vide GSR-74 dated 9-1-1986 pub. in Raj. Gaz. 4(Ga) (I) dated 9-1-86, page 240.

REGISTER R.D. 10B[1]

Maturatiion Warehouse Rule 70(A)

Date	Dic. in C.M.	Opening Balance			From Vat or Receiver	Receipt			Total			Issue
		B.L.	Strength	L.P.		B.L.	Strength	From Receiver	B.L.	LPL	Vat No	BL
1	2	3	4	5	6	7	8	9	10	11	12	13

Strength	For distillation LPL	Total issues L.P.L.	WASTAGE						CLOSING BALANCE				Remarks
			Blending		Maturation		Total Wastage		B L	Strength	LPL	Dip	
			BL	LPL	BL	LPL	BL	LPL					
14	15	16	17	18	19	20	21	22	23.	24	25	26	27

1. Inserted vide GSR 74 dated 9-1-1986.

R.D. 11

(Rules 123)

Register of Issues of Spirits other than Country Spirits at fixed Strengths

Issued on Pass			Bulk Litres					L P Litres								
Number	Date	Destination, purpose of nature and adress of consignee	Number of vessel in which issue made	Plain spirit (including rectified spirit)	Danatured Spirit	Sophisticated spirit	Temperature	Indication	Strength	Plain spirit	Denatured spirit	Sophisticated spirit	Rate of duty	Amount of duty realised	Number and date of treasury receipt or note, if debited against advance, duty free or in bond	Date when receipt for spirit sent under bond or duty free received
1	2	3	5	6	7	8	9		10	11	12	13	14	15	16	17

R.D. 12

(Rules 123 & 124)

Ledger for Plain Spirit (Including Rectified Spirit) and spiced Spirit

	Receipts in L.P Litres			Issue iin L.P. Litres as rectified spirit				As per register L.D. II Under bond to Rajasthan					Issue in L.P. gallons as per register of issues from country spirit bonded ware-houses.				
				Duty Paid		Duty free											
Date	From spirit receover	From other sources	Total receipt L.P Column 2 plus column 3	For rectification, redistillation denaturation or sophistication L.P. Litres	At full rate	At reduced rates	To Rajasthan	To other State	Under bond to other States	Plain	Spiced	Duty paid to other States	Plain	Spiced	Total issues L.P. Litres	Amount of duty	Officer's Incharge's initials
1	2	3	5	6	7	8	9	10	11	12	13	14	15	16	17	18	

R.D. 13

(Rules 125)

Ledger for Denatured Spirits

	Stock													Issues (From Register R.D. II)						
	Remaining at end of last month					Receipts during the month										L.P. Litres				
	Denaturing materials (Litres)					Denaturing materials														
						Received			Issued											
Denatured spirit L.P. Litres	Caoutchucine	Poridine	Other denaturants	Date	Plain spirit received from the ware house and denatured L.P. Litres (R.D 12, Column 5)	Caoutchoucine	Pyridine	Other denaturants	Caoutchovcine	Pyrdine	Other denaturants	Initials of Officer Incharge in whose presence denaturation is completed	Date	Destination	Litres	To Rajasthan	To other State	Remarks	Officer incharge's initials
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	

R.D. 14

(Rules 126)

Ledger for Sophisticated Spirits

| Stock | | |

R.D. 16

(Rules 94 and 96)

Form of special Bond to be executed on the removal of spirit from distilleries to for transport/export without payment of duty

THIS IDEEMNITY BOND MADE THE .....day of..... .....BETWEEN.....son of.....resident of .....(and of..... .....resident of.....).

hereinafter called the [1]distiller/distillers which expression shall include his/their heirs, eprcsentative, successors and assigns) of the one part AND THE GOVERNOR of Rajasthan hereinafter called "the Governor" which expression shall include his successors and ssigns) of the other part.

WHEREAS THE [1]distiller has/distillers have been permitted to remove.....litres f spirits of the strength of ..... degree-under/over proof from his their distillery 1.....without previous payment of the duty thereon on distiller/distillers executing an deminity bond on the terms and conditions hereinafter appearing;

AND WHEREAS THE duty on the said quantity of spirits at the present reate f Rs..... per L.P. Litres amounts to Rs.....

NOW THIS BOND WITNESS AND the distiller/distillers hereby convenants/ ovenant with the Governor as follows :

1. That the distiller/distillers shall on or before the expiration of days from the ata hereof or within such further time as may be granted by way of extension by the District Excise Officer of the district.....deliver the dustody of the Officer-in-charge f the said bonded warehouse.

2. That if the above mentioned.....litres of spirits after deducting such llowance for dryage and wastage as may be sanctioned shall not have been delivered t the destination as herein-before agreed the distiller deistillers shall idemnify the Governor or any loss of duty which the Governor may suffer by reason of such non-deliver or nort delivery by paying him on demand the duty at the rate of Rs. .....per L.P. Litres f spirits not so delivered after making the allowance aforesaid.

IN WITNESS WHEREOF THE [1]distiller has/distillers have hereinto set his hand/ heir hands the day and the year first above written.

Signed by.....

.....

[1]distiller/distillers.

In the presence of.....

nd of.....

R.D. 17

(Rule 128)

Register of Bonds

ame of distiller
ate of period of bond
mount of bond
istricts to which transport in bond is covered.

[1] Cancel whichever entry is inappropriate

Number of pass	Date of pass	Place of consignment	Quantity of spirit in L.P.	Amount of duty at the rate prescribed in the bond.	date of arrival
1	2	3	4	5	6

R.D. 18

(Rule 123)

Application for issue of spirit under bond.

No. .....dated.....20.....

To

The Officer-in-charge of.....

KINDLY grant us a pass for the issue under bond of..... litres of*.....spirit of..... strength to.....at.....

This issue is under our general bound, dated.....

The issue is under a special bond which is herewith enclosed.

Yours faithfully.

R.D. 19

(Rules 100, 123 and 129)

Application for issue of spirit against advance deposit.

No.....dated.....20.....

To,

The Officer-in-Charge,

.....

Distillery.

Sir,

Kindly grant us passes for the issue of spirits as detailed below the duty on which is to be debited against our advance deposit.

Yours faithfully.

Signed.....

Name of consignee	Description of spirit	Quantity	From Vat No.

R.D. 20

[Rules 102(a) and 123]

Application for issue of spirit duty free

No.....dated.....20.....

To,

The Office-in-Charge,

.....

Distillery.

Sir,

KINDLY grant us pass, duty free for the issue of.....litres
if*.....required for the use of the.....as
ner original letter enclosed, No.....of.....from.....

Yours faithfully,

Signed.....

R.D. 21

(Rule 129)

Register of issue of spirtis against advance deposti for duty.

	Rs.	P.
Balance of advance outstanding to the credit of the distiller	.....	
Amount paid in advance as per challan No. and date	.....	
Ditto Ditto		
Total		
Deduct duty on issue shown hereunder	.....	
Balance carried forward	.....	

ISSUES

Pass No.	Duty	Total	Pass No.	Duty	Total
	Rs. P.	Rs. P.		Rs. P.	Rs. P.

R.D. 22

(Rule 123 and 129)

Account current of Excise duty paid in advance.

Month Year

To issues as per passes attanced. The balance forward from previous month.

Amount of advance paid into treasury.

To issue by obscuration.
Balance to credit of distiller
at end of month.....

.....

Signed.....
Office-in-charge

* Hereenter description of sprit (Country, foreign etc.)

R.D. 23

[Rule 102 (c)]

Register of duty free issues.

Designation of Official or Institution.....Quantity sanctioned
.....*litres Rectified Spirit.
.....litres absolute alcohol.

Issue absolute alcohol			Issue		Rectified spirit
Number of pass	Date,	Quantity,	Number of pass,	Date,	Quantity

* Here enter description of spirit.

[Rule 94, 96 & 102(a)]

1	2	3
Pass for the removal of spirit from Sarvashri	Pass for the removal of spirit from Sarvashri	Pass for the removal of spirit from sarvashri
Distillery	Distillery	Distillery
No. Dated 20	No. Dated 20	No. Dated 20
Current to .	Current to :	Current to :
1. Name of consigner.	1. Name of consigner.	1. Name of consigner.
2. Name of consignee.	2. Name of consignee.	2. Name of consignee.
3. Name of place to which issued.	3. Name of place to which issued.	3. Name of place to which issued.
4. Descriptiion of spirit.	4. Description of spirit.	4. Description of spirit.
5. Number and date of permit (if any)	5. Number and date of permit (if any)	5. Number and date of permit (if any)
6. Duty paid Rs. P. / Duty free · / In bond	6. Duty paid Rs. P. / Duty free / In bond	6. Duty paid Rs. P. / Duty free / In bond
7. For details, see reverse.	7. For details, see reverse.	7. For details, see reverse.
Officer-in-charge	Officer-in-charge	Officer-in-charge

REVERSE

Received							Received						
Mark and number.	Weight of cask containing spirit as consigned.	Weight of cask when empty.	Contains in bulk litres.	Strength	Litres.	Strength.	Marks and number.	Weight of cask containing spirit as consigned.	Weight when empty.	Contains in bulk litres.	Strength	Litres.	Strength.
1	2	3	4	5	6	7	1	2	3	4	5	6	7

(Rule 94 & 96)

Advice to accompany pass in the case of Issue under Bond

.....Distillery.

Dated.....

Sir,

THE undermentioned.....casks of.....spirits have this day delivered from this distillery under the bond of.....for removal to.....The time allowed for transit is.....days. Kiindly examine the casks on arrival and note the result on the reverse.

Your faithfully
Officer Incharge
Distillery

Number of casks.	Weight of cask empty.	Weight of casks containing spirits as consigned	Vacuity if any	Contents of each cask in bulk litres	Temperature	Indication	Strength	L.P. litres
1	2	3	4	5	6	7	8	9

REVERSE SIDE

.....Bonded warehouse

Dated.....

Certified that the.....casks of.....spirits, detailed on the other side hereof have this day been received and examined. The result of the examination is given below.

.....Officer Incharge

.....Bonded warehoue

Certified that.....proof litres have been creditied to the stock of above warehouse.

.....District Excise Officer

.....Dated

No. of casks	Bulk Litres	Litres	Weight of cask containing spirit on verification	Contents of cask bulk litres	Temperature	Indication	Strength	LP Litres	Loss free	Loss chargeable
1	2	3	4	5	6	7	8	9	10	11

(Rules 131)

Monthly abstract of issues from.....Distillery

| Spirits coloured of sophisticated to resemble imported spirit | | |

[10]

The Rajasthan Issue & Sale Prices of Country Liquor, Indian Made Foreign Liquor & Beer Rules, 1997

❑ Rules of 1964 Superseded

[Notification No. F.32(B)159/EX/L/96/1526. dt. 18.3.97]

In pursuance of the powers conferred by Sec. 42 of the Rajasthan Excise Act,)5 (Rajasthan Act BNo. 2 of 1950), the Excise Commissioner with the previous sanction ' the State Government hereby supersedes Rajasthan Issue and Sale Price of Country iquor Rules, 1964 with follwoing Rules 2.e.f. 1.4.97 namely :—

1. (1) These rules may be called **"The Rajasthan Issue & Sale Prices of Country iquor, Indian Made Foreign Liquor & Beer Rules, 1997".**

(2) They shall come into force on and from the Ist April, 1997.

[1][**2. Issue Prices:-**(i) The issue price for different varieties fo country liquor anufactured by the Rajasthan State Ganganagar Sugar Mills Ltd. shall be determined by e Excise Commissioner, from time to time.

(ii) The issue price in respect of country liquor manufactured by private manufacturers id brought for supply at the warehouses of Rajasthan Ganganagar Sugar Mill Ltd. shall : determined by the Excise Commissioner with the prior approval of the State Government.

"**3.** The Excise Commissioner shall be competent to fix minimum or maximum retail price both, chargeable by a retail by licensee, with the prior permission of the State Government.]

❑ COMMENTARY

Rajasthan Issue & Sale Prices of Country Liquor Rules.

[Please also refer "Rajasthan Excise Rules"-Chapter 7-A & 7-B]

Guarantee Amount—Recovery of deficit amount- Failure was due to non-supply ' liquor from Govt. Warehouse being not available there-Amount demanded is less than e security deposits of petitioners-Held, petitioners can not be held liable for entire nount of deficit due to short fall- Demand notices and attachment proceedings quashed- so held, petitioners entitled to refund of balance of security deposit after deduction ' amount of deficit for which they are found liable (Writ accepted).[2]

Guarantee System- Sale of Liquor—State could not supply stock of liquor demanded / petitioners- Stock Register not produced in District Court-Adverse inference drawn

No.F.32 (B)(379)Ex/L/72-VI Udaipur, dated 7 April, 2006

against State- Even no oral evidence as to stock of liquor was produced. The judgment of District Judge upheld & Appeals of State dismissed.[1]

Shortfall in Supply of Country liquor due to "dharna" at Mandore distillery—Condition No. 2(Ka) of the Licence considered- No default of petitioner- Held, respondents not entitled to demand shortfall amount. (Writ allowed).[2]

Guarantee System—Recovery of guaranteed sum not levy of excise duty- Terms of contract not fulfilled- Bald and vague allegations of non-supply due to non-availability of Liquor not accepted. Held petitioner is liable to pay shortfall amount. (Writ dismissed).[3]

Guaranteed Amount—Licence holder liable to pay when he did not lift liquor as per conditions No. 2 and 24 of the Licence. Held, notice of demand not invalid. (Writ dismissed).[4]

Guarantee System—Held, Government cannot charge shortfall amount which is nothing but excise duty on unpurchased stock.[5]

Suit for refund of deposit when decreed- When liquor was not issued due to non-availability of bottles in the Warehouse and endorsement on challan revealed this fact which was not rebutted by defendant. Plaintiff's suit was, therefore, decreed.[6]

Retail sale of Country Liquor—Tenders invited=Earnest money deposited Petitioner withdrawn the tender-Tender accepted-Security Deposit not deposited-Held, the forfeiture of earnest money was valid as per clauses of the tender.[7]

Validity of the Rules when upheld—There is no restriction on retail sale price under exclusive privilege system, whereas maximum retail sale price has been fixed by these rules in Tribal sub-plan areas and Tehsils 'S' & 'K'. Held, there is no discrimination as they Form a separate class. The High Court declined to enter into enquiry of questions of facts involving Fixation of price.[8]

Claim of Plaintiff decreed- Refund of deposit—Challan showing endorsement that liquor was not issued as the bottles were not available in the warehouse. This evidence as not rebutted by state.[9]

No Fundamental right available to a citizen–Privilege of Selling liquor-Contractual obligation—Where all formalities of tender completed, the contract was concluded and exclusive privilege granted- Action of Excise Commissioner was held not just, nor unfair, nor arbitrary, nor malafide, nor against public interest. Held, it does not contravene Art. 14 of the Constitiution. Scope of judicial Scrutiny in the matter of Government policy is, held to be limited.[10]

1. State v. Lalukhan, 1980 WLN (UC) 441 (444).
2. M/s Jai Bharat Wine Contractor, Jodhpur v. State, 1979 WLN (UC) 282 (287).
3. Mohd. Ramzam v. State 1978 WLN (UC) 156 (157).
4. Channi Lal. v. State 1978 WLN (UC) 230 (232).
5. Balmukand v. State, ILR (1972) 22 Raj. 84 : 1971 WLN 373.
6. Hazarimal & Co. v. State 1985 WLN (UC) 56.
7. Bhanwarlal v. State ILR (1976) 26 Raj. 462 : 1976 WLN (UC) 129 : 1976 RLW 354 : AIR 1976 Raj. 215.
8. Lekhraj v. State, 1987 (1) Raj LR 661
9. M/s Hazarilal & Co. v. State, 1985 WLN (UC) 56.
10. Anil Kumar Sunil Kumar v. State of Rajasthan, 1993 (I) WLN 313.

[11]

The Rajasthan Issue and Sale Prices of Bhang Rules, 1964

[1][Notification No. F. 326(5/6) Ex. 63-64, dated 7-5-1964]

In exercise of the powers conferred by clause (e) of Section 42 of the Rajasthan cise Act 1950 (Rajasthan Act II of 1950), the Excise Commissioner, with the previous ıction of the State Governemnt and in supersession, of the existing rules relating to : price of Bhang, hereby makes the following rules, namely:-

The Rajasthan Issue and Sale Prices of Bhang Rules, 1964

1. Short title & commencement—(1) These rules may be called the Rajasthan ue and Sale Prices of Bhang Rules, 1964.

(2) They shall come into force on and from 1st April, 1964.

★ ★ ★ ★ ★.

❑ LATEST AMENDMENTS

[2][1] **Notification-G.S.R. 45, July 24, 1997**—In exercise of the powers conferred Clause (c) of Section 42 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 50), the Excise Commissioner, with the previous sanction of the State Government hereby ıkes the following amendment in the Rajasthan Issue & Sale Price of Bhang Rules, 54 with effect from 1-6-1997, namely :—

AMENDMENT

In the said Rules, existing rule 2 shall be substituted by the following:-

"Rule 2—The issue price of Bhang, that is the price at which Bhang will be issued from the Government Warehouses to the Retail Licensees shall be Rs. 35/- [3](Rupees Thirty Five only) per Kg.

[2] Notification-G.S.R, 77.-January 20, 1999—In exercise of the powers conferred Clause (e) of Section 42 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 50), the Excise Commissioner, with the previous sanction of the Stat Government hereby ıkes the following amendment in the Rajasthan Issue & Sale Price of Bhang Rules, 54 with effect from 11-11-1998 namely:—

AMENDMENT

[3] In the said Rules, existing rule 2 shall be substituted by the following—

Published in Raj. Gaz-EO-IVC dated 1.4.1964.

No. F. 38 (B)(1)(P) Ex./97-98–dated 24-6-1997-GSR 45- Pub. in Raj.Gaz-EO-IV C(I) dated 30-6-97 Page 74.

No. F. 38(B)(1)(P) EX/2000-2001–GSR 31-dated 3-7-2000, pub in Raj. Gaz.-EO-IV (Ga)(I) dated 11-7-2000 [Rs. 40/-–Substituted for Rs. 35/- w.e.f. 11-7-2000]

"Rule 2—The issue price of Bhang, that is the price at which Bhang will be issued from the Government Warehouses to the Retail Licensees shall be [1][Rs. 37/- (Rupees Thirty Seven only) per Kg."]

AMENDMENT–2000

[2][4] In the said rules, existing rule 2 shall be substituted by the following—

"Rule 2—The issue price of Bhang, that is the price of which Bhang will be issued from the government warehouse to the retail licensees shall be Rs. 42/- (Rupees forty two only) per kg."

[3]**"Rule 3**—[× × ×] deleted.

❑ Editorial Note

Chart showing Various Rates

Years	R. 2 Issue Price	R. 3 Sale Price
w.e.f.	Rs. 18.00 Per kg.	
[4][11-12-84		
[5][24-7-85	Rs. 19.00 Per kg.	Rs. 37.80 Per kg.
[6][1986	Rs. 20.25 Per kg.	Rs. 39.00 Per kg.
[1989		
[7][2-3-89	Rs. 21.00 Per kg.	Rs. 40.00 Per kg.
[8][26-7-89	Rs. 23.00 Per kg.	Rs. 42.00 Per kg.
[9][9-8-90	Rs. 24.50 Per kg.	Rs. 43.50 Per kg.
[10][7-8-91	Rs. 26.00 Per kg.	Rs. 45.00 Per kg.
[11][20-8-93	Rs. 28.25 Per kg.	
[12][21-2-95	Rs. 30.00 Per kg.	[9][R.3. deleted]
[13][1-6-97	Rs. 35.00 Per kg.	—
[14][11-11-98	Rs. 37.00 Per kg.	—
[2][3-7-2000	Rs. 40.00 per kg.	—
[14][10-9-2001	Rs. 42.00 per kg.	—

1. No. F.38 (B)(1)(P) Ex/98-99, dated 20-1-90, pub in Raj. Gaz. E.O. 4 (Ga) dated 20-1-99 page 214.
2. Noti No. F. 38(B)/1/P/Ex/200-2002 dated 10-9-2001, –Raj. Gaz. EO IV-C (±) dated 10-9-2001, page 117.
3. Deleted by S.O. 387. 21-2-1995 Pub. in Raj. Gaz. EO Pt-IV (Ga-II) dated 7-3-1995.
4. GSR 15 dated 13-5-85, published in Raj. Gaz. dated 20-6-85, Page 28, [1985 RLT 327]
5. GSR 42 dated 20-8-85, published in Raj. Gaz. dated 5-9-85, Page 182 [1985 RLT 605]
6. GSR 57 dated 2-7-1986.
7. S.O. 8 dated 2-3-89.
8. GSR 62 dated 26-7-89.
9. No. F. 38(B)(1) P Ex 90-91 dated 9-8-1990, published in Raj. Gaz. Ex. ordi. 4(Ga) (1)-Dt. 10-8-90 Page 26]
10. संख्या एफ. 38(बी) 1/पी.आब/91-92 दिनांक 7-8-1991 राजस्थान राजपत्र, भाग 4(ग) 1 दिनांक 22-8-91 पृष्ठ 89 पर प्रकाशित ।
11. GSR 27 dated 20-8-93.
12. S.O.387 dated 21-2-95- Pub on 7-3-95.
13. S.O. 200 dated 5-12-96- Pub on Page 212
14. G.S.R. 67 Notification No. F. 38 (B) (1) (P) Ex./2001-2002 dated 10-9-2001 Pub. in Raj. Gaz. Part IV(C) dated 15-9-2001.

[12]

The Rajasthan Sacramental Wine Rules, 1970

[1][Notification No 58(2-A) Ex/L/59, dated 7-1-70]

GSR 18.—In exercise of the powers conferred by Section 42(a) of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950); the Excise Commissioner with the previous sanction of the State Government, hereby makes, with immediate effect, the following rules, namely :-

RULES

1. Short title—These rules may be called the Rajasthan Sacramental Wine Rules,. 1970.

2. Definitions—Unless there is anything repugnant in the subject or context.-

(a) *"Act"* means the Rajasthan Excise Act, 1950 (Rajasthan Act. No. II of 1950).

(b) *"Shop"* means a priest of the Roman Catholic or Anglican Church conserated as Governor of a diocese;

(c) *"Manufactory"* means the room or building specified in the licence for the manufacture of sacramental wine, and;

(d) *"Sacramental wine"* means wine required for offering the Holy Sacrifice of Mass in a Roman Catholic Church or Holy Communion in an Angilcan Church in Rajasthan and prepared from raisins.

3. Restriction of grant of licence.—No licence for the manufacture of pure of sacramental wine shall be granted unless the applicant is a Bishop or a Priest of a Roman Catholic or Anglican Church.

4. Application for licence.—(1) An application for a licence for the manufacture of sacramental wine shall be made in writing to the Excise Commissioner through the District Excise Officer concerned.

(2) The application shall be accompanied by–

(a) short description of the place where it is proposed to manufacture sacramental wine,

(b) maximum quantity of sacramental wine which is proposed to be manufactured and the names of the diocese and churches for which the wine shall be utilised, and

(c) an undertaking to the effect that the applicant shall abide by the provisions of the Act and the rules and orders made thereunder and the conditions of licence.

1. Published in Rajasthan Gazette, Part 4-C (1), dated 14-5-1970.

5. Grant of licence and term thereof—The Excise Commissioner may grant a licence in form S W.I. for a period not exceeding one year ending on March 31 of the following year, on the application of the Bishop of the diocese or a priest of a Roman Catholic or Anglican Church made through the Bishop concerned.

6. Renewal of licence—Application for renewal of licence shall be submitted through the Distric Excise Officer, concerned to the Excise Commissioner, Rajsthan at least one month before its expiry.

7. Other conditions of licence—The licensee shall-

(a) use raisins only as base for manufacture of sacramental wine without adding any sugar, fermenting agent or other substance either before at the time of. or after fermentation :

(b) on demand by Excise Officer permit samples to be taken for analysis free of cost; and

(c) not manufacture Scramental wine of a strength exceeding 2% of proof spirit;

[1](d) not manufacture and have in his possession at any one time sacramental wine in excess of ten litres for being used as offering for the Holy Sacrifice of Mass in a Roman Catholic Church and Holy Communion in an Anglican Church in Rajasthan.]

8. Transport of sacramental wine—Sacramental wine manufactured under the licence so granted shall not be removed except under written permission of the District Excise officer concerned.

9. Excise duty—Not excise duty shall be charged on sacramental wine which is manufactured under these rules.

FORM S. W. I

CREST **LICENCE NO.**

Licence for the Manufacture of Sacramental Wine

Licence is hereby granted under and subeject to the provisions of the Rajasthan Excise Act, 1950 (Act II of 1950), and the rules, regulations and orders made thereunder, to ..... at ..... (hereinafter referred to as "the licensee") authorising him to manufacture and sell sacramental wine at his manufactory situated at at ..... District ..... (hereinafter referred to as the manufactory, during the period from ..... to ..... subject to the following conditions, namely :-

CONDITIONS

1. The licensee shall not manufacture sacramental wine except at the said manufactory and under the supervision of the officer-in-charge.

2. The licensee shall, if the Excise Commissioner so directs, pay the cost of supervision of the officer-in-charge. The licensee shall not manufacture sacramental wine at the said manufactory exceeding... ... . litres.

1. Added by No. F 36(b) 67/Ex/L/71 dt. 2-5-1975 vide G.S.R. 81(30) Pub. in Raj. Gaz., Part IV-C dt. 19-6-1975, Page 169(78).

3. The licensee shall not carry out any alterations in the said manufactory except with the previous sanction of the Excise Commissioner.

4. The licensee shall hung up the licence at conspicuous place in the said manufactory.

5. The said manufactory shall when not in use, be kept close under separate locks and keys, of the officer-in-charge and the licensee.

6. The licensee may authorise in writing a priest to work on his behalf but both licensee and priest shall be responsible for the operations connected with the manufacture, storage and sale of sacramental wine carried out at the said manufactory.

7. This licence may be suspended or cancelled in accordance with the provisions of Secion 34 or 35 of the Rajasthan Excise Act, 1950.

8. In case the licence is suspended or cancelled during the currency of licence period or is not renewed on its expiry, the whole stock of sacramental wine in balance with the licensee on the date of such suspension, cancellation or non-renewal, as the case may be, shall forthwith be surrendred by him to the District Excise Officer concerned.

9. The licensee shall comply with all orders and instructions issued to him by the Excise Commissioner, or the District Excise Officer.

10. The licensee shall abide by the provisions of the Rajasthan Excise Act, 1950 and the rules, regulations and orders made thereunder & the conditions of this licence.

Granted this.. ..... day of.....of. .....

Seal of the Licensing authority — Licensing Authority

Signature of the Licensee

NOTIFICATION

Duty Free Import of Sacramental Wine

[No F. 1 (4) FD/Ex/84 S.O. 116, November 7, 1985]

In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government of being of the opinion that reasonable ground exist for doing so, hereby permits. the duty free import of Sacramental wine as defined in the Rajasthan Sacramental Wine Rules, 1970 from outside Rajasthan on the condition that such import from outside Rajasthan shall be against permits to be issued by the District Excise Officer concerned with the approval of the Excise Commissioner and shall not exceed 750 Bulk litres per diocese per year.

[Published in Raj. Gaz.-EO-4 (Ga) I dated 9-11-85, page 254].

[13]
Rules Regarding Stock Taking & Wastage of Liquor (At Distilleries and Warehouses) Rules, 1959

[1][Notification No. F. 326(5)/Ex 5371, January 25, 1960]

In exercise of the powers conferred by sub-sections (a) and (b) of Section 42 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the Excise Commissioner with the previous sanction of the State Government does hereby make the following rules, regarding stock-taking and wastage of liquor at distilleries and warehouses namely:-

RULES

1. Short title and commencement—(1) These rules may be called the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959.

(2) They shall come into force at once.

2. Definitions—(1) In these rules, unless there is anything repugnant in the subject or context.-

(a) *Officer-in-charge"* means the Excise Inspector or Excise Clerk as the case may be who is incharge of a distillery or warehouse;

(b) *"Vat"* means any fixed vessel used for the storage of spirit;

(c) *"Warehouse"* means a building, either part of a distillery or independent of it, in which spirit in a fit state for issue is stored.

(2) Words and expressions not defined in these Rules but defined in the Rajasthan Excise Act, 1950, shall have the meaning assigned to them in the aforesaid Act.

[2][(3) For the purposes of these rules, spirit or rectified spirit shall also include "concentrated I.M.F.L." which means rectified spirit compounded by colour and essence which is capable of reduction to form Indian Made Foreign Liquor of prescribed strength.]

3. Stock to be taken monthly—On the last working day of every calendar month after all issues for that day are made, the officer-in-charge shall gauge and prove the spirit in each vat in order to verify the stock and ascertain the wastage on each class of spirit at the distillery and ware house. He shall enter the results in this own handwriting separately in the page then in use in the vat. Account Register in Form D-12 and in the Bottling Account Register in Form D-13, sign the entry, tally with the entries of the contractor, accounts, compile stock-taking statement of monthly receipts, issue and spirit stock account in Form D-22 and despatch it to the Assistant Commissioner of the District.

[3][**4. Wastage allowance**—(1)(a) The free allowance for the wastage for defferent kinds of spirit, stored in distillery or warehouse shall be as follows:

1. Published in Rajasthan Gazette, Part IV-C, dated 25-2-1960
2. Added vide No. F. 38(A)( ) P-EX/98-99/268 dated 3-4-2001.
3. Substituted vide No. F. 37 (A) 2 Ex/was.76, GSR 34 dated 2-7-1998, published in Raj. Gaz., 4(Ga) I, dated 28-7-88, Page 84.

	1988	1998
(i) Rectified spirit	0.8%	[1][0.4%
(ii) Plain sophisticated and spiced spirits	0.6%	0.3%
(iii) Denatured spirit	0.8%	0.4%]

(b) An allowance of [2][0.15%] wastage may be allowed in blending, reducing operations.

(c) An allowance of [2][0.15%] wastage may be allowed in bottling operations.]

(2) When the wastage does not exceed the prescribed limit, no action need be ken by the officer-in charge, but when an excess is found in any case at the time monthly stock-taking, the officer-in-charge shall obtain written explanation from the stiller or his agent or in case of Government warehouse he shall submit his own explanation d forward the same together with a full report of the circumstances to the [3][District cise Officer]. The [3][District Excise Officer] will fortwith investiagate into the matter d report to the Excise Commissioner.

(3) Wastage for the purpose of collection of duty on excess wastage as in sub-le (1) shall be calculated annually at the end of each financial year and the following ocedure shall be adopted in calculating wastage :-

(a) the quantity of spirit passed into store during the year shall be added to the last year's closing balance;

(b) the quantity of spirit issued issued in bulk and for bottling during the year and also the closing balance of spirit at the close of the year ascertained by actual measurement shall be added together:

(c) the total quantity of (b) shall be substracted from the total of (a) and the difference shall be total wastage;

(d) allowable wastage on (a) shall be ascertained at the scale of wastage mentioned in sub-rule (1);

(e) the difference between (c) and (d) shall be excess wastage chargeable to duty.

[4][(4) If the total wastage on any kind of spirit does not exceed [5][2.5%] duty will charged by the Excise Commissioner on the net wastage in excess or the free allowances. ut if the total wastage exceeds 3% duty shall be liable to be charged by the Excise ommissioner to the whole wastage (without allowing for the free allowances) at the te of duty leviable on the spirit.]

(5) An allowance for the wastage during the course of maturing a spirit stored the matured spirit warehouse shall be as follow:—

Substituted by S.O. 164 dated 15-7-98.

Substituted for "0.3%" by S.O. 164 dated 15-7-98.

Subs for the expression "Assist. Excise Commissioner" by GSR 81(27) No. F. 37 (A) (2) Ex. LJ 73-1-39, dated 14-3-1973 Pub. in Raj. Gaz. Part IV-C dated 27-9-73. Page 135 (4) (6).

Subs. by GSR 81 (2) vide No. F. 73 (A) (2) Ex. W 73-1-39, dated 14-3-73.

Subs. by Rule 2 of No. F. 3(7) (1) (316) A.V. 7975, dated 31-10-1977.

For periods	In cases of vats or casks of capacity of	
	80 gallons or 363.68 litres and upward per cent	Under 80 gallons or 363.68 litres per cent
1	2	3
Not exceeding 1 month	1.5	2.0
Exceeding 1 month but not 2 months	3.0	4.0
Exceeding 2 months but not 6 months	5.0	7.0
Exceeding 6 months but not 1 year	7.0	9.0
Exceeding 1 year but not 2 years	10.0	12.0
Exceeding 2 year but not 3 years	13.0	17.0
Exceeing 4 years but not 5 years	16.0	18.0
	19.0	21.0

For every succeeding year or part of a year, an allowance of 2% shall be allowed irrespective of the size of cask.

[1]["**Explanation**—For the purpose of this rule, wastage shall be calculated in terms of proof litres."]

5. Allowance for loss in transit.—(1) An allowance will be made for the actual loss in transit, by leakage; evaporation or other unavoidable cause: of spirit [1][and concentrate IMFL] transported under bond.

The allowance is subject to the following maximum limits:-

For Wooden Casks

For a journey of not greater duration than two days	...	2%
For journey of duration exceeding two but not exceeding nine days	...	3%
For a journey of duration exceeding nine but not exceeding eighteen days	...	5%

For Metal Vessels

	[3][1975]	[4][1988]	[5][1998]
[2][For a journey of duration up to 4 days	3.5%	0.4%	0.2%
For journey of duration exceeding 4 days but not exceeding 8 days	4.5%	0.6%	0.3%
For journey of duration exceeding 8 days	1.0%	0.8%	0.4%

1. Added by G.S.R.63, Notification No.F.32 (B) (97) Ex/L/2003 dated 28-2-2005 Pub. in Raj. Gaz. Part 4 (c) dated 7-3-2005.
2. Notification No. F. 32(Kha)/98-Ex/5 dated 25-1-96.
2. Substituted by No. F. 3(7) 1-316 A.V. 7975, dated 31-10-1975.
4. Substituted by GSR 34 dated 2-7-1988.
5. Subs by S.O. 164 dated 15-7-1998.

(2) The allowance to be made under this rule will be determined by deducting m the quantity of spirit despatched from the distillery, the quantity received at the ice of destination, both quantities being stated in terms of London Proof. The allowance ll be calculated on the quantity contained in each cask or other receptacles comprised a consignment after actually gauging and proving.

(3) Duration of journey will be reckoned from the date of issue from distillery to : date of taking account at distination, both dates inclusive. Officer-in-charge shall .e account with as little delay as possible after arrival of spirit at destination.

(4) The following examples will illustrate the making of calculation under this rule:-

(a) **Wooden Casks—**

Date of issue from distillery	....	March 2, 1957.
Date of taking account at destination	....	March 11, 1957.
Duration of Journey	....	Ten days.
Allowance admissible according to scale	...	4%
Quantity issued from distillery	....	56.6 L.P.Gallons
Quantity receivd at destination	...	50.2
Loss admissible	...	2.3 L.P.Gallons
Excess loss	...	4.1 L.P.Gallons

te :– Four per cent on 56.6 L.P. Gallons 56.6 X 4/100 – 2.254, and when the centesimal figure in the result is 5 or over, the decimal figure is increased by 1, that is correct loss admissible is 2.3.

[1][(b) **Metal Vessel**

Date of issue from distillery	....	April 2, 1988.
Date of taking account at destination	....	April 2, 1988.
Duration of journey	....	2 days
Allowance admissible according to scale	....	0.4%
Quantity issued from distillery	....	100.00 L.P. Litre
Quantity received at destination	....	99.70 L.P. Litre
Actual wastage	....	0.3 L.P. Litre
Maximum Admissible loss	....	0.40 L.P. Litre]

[2](5) If the report of the Excise Officer by whom the consignment of spirit has :n gauged and proved at its destination, shows that wastage has occurred above maximum limit allowable, the consigner shall be liable to pay duty on so much of deficiency as is in excess of the allowance at such rate not exceeding the current y payable at the time, as may be ordered or as may be specified in the bond conveying consignment.

The order for charging duty on the deficiency in excess of the permissible allowable ll be passed by the district Excise Officer of the District of destination when the

Subs by GSR 34 dated 2-7-1988.

Subs. No. F. 37(A) (2) Ex. LJ 73-1-39, dated 14-3-1973, published in Rajasthan Gazette, Part IV-C, dated 27-4-1973, Page 135(4) (6).

percentage of spirit in the consignment of spirit is upon three percent in the agreegate and by the Excise Commissioner where the percentage of wastage in the consignment of spirit is more than three per cent, in the aggregate :

Provided that before passing such order the District Excise Officer concerned or the Excise Commissioner, as the case may be, shall afford a reasonable opportunity to the owner of the consignment of spirit transported under bond to be heard and in case it is found that the wastage was due to an accident involving no negligence on his part or due to any other reasonable cause beyond his control no duty shall be charged].

[1]["**5A Allowance for loss in Re-distillation—**(1) For the purposes of these rules. re-distillation means re-distillation of spirit carried out for simple rectification of weaker spirit produced in pot still and also includes re-distillation :-

(a) On account of manufactured spirit not confirming to the prescribed specification or falling in strength or having such defect as may be in the opinion of the District Excise Officer justify re-distillation.

(b) For the purpose of manufacturing fruit spiced spirit or Silent Spirits. required for manufacture of Indian Made Foreign Liquors and other quality Liquors.

(2) Free allowance for wastage in the process of re-distillation subject to the conditions given below shall be as under :-

(a) In patent stills upto a maximum of 1.5 percent.

(b) In pot stills upto a maximum of 2.00 per cent:

Provided that such an allowance for wastage under clause (b) of sub-rule (1) above shall be as under :-

(i) In patent stills upto a maximum of 2.00 per cent.

(ii) In pot stills upto a maximum of 2.5 per cent.

[2][Provided further that in the case of the manufacturer of kesar kasturi an additional free allowance for wastage in the process of re-distillation to the extent of 2% shall be permissible.]

(3) The Excise Officer incharge of the distillery shall maintain proper accounts of spirits sent for re-distillation, spirits under-going re-distillation and finally distilled spirits.

(4) The re-distillation shall be allowed only with the prior permission of the Excise Commissioner, and only such actual wastage accrued in the process of re-distillation, as may be certified by the Excise Officer Incharge of the Excise Commissioner, under whose supervision the operation of re-distillation is carried out. shall be allowed.

(5) Subsequent re-distillation wherever necessary may be allowed with the prior permission of the Excise Commissioner but the limit of wastage allowance mentioned in sub-rule (2) above, shall be the maximum limit for free allowance irrespective of the fact whether one or more re-distillation of the same spirit are carried out.

(6) When the wastage calculated in terms of London Proof at the end of final re-distillation does not exceed the maximum limit given in sub-rule (2) above no action

1. Inserted by Notification No. P. 32(B) 738, EX/1/73 1609 dated 28-8-1981, vide G.S.R. 107 Pub. in Raj. Gaz, Part IV-C, dated 29-10-1981. Pages 322-324.
2. No. 32(c) Ex/89, GSR 114 dated 8-12-1988, published in Raj. Gaz, 4(Ga) 1 dated 9-3-89. Page 417-[1989 I RLT 114].

eed be taken by the Officer-in-charge but if wastage exceed the prescribed maximum imit, the officer in charge must obtain a written explanation from the distiller and forward he same with his comments to the District Excise Officer concerned. The District Excise Officer, after proper scrutiny shall send the same with his recommendation to the Commisssioner for orders:

Provided that the duty on such excess wastage shall be liable to be recovered t the highest rate leviable on such spirit.

(7) Past cases of re-distillation may be decided by the Excise Commissioner on he merits of each case and free allowance may be allowed to the extent mentioned above.]

[1]["5 B : **Allowance for loss in transit of Country Liquor in bottles**—Transit allowance upto 0.25% of total bottles of a consignment of country liquor to be transported within he State from one bonded warehouse to other, shall be allowed once by the Distt. Excise Officer concerned, provided the loss is not due to negligence on the part of supplier or any employee. In case of increase of actual wastage, the case would be referred for lecision by the Excise Commissioner.]

[2]["5 C: **Allowance for loss in transit of Country Liquor in pouches**—Transit allowance upto 0.4% of total pouches of a consignment of country liquor to be transported within he State from one bonded warehouse to other, shall be allowed once by the Distt. Excise Office concerned, provided the loss is not due to negligence on the part of supplier or any employee. In case of increase of actual wastage, the case would be referred for lecision by the Excise Commissioner."]

6. Power of Excise Commissioner to reduce or disallow wastage—The Excise Commissioner may reduce or totally disallow the wastage to any of the warehouse or distillery in a particular case.

7. Statement of wastage—Statement of wastages on each class of spirit at the distillery and warehouses shall be prepared by the officer-in-charge for each month in Form C.L.3 and shall be sent to the [3][District Excise Officer] concerned in the first week of the following month, who will prepare a consolidated statement in Form C.L. 3 warehouse wise and [4][send the same to the Excise Commissioner]. Half-yearly and yearly statements showing different wastages and also showing the excess wastages shall be consolidated at each warehouse and distillery by the officer in-charge and shall be submitted by him to the District Excise Officer of the district by the 10th day of October and April each year. Office copy of these statements shall be kept on the file at each distillery and warehouse. By the 15th April each year the [5][District Excise Officer] concerned shall prepare a consolidated statement separately for each warehouse and distillery in his charge and shall send the same in Form C.L.3 to the Excise Commissioner through the Deputy Commissioner of the division.

1. Rule 5B inserted w.e.f. 7-4-1998 Vide S.O. 43- No. F. 38(A)/P/Ex/98-99 dated 21-4-1999, Pub in Raj. Gaz.-EO-4(Ga) II dated 21-4-1999 Page 55-56 w.e.f. 7-4-98.
2. Rule 5-C inserted w.e.f. 1-5-1991 vide substituted 21-4-99, ibid.
3. Subs. for the expression "Excise Commissioners" by GSR 81(2) vide Notification No. F. 37 (A) (2) Ex. I.J 73-1-39, dated 14-3-1973 published in Rajasthan Gazette Part IV-C, dated 17-9-1973, page 135 (4) (6).
4. Subs by ibid dated 14-3-1973.
5. Substituted vide GSR 81 (2) dated 14-3-1973.

8. Storage—Spirits may be stored in distilleries and warehouses at any strength but to minimise evaporation wastage it is advisable to avoid strong of spoit overproof, In warehouse strong spirits will as far as possible be broken down to issue strength and stored in all available wooden vats. Spirit shall not be stored in iron drums, special liquor like Jagmohan & Kesar Kasturi shall be stored in bottles, pints and nips only, at warehouses.

❑ COMMENTARY

Rajasthan Stock taking and Wastage of Liquor Rules, 1959

—R. 4(1) & (5) and S 28–Excess Wastage Duty held not a tax or a duty, but consideration for licence- Demand notice cannot be invalidated on the ground of not mentioning the provision of law under which it was issued.[1]

Defective Packing by Distiller-Breakage of liquors bottles in transportation Liability of distiller for duty—In appeal, the Board of Revenue held that issue of pass ipso facto does not mean the conclusive proof of satisfactory packing of goods. The plea that roughness of roads also cannot help the distiller to exempt from payment of duty and penalty. Rule 5 does not envisage special allowances for losses in transit when transport is in bottles. He can claim allowance only when he succeeds to prove loss due to an unavoidable cause beyond his control. Negligence in packing is not unavoidable cause not the long route or rough road can save him from liability. The distiller ought to have provided improved packing. There is nothing on the record. Held Excise Commissioner justified in refusing allowance under rule 5.[2]

Levy of Excise duty on Rectified spirit & IMFL - (Sections 9-A,17,41,42- Excise Rules, 1959 & R 5(5) Raj. Stock Taking & Wastage of Liquor Rules, 1959) Wastage during transit-contractual obligation alone is to prevail—Condition No. 33 of the licence provided for levy of excise duty on wastate of IMFL as per rules. Nature of contract being statutory and petitioner having accepted the licence now cannot wriggle out from contactual obligations arising out of the conditions of licence. Held that the State is entitled to realise excise duty on wastage of IMFL during transit in accordance with terms of the contract. In the instance case, the Rules of 1959, held not applicable and as such enquiry under R.5 (5) was out of question. (Special Appeal dismissed).[3]

1. M/s Sono Distilleries Ltd. v. Excise Commissioner 1984 WLN 489 (490) : 1984 RLR 773.
2. Udaipur Distiller Co. vs. State of Rajasthan 1975 RRD 599.
3. M/s Udaipur Distillery & Co. v. State of Raj 1996 (1) WLC (Raj) 385 (DB).

[14]

The Rules Regulating the Wastage in Transit, Issue and Storage of Hemp Drugs in a Warehouse, 1959

[Notification No. F 326(5/6) Ex. 4404, dated September 12.1959]

In exercise of the powers conferred by clause (b) of Section 42 of the Rajasthan xcise Act, 1950 (Act No. II of 1950), the Excise Commissioner, with the previous sanction the State Government does hereby make the following rules relating to the wastage transit, issue and storage of hemp drugs in a warehouse-

RULES

1. Verification of stocks—On the last working day of every calendar month, after l transaction for the day are over, the warehouse incharge shall after verifying the stock drugs in the warehouse proceed to close the accounts of the month. The actual stock ould cansist of the unopened bags and packages standing as unopened in the prescribed gister and the quantity remaining in any bag or package from which issues are being ade. The incharge shall verify the stock by compairson of entries opposite the unopened gs and packages in the said register with the entries on the card attached to the bags d packages.

2. Wastage defined—*(a) Transit Wastage.* (a) Means the loss in gross weight ring the period beginning from the despatch of the drugs till their weighments on rival at the warehouse of destination.

(b) Issue wastage—Means the loss in net weight during the period beginning th the opening of the package or bags for issue till the contents of that package or gs are exhausted.

(c) Storage wastage—Means the loss in gross weight during the period beginning th the arrival of the drugs in the warehouse weighment of the drags for issue.

3. Allowances for wastage—The allowances for wastage may be allowed as under:-

		Ganja	Bhang
orage Wastage	....	1.0%	2.0%
ansit wastage	....	0.6%	1.5%
sue wastage—			
For 10 days	....	0.5%	0.5%
For 11 to 30 days	....	1.0%	1.0%
Exceeding 30 days	....	1.5%	1.5%

Note :- The wastage would be allowable only on actual weighment and will not be deducted on sales as a matter of course.

4. Procedure when wastage exceeds the permissible limit—(a) If there is any excess wastage than the one fixed in Rule 3 above, a report along with the reasons thereof shall be submitted by the warehouse-in-charge in every monthly wastage statement, to the Assistant Commissioner of the district concerned, who will enquire into the matter and submit the same along with his comments to the Deputy Commissioner of the division for necessary order, provided that when such wastage are higher than the permissible limit enumerted in sub-rule (3) by 1.0% the matter shall be reported by the Deputy Commissioner to the Excise Commissioner for necessary orders who shall decide it under the financial powers delegated to him n such cases.

(b) Increase in weight—If there be any increase in weight such increase should be entered into the register meant for the purpose and full details shall be reported through proper channel to the Deputy Commissioner.

15

The Rajasthan Neera (Unfermented Juice of Palm) Rules, 1960

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[15]
The Rajasthan Neera (Unfermented Juice of Palm) Rules, 1960

Notification No. 91 Ex. OP/59-60/3839 August 18, 1960.

In exercise of the power conferred by Section 42 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the Excise Commissioner, with the previous sanction of the State Government, hereby makes the following rules to regulate the tapping of palmyra, date or any other palm trees and sale of neera, namely -

The Rajasthan Neera (Unfermented Juice of Palm) Rules 1960

1. Short title—These rules may be called the Rajasthan Neera (Unefermented Juice of Palm) Rules, 1960 and shall come into foce on their publication in the Rajasthan Gazette.

2. Definitions—In these rules, unless there is anything repugnant in the subject or context-

(a) *"the Act"* means the Rajasthan Excise Act, 1950;

(b) *"form"* means the form appended to there rules;

(c) *"neera"* means unfermented juice drawn from any coconut, palmyra, date or any other palm tree;

(d) *"section"* means a section of the Act; and

(e) *"tree"* means a neera producing tree.

3. Application for licence—(1) Any person desiring :

(a) to tap a tree and draw neera thereform-

(i) for the manufacture of gur or any other product which is not as inoxicant; or

(ii) for the supply of neera-

(A) to persons licensed to manufacture gur or any other article which is not intoxicant from neera,

(B) to persons licensed to sell neera by retail for consumption on permises or

(iii) for domestic consumption with the prior permission of the Exicise Commissioner;

(b) to sell neera by retail for consumption on premises; may make an application in Form A.N 1 for a licence to the [1][District Excise Officer at least] three months before the date of tapping a tree or the sale or neera, as the case may be. An application for

1. Subs for expression "Assistant Excise Commissioner" by GSR 203, dated 13-5-1978, published in Rajasthan Gazette, Part IV-C, dated 15-7-1971 Page 291.

tapping tree situated on any Government land shall accompanied by a no objection certificate from the Government departments concerned.

[1][(2) On receipt of an application under sub-rule (1) the District Excise Officer shall make such enquiries as he deems necessary and if he is satisfied that there is no objection in granting the licence applied for, he may on payment of cash security of Rs. 200 and subject to the orders of the Excise Commissioner, grant the applicant a licence in Form L N. I, III, or IV, as the case may be, ordinarily within three months from the date of receipt of the application but he may, for any special reasons to be recorded in writing, issue the same after the expiry of the said period.

[2][Provided that the Excise Commissioner if he thinks fit in public interest so to do, may exempt any person or class of persons from the payment of cash security.]

(3) Application for renewal of licence in Forms L N.I, II, III, and IV, shall be made within two months before expiry of the licence. If the District Excise Officer, decides to renew the licence, he shall ordinarily do so, in the first fortnight of June. If refusal to renew a licence is not communicated, the same will be held to be valid till a reply is received by the holder thereof].

4. Period of licence—A licence granted under sub-rule (2) of Rule 3 shall remain in force for a period of one year from Ist day of April to the 31st day of March following (both days inclusive):

Provided the licence granted on a date subsequent to the Ist day of April shall be granted only for the period from that date to the 31st March following.

5. Fees for licence—No fee shall be charged for a licence to tap tress for the manufacture of gur or any other product which is not an intoxicant or for domestic comsumption of neera, but such fee as the Excise Commissioner may prescribe from time to time shall be charged for licence for-

(a) the sale of neera by retail, or

(b) the supply of neera for sale.

NOTIFICATION

[Notification No. E/16/OP/A/474 dated, 23-10-1965]

In exercise of the powers conferred by the Rajasthan Neera (Unfermented Juice of Palms) Rules, 1960, Excise Commissioner, hereby prescribed the undermentioned fees for the following classes of licences, namely:—

	Fees per year or part thereof	
	1965	[3][1995
(1) Licence for the sale of Neera by Retail,	Rs. 5/-	[Rs. 15/-
(2) Licence for the supply of Neera for sale.	Rs. 5/-	Rs 15/-][3]

1. Subs vide GSR 233 dated 13.5.1971, published in Rajasthan Gazette, Part IV-C(1), dated 15.7.1971 page 291
2. Added by Notification No, F2 (Neera) 37 Ex/72/504 dated 10.4.1980, vide GSR 44, pub in Raj. Gaz. Part IVC dated 26.6.1980 page 37
3. Amended vide G.S.R. 1 dated 28.3.95

6. Place of manufacture or of sale—(1) The manufacture of gur or any other article which is not an intoxicant shall be carried on at the place specified in the licence (hereinafter called "the place of manufacture"). Neera shall be sold at the place mentioned in the licence (hereinafter called "the palace of sale").

(2) A licence shall generally be issued for drawing neera trees in selected taps within a radius. of half a mile from the place of manufacture or the place of sale :

Provided that the Assistant Excise Commissioner may, subject to approval of the Excise Commissioner grant a licence for the tapping of trees beyond such radius, if it is satisfied that for any special reasons such licence is necessary.

7. Intelligibility of licence—No licence to tap trees and draw, supply or sale neera shall be issued to any person who holds or has any direct or indirect in any country liquor shop.

8. Condition of tapping—The licensee shall not tap any tree in excess of the number which he is licensed to tap. No tree which is less than five feet in height from the ground level shall be tapped nor shall neera be drawn therefrom. No pots shall be attached for such purpose to any neera producting trees more than five feet in height until the licence therefor has been issued and until the trees have been marked and numbered in the manner specified in Rule 9. Neera shall be drawn and collected only in receptacles as have been treated in the following manner:-

They shall be completely washed with water and then be half-boiled with water, heated to boiling point and kept on boiling for at least fifteen minutes. they shall be emptied and heated on bare flame to kill any residual yeast or cells and then be smoked over burning straw and leaves. 87.6 grains of lime per gallon or 1.3 grams of lime per litre of neera in finely powdered state shall be placed in the receptacles to keep the neera in unfermented state.

[1][The depth and width of incision shall not exceed 1/3 of the diametre of the tree at the point of inclusion and the length of it shall not exceed 20.32 centimetres.

The incision shall not be made at any point within once metre and 83 centimetres from the ground or 45.72 centimetres from the top of any incision.

In case of data or palm trees the central spikelike clusters of leaves shall not be touched of the lateral leaves. not less than 2 layers of leaves shall be left. reckoning from layers immediately next to the central clusters down to the top line of incision or in other words above the top line of incision, less than 8 leaves shall be left excluding the central spikelike clusters on the face of the tree on which the incision is made.

9. Marking and numbering the trees—No trees shall be tapped and neera drawn therefrom unless it has been marked with a deep coloured two inches broading and the serial number of the trees above this ring in the same manner as in the case of other ari producing trees. The marking will be done by an Excise Officer

10. Nokarnama—Every agent or tapper employed by the licensee in connection with his licence shall be provided with a Nokarnama signed and dated by the licensee. The name of such employee together with the date on which is appointed shall be

1. Add. by GSR 203, dated 13-5-1971 Pub. in Raj. Gaz., Part IV-C(I), dt 15-7-1971 Page 291.

communicated forthwith in writing by the licensee to the Assistant Commissioner-in-charge of the area in which the place of manufacture or the place of sale. as the case may be. is situated. The Maximum number of employees which a licensee may employ at a time shall be fixed by the Assistant Excise Commissioner on consideration of the number of trees tapped and other relevant circumstances.

11. Time—No neera shall be taken down from trees except between sunrise and sunset unless otherwise sanctioned by the Excise Commissioner.

12. Use of Neera—Neera drawn from trees tapped under a liecence and intended to be utilised in the manufacture of gur or any other article, which is not an intoxicant. shall be kept at the place of manufacture till sunrise of the next day unless it is boiled. and no such boiled neera shall be kept for more than 24 hours from the time it is boiled

13. Transport of Neera—Neera drawn under a licence shall not be mixed or adulterated with today or any substance or liquid or taken to any place other than the place of manufacture or the place of sale, as the case may be unless a special permit for such removal has been obtained previously from the Assistant Excise Commissioner-in-charge of the area:

Provided that no such permit shall be granted to person other than a person holding a licence for the tapping trees and for drawing neera therefrom for the manufacture of gur or any other article which is not an intoxicant.

14 Inspection of trees—Any person tapping trees or drawing neera there from under these rules shall bring down the receptacle attached to any of the trees so tapped for inspection on demand by any Excise Officer responsible for checking the breach of the conditions of the licence.

15. Accounts—The licensee shall maintain an account-book showing the number of trees tapped under his licence every day. the total quantity of neera drawn therefrom every day, the quantity of neera, if any, obtained by him every day from a person holding a licence for the supply of neera and the quantity of neera, if any. sold by him every day. Such account book shall also show the quantity of gur or any products manufactured by him everyday. The daily accounts shall be totalled every month to get the monthly figures.

16. Inspection of the place of manufacture or sale—(1) The place of manufacture or the place of sale as well as the account-book shall be opened to inspection by an Excise Officer not below the rank of Inspector. The officer shall record his observations in the inspection book maintained by the licensee.

(2) A licensee shall always keep ready six test tubes. one test tube stand. a pair of tongs for holding test tubes. one spirit lamp, spirit, one clearing brush and one funnel in the clean condition at his own expenses and shall produce them on demand by the inspecting officers for testing whether neera kept at the place of manufacture or sale has fermented or not.

17. Penalty—In the event of any provisions of these rules or any of the terms or conditions of a licence granted under these rules, the licence shall be liable to be cancelled or suspended under Section 34 of the Act without prejudice to any other penalty to which the licensee may be liable under the siad Act or under any other law for the time being in force.

[1][The cash security shall also be liable to forfeiture to in whole or part for the breach of any of the provisions of these rules or any of the terms or conditions of licence granted under these rules.]

FORMS

FORM No. A N-1

Form of Application

(See Rule 3)

To

[2][The District Excise Officer]

Sir,

1. I, the undersigned s/o.....residing at.....desire—

(a) to tap the neera producing trees described in. the Schedule here to and draw neera therefrom,-

(i) for the manufacture of gur or any other article which is not an intoxicant;

(ii) for the supply of neera :-

(A) to persons manufacturing gur or any other article which is not an intoxicant from neera; or

(B) to persons licensed to sell neera by retail for consumption on premises;

(iii) for domestic consumption;

(b) to sell neera for consumption on premises and accordingly apply for the necessary licence.

2. Number of members in my household who drink neera are.

3. I hereby undertake to use the neera for the above-mentioned purpose.

4. I hereby declare that-

(i) No licence was ever refused to me.

(ii) No similar licence previously granted to me was ever revoked or suspended.

(iii) No renewal of a similar licence was ever refused to me owing to a branch of law relating to Excise Revenue, opium or intoxicating drugs.

5. I declare that, to the best of my knowledge and belief, the information furnished herein is true and no material fact has been suppressed by me.

Place.....

Date..... Signature of the applicant.

1. Add. by GSR 203, dated 13-5-1971 Pub. in Raj. Gaz., Part IV-C. dt. 15-7-1971 Page 292
2. Subs. by ibid dated 13-5-1971.

SCHEDULE

No. and kind of trees to be tapped	Situation of trees to be tapped	Owner's/Proprietor's name and signature in token to his consent to the trees being tapped	Remarks
1	2	3	4

Date.....

Place..... Signature of the applicant.

1. Retain only that which is necessary and cancel the remaining items.
2. Not to be filled in the case of trees standing on Government land but a separate certificate from the Department concerned should be appended.

FORM No. L. N. 1

(See Rule 3)

Licence for the tapping of neera producing trees and drawing neera therefrom for the manufacture of gur or any other article which is not an intoxicant

Licence is hereby granted under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules made thereunder and the conditions of this licence to Shri.....(hereinafter called "the licensee") residing at..... authorising him during the period commencing from ..... to ..... (both days inclusive) to tap for and draw neera for the manufacture of gur or any other article which is not an intoxicant at ..... (hereinafter called "the place of manufacture") from the trees specified to as "the said trees") growing with in the limits of the village of..... in the police station of..... in the district ..... and in the survey numbers specified in the said Schedule.

This licence is granted subject to the following conditions. namely -

CONDITIONS

1. The licensee shall not tap any trees other than the said trees nor shall be allow any neera drawn under this licence to ferment.

2. Each of the said trees shall be marked and numbered by the Excise Authorities in the manner specified in Rule 9 of the Rajasthan Neera Rules 1960 The licensee shall not tap or cause to be tapped any of the said trees or draw or cause to be drawn neera therefrom until the said trees are marked and numbered in the said manner Neera shall be drawn and collected only in receptacles after treating the same in the following manner:-

They should be completely washed with water. They should then be half boiled with water, heated to boiling point and kept on boiling for at least fifteen minutes. They should be emptied and heated on bar flame to kill any residual yeast or cells. They should then be smoked over burning straw and leaves 87.6 grains of lime per gallon or 1.3 grams of lime per litre of neera in finely powdered state should be placed in the receptacles to keep the neera in unfermented state.

3. The licensee shall convey the entire quantity of the neera drawn by him from the said trees under this licence to the place of manufacture by a direct route and to no other place.

4. No neera shall be kept till the sunrise of the next day unless it is boiled : provided that no such boiled neera shall be kept for more than hours.

5. The licensee shall carry on the business either personally or by an agent duly authorised by him in this behalf by a written Nokarnama signed by himself. The name of each agent and the date of his appointment shall be communicated forth with in writing by the licensee to the Assistant Excise Commissioner having charge of the area in which place of manufacture is situated. The licensee shall be responsible for the breach of any of the conditions of this licence by any person so authorised. The total number of employees at a time shall not exceed the number fixed by the Assistant Excise Commissioner in this behalf.

6. The license shall abide by the conditions of the licence and the provisions of the Rajasthan Act, 1950 and the rules, regulations and orders made the rounder and shall give an undertaking to that effect.

7. The licensee, his heirs, legal representatives or assignees shall have no claim whatsoever to the continuance or renewal of this licence after the expiry of the period for which it is granted. It shall be entirely within the discretion of the Assistant Excise Commissioner to permit or not the assignee of the licensee, in case of sale or transfer, or the heir or legal representative of the licensee in case of death, to have the benefit of the licence for the unexpired portion of the term for which it is granted.

8. Infraction of any of the above conditions will render the licensee liable to forfeiture and to all or any of the penalties prescribed by law or rules.

Particulars of trees in respect of which the licence is granted:

Village and Survery No.	Description of field or garden	Number and kind of trees licensed to be tapped	Remarks
		Coconut Palmyra, Date, Sago Palm	
1	2	3	4

Granted this ..... Day of 20

Seal of the Licensing Authority

Licensing Authority.

FORM No. L.N. II

(See Rule 3)

Licence to tap neera producing trees and draw Neera for domestic consumption

Licence is hereby granted under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules, made thereunder and conditions of this licence to Shri ..... (hereinafter called "the licensee")..... residing at ..... authorising him during the period ..... commencing from ..... to ..... (both days inclusive) to tap and draw neera from the tree specified in the Schedule hereinafter appended..... (hereinafter referred to as "the said trees") growing within the limits..... of the village of ..... in the Police Station of ..... and in the survey number specified in the said Schedule for domestic consumption only by the licensee and the persons of his household.

CONDITIONS

1. Each of the said trees hereby licensed to be tapped shall be marked and numbered by the Excise Authorities in the manner specified in the Rajasthan Neera (Unfermented Juice of Palms) Rules, 1950. The Licensee shall not tap or caused to be draw neera therefrom, until the said trees shall have been marked and numbered as aforesaid.

The licensee shall not tap, or cause to be tapped or draw neera from any tree not licensed to be tapped by him. Neera shall be drawn and collected only in receptacles after treating the same in the following manner :-

They should be completely washed with water. They should then be half boiled with water, he ted to boiling point and kept on boiling for at least fifteen minutes. They should be emptied and heated on bare flame to kill any residual yeast or cells. They should then be smoked over burning straw and leaves 87.6 grams of lime per gallon or 1.3 grams of lime per litre of neera in finely powdered state should be placed in the receptacles to keep the neera in unfermented state.

2. The licensee shall convey the entire quantity of the neera drawn by him under this licence to his place of residence by a direct route. The licensee shall not draw neera from the said trees before sunrise or after sunset. The licensee shall not convey or allow to be conveyed any neera drawn under this licence to any place other than his place of residence. He shall use such neera only for the purpose of domestic consumption and shall not sell or supply neera to others. The unconsumed balance of neera may be used for the manufacture of gur or any other article which is not an intoxicant before it fermented. Neera which is fermented shall be destroyed forthwith. No neera shall be kept till sunrise of the next day unless it is boiled; provided that no such boiled neera shall be kept for more than 24 hours.

3. The licensee shall not sell neera to any body, not shall be given it to anybody except to a person belonging to his household for such person's personal consumption only.

4. The licensee may, by a written Nokarnama signed by him authorise any other person to tap the trees hereby licensed and to transport the neera drawn from them. The licensee shall communicate such person's name and date of his appointment to the

Assistant Excise Commissioner having charge of the area in which the said trees are situated.

5. The licensee shall abide by the conditions of this licence and the provisions of the Rajasthan Excise Act, 1950 and the rules made thereunder and shall be given an undertaking to that effect.

6. The licensee, his heirs, legal representatives or assignees shall have no claim whatsoever to the continuance or renewal of this licence, after the expiry of the period for which it is granted. It shall be entirely within the discretion of the Assistant Excise Commissioner to permit or not the assignee or the licensee, in case of sale or transfer or the heir or legal representative of the licensee, in case of death, to have the benefit of the licence for the unexpired portion of the term for which it is granted.

7. Infraction of any of the above conditions will render the licence liable to forfeiture and to all or any of the penalties prescribed by law or rules.

Explanation—For the purposes of this licence, a household shall mean a group of persons residing and messing jointly as the members of one domestic unit.

SCHEDULE

Number and kind of trees to be tapped	Number and situation of field or garden and village	Number of field or garden Survey No.	Owner's name
1	2	3	4

Granted this..... Day of ..... 20.

Seal of the
Licensing Authority

Licensing Authority.

FORM No. L. N. III

(See Rule 3)

Licence for the retail sale of Neera for consumption on premises

Licence is hereby granted under and subject to the provision of the Rajasthan Excise Act, 1950 and the rules, made thereunder and the conduition of the licence to Shri..... .... thereinafter called "The licensee" residing at .... on payment of a fee of Rs..... authorising him during the period commencing from..... to ..... (both days inclusive) to sell neera by retail for consumption on his premises situated at..... (hereinafter called "the said place of sale").

The licence is granted subject to the following conditions namely:-

CONDITIONS

1 The licensee shall not sell or sale neera unless:-

(i) it is pure according to the standard of quality prescribed by the Excise Commissioner.

(ii) it has been obtained either from his own tree or from a supplier approved and licensed by the Assistant Excise Commissioner and at a rate not exceeding that fixed by the Commissioner of Excise from time to time.

2. The license shall not keep, sell or expose for sale neera, which has begun to ferment or which was not drawn on the same day or which is adulterated.

3. The licensee shall forthwith destroy all neera which is not in accordance with the standard prescribed and he shall not to entitled to any compensation thereof.

4. The licensee shall sell neera only at rates not exceeding those used by the Excise Commisssioner from time to time.

The licensee shall not keep or store neera in any place other than the said place of sale nor shall be allow any one to remove any quantity of neera from the said place.

Provided that the unsold neera may be removed to the place of manufacture of gur or any other article which is not intoxicant if a separate place is approved for the purpose and stored thereafter it is boiled in the manner prescribed

5. The licence shall not stock or sell neera in a fermented state.

6. No neera shall be sold or served outside the said place of sale which, shall be kept clean and no one shall be allowed to remove the neera sold to him outside the place of sale. No neera shall be sold before sunrise or after sunset. The unsold balance of neera may be used for manufacture of gur or any other article which is not an intoxicant before it is fermented. Neera which is fermented shall be destroyed forthwith. No neera shall be kept till sunrise of the next day unless it is boiled provided that no such boiled neera shall be kept for more than 24 hours

7. The licensee shall be bound to supply at his cost sample of neera received or sold by him whenever required for analysis. The result of the analysis shall be binding on him for the purposes of dealing with him, either under the conditions of his licence or under the Rajasthan Excise Act, 1950 and the rules, regulations and orders made thereunder

8. The Licensee shall provide himself with all the requisite receptacle, vessels container and glasses and standard measure of such metal and capacity as may be prescribed by the Excise Commissioner. All the copper and brass pots used in the storage or selling shall be properly tinned from inside and kept clean.

9. The licensee shall be hung up in a conspicuous position in the said place of sale and a sign board of the size and description specified by the Commissioner of Excise shall be affixed on the outside of the said place of sale. On such sign board the following words in Hindi shall be painted :-

"Licence to sell Neera by retail"

10. The licensee shall enter every day in the book of the supplier the quantity of neer a received by him daily from such supplier & shall sign his name under such entry in token of his having received such quantity of neera. Similarly the licensee shall enter such quantity in the book maintained by him and obtain below such entry the signature of the supplier of his authorised agent in token of his having supplied such quantity of neera.

11. The licensee shall not sell neera except at the premises, previously approved by the Assistant Excise Commissioner. Such premises, all stock of neera contained therein, and all accounts relating to the sale of neera, shall at all reasonable times, be opened to inspection by an officer of the Excise Department not below the rank of an Inspector or any other officer or person duly authorised in this behalf.

12. The licensee shall maintain such accounts as may be prescribed. He shall also maintain visit book serially paged for the remarks of the inspecting officers.

13. The licensee shall submit such returns as may be pereribed on the 17th of every month.

14. The licensee shall furnish two surities for the sum of Rs. 100 each as guarantee of his good behaviour and adherence to the term of this licence.

15. The licensee shall carry on the business either personally or by an agent duly authorised by him in this behalf, by a written Nokarnama signed by himself. The name of each agent and the date of his appointment shall be communicated forth with in writing by the licensee to the Assistant Excise Commissioner having charge of the area in which the said place of sale is situated. The licensee shall be responsible for the breach of any of the conditions of this licence committed by any person so authorised.

16. No partnership entered into by the licensee after the granting of the licence shall be recognised for the purpose of the licence, unless the Assistant Excise Commissioner on receipt of an application from the licensee ,agree in writing to enter the name of partner on the licence.

17. The licensee shall abide by the conditions of this licence and the provisions of the Rajasthan Excise Act, 1950 and the rules, made thereunder and shall give an undertaking to that effect.

18. The licensee, his hires, legal representatives or assignee shall have no claim whatsoever to the continuance or renewal of this licence after the expiry of the period for which it is granted. It shall be entirely within the discretion of the Assistant Excise Commissioner to permit or not the assignee of the licence in case of sale or transfer or the heir or legal representative of the licensee, in case of death, to have the benefit of the licence for the unexpired portion of the term for which it is granted.

19. Infraction of any of the above conditions will render the licence liable to forfeiture and to all or any of the penalties prescribed by law or rules.

Granted this the .... .day of 20

Seal of the Licensing Authority.

Licensing Authority

FORM No. L. N. IV

(See Rule 3)

Licensee to tap and draw neera from neera producing trees for the supply of neera to persons manufacturing gur any other article which is not an intoxicant from neera or to persons licensed to sell neera by retail for consumption on premises

Licence is hereby granted under the subject to the provisions of the Rajasthan Excise Act, 1950 and the rules, made thereunder and the conditions of this licence to Shri..... (hereinafter called "the licensee") residing ..... on payment in advance the sum of Rs .... authorising him during the period commencing from .... to .... both days inclusive) to tap for and draw neera for the..... trees specified in the Schedule hereinafter

appended (hereinafter referred to as "the said trees") growing within the limits of the village of ..... in the police stations of ..... in the district of..... and in the survey numbers specified in the said Schedule for the purpose of supply thereof to persons manufacturing gur or any other article which is not an intoxicant from neera or to persons licensed to sell neera by retail for consumption on premises.

The licence is granted subject to the following conditions, namely:-

CONDITIONS

1. Each of the said trees shall be marked and numbered by the Excise Authorities in the manner specified in Rule 9 of the Rajasthan Neera (Unfermented Juice of Palms) Rules, 1960. The licensee shall not tap or cause to be tapped any of the said trees or draw or cause to be drawn neera therefrom until the said trees are marked and numbered as aforesaid.

2. the licensee shall convey neera drawn by him from the said trees to the place of manufacture or place of sale, as the case may be, of a licensee holding of licence in Form No. L.N.I or Form No. L.N.III by a direct route and to no other place :

Provided that he may, with the written permission of the [District Excise Officer] or any other duly authorised Officer, collect neera drawn from trees in different parts of groves at a convenient central place before conveying it to such place. The licensee shall not draw neera from the said trees before sunrise or after sunset and shall not except with the written permission of the District Excise Officer convey the neera from the said trees at any time after 5 p.m. (Standard time)

3. Neera shall be drawn in receptacles into which a sufficient quantity of lime or any other preservative approved by the State Government is placed so as to keep the neera in an unfermented state.

4. The licensee shall carry on the business either personally or by an agent duly authorised by him in this behalf, by a written Nokarnama signed by him self. The name of each agent and the date of his appointment shall be communicated for with in writing to the District Excise Officer, having charge of the area in which the said place is situated. The Licensee shall be responsible for breach of any conditions of this licence committed by any person so authorised.

5. The licensee shall not adulterate or mix neera with any foreign substance or liquid whatsoever. He shall supply the neera to persons holding a licence in Form No. L.N.III at a rate not exceeding that fixed by the Commissioner of Excise from time to time under the Act.

6. No neera shall be kept till the day following that on which it is drawn. The unsold balance of neera may be used for manufacturing gur or any other article which is not an intoxicant before it is fermented. Neera which is fermented shall be destroyed forthwith.

7. Any officer of the Palm Gur, Excise, Revenue or Police Department shall have free access at any time by night to the trees hereby licensed to be tapped.

8. No neera shall be kept till sunrise of the next day unless it is boiled provided that no such boiled neera shall be kept for more than 24 hours.

9. The licensee shall abide by the condition of this licence and provisions of Rajasthan Excise Act, 1950 and the rules made thereunder shall give undertaking to that effect.

10. The licensee, his heirs, legal representatives or assigness shall have no claim whatsoever to the continuance or renewal of this licence after the expiry of the period for which it is granted. It shall be entirely within the discretion of District Excise Officer to permit or not the assignee of the licensee, in case of sale or transfer or the heir or legal representatives of the licensee, in the case of death to have the benefit of the licence for the unexpired portion of the term for which it is granted

11. Infraction of any of the above condition will render the licence liable to forfeiture and to all to any of the penalties prescribed by law or rules.

SCHEDULE

Number and kind of trees to be tapped	Place and situation of field or garden and village	Number of field or garden Survery No.	Proprietor's name
1	2	3	4

Granted this the..... .... Day of 20

Seal of Licensing Authority.

Licensing Authority.

[16]

The Rajasthan Fixation of Retail Sale Price of Denatured Spirit or Denatured Spirituous Preparations Rules, 1987

[Notification No. F.1 (14) Ex/Spirit/87/840, G.S.R. 38, dated 20th November, 1987][1]

Whereas it is in public interest to fix the Retail Sale price of Denatured spirit and spirituous preparations, therefore, in exercise of the powers conferred by clause (e) (iii) of Section 42 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the Excise Commissioner with the previous sanction of the State Government makes the following rules, namely:-

RULES

1. Short title and commencement—(i) These rules may be called the Rajasthan Fixation of Retail Sale Price of Denatured Spirit or Denatured Spirituous Preparations Rules, 1987.

(ii) They shall come into force with effect from the date of publication in Rajasthan Gazette, Extra Ordinary.

2. Retail Sale price—the retail sale price chargeable by retail licensee of denatured spirit or denatured spirituous preparation shall not exceed the actual price paid by such Retailer to the wholesaler plus profit of 20% on such price.

1. Published in Raj. Gaz.—E.O. Part IV-C(I) dated 24-11-1987.

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The Rajasthan Molasses Rules 1985

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[1]The Rajasthan Molasses Rules, 1985

❑ INTRODUCTORY NOTE

(a) Molasses declared an Excisable article—Molasses is the mother liquor produced ı the final stage of the manufacture of sugar. The Central Government has made Molasses ontrol Order, 1961 with regard to Molasses. There is now provision in the Rajasthan xcise Act, 1950 in respect of Molasses in definition clause S.3, clause 17-A defining ıolasses as follows:

> *"Molasses [S.3 (17-A)] means the mother liquor produced in the final stage of the manufacture of sugar or Khandsari sugar by the Vacuum pan process or open pan process from sugar can or gur"*

This definition was added by the Rajasthan Act No. 8 of 1985. Section 41 (2) l) empowers the State Government to make rules relating to molasses. The Government fRajasthan vide Notification No. F. 1 (1) FD/EX/81, S.O. 55 dated 15.10.1986 has pleased ı order that Molasses shall be deemed to be an excisable article w.e f. 4.5.1985 and nport duty was imposed w.e.f. 1-4-1969 on import of molasses for the manufacture of MFL.

(b) Validity of the Molasses Rules

Vires of Molasses Rules challanged-Rules held to be intravires—(Molasses Rules, 985-Rr. 8, 9, 11 & 17 Rajasthan Excise Act, 1954-Ss. 3 (17-A), 41) When the regulation ı controlled by Section 41 and molasses have been included in the definition clause f S.3(17A) and it has also been included under S.41, then the State Government has ıll powers to frame rules and regulations. The State Government is authorised frame ıles about molasses in the parameters that are prescribed by S.41. (Para 9) (Petition ismissed)[2]

G.S.R. 47—In exercise of powers conferred by Sec. 41 of the Rajasthan Excise ıct, 1950 (Raj. Act II of 1950), the State Government hereby makes the following rules nd order with reference to the proviso to sub-sec. (3) of the said section. that previous ublication of these rules is dispensed with, as the State Government considers that ıey should be brought into force at once, namely :—

. Noti. No. F. 1 (2) FD/Ex/85. dt. 3-8-1985., Pub in R.G. Ext. Pt. IV-C(I) dt. 8-8-1985, p. 233(32). As amended by GSR 28, dt. 20-10-92. pub in R.G. Ext. Pt.IV-C(I), dt. 23-10-92, p. 72.

. Bal Kishan Moondra v. State of Rajasthan, 1996 (1) WLC (Raj) 376 (DB).
Sita Ram v. State of Rajasthan, AIR 1995 SC 356: (1995) 1 SCC 257 followed.]

1. Short title and commencement—(1) These rules may be called the Rajasthan Molasses Rules, 1985.

(2) They shall extend to the whole of the State of Rajasthan.

(3) They shall come into force at once.

2. Definitions—(1) In these rules, unless the context otherwise requires.-

(a) 'Act' means the Rajasthan Excise Act, 1950 (Act II of 1950).-

(b) 'Excise Commissioner' means an officer defined as such in the Rajasthan Excise Act, 1950;

(c) 'Factory' means a place where Sugar, Khandsari sugar, or Gur is manufactured.

(d) 'Form' means a form appended to these rules

(e) 'Khandsari Unit' means any premises, including the land godowns or out houses appurtenant thereto wherein, or in any part of which the production of Khandsari from Sugar canes or Gur in open pans is carried on with or without the aid or power;

(f) 'Licensed premises' means a person holding a licence under these rules.

(h) "Molasses" means molasses as defined in Rajasthan Excise Act 1950 (Raj. Act 11 of 1950)'

(i) "Producer of Molasses" means the owner or a person incharge of a factory where molasses is produced in a process of manufacture of Sugar or Gur;

(j) "Occupier" means any person who has control over the affairs of a distillery, sugar factory of khandsari Units.

(2) Words and expressions not defined in these rules shall have the meaning respectively assigned to them in the Act

3. Possession and sale of Molasses—(1) Any person who is producer of molasses and desires to possess and sell ruolasses shall make an application to the District Excise Officer for a licence in this behalf. The application shall contain the following particulars, namely:-

(a) Name and address of the applicant;

(b) Name of the Sugar/Gur factory;

(c) Exact location of the Sugar/Gur factory, and the name of the village Tehsil and District in which such factory is situated.

(d) Whether the applicant is the owner or a person in-charge of the factory;

(e) (i) Details of the use or uses which molasses will be put to
(ii) Quantity required annually for each of such uses (in Quintals)

(f) Details of arrangements for storage of molasses whether pucca built tanks or steel tanks are provided for the storage,

(g) Period for which the licence is required.

(2) On receipt of an application under sub-rule (1), the District Excise Officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the licence applied for, he may, with the previous approval of the Excise Commissioner, grant the applicant a licence in Form M-I on payment of fee of [1][Rs. 1000/-] in advance per annum.

1 Substituted by Notification No. GSR F. 4 (62) FD/EX/96 dated 31-3-1997, w.e.f. 1-4-1997

4. (1) Any person other than a producer of molasses desiring to possess and use molasses shall make an application to the District Excise Officer for a licence on that behalf. The application shall contain the following particulars, namely:-

(a) Name and address of the applicant;

(b) Place where molasses will be kept and used the name of the Village, Tehsil and District in which such place is situated.

(c) approximate stock of molasses on the commencement of the require licence in quintals;

(d) total quantity of the molasses that would be received during the terms of the licence in quintals.

(e) maximum quantity of molasses to be possessed at any one time in quintals:

(f) (i) Details of purpose for which molasses will be used;

(ii) Quantity required annually for each such purpose in quintals.

(g) Period for which the licence is required.

(2) On receipt of an application under sub-rule (1), the District Excise Officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the licence applied for, he may, grant a licence in Form M-II on payment of the annual fee as specified below:-

(i) licence for any Government purpose or educational, scientific, medicinal or sample purpose [1][Rs. 100/-]

(ii) licence for an agricultural purpose (subject to the condition that the molasses possessed under this licence shall be mixed with liquid tar to the extent of at leas 10 per cent) [1][Rs. 100/-]

(iii) licence for cattle feed..... [1][Rs. 100/-]

(iv) licence for any other purpose [1][Rs. 500/-]

5. (1) Any person other than a producer of molasses desiring to possess and sell molasses shall make an application to the District Excise Officer for a licence in that behalf. The application shall contain the following particulars, namely:-

(a) Name and address of applicant;

(b) Place where molasses will be kept and sold and the name of the Village, Tehsil and District;

(c) Special reasons, if any, why the licence should be granted;

(d) Approximate total quantity of molasses intended for sale during the period of the licences in quintals.

(e) Approximate total quantity of molasses intended for sale during the period of the licences in quintals.

(f) Period for which the licence is required.

(2) On receipt of an application under sub-rule (1) the District Excise Officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the licence applied for, he may, grant a licence in Form M-III on payment of a fee of [1][Rs. 1000/-] in advance and shall fix the total quantity of molasses which the licensee may be allowed to sell during the period of the licence.

1. Substituted vide Notification No. F.6 (62) FD/EX/96 dated 31-3-1997, w.e.f. 1-4-1997.

(3) No licence in Form M-III shall be renewed unless the District Excise Officer is satisfied that:-

(i) molasses are supplied to licensees at reasonable rates, and

(ii) there is a need to continue the licence.

6. (1) Notwithstanding anything contained in the foregoing rules any person other than a producer of molasses desiring to purchase, possess and use bago-molasses for purposes of cattle feed only shall make an application in this behalf stating the quantity of such molasses required by him per month.

(2) On receipt of an application under sub-rule (1), District Excise Officer shall make such inquires as he deems necessary and if he is satisfied that there is no objection to grant of licence applied for he may, grant the applicant licence in Form M III-A on payment of a fee of [1][Rs. 500/- for individual & Rs. 100/- for institutions]

7. The District Excise Officer shall-

(i) in the case of licence in Form M-I fix for the licence period the aggregate quantity of molasses which may be allowed to the licensee for all the uses to which molasses is to be put; and

(ii) in the case of a licence in Form M-II, fix-

(a) the maximum quantity of molasses which the licence may be allowed to posses under the licence at any one time and to use in a month;

(b) the aggregate of the quantity of molasses at the commencement of the licence and of the quantities of molasses to be received by the licensee from time to time during the period of the licence.

8. No licence in Form M-I shall be granted unless such licence is required by a producer of molasses in respect of molasses produced in his factory as a by-product in the process of manufacture of sugar, Khandsari Sugar or Gur

9. No licence in form M-I shall be granted unless, such licence is required for molasses to be used for any of the following purposes, namely:-

(i) distillation of spirit in a distillery established or licensed under the Act;

(ii) manufacture of power alcohol in distillery established or licensed under, the Act;

(iii) Cattle feed;

(iv) any Government purposes,

(v) any bonafide scientific, industrial, agricultural, educational, medicinal or sample purpose.

10. No licence in Form M-I, M-II or M-III shall be granted for a period beyond the 31st day of March next following the date of the commencement of the licence

11. No person shall sell molasses unless he is holding a licence in Form M-I or M-II.

12. Import—Any person desiring to import molasses shall make an application to the District Excise Officer for a licence in that behalf. The application shall contain the following particulars, namely:—

1. Substituted vide Notification No. F.6 (62) FD/EX/96 dated 31-3-1997, w.e.f. 1-4-1997

(1) Name and address of the applicant;
(2) Kind of licence in respect of molasses held by the applicant and its number and date;
(3) Quantity of molasses permitted for possession at any one time under the licence held by him in quintals.
(4) Balance of molasses in hand on the date of application in quintals;
(5) Quantity of molasses to be imported in quintals.
(6) Place from which molasses is to be import;
(7) Name and address of the person;
(8) Route (State the place from which removal of molasses to its destination will be by road in the State).
(9) Period for which the licence is required.
(10) Reasons for importing molasses.

13. (1) On receipt of an application under rule 12 the District Excise Officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the licence applied for, he may grant a licence in Form M-IV on payment of a fee of [1][Rs. 500/-]

(2) the licence shall be in four parts and shall be dealt with as under:-

Part I- shall be kept on the record in the officer of District Excise Officer granting the licence.

Part II- shall be sent to the person supplying molasses.

Part III- shall be handed over to the applicant for sending with the consignment and for record thereafter with his accounts.

Part IV- shall be forwarded to the District Excise Officer or Excise Authority of the place from which molasses are to be imported.

14. Export—(1) Any person desiring to export molasses shall make an application to the District Excise Officer for a licence in that behalf. The application shall contain the following particulars, namely:-

(a) Name and address of the applicant;
(b) Kind of the licence held by the applicant and its number and date.
(c) Quantity of molasses by exported in Quintals,
(d) . Place to which molasses is to be exported;
(e) Name and address of the person to whom molasses is to be sent.
(f) Route (State the place upto which removal of molasses will be by road during its transit in the State).
(g) Period for which the licence is required..
(h) Reasons for exporting molasses.

(2) The application shall be accompanied by an import-permit or no objection certificate granted by the District Excise Officer or Excise Authority of the place of import and certificate granted by the Excise Commissioner, Rajasthan to the effect that there is no objection to allow the applicant to export molasses as stated in his application.

1. Substituted vide Notification No F.4(62) FD/EX/96 dated 31-3-1997, w.e.f 1-4-1997.

15. (1) On receipt of an application under rule 14 the District Excise Officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the licence applied for , he may, grant a licence in Form M-V on payment of a fee of [1][Rs. 500/-]

(2) The licence shall be in four parts and shall be dealt with as under:-

Part I shall be kept on the record in the office of District Excise Officer granting the licence.

Part II shall be kept by the person supplying molasses.

Part III shall be handed over to the applicant for sending with the Consignment and thereafter shall be kept by the person receiving molasses.

Part IV shall be forwarded to the District Excise Officer or Excise Authority of the place to which molasses are to be exported.

16. No licence in Form M-IV or M-V shall be granted unless it is required by a person holding a licence for the possession or sale of molasses.

17. The person holding a licence in Form M-IV or M-V shall remove molasses under excise escort during its transit by road through the limits of the State of Rajasthan.

18. Transport—Any person desiring to transport molasses shall make an application to the District Excise Officer or any other authorised officer in that behalf. the application shall contain the following particulars, namely.-

(1) Name and address of the applicant;
(2) Kind of the licence held in respect of molasses by the applicant and its number and date;
(3) Quantity of molasses permitted for possession at any one time under the above licence in quintals;
(4) Balance of molasses in hand on the date of application in quintals;
(5) Quantity of molasses to be transported in quintals..
(6) (a) Place from which molasses is to be transported;
(b) Place to which molasses is to be transported;
(7) Name of the person authorised to transport molasses .
(8) Name and address of the person from whom molasses will be obtained;
(9) Route (State also the places from and to which transport of molasses will be by road);
(10) Period for which the permit is required;

19. (1) On receipt of an application under rule 18 the District Excise Officer or the authorised officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the permit applied for, he may grant a permit in Form M-VI on payment of a fee of [1][Rs. 100/-]

(2) the permit shall be in four parts and shall be dealt with as under:-

Part I shall be kept on the record in the office of District Excise Officer or the Officer granting the permit.

Part II shall be sent to the person supplying molasses.

1. Substituted vide Notifications No. F.4 (62) FD/EX/96 dated 31-3-97 w.e.f 1-4-97

Part III shall be handed over to the applicant for sending with the consignment nd for record thereafter with his accounts.

Part IV shall be forwarded to the Excise Officer of the place to which molasses to be transported.

20. No permit for the transport of molasses shall be granted unless it is required y a person holding a licence for the possession or sale of molasses.

21. The permit holder shall transport molasses under excise escort during its transit y road.

22. Nothing in Rule 21 shall apply to molasses, transported by afixed route in ankers locked with the excise locks the loading and unloading and locking and unlocking f tanks being made under the supervision of the Central or State Excise Officers as he case may be.

23. Storage and supply.-All licensees shall store molasses in manner which shall revent its leakage and deterioration by admixture with water or any other extraneous ubstance.

24. (1) All storage tanks or pits of molasses shall be gauged and their capacities ound out for every centimetre of their height ganged, rods gauging tables as in the ase of spirit are prepared showing demensions and volume in litres per centimetre of eight.

(2) All drums, tins or other receptacles used for the storage of molasses shall e painted or labeled adequately showing the tare weight, capacity and the actual weight f molasses in the container.

25. No supplies of molasses shall be made to any person unless its weights is ascertained by actual weighment of by finding out its volume and density.

26. For the purposes of weighment all licenses shall maintain a weighing machine r scale.

Additional Regulation For Factories

27. A producer of molasses shall store molasses in leak-proof tanks or pits which shall be kept in good condition. All storage tanks and pits shall be completely covered. All openings and doors and windows leading to the storage tanks or pits shall be fitted with expanded metal and secured with Excise Locks, the keys of which shall be kept by the Officer appointed by the Excise Commissioner for supervision (Hereinafter referred to as 'the Officer'). Provided that the Excise Commissioner may, on such condition as he may impose according to the circumstances prevailing at the producer's sugar factory, permit a producer of molasses to store molasses in Kutcha pits, if such a producer has stock of molasses in excess of an estimated production of molasses of one season,

28. The producer of molasses shall weigh molasses before it is stored in the storage tanks or pits. For this purpose he shall install a weighing machine at his factory. In the absence of such a weighing machine, weight may bee ascertained by the volume and density of molasses.

29. The tanks for measuring or weighing molasses at the factory shall be covered by expanded metals lids and locked with excise locks. Molasses for measurement or weighment

shall be pumped to the measuring or weighing tanks after it is separated by centrifuges. The end portions of the troughs and receiving tanks shall be covered by expanded metal so that molasses connot be easily reached at.

30. Molasses from the measuring or weighing tanks shall be run to the storage tanks through a closed pipe or close conduct. Any fittings and connections for steam pipe on this closed pipe shall be properly sealed or locked with excise locks.

31. The storage tanks shall have only one or two inlets for receiving molasses and only one cuter for issuing molasses. The inlets and outlets shall be locked with excise locks.

32. If molasses be supplied in tank wagons by a producer of molasses, he may install overhead, underground or surface closed tanks for loading tank wagons, he shall keep the tanks in good conditions to prevent leakage or deterioration of molasses. The inlet and outlet connections of such tanks shall be secured with excise locks.

33. The key of excise locks in all the above cases will remain with the store officers.

Molasses Returns

34. (1) The licensee holding a licence in Form 'M-I' granted under the Rajasthan Molasses Rules, 1985 shall maintain, from day to day true and correct account of molasses separately for each storage, tank, pit or receptacle in Form 'A' appended to these rules. He shall also maintain, from day to day, true and correct accounts of the total stock of molasses held by him at his licensed premises in form 'B-appended to these rules. He shall submit to the District Excise Officer/Assistant Excise Officer through the Excise Inspector incharge of the distillery attached to the factory by the 7th of every month, a statement in Form 'C appended to these rules' showing the opening balance, receipts, issues and closing balance of molasses during the preceding month.

(2) The licensee holding a licence in Form 'M-II' granted under the Rajasthan Molasses Rules, 1985 shall maintain from day to day, true and correct account of the stock of molasses held by him at his licensed premises in Form 'D' appended to these rules. He submit to the Excise Officer through the Excise Inspector, by the 7th of every month, a statement in Form 'E' appended to these rules showing the opening balance, receipts, Issues and closing balance of molasses during the preceding month.

(3) The licensee holding a licence in Form 'M-III' granted under the Rajasthan Molasses Rules, 1985 shall maintain, from day to day, true and correct accounts of receipts, sales and balances of molasses in Form "f" appended to these rules. He shall submit to the Excise Officer through the Excise Inspector, by the 7th of every month a statement in Form 'G' appended to these rules showing the opening balance, receipts, sales and closing balance of molasses during the preceding month.

35. (1) The licensee shall not admit losses or dryages of molasses in storage or in transit:-

(i) without the sanction of the District Excise Officer when the losses or dryages exceed 1 per cent, but do not exceed 2 per cent and,

(ii) without the sanction of Excise Commissioner, when the losses or dryages exceed 2 per cent.

(2) When the losses or dryages in storage or in transit are upto 1 per cent, the licensee shall admit losses but he shall report it to the Excise Inspector.

36. The Excise Commissioner may subject to such conditions as he may specify, exempt any licensee from all or any of the provisions of these regulations.

37. Rules for licensees holding a licence in Form M-I, M-II, or M-III—All storage tanks or receptacles of molasses shall be serially numbered by the licensee.

38. The licensee shall keep his premises, tanks and other receptacles for the storage of molasses clean and in good condition and shall take all reasonable precautions to prevent deterioration of the quality of molasses through admixture with water or any extraneous substance. he shall destroy or dispose of the deteriorated molasses in the manner ordered by the Excise Commissioner.

39. The premises, tanks or other receptacles-used for the storage of molasses, accounts, permits, licence and the stocks of molasses shall, at all times be open to inspection by District Excise Officer or any officer duly empowered in that behalf. The licensee shall explain any discrepancy or irregularity noticed by the inspecting officer and shall comply with the orders issued by the District Excise Officer in this connection therewith. He shall if so required by the inspecting officer weigh or measure molasses by any method which may be suitable or practicable.

40. The licensee shall not remove nor shall permit any person to remove any molasses from the storage tanks or receptacles except under a valid transport permit.

41. (1) The licensee shall maintain at his licensed premises a register containing the names or the manager and all other persons employed by him for carrying on the operation of receipt, storage, issue, removal or use of molasses and shall furnish in writing to the District Excise Officer the list of persons so employed for carrying on the said operations.

(2) Every person either permanently or temporarily employed by the licensee shall be provided with a round badge bearing a consecutive number and the name of the licensee. The licensee shall issue instructions to all persons employed by him to show, on demand, their badge to the Officer.

42. (1) The Excise Commissioner may appoint such supervisory staff as in his opinion is necessary for the proper supervision of all arrangements and operations connected with the receipt, storage, issue, removal and use of molasses.

(2) No molasses shall be received into or issued by the licensee from the storage tanks or other receptacles except under the supervision of the officer, if any such officer is appointed by the Commissioner. All storage tanks and receptacles of molasses, in that case, shall be locked by the licensee and the officer with separate locks:

Provided that nothing contained in this sub-rule shall apply to the carrying on of operations by the holder of a licensee in Form M-I connected with receipt and storage of molasses which are produced at his factory.

43. The licensee shall not, except with the previous permission of the Excise Commissioner, or the supervisory staff, appointed under sub-rule (1) of the rule 42 above, carry on any operations connected with the receipt-storage, issue or removal of molasses on Sundays and public holidays sanctioned by Government nor on any day before or after the working hours fixed by the Excise Commissioner for this purpose:

Provided that nothing, contained in this rule shall apply to the carrying on of operations by the holder of a license in Form M-I connected with receipt and storage of molasses which are produced at his factory.

44. In case the licensee wants to wind up his business. He shall give one clear calendar month's notice to the Excise Commissioner through the District Excise Officer of his intention to do

45. The license shall allow the officer appointed to supervise his operation or any other inspecting officer to take samples of molasses, free of cost from any place, tank or receptacle, whenever he considers in necessary, for the purpose of chemical analysis by the Chemical analyzer to the Govt. of Rajasthan or to the Government of India to test the purity of molasses or to determine its quality.

46. The licensee shall display his licence conspicuously at his licensed premises

47. The licensee shall maintain at his licensed premises a visit book paged and stamped with the seal of the District Excise Officer or any other officer authorised in that behalf by the District Excise officer to which inspecting Officer may record their remarks. The licensee shall, on the termination of the licence, deliver the visit book, the licence, the accounts and the permits to the Excise inspector.

48. Except with the permission of the District Excise Officer the licensee shall not sell, transfer or sub-let the right conferred upon him by his licence nor shall in connection with the exercise of the said right, enter into any agreement which, in the opinion of the District Excise Officer, is of the nature of sub-lease.

49. No person shall be recognised as a partner of the licensee for the purpose of his licence, unless the partnership has been declared to the District Excise Officer before the licence is granted and the names of the partners have been entered jointly in the licence or, if the partnership is entered into after the granting of licence, unless the District Excise Officer agrees, on application made to him , to alter the licence and to add the name or names of the partner or partners in the licence.

50 The licensee, his heirs and assignees shall have no claim whatsoever to the continuance or renewal of his licence after the expiry of the period for which it is granted. It shall be entirely within the discretion of the District Excise Officer whether to or not to permit the heir, in case of death, or their assignee of the licensee, in the case of sale or transfer, to have the benefit of the licence for the unexpired portion of the licence period.

51. (1) The licensee shall abide by the provisions of the Act, rules, and orders made thereunder from time to time.

(2) The licensee shall comply with all lawful orders and directions issued to him by the Excise Commissioner within such time as may be.

52. The licensee shall give an undertaking in writing to the District Excise Officer to abide by the provisions of the Act, the rules, and orders made thereunder and the conditions of his licence.

53. Licensee holding a licence in Form M-I—(1) The licensee holding a licence in Form M-I shall leave sufficient space in the cover of the tanks or receptacles to scoop out samples.

(2) Molasses from the storage tanks or other receptacles required for use in any process at the factory or for use in the distillery attached to the factory shall be taken there through pipe connections under the supervisions of the officers: but before doing so the licensee shall give an intimation to the officer stating the quantity of molasses so required, the tank or receptacle from which required and also the time when required.

54. Licensees holding a Licence in Form M-II—(1) The licensee shall not receive his supplies of molasses from any person other then-

(i) a person who holds in the Stat of Rajasthan a licence in Form M-I or M-III: or

(ii) a person who is directed by the State Government to sell molasses to him, or

(iii) a person outside the State of Rajasthan.

(2) All molasses received by the licensee at his premises shall be covered by a valid transport permit if brought from any place in the State of Rajasthan or by a valid import licence if brought from any place outside the State of Rajasthan

(3) Except as directed by the State Government under any law for the time being in force. The licensee holding a licence in Form M-II shall not sell or transfer any molasses possessed by him under the liecence.

(4) The licensee shall maintain in a book, paged and sealed with the seal of the District Excise Officer such accounts and submit such return as may prescribed by the Excise Commissioner.

55. Licensee holding a licence in Form M-III—(1) The licensee holding a licence in Form M-III shall not received his supplies of molasses from any person other than-

(i) a person who holds in the State of Rajasthan a licence in Form M-I or M-III;

(ii) a person who is directed by the State Government, the Excise Commissioner or the District Excise Officer to sell molasses to him.,

(iii) a person outside the State of Rajasthan.

(2) All molasses received by the licensee at his premises shall be covered by a valid transport permit if brought from a place in the State of Rajasthan or by a valid import licence if brought from any place outside the State of Rajasthan.

(3) The licensee shall maintain in a book paged and sealed with the seal of the District Excise Officer, such accounts and submit such returns as may be prescribed by the Excise Commissioner.

56. Possession or transport for domestic purposes—Notwithstanding anything contained in the foregoing rules, it shall be lawful for any person to possess or transport without a licence or permit, as the case may be molasses-not exceeding such quantity as the Excise Commissioner may specify for any local area as the permitted quantity for domestic purposes.

57. Disposal of adulterated or deteriorated Molasses as waste—The contents of any tank or pit intended for the storage of molasses, not being molasses having a density of less than so fixed and a fermentable sugar contents (expressed as reducing sugars) of not less than 37 per cent shall, if the Excise Commissioner by order in writing so directs, be disposed of as a waste or in such manner as may be specified by the Excise Commissioner.

FORM M-I

[See rule 31]

Licence No.....

Licence for possession and sale of molasses by a producer of Molasses.

Licence is hereby granted, under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules, regulations and orders made thereunder. to ..... residing at ..... (hereinafter called the licensee') on payment of a fee of Rs..... in advance into the Government Treasury at ..... authorising him to possess and sell molasses produced at his sugar/gur factory situated at ... . in the District..... (hereinafter refereed to as 'the licensed premises') during the period from..... to ... . subject to the following conditions, namely:-

CONDITIONS

1. The licensee shall not except with the written permission of the District Excise Officer, keep or sell molasses at any place other than the licensed premises

2. Except with the written permission of the District Excise Officer the licensee shall not receive or keep at his licensed premises any molasses other than those produced at the said premises.

3. (1) The licensee shall not sell molasses.

(i) except to a person who holds a licence in Form M-II, M-III or M-IIIA, or

(ii) exceeding the permitted quantity prescribed under rule of the Rajasthan Molasses Rules, 1985.

[1][(2) The licensee shall not sell molasses at a price in excess or the maximum selling price which may be fixed by the Government of India under the Molasses control order.]

(3) Notwithstanding anything contained in sub-condition (1) and (2), the licensee shall, when directed by the State Government under any law for the time being in force sell molasses held by him in accordance with the terms of the direction.

(4) (1) The licensee shall not use the molasses from the storages tanks or receptacles for any purpose except for the following purposes, in quantities not exceeding..... Quintals in the aggregate during the licence period.-

*(i) Distillation of spirit in a distillery established or licensed under the Rajasthan Excise Act, 1950.

*(ii) Manufacture of power alcohol in a distillery established or licensed under the Rajasthan Excise Act, 1950.

*(iii) Any Government purposes, viz.....

*(iv) the bonafide scientific purpose of ..... (here state the purpose)

1. Substituted vide GSR 28 dated 20-10-92.

*(v) the bonafide industrial purpose of .... (here state the purpose)

*(vi) the bonafide agricultural purpose of ..... (here state the purpose)

*(vii) The bonafide educational purpose of ..... (here state the purpose)

*(viii) Any Medicinal purpose, viz..... (here state the purpose)

*(ix) Sample purpose .....

*(x) Cattle-feed.....

*The inapplicable entries should be struck off.

(2) Nothing in sub-condition (1) shall apply to molasses removed from Storage tanks or receptacles for purpose of sale.

5. The licensee shall pay to the State Government in advance at the beginning of each quarter commencing from the date of the licence such cost of the Excise Staff as may be fixed by the Excise Commissioner.

6. (1) The licensee shall provide suitable office accommodation, with sanitary arrangements, for the Excise Officer or such staff as may be appointed by the Excise Commissioner within the licensed premises and shall supply such furniture and other articles for the use of the officer at the District Excise Officer may consider necessary. The licensee shall afford the officer all reasonable facilities and assistance as may be required by him for carrying out his duties of supervision and inspection

(2) The licensee shall provide the Excise Staff so appointed residential quarters as approved by the District Excise Officer in this behalf near the licensed premises and shall also provide the following subsidiary services if available, namely:-

Sanitary electric and water supply, and may charge rent not exceeding ten per cent of the pay of the staff for quarters and also reasonable charges for the water supply, sanitary and electric supply services provided by the licensee, In case of dispute as to whether the charges are reasonable or not the Excise Commissioner shall decide the question and his decision shall be binding on the licensee and the staff

7. This licence may be suspended of cancelled in accordance with the provisions of Sec. 34 or 56 of the Rajasthan Excise Act, 1950.

Granted this .... day of ..... 20.....

Seal. District Excise Officer.

FORM M-II

[See Rule 4(2)]

Licence for possession of molasses to persons other than producers of molasses.

Licence is hereby granted under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules regulations and orders made thereunder to.. ..... residing at ..... (Khereinafter called 'licensee') on payment of a fee of Rs. ..... in advance into the Government Treasury at ..... authorising him to have in his possession molasses at his premises situated at ..... in the district of ....

(hereinafter referred to as the licensed premises' during the period from ..... to ... . subject to the following conditions, namely.--

1. The licensee shall not, except with the written permission of the District Excise Officer keep molasses at any place other than the licensed premises.

2. The licensee shall not have in his possession more than .. .. Quintals of molasses at any one time, and he shall not use more than..... . ... Quintals of molasses in any calendar month during the period of this licence.

3. The aggregate of the opening balance of molasses held by the licensee at the commencement of this licence and the quantities of molasses received by him from time to time during the course of the period of this licence shall not exceed .... Quintals.

4. The licensee shall not use the molasses removed from the storage tanks or receptacle for any purpose except for the following purposes only in quantities not exceeding those specified against them, namely:-

*(i) Distillation of spirit in a distillery established or licensed under the Rajasthan Excise Act, 1950..... .... . Quintals. per year.

*(ii) Manufacture of power alcohol in a distillery established or licensed under the Rajasthan Excise Act, 1950..... Quintals per year.

*(iii) Any medicinal purpose viz... ..... (Quintals per year.

*(iv) The bonafide scientific purpose of ..... Quintals per year. (here state the purpose).

*(v) The bonafide industrial purpose of ..... year. (here state the purpose).

*(vi) The bonafide agricultural purpose of .... Quintals per year

*(vii) The bonafide educational purpose of. .. .. Quintals per year. (here state the purpose).

*(viii) Any Government purposes, viz..... Quintals per year

*(ix) Sampler purpose..... Quintals per year

5. The licensee shall pay to the State Government in advance of the beginning or each quarter commencing from the date of licence such cost of the Excise staff appointed within the licensed premises as may be fixed by the Excise Commissioner.

6. The licensee shall provide suitable office accommodation with sanitary arrangements, for the excise officer or such staff as may be appointed by the Excise Commissioner within the licensed premises and shall supply such furniture and other articles for the use of the Officer as the District Excise Officer may consider necessary. The licensee shall afford the Officer all reasonable facilities and assistance as may be required by him, for carrying out his duties of supervision and inspection.

7. This licence may be suspended or cancelled in accordance with the provisions of section 34 or 35 of the Rajasthan Excise Act, 1950. Granted this..... .. .... day of .... 20.....

Seal: District Excise Officer.

*The inapplicable entries should be struck off.

FORM M-III

[See rule 5(3)]

Licence No.

Licence for the sale of molasses

Licence is hereby granted, under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules regulations and orders made thereunder to ..... residing at ..... (hereinafter called 'the licensee') on the payment of a fee of Rs. ..... in advance into the Government Treasury at..... authorising him to sell, and to have his possession for sale, molasses at his premises situated at ..... in the district of..... (hereinafter referred to as' the licensed premises') during the period from. .. ..to .....

CONDITIONS

1. The licensee shall not except with the written permission of the District Excise Officer keep, or sell molasses at any place other than the licensed premises.

2. The licensee shall not have in his possession at any one time molasses exceeding. ..... Quintals.

3. (1) The aggregate of the opening balance of molasses held by the licensee at the commencement of this licence and the quantities of molasses received by him from time to time during the course of the period of this licence, shall not exceed..... Quintals.

(2) The licensee shall not sell in all molasses exceeding. ..... Quintals during the term of his licence.

4. The licensee shall not sell molasses:-

(i) except to a person who holds a licence in form M-II M-III or M-III-A unless the sale is for export or for export across a frontier;

(ii) exceeding the permitted quantity prescribed under rule of the Rajasthan Molasses Rules, 1985 to a person requiring it for a domestic purpose.

(2) The licensee shall not sell molasses at a price in excess of the maximum selling price which may be fixed by the State Government from time to time under any law for the time being in force.

(3) Notwithstanding anything contained in sub-conditions (1) and (2), the licensee shall, when directed by the State Government under any law for the time being in force, sell molasses held by him in accordance with the terms of direction.

5. The licensee shall not, except under a licence in Form M-II or M-III A use molasses for any purpose other than sale.

6. The licensee shall pay to the State Government in advance at the beginning of each quarter commencing from the date of the licence such cost of the Excise staff as may be fixed by the Excise Commissioner.

7. The licensee shall provide suitable officer accommodation, with sanitary arrangement, for the Excise Officer or such staff as may be appointed by the Excise Commissioner within the licensed premises and shall supply such furniture and other

article for the use of the officer as the District Excise Officer may consider necessary The licensee shall afford the officer all reasonable facilities and assistance as may be required by him, for carrying out his duties of supervision and inspection.

8. This licence may be suspended or cancelled in accordance with the provisions of Sec. 34 or 35 of the Rajasthan Excise Act, 1950.

Granted..... day of ..... 20....

Seal: District Excise Officer

FROM M-III-A

[See rule 6(2)]

Licence for purchase, possession or use of Bago Molasses for purposes of cattle-feed.

1. Licence No..... Dated... ... ...

2. Name and address of the licensee.

3. Number of working bullocks milch buffaloes and cows possessed-

4. (i) Maximum quantity of Bago molasses allowed to be used for cattle-feed in a calendar month:

(ii) Maximum quantity of bago molasses allowed to be possessed at any one time for a cattle-feed.

5. The name of the licensee from whom bago molasses may be purchased.

6. The period for which the licence shall be valid.

7. This licence is granted under and subject to the provisions of Rajasthan Excise Act, 1950 and the rules, regulations and orders made thereunder on payment of fee of Re. 1/- subject to the following conditions:-

CONDITIONS

(i) That the consignment of bago molasses is not broken in transit from the licensed premises of a M-I or M-III licensee to the premises of the licensee.

(ii) That the licensee complies promptly with all orders and directions which may be issued to him by the District Excise Officer under the Rajasthan Excise Act, 1950 and the rules farmed thereunder.

(iii) That the licensee shall not use bago molasses for any purpose other than cattle feed.

Seal of the Officer granting the licence. (Signature and designation of Officer granting the licence)

FORM M-IV

[See rule 13(1)]

Licence for the Import of molasses

No..... Dated ....

1. Name and address of the licensee.

2. Quantity of molasses to be Imported (in Quintals).

3. Name and address of the person from whom molasses is purchased

4. Place from which molasses is to be imported.

5. Place to which molasses is to be removed.

6. Route (State also the place from which removal of molasses to its destination will be by road in the State).

7. Date upto which this licence shall be valid.

This licence is granted under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules made, thereunder on payment of a fee of Rupee 1/- authorising the above import of molasses subject to the following conditions, namely -

CONDITIONS

(1) The whole quantity of molasses shall be imported in one consignment only and its bulk shall not be broken in transit:

Provided that the District Excise Officer may: by special permission in consignment to be imported in parts under cover of transport permits in respect of each such part issued by a duty authorised officer.

(2) The licensee shall pay in advance such cost of the excise escort as the District Excise Officer may decide.

(3) The licence-holder shall give an undertaking in writing to the District Exercise Officer to abide by the above conditions.

Seal :

District Excise Officer

FORM M-V

[See Rule 15 (1)]

Licence for the Export of Molasses

No..... Dated.....

1. Name and address of the licensee.

2. Quantity of molasses to be exported (in Quintals).

3. Name and address of the person to whom molasses is to be exported.

4. Place to which molasses is to be exported.

5. Place from which molasses is to be exported

6. Route (State also the place from which removal of molasses will be by road during its transit in the State of Rajasthan).

7. Date upto which this licence shall be valid.

This licence is granted under and subject to the provisions of the Rajasthan Excise Act, 1950 and the rules regulations and order made, thereunder on payment of a fee rupees 1/- authorised the above export of molasses subject to the following condition namely -

CONDITIONS

(1) The whole quantity of molasses shall be exported in one consignment only and its bull shall not be broken in transit:

Provided that the District Excise Officer may, by special permission in writing and subject to such conditions as he may deem fit to impose, allow the consignment to be exported in parts under cover of transport permits in respect of each such part issued by a duly authorised officer.

(2) The licensee shall pay in advance such cost of the Excise escort as the District Excise Officer may, decide.

(3) The licensee shall give an undertaking in writing to the District Exercise Officer to abide by the above conditions

Seal.

District Excise Officer

FORM M-VI

[See rule 19(III)]

Permit for the transport of Molasses

No..... Date.....

1. Name and address of the permit-holder.

2. Kind of the licence held by the permit-holder under the Rajasthan Molasses Rules, 1985, and its number.

3. Quantity of molasses to be transported (in Quintals)

4. (a) Place from which molasses is to be trnasported

(b) Place to which molasses is to be transported.

5. Name of the person authorised to transport molasses

6. Name and address of the person from whom molasses is obtained

7. Route (State also the places from and to which transport of molasses will be by road).

8. Date up to which the permit shall be valid. This permit is granted under and subject to the provisions of the Rajasthan Excise Act, 1950, and the rules made thereunder on payment of a fee of Rs ..... authorising the above transport of molasses subject to the following conditions namely:-

CONDITIONS

(1) The whole quantity of molasses shall be transported in one consignment only and its bulk shall not be broken in transit.

(2) The licensee shall pay in advance such cost of excise escort as the District Excise Officer may decide

(3) The permit holder shall give an undertaking in writing to the District Excise Officer or the Officer granting the permit to abide by the above conditions.

Seal:

District Excise Officer

(or State here the designation of the officer granting the permit).

FORM 'A'

[See Rule 34(1)]

Name of the M.I. Licensee'.....

Molasses Storage Tank/Receptacle.....Amount of Molasses.....

Height–

Opening balance				Received	
Date	Height of Molasses in Centimeters	From the Sugar/Gur Factory as a by product	Corresponding weight in quintals	From outside	Reference to the No. and date of the permit or licence in the case of receipt outside

Total		Issues				
Height of Molasses in Centi-meters	Corres-ponding weight in Quintals	For disti-llation of Rectified Spirit.	For Manu-facture of Power Alcohal.	For other uses as specified in the lic-licence.	For use in the process at the su-gar/Gur factory	For de-struction

Closing Balance.					
No. and Date of he Dryage or Wastage	Height of Molasses in Centimeters	Corresponding weight in Quintals	Intials of the his authorised sed servant.	Initial of the officer	Remarks.

FORM 'B'

[See Rule 34(1)]

Total Stock Register of Molasses.

'otal Number of Storage, Tanks or Receptacles :

Name of the M.I. Licence.....

I.B.–Separate entry should be made for each tanks or receptacle if the operations of eceip or issue relate to more than one tank or receptacle on any day)

Received					
Date	Opening Balance	From the Sugar/Gur factory as a by product	From outside	Tank Receptacle No. in which received	Total

Issues				
For sale	For distillation of rectified spirit or for manufacture of power Alcohol.	For other purposes specified in the fied in the licence	For use in the process at the Sugar/Gur Factory	For destruction

Dryage or wastage.	Tank Recept-acle No. from which issued	Closing balance	Initials of the licence or his authorised servant	Initials of the officer	Remarks

FORM C

[See rule 34(1)]

Name of the M.I. Licensee.....

Monthly statement of Molasses received and issued during the month of.....

Opening balance	Quantity of molasses produced during the month	Receipts from other factory if any	Gains due to admixture of water for any causes	Gains due to other causes	Total (Co -lumns 1,2,3,4 and 5).
1	2	3	4	5	6

Quantity used at the Sugar Factory for					
Distilation	Manure	Fuel	Cattle F.	Other purposes allowed by the distt. Excise officer	Total (Columns 7,8,9,10 and 11
7	8	9	10	11	12

Issued by			
M.I. Licence or M.III licenses	M.II. Licences M.III-A licences	Distillery	Total (Columns 13,14 and 15)
13	14	15	16

Sale for export outside the Raj. state	Total of columns 12, 16 & 17).	Losses due to evaporation percolation, see page (etc.) or the similar reason.	Other Losses.	Total (Columns 18, 19 & 20).	Closing balance (Columns 28-21)
17	18	19	20	21	22

Storage accommodation of molasses at the sugar factory				Details of quatiity of closing balance in each pit.		
Pit No.	Dimensions of the pit	In Cubic Feet	In Quintals	In Cubic Feet	In Quintals	Year of Production
	1.					
	2.					
	3.					
	4.					
and	C					

Sale for export outside the Rajasthan State (Column No. 17)	
Director's sanction letter No. and date	Quantity of Molasses sold

FORM 'D'

[See rule 34(E)]

District..... Tehsil..... Name of the Licensee (M.II)..... Place.....

Form of account to be maintained by the holder of the Licence in Form M-II for possession and use of molasses

Date	Opening Balance	Receipts				Transit	
		Name of the holder of M-I or M-III licence from whom purchased	No. of permit with date	Quantity advised	Quantity received	Loss	Gain
	2	3	4	5	6	7	8

Total (Columns 2 plus 6)	Quantity used for purposes specified in the licence	Dryage & wastage losses	Total (Columns 10 plus 11)	Closing balance (Columns 9 minus 12)	Remarks
9	10	11	12	13	14

FORM 'E'

[See Rule 34(2)]

Name of the (M-I) Licensee.....

Monthly statement of molasses received and issued during the month of.....20.....

			Issues				
Opening balance	Received	Total	For sale if any as directed by the State Government.	For the purpose specified in the licence	For destruction	Dryage or wastage	Closing Balance
Quintals	Quintals	Quintals	Quintals	Quintals	Quintals	Quintals	Quintals

Dated.....20..... (Signature)..... Licensee

FORM 'F'

[See rule 34(3)]

District..... Name of the Licensee (M-III).....

Form of Account to be maintained by the holder of the licence in Form M/III (other than producer of molasses) for possession and/or sale of molasses

		Receipts				Transit	
Date	Opening balance	Name of the sugar factory purchased	No. of permit with date	Quantity advised	Quantity received	Loss	Gain
1	2	3	4	5	6	7	8

Issued licences to a holder of				
Total 'olumns plus 6	M-III licensee	M-II Licensee M III-A	No. and date of transport permit if any	Quantity issued
9	10	11	12	13

·osses age and 'astage	total (Columns 13 plus 14)	Closing balance (Clumns 9 minus 15)	Remarks	Shri A Shri B Shri C etc.
14	15	16	17	

FORM 'G'

[See rule 34(3)]

Name of the (M-III) Licensee.....

Monthly statement of Molasses received, sold and balance for month.....19.....

Issued							
·ening ance	Received	Total	Sold	Destroyed	Dryage or Wastage	Closing Balance	Remarks
intals	Quintals	Quintals	Quintals	Quintals	Quintals	Quintals	

.....20.....

(Sgnature).....
(Licensee)

[18]

Rules Regarding Sale of Ganja, 1951

[Section 42(e)(iii)]

[Notification No. C-108, dt. 27-9-1951].- In exercise of the powers conferred by sub-clause (iii) of clause (e) of Section 42 of the Rajasthan Excise Act, 1950, the Excise Commissioner, with the previous sanction of Government pleased to make the following rules, namely:-

No hemp drugs retail licensee shall sell Ganja in Rajasthan for a price in excess of Rs. 1/4/-per tola.

This shall take effect from the 1st October, 1951.

❑ Case Law

1. Charas & Ganja—"Charas" is not cannabis plant, but it is resin obtained therefrom, whereas "Ganja" is flowering or fruiting top" of cannibis plant excluding its seeds and leaves when not accompanied by tops. (Para7)[1]

2. Auction System- Meaning of "Fixed Fee"- The term "Fixed Fee" is a fee determined by the Excise Commissioner in lieu of "Licence Fee"[2]

1. Manjee v. State, 1996(2) WLC 405
2. State of U.P. v. Sheopat Raj 1994 Supp (1) SCC 8.

19

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[19]
Rajasthan Heritage Liquor Rules, 1998[1]

S.O.104 (July 9,1998)— In exercise of the powers conferred by section 42(a) (i) of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the Excise Commissioner, with the previous sanction of the State Government hereby makes with immediate effect, the following rules, namely:-

1. Short title and commencement--(i) These rules may be called the Rajasthan Heritage Liquor Rules, 1998.

(ii) They shall come into force at once.

(2) **Definitions**—In these rules, unless the context otherwise requires.

(a) **'Act'** means the Rajasthan Excise Act, 1950 (Rajasthan Act. No. 2 of 1950);

(b) **'herbs'** means leaves, flowers or seeds of a plant which add flavour, colour and taste to eatables or potables;

(c) **'licensing authority'** means authority for granting and renewing herbal liquor licence;

(d) **'Heritage Liquor'** means such alchoholic brewerage as defined in Rajasthan Excise Rules, 1956;

(e) **'manufactory'** means the building alongwith premises specified in the licence for the manufacture of heritage liquor.

(f) **'Officer in charge'** means the Excise Inspector or any other Officer of the Excise Department not below the rank of Excise Inspector appointed by the Excise Commissioner to hold charge of heritage liquor manufactory.

3. Application for a licence—Any person desiring a licence to establish a heritage liquor manufactory shall apply to Excise Commissioner stating therein and satisfying upon:

(1) Applicant name, parentage and permanent address.

(2) Details of technical know-how for the manufacture of heritage liquor such as:

(a) Methods of manufacture.

(b) Raw materials to be used and proportion of yield therefrom.

(c) Herbs or spices to be added and proportion thereof vis-a-vis other raw material alongwith stages at which these would be added

(d) Duration of fermentation and distillation alongwith process to be followed.

(e) Details as to bottling process and labelling.

(f) Name of brands and their effects after use, if any

1. Notification No. F. 32 (b)() EX/L/98 dated 9-7-1998, published in Raj Gaz- EO-4(Ga) II- dated 9-7-1998- page 163 (11) (14).

(3) Product profile such as marketing capacity in and outside Rajasthan and revenue prospects for the State.

(4) Manufactory details such as systematic profile of plant and its working.

(5) Details regarding place of establishment of manufactory, such as ownership, commercial conversion, availability of water and its suitability or fitness and availability of water and its suitability or fitness and availability of electricity as per requirements.

(6) Pollution and Environment factors, if and, clearance from the concerned department.

(7) NOC by the District administration.

(8) Registration with the Industry Department.

(9) Certificate by PHED and RSEB regarding supply as per demand of manufactory unit.

(10) Eligibility details supported by documents for holding the licence such as:

(a) Age not below 18 years.

(b) Not in default of Excise Department.

(c) Has never been found guilty of any serious lapses pertaining to Rajasthan Excise Act, 1950 or NDPS Act, 1985.

(d) Financial soundness upto the satisfaction of licencing authority.

4. Heritage Liquor Licence—A licence for the manufacturing of heritage liquor shall be granted in prescribed form and renewed there after by the Excise Commissioner for a period ending 31st March of each year on such fees, terms and conditions as are determined from time to time.

5. Working of the manufactory—The procedure prescribed for working of a distillery in Rajasthan Distillery Rules, 1977, shall be applicable **mutatis mutandis** in the working of a manufactory of Heritage Liquor.

6. Sale, transfer or sub-letting etc. prohibited—Except with written permission of the Excise Commissioner the licensee shall not sale, transfer, sub-let or mortgage the right of manufacture conferred upon him nor shall in connection with the exercise of the said right enter in to agreement or arrangement for any sub-lease. He shall not admit any person as partner in the licence without prior sanction in writing of the Excise Commissioner.

7. Security and other levies—Every licensee of herbal liquor manufactory shall deposit from time to time such security, duty, fee and other levies as may be prescribed by the competent authority from time to time.

8. Officer's accommodation—The licensee shall provide for officer establishment for the use of Officer-in-charge and his staff as also suitable residential accommodation for Officer-in-charge at his own premises or in the proximity. He shall be bound to maintain these establishment in order and worth use.

9. Government not liable for any loss on manufactory—If any loss or damage occurs in building or material by any reason whatsoever, the Government shall not be liable for it. If any damage is done to excisable items, it shall be subjected to levy of Excise Duty etc. and shall be recovered from the licensee.

10. Herbs, Spices etc. and Chemical Examination thereof—The licensee shall provide in advance a list alongwith samples of Herbs, Spices etc. and proportion thereof to be

added in each brand of heritage liquor proposed to be prepared by him. It shall be the responsibility of the licensee to get the Herbs, Spices etc. to be used in manufacturing process chemically examined so as to satisfy the fitness of these items for human consumption. The licensee shal solely be liable for its consequences and shall be dealt with as per prevailing legal provisions including cancellation of licence.

11. Control—The Officer-in-charge appointed by the Excise Commissioner shall have the overall control of the manufactory without whose prior permission no material shall be taken in or out of the premises of the manufactory.

12. Maintenance of the Accounts and records—The licensee shall maintain such accounts and records as directed by the competent authority from time to time which shall be open for inspection by the Officer-in-charge and of his superior officers.

13. Observance of Provisions—The licensee shall be bound to comply with the provisions of the Act and the Rules made thereunder as well as the administrative orders issued by the competent authority from time to time. Any violation thereof by licensee or his representatives shall attract legal action against the licensee including cancellation of licence.

14. Disposal of product—The licensee shall market, sale or dispose off the product in the manner directed by the competent authority from time to time

[No.F.32 (B) () Ex/L/98/ dated 9-7-1997]

NOTIFICATIONS

Heritage Liquor- Excisable Article

S.O.112- In exercise of the powers conferred by sub-clause(v) of clause(4) of section 3 of the Rajasthan Excise Act, 1950 (Rajasthan Act no. 2 of 1950), the State Government hereby declares the heritage liquor as an **excisable article** for the purpose of the said Act.

[No. F. 4 (30)FD/EX/98 dated 9-7-1998, published in Raj.Gaz.-EO-49GO) (II)- dated 9-7-1998. Page 165 (12)]

S.O.113. In exercise of the powers conferred by clause (15) of section 3 and sub section (1) of Section 4 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950), the State Government hereby declare the heritage liquor to be liquor for the purpose of the said Act.

[No.F.4(30) FD/Ex/98 dated 9-7-1998, pub in Raj Gaz. EO-4 (Ga) (II) dated 9-7-1998, Page 165 (13)]

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[20]
Conditions & Restrictions on Establishment or Licence of
BONDED WARE HOUSE

[Notification under Rule 17(d) of the Rajasthan Excise Rules, 1956]

Notification No. F. 1(7) FD/EX/82–S.O.167–dated 22-1-1986 pub. in Raj. Gaz–EO IV (Ga)(II) dated 23-1-86, p. 349 (27)1

S.O.167.—In exercise of the powers conferred by clause (b) of Section 17of the Rahjasthan Excise Act, 1950 (Act No. 2 of 1950) read with rule 2 of the Rajasthan Excise Rules, 1956, the State Government hereby prescribes the following conditions and restrictions in respect of establishment or licence of a Bonded Warehouse for the receipt and storage of Liquor or any other excisable article under bond, both bottled and in bulk of Indian Manufacture, transported or imported into Rajasthan from any place within the Indian Union as approved by the Excise Commissioner for its [1][compounding], [2][blending], reduction, bottling transport or export in bond or on payment of duty within or outside the Rajasthan State, namely:-

[3]["**1-A. Application for "No objection Certificate**—Any person desiring to consstruct and work a bonded warehouse in his own premises wherein liquor or any other excisable article may be deposited and kept under bond without payment of excise duty shall first apply for grant of "No objection certificate' to the Excise Commissioner through the District Excise Officer concerned after having deposited the free perseribed for this purpose. Excise Commissioner, subject to general or specific instructions of the State Government, may issue "No objection certificate."

1-B. Grant of permisssion for construction:—The holder of "No objection certificate' shall seek the permission of Excise Commissioner for construction of bonded warehouse after completing the formalities prescribed by Excise Commissioner in this behalf and depositing the fee perscribed for this purpose. The applicant shall file for approval, description and plans of the building in which he propose to establish bonded warehouse. Excise Commissioner, if he is satisfied that there is no objection to doing so, may grant permission for construction of bonded warehouse.

1. Inserted vide S.O. 83 dated 26-8-89.
2. Inserted vide S.O. 61, dated 24-6-95.
3. Condition No IA, 1-B, I-C & I-D Substituted by Notification No. F4 (31)/FD/2005, dated 20-01-2006

1-C. Grant of licence—On receipt of intimation of completion of construction from the person holding permission under condition 1-B and afterr satisfying that fee perscribed for this purpose has been deposited and there is no objection to doing so, Excise Commissioner may grant the licence in Form B.W.H.2 subject to the deposit of such security not exceeding Rs.25,000/-as may be directed by the Excise Commissioner for the payment of all sums, which may become due to State Government by way of duty, rents, penalties fines and under the provisions of his licence or to which licensee may be liable by law or under any agreement or bond into the form of which he may have entered or securities to be furnished in any one of form securities provided under General Financial and Accounts Rules.

1-D. Permission for addition/alteration—Any addition to or alteration of bonded warehouse plant or building shall be made with the prior permission of Excise Commissioner and no such permission shall be given unless the fee perscribed for this purpose has been deposited."]

2. Period of Licensee—The licence may be granted or renewed on payment of [1][the fee as prescribed under Rule 68 of the Rajasthan Excise Rules, 1956]for a period not exceeding one year and ending away on the 31st March, following the date of grant of renewal: Provided that before the grant or renewal of the licence the licensee shall be required to furnish a security in Form B.W.H. 3 in addition to the licence fee as mentioned in [2][Condition 1C] equivalent to 25 per cent of the amount of Excise duty on the maximum quantity of liquor allowed to be stored at any one time.

3. The bonded warehouse shall be established at the premises approved by the Excise Commissioner, and no additions or alteration shall be made without obtaining his prior written permission.

4. The licence shall have to pay **Supervision charges** to the department every month as fixed by the Excise Commissioner in advance before the commencement of the following month.

5. Liquor may be obtained in bond under permit issued by the District Excise Officer concerned, without payment of duty from any distillery or warehouse having permission for the manufacturing from Ministry of Industrial Development and Ministry of Chemicals and Fertilizers Govt. of India or Registration with Directorate General of Technical Department in Rajasthan or outside under permit, issued by the Distt. Excise Officer concerned.

6. (1) No liquor shall be received in the Bonded warehouse unless accompanied by a pass from the Officer-incharge of the distillery or bonded warehouse from which it has been imported or transported.

(2) Immediately on arrival of a consignment at the Bonded warehouse the Officer in-charge shall be informed and the consignment shall not be opened until the same has been examined and verified with the pass by the Officer-in-charge who shall also note the details in the register maintained for the purpose and also on the pass covering the consignment and one copy of the pass with entries of Receipt shall be immediately returned to the Officer who issued the pass and the other copy with entries thereon shall be kept in the bonded warehouse.

1. Substituted vide S.O. 61 dated 24-6-95.
2. Substituted for "in rule 1" by Notification No. F. 4 (31) FD/Ex./2005, dated 20-01-2006.

[1][(3) xx deleted xx w.e.f. 1-4-1993]

7. (1) A wastage allowance not exceeding 0.5 per cent shall be made for actual loss in transit by leakage or breakage of vessel or bottles containing liquor.

(2) The allowance shall be determined by deducting from the quantity despatched the quantity received at the destination from both quantities being stated in terms of proof, litres of spirit contents or in case of bear in Bulk-Litres.

8. If the report of the Officer-in-charge shows the **wastage exceeds** the prescribed limit, the licencee shall be liable to pay duty at the prescribed rate as if the wastage in excess of the prescribed limit has actually been removed from the bonded warehouse.

Provided that each case of excessive wastage shall be reported through the District Excise Officer concerned to the Excise Commissioner for orders, who may, in this discretion, on good cause being shown, remit the whole or a part of the Excise duty leviable on such' wastage.

9. Liquor shall be imported/transported under bond in accordance with the Rajasthan Excise Rules, 1956 at the sale risk and on the responsibility of the licencee. Licensee shall also execute either a general or a special bond as the case may be in favour of the District Excise Officer/Assistant Excise Officer. The bond so executed shall be discharged after liquor has been duly checked and proved by the Officer-in-charge and deposited in the bonded warehouse.

10. Government shall not be held responsible for the destruction loss or damage by fire, accident, theft or any other cause whatsoever occurring to any liquor stored in the warehouse or during its transit to the warehouse. In such case, an enquiry shall be held by the Excise Commissioner or by any Excise Officer deputed by him on his behalf. A report shall be submitted to the Excise Commissioner for his order. If it is found that such a loss could have been prevented by reasonable precautions on the part of licencee, he may be required to pay duty for the loss of liquor thus caused and the decision of the Excise Commissioner in the matter shall be final and binding on the licencee.

11. Unless the Excise Commissioner, shall give special order to the contrary, all liquor shall be **stored in vats or sealed bottles** or sealed vessels.

[2][Explanation-For purposes of these Rules,'compounding' means adding colours, essences and flavours to the spirit, [3][X X].

STORAGE OF LIQUOR AND LOCKS

12. The charging and discharging pipe of liquor, store vats, and all vessels used for the storage of liquor,: all main doors of such vats or vessels and the doors of spirit

1. The following sub-condition (3) of condition 6 deleted w.e.f. 1-4-1999 vide Notification No. F.1(5)FD/EX/99=S.O. II dated 1-4-99 pub. in Raj. Gaz., E.O.-IV (Ga) (II) dated 1-4-99, page 13(2), which was inserted vide S.O. 16 dated 31-3-97 w.e.f. 1-4-97.
2. Inserted by S.O. 83 dated 26-8-89.
3. Deleted by SO 144 dated 4-11-90

store and the warehouse shall be so fitted as to enable them to be closed with the Excise locks of a pattern approved by the Excise Commisioner.

13. The doors of all buildings or rooms which are used for the storage of spirit shall be provided with double locks the keys of which are not inter changeable and of which one lock shall be an excise lock in the charge of the Officer-in-charge and the other of a bonded warehouse lock in the charge of proprictor.

14. No liquor shall be removed from any store or vessel until an account of the quantity and strength has been taken by the Officer-in-charge.

15. The licencee must submit, if required, samples of all or any liquor or of the preparations for chemical analysis, with a view to ensuring the purity and strength of such preparation.

16. An account of all receipts and issues of liquor from the bonded warehouse shall be maintained in the prescribed registers and forms which shall be in Form B.W.H.5. The Prescribed registers and forms of accounts are not to be deviated from or added to without the specific orders of the Excise Commissioner.

Explanation—All fractions of litres and of degree of strength are to be shown to the nearest first point of decimals. To preserve uniformity the system of increasing the first figures of decimals by one when the second in 5 or more and ignoring the second figure all together when it is less than five should be adopted in proof conversion.

17. The licencee shall submit at the end of each month a statement in Form R.D. 26 in duplicate to the Officer-in-charge who shall after verification submit them to the District Excise Officer. One copy shall be retained by him and the other shall be forwarded to the Excise Commissioner for his information and record in his office.

18. The licencee shall furnish all such statements and informations as may from time to time be required by the, Excise Commissioner or any other Officer deputed by him on his behalf.

19. The liquor may be removed from a warehouse after paying the required fees as mentioned in the Rajasthan Excise Rules, 1956:

(1) either under bond-

(a) For transport/export to other bonded warehouse

(b) For export to other State, or union territories in India when specially permitted by the Excise Commissioner, or

(2) On payment of duty within the State or outside the State.

20. (a) No liquor shall be removed from the warehouse, until it has been checked and proved by the Officer-in-charge and a transport or export pass in form F.L. 5 or F.L. 6 as the case may be, has been granted. Such passes shall only be issued on the proof of execution of bond by the licencee or on production of treasury receipt showing that the required amount of duty has been paid into the Government Treasury.

(b) In case of issue of liquor under bond, the licencee shall execute a bond in form R.D. 15 to deliver the liquor at a particular place or destination and shall furnish proof of his having done so, before the bond can be discharged.

21. All registers and forms prescribed under these rules shall be supplied by the licencee free of charge, forms bound together shall bear printed serial and consecutive numbers loose sheets of such forms as are necessary shall also be supplied to the Officer-in-charge by the Licensee.

22. Stock taking of liquor, bottled or bulk, shall be made by the Officer-in-charge on the last working day of each month after all the transctions for the day have been completed. This stock would also be checked on the last working day of each month by the District Excise Officer in whose district the bonded warehouse is situated.

23. If the licencee infringes or abets the infringement of any of the conditions of his licence, the Excise Commissioner may revoke, cancel and determines the licence and forfeit to Government the whole or any part of the security deposited:

Provided that if the infringement is of a minor nature, the Licence may be restored and other forfeiting the security may be set aside on payment of a sum not exceeding Rs.1000/.

24. All fittings or articles connected with the supply, storage, gauging, handling and issue of liquor including vats casks, tank pumps, pipes, corks, measure vessels etc shall be provided by the licencee. The licencee is responsible for the safe custody of the stock of liquor.

25. All process for the storage, bottling and issue of liquor must be conducted within the warehouse premises under the direct supervision of the Officer in charge.

26. Each vessel for storage of liquor shall be of regular shape and each vessel shall have legibly printed on it, its number, its capacity and the use to which it is applied. The vats shall bear tickets in Form R.D.3 showing details of receipt and issue of liquor.

27. All vessels and packages in which consignments of liquor are issued, shall be sealed by the Officer-in-charge with his official seal before they are allowed to leave the warehouse. The vessel and packages shall bear a lable, in which the following particulars, shall be specified:-

(a) Name of the Licensee.
(b) Contents including quantity in proof and bulk litre of liquor.
(c) Kind of liquor contained.
(d) In bond of duty paid.

ACCOUNTS

28. (1) The Officer-in-charge shall maintain a register in form R.D.5 in which he shall record from day to day all entries regarding operation carried on in the warehouse.

(2) The Officer-in-charge shall also maintain a General register in form B.W.H.4

(3) The Officer-in-charge shall maintain a list in Form B.W.H. 6 containing the particulars of all employees in the warehouse, furnished by the licencee.

29. The instrument for determining the alcoholic contents of spirit, Excise locks and gauging rods shall be supplied by the Excise Commissioner on cost. No receptacle or vessels shall be brought into use unless it has been gauged and passed by the Officer-in-charge and a table book in form B.H.W. 5, has been prepared for it. If a gauged vessel is repaired or is moved it may not be brought into use again till it has been regauged and passed by the Officer-in-charge and a revised table book has been prepared.

30. The Licensee shall have in stock adequate quantities of empty bottles, lables, Capsules, corks, pilfer-proof seals, essences and colours, required in connection with bottling of liquor. The accounts of stock of empty bottles shall be maintained in form B.W.H.7.

[1][STORING AND PASSING OUT OF LIQUOR FOR BLENDING AND/OR BOTTLING PURPOSE]

31. [1][Blending and Bottling] operations shall be carried out in separate rooms for country Spirit and Indian Made Foreign Liquor and Like-wise storage of these liquor shall be effected in separate rooms called bottled spirit, store room, for country Liquor and Indian Made Foreign Liquor, set apart for the purpose near the respective [1][blending and bottling] rooms. The Licensee shall set up such apparatus for [1][blending and bottling] and processes connected therewith as may be needed bottling vats may be created and liquor stored there in the [1][blending and bottling] rooms.

[2]**[Explanation].**-For the purpose of these conditions blending means mixing together of two or more spirits of different strengths.

32. The rules prescribed for [3][blending and bottling] of liquor in the Rajasthan Excise Rules, 1956 and the Rajasthan Distilleries Rules, 1976 shall apply mutatis mutandis for [3][blending and bottling] of liquor in the warehouse.

33. No liquor shall be issued till its quantity and strength have been verified by the officer-in-charge.

34. The licencee shall if required to do so by the Excise Commissioner issue liquor only in specified strength either generally or for particular class of purchasers.

35. No liquor shall be issued except under a pass granted by the officer-in-charge.

36. Officer-in-charge shall issue on the same day liquor inndented on idents received by him upto 1 p.m. No liquor shall however, be issued outside the working hours of the warehouse. Any indent which cannot be complied with on the same day, shall be complied with on the next working day.

[3][37. The licencee who have permission to undertake blending of spirits shall establish a fully well equipped laboratory for testing purposes and use Extra Neutral alcohol (ENA) and other spirits conforming to the I. S.I. specifications as laid down by the Bureau of Indian Standards from time to time.]

FORM B.W.H.1.

APPLICATION FORM FOR A LICENCE UNDER SECTION 42 (a) (iv) READ WITH SECTION 17 (d) OF THE RAJASTHAN EXCISE ACT, 1950 (RAJASTHAN ACT II OF 1950)

To,

The Excise Commissioner,

Rajasthan Through the Distt. Excise Officer.

dated the.....

1. Substituted by S.O. 61 dated 24-6-95
2. Inserted by S.O. 61 dated 24-6-95.
3. Inserted by S.O. 61 dated 24-6-95

Application of M/s.....for carrying on business at.....for himself.

The undersigned.....have registered office at.....beg to apply for a licence to establish and run a bondedwarehouse of bottling plant:-

(1) The storage of bottled liquor for

(2) Storage of bulk liquor and its bottling and issue or bottled liquor under bond or on payment of duty under Sec. 17 (d) of the Rajasthan Excise Act. 1950

[(2-A) The applicant wishes to/does not wish to carry out blending operations]

(3) The plan of the building is enclosed in duplicate showing details of stores, bottling, compound and office rooms for approval. The applicant undertake to erect building and to make all necessary structurals or other alternations and additions to the building and premises, which the Excise Commissioner may from time to time direct, and in all respect to confirm to the (Excise Commissioner's) directions as to the maintenance of the premises and building in a proper state in regard both the repairs and conditions of the building and premises and their sanitation and suitability for the purpose of the Bonded Warehouse of bottling plant under the rules in that behalf, for the time being in force.

(4) The applicant undertake to comply in all respects with:

(a) The provisions of the Rajasthan Excise Act and rules made and instructions issued thereunder applicable to the bonded warehouse of bottling plant.

(b) The conditions which may be entered in the licence applied for.

(5) A certificate from the Civil Surgion or District Medical Officer of Health to the effect that there is no objection on sanitary grounds to the carrying on the business of a bonded warehouse of bottling plant in the locality, premises and the building proposed is attached.

(6) The applicant is ready and willing to deposit the sum of Rs. . ..... (Rupees.....only) as security for the due performance by them of each and all of the requirements of the Act and rules and the conditions of the licence.

(7) In the event of licence being granted the applicant proposes to commence working the bonded warehouse of bottling plant.

Dated:

Place: APPLICANT

FORM B.W.H.2

BONDED WAREHOUSE OF BOTTLING PLANT LICENCE

Licence is hereby granted to M/s.....under section 17(d) of the Rajasthan Excise Act, 1950 (Act 2 of 1950) to establish and run a bonded warehouse for the receipt and storage of Indian Made Foreign Liquor and Beer under Bond, whether bottled or in Bulk or both of Indian Manufacture transported or imported into Rajasthan from any place within the Indian Union as approved by the Excise Commissioner, for its [1][compounding,

1. Substituted by S.O. 61 dated 24-6-95.

blending] reduction, bottling transport or export in bond or on payment of duty wi or outside the State, on the following terms & conditions:—

1. The licencee shall observe the provisions of the Rajasthan Excise Act, 1 and all rules made and instructions issued under any other law, for the time being force applicable to the storage, bottling and issue of spirit.

2. A plan showing the location of the building including store rooms and off etc., will be supplied by the licencee for approval, before the start of the work.

[1][2A- The licencee intending to undertake blending operations shall establish fully well equipped laboratory for testing purposes before such operations are undertak and use Extra Neutral Alcohol (ENA) and other spirits confirming to the ISI specificatio as laid down by the Bureau of Indian Standards from time to time.]

3. The licence shall not without the previous sanction of the Excise Commissio make any material change in the building premises after it is approved.

4. The licenceee shall at all times maintain in a state of efficiency and good repa of the building to the satisfaction of the District Excise Officer.

5 He shall furnish true statement as may be required by the Excise Commissione District Excise Officer and the Officer-in-charge of the warehouse from, time to time

6. He shall comply with all directions of the Excise Commissioner, regarding t character and purity of the liquor to be stored, the stock of spirit or material to be maintain and all other matters in which compliance is prescribed by rules made and instruct issued under the Rajasthan Excise Act, 1950 [Act 2 of 1950].

7. He shall not discontinue the working of the warehouse (Except in the case closure for cleaning and repairs) without giving a week's notice in writing to the Distr Excise Officer of his intention to cease work. He shall continue to fulfil the conditio of his licence during the currency of the notice.

8. If the licencee infringes, or causes permits any person to infringe, any of t conditions of this licence, the District Excise Officer may forthwith revoke and determ the licence and forfeit to the Government to whole or any part of deposit made by t licencee under Rajasthan Excise Rules, 1956.

9. The licencee shall pay regularly and by due date all payments which may become due to Government and in default thereof the Excise Commissioner may forfeit to Governme the whole or any part of any security furnished by him under the Rajasthan Excise Rules, 1956.

10.The Excise Commissioner may give a notice to the licencee in writing that his licencee will be determined at the expiry of one month from the date of the notice

11. If the licencee from any cause, physical or mental becomes incapable of carrying on business, or died or becomes insolvent or (in case the licencee is a company) is wound up, the Excise Commissioner may either cancel the licence or (2) continue it the name of any other suitable person or persons.

12. Upon the revocation, cancellation or determination of the licencee under the preceding conditions, the licencee or his representative shall forthwith cease working

1 Inserted by No. S.O. 61 dated 24-6-95

the warehouse and shall cease to use the building for purpose for which it was licence neither the licence nor any other person shall be entitled to receive any compensati or damages whatever in respect of revocation, cancellation or determination of the licen

13 The licencee shall establish the bonded warehouse within one month of grant of the licence.

Udaipur Excise Commissio
Dated: Rajasthan, Udaip

FORM B.W.H.3

LICENSEE'S BOND

This indenture made this.....day of.....19.....Between, . Son of.... .. cast . Resid of.....(hereinafter called to Mortgagor) of the one part AND the Governor of Rajast (Hereinafter called the 'Governor') day of.....19.....grants a licencee to run a wareho at.....in accordance with the Rajasthan Excise Rules which said.. ...Licencee is in ter B.W.H.2 attached to the said conditions -

And whereas by Conditions No.2.....of the said conditions the Mortgagor is requ to execute a Mortgage bond for the due discharge of all payments which may be, from time to time, become, payable by him to the Governor, on account of the work of the said warehouse:

Now this Indenture Witness that in compliance with condition No.2 said, consideration of the grant to the Mortgagor the said licence to work the said wareho at .....the Mortgagor hereby covenants with the Governor, to pay to the Governor such payments as may be or from time to time become payable in connection with working of the said warehouse the days that such payments shall fall due and in furt compliance with Conditions No.2 and for the same consideration aforesaid the Mortga as full proprietor hereby grants, conveys, and assigns, all these hereditaments and premi situated in.....and more particularly described and specified in the schedule hereto attac and delineated on the plan hereto annexed and thereon coloured.. ... .together with stock of spirit, apparatus and utensils employed in the storage of liquor now or hereaf from time to time to be brought on the said premises, together with all easements, ri and things appurtenant or reputed appurtenant to the said premises of all the est right, title, claim and demand whatsoever of the Mortgagor into and upon the said premi and the said stock of Liquor, apparatus and utensils and every part thereof, to h the same into the use of the Governor his successors in office and assigns in full propriet right for ever subject to the proviso for redemption hereinafter contained, and the Mortga for himself, his heirs, legal representatives and assigns, hereby covenants, with the Govern his successors in office, and assigns, that the said Mortgagor now has good right, grant the hereditaments, and premises and stock of liquor, apparatus, and utensils her granted or expressed so to be unto and to the use of the Governor, his successors office and assigns in manner aforesaid and that free from encumbrances

And that whensoever in exercise of the powers hereinafter reserved to the Govern his successors, in office and assigns, sale shall be made of the said premises, st of liquor, apparatus, and utensils hereby granted or expressed so to be or any part there

Governor his successors in office and assigns, and any other person or persons :hase the same, their heirs, legal representatives, and assign shall pay at all times ce forth quietly possess and enjoy the same and receive the rents and profits thereof iout any lawful eviction, interruption, claim or demand whatsoever from or by the :tgagor or any person rightfully claiming from under or in trust for him and that free n encumbrances :

And further that the Mortgagor and all other persons having or lawfully or equitably ming any estate or interest in the said hereditaments, and premises, stock of liquor, aratus, and utensils any part thereof shall from time to time and at all times thereafter, is or their own cost, during the continuance of this security and afterwards at the of the person or persons requiring the same, do and execute or cause to be done xecuted all such acts, deeds and things for further and more perfectly assuring the hereditaments and premises, unto and to the use of the Governor, his successors ffice, and assigns and other persons aforesaid in manner aforesaid, as shall or may easonable required and it is hereby agreed that if the Mortgagor shall, during the inuance of the said licence, make to the Governor, all such payments, in respect ie working of the said warehouse, as may be or from time to time become payable he Mortgagor the Governor, shall on the determination of the said licence but subject ie proviso hereinafter contained at the request and cost of the Mortgagor, his heirs, egal representatives reconvey and reassign, the said hereditaments, and premises, k of liquor, apparatus and utensils hereby granted unto the Mortgagor, his heirs, egal representatives, as he or they shall and in the due payments as aforesaid, the tgagor shall continue in possession and receipt of the rents and profits of the said ditaments and premises and the stock of spirit apparatus, and utensils thereon. And hereby agreed and declared and the true intent and meaning of the parties hereto iat if default shall be made by the Mortgagor, in the due payments aforesaid or any iem, then and in such case and immediately thereupon or at any time, thereafter :om time to time as occasion shall require. It shall be lawful for the Governor his essors in office or assigns or his or their officers or servants, duly authorised in behalf, and notwithstanding the dissent or opposition of the Mortgagor, his heirs :gal representatives, to enter into and upon and (whether in or out of possession) iake sale and absolutely dispose of the said hereditament and premises, a stock of or, apparatus and utensils hereby granted or expressed so to be or any part thereof ublic auction or private contract and for such price or prices as to the Governor, iuccessors in office, or assigns shall appear reasonable with liberty to buy, the same ry part thereof AND for effectuating any such sale it shall be lawful for the Governor, iuccessor in office, or assigns to do, make and enter into all necessary acts, deeds, eyances and assurances whatsoever, AND it is further declared by the between parties hereto that acts, deeds, conveyances, and assurances done, made or executed, er or by virtue of these presents, shall be goods, valid and effectual and whether Mortgagor, his heirs or legal representatives, shall or shall not join herein or assent :to and shall bind the Mortgagor, his heirs or legal representatives, and All other ons claiming under him or them AND it is hereby further agreed and declared that

the power of sale herein before contained shall and may be exercised and that all things to be done in pursuance thereof shall be good, valid and binding notwithstanding that no decree or any court of law or enquiry for barring or for closing the equity of redemption of the mortgagor, his heirs or legal representaties, shall have been previously obtained but his power of sale is given in addition to the ordinary remedies of foreclosure AND that the receipts in writing of the Excise Commissioner for the time being for all moneys to raised from any such sales shall be good and sufficient discharge to the persons paying the same and shall exonerate such persons from all responsibility in respect of the application or non application of the same nor shall he or they be bound to enquire whether the sale was regular or authorised under these presents Provided always and it is hereby agreed and declared by and between the parties hereto that on the determination or cancellation of the said license the above mentioned hereditaments and premises and stock of liquor, apparatus and utensils shall not be at once reconveyed and reassigned to the Mortgagor, his heirs or legal representatives but shall be and shall remain mortgagor with the Governor for the term of six months security for the payments of any sums due by the Mortgagor in connection with the working of the said warehouse:

Provided always that the reconveyance at any time of the said premises hereby granted or expressed so to be shall not be deemed to affect. the right of the Governor to take proceeding against the Mortgagor in case any breach of the conditions hereinsetforth, shall be discovered after conveyance and reassignment.

IN WITNESS whereof the parties to these presents have here-unto set their hand on the dates hereinafter mentioned respectively.

Signed and delivered by the said.....On the day of.....in presence of Witnesses:-

(1) .....

(2) .....

Signed by.....The District Excise Officer.....for and on behalf of the Governor of Rajasthan this.....day of.....20.....

FORM B.W.H.4

General Register

(To be maintained by the Officer-in-charge of the bonded warehouse and to be written and brought upto date annually in June)

PART I

Building

Serial No.	Detailed description of building	Purpose for which used	Condition	Remarks
1	2	3	4	5

PART-II
Machinery

Description of Machinery	Purpose for which installed	Location	Condition	Remarks
2	3	4	5	6

PART-III
Locks

Lock No.	When and by whom received	When taken into use
2	3	4

When taken out of use	Reason for taking out of use	Remarks
6	7	8

PART-IV
Instruments

Kind of Instrument	When and by whom received	No. of instrument if any	When taken into use
2	3	4	5

How disposed of	In case of breakage responsibility	Signature of receiving	Remarks
7	8	9	10

PART-V

rial No.	Description of article	When and by whom received	Condition at the time of receipt	Under the use of
	2	3	4	5

By whom taken	How disposed of	Signature of the receiving official	Remarks
	7	8	9

PART-VI
Lock Ticket Books

Number in hand	Number received and source of receipt	Date of Receipt	Total
1	2	3	4

Used books		Remarks
When received	Number returned	
5	6	7

FORM B.W.H. 5

Table Book spirit Vats

(To be maintained by every Officer-in-charge of a warehouse)

SPIRIT VAT No.

Table of dimensions			
epth	Area in millimeters	Contents in	Net Milliments
	2	3	4

Tabulation									
0	1	2	3	4	5	6	7	8	9

FORM B.W.H. 6

List of Persons employed in the Bonded warehouse

(To be maintained by every Officer-in-charge)

rial No.	Name of Person	Father's Name	Residence	Capacity in which employed
	2	3	4	5

mmencement employment	Termination of employment	Reason of termination	Remarks
6	7	8	9

FORM B.W.H. 7

Licensee's Stock Register

(To be maintained by the Licensee to be available all times for inspection by the Officer-in-charge of the warehouse and by any Inspection Officer)

STOCK OF EMPTY BOTTLES

	Last balance			Received			
Date	Bottles of the capacities of 750 Milliliters	Bottles of the capacities of 600 Milliliters	Bottles of the capacities of 500 Milliliters	Bottles of the capacities of 375 Milliliters	Bottles of the capacities of 300 Milliliters	Bottles of the capacities of 250 Milliliters	Bottles of the capacities of 180 Milliliters

	Brought in use			Balance			
Date	Bottles of the capacities of 750 Milliliters	Bottles of the capacities of 600 Milliliters	Bottles of the capacities of 500 Milliliters	Bottles of the capacities of 375 Milliliters	Bottles of the capacities of 300 Milliliters	Bottles of the capacities of 250 Milliliters	Bottles of the capacities of 180 Milliliters

FORM B.W.H. 8

Register of Receipt and disposal of spirit received in bond from the distilleries in the bonded Warehouse

At.....

Pass under which received		
Date	Name of the Distillery from which received	No. of pass
1	2	3

spirit entered in the kind of spirit

Bulk	Litres	Strength	Proof Litre
5	6	7	8

Quantity of Spirit as ascertained by measurement		
Strength	Proof liters	Wastage in Transit (proof litres)
10	11	12

of spirit passed to store			Remarks
Strength	Proof Ltrs.	Balance in hand proof litres how disposed of	
14	15	16	17

प्रपत्र वि.म. 6

राजस्थान सरकार

विदेशी शराब के आयात/निर्यात/परिवहन के लिये अनुमति-पत्र

..... क्रम संख्या.....

क ( ) का नाम, पता और अनुज्ञा-पत्र सं.....

षेती ( ) का नाम, पता और अनुज्ञा-पत्र सं.....

देरा का विवरण.....

की म	बल्क लिटर्स	शक्ति	प्रुफ लिटर्स	शुल्क	राशि अनुज्ञा	शुल्क	अभियुक्ति
3	4	5	6	7	8	9	

4. मार्ग.....

5. (क) आबकारी/निर्यात शुल्क ( ) के रुपये.....चालान सं.....दिनांक..... षागार/बैंक..... का बन्ध कराये गये हैं।

(ख) अनुज्ञा शुल्क ( ) के रुपये.....चालान सं.....दिनांक.....से कोषागार/ .....में जमा कराये या पंजिका में प्रविष्टि बैंक.....में जमा कराये या पंजिका में प्रविष्टि ा.....दिनांक में समायोजन किया।

7. मान्यता की अवधि.....

लय मुद्रा निर्गमन प्राधिकारी के हस्ताक्षर

प्रतिलिपि श्री.....को उनके प्रार्थना पत्र संख्या.....दिनांक..... न्दर्भ में भेजी जाती है।

प्रतिलिपि निम्नांकित को सूचनार्थ और उचित कार्यवाही हेतु भेजी जाती है।

1. आबकारी अधिकारी (निर्गम का स्थान)..... .....

2. आबकारी अधिकारी (पहुंच का स्थान).....

अवधेय (4) कार्यालय के अभिलेख हेतु,

निर्गमन प्राधिकारी के हस्ताक्षर

प्रपत्र.वि.म. 6

राजस्थान सरकार

आबकारी विभाग

विदेशी शराब के निर्यात/परिवहन का पार-पत्र

(पहुंच के स्थान के आबकारी अधिकारी को डाक से भेजी जावे)

क संख्या..... क्रम संख्या

आशवनशाला/गोदाम.....

म की दिनांक.....

ज्ञा-पत्र/अनुमति पत्रधारी का नाम.....

क ( ) चुका हुआ/मुक्त/बन्ध में निर्गमन किया .....

-पत्र की मान्यता की अवधि..... दिनांक.....

मन अधिकारी के हस्ताक्षर.....एवं अधिकाधिक मुद्रा सहित अनुमति-पत्र (वि.म. 5) क संख्या/क्रम.....दिनांक..... की पालना में जारी किये प्रेषित माल के साथ जाने वाले क का नाम .....

ब की स्म	मात्रा							शुल्क की दर
	आधान			बल्क लिटर्स	शक्ति	प्रुफ लिटर्स	शुल्क की दर	
	बोतल	अद्धा	पव्वा					

प्रभारी के हस्ताक्षर तथा अधिकारिक मुद्रा

क दिनांक.....

लिपि :

1. जिला आबकारी अधिकारी (पहुंच के स्थान) ..... पास सत्यापन कर वापस प्रेषित करने भेजी जाती है

2. निर्गमन प्राधिकारी (अनुमति पत्र जारी करने वाले) ..... के पास भेजी जाती है

प्रभारी के हस्ताक्षर तथा अधिकारिक मुद्रा

यह सत्यापित किया जाता है कि इस प्रेषण की निम्नलिखित शराब की प्राप्ति स्वीकार है, और इसकी कन्ध पंजी में दिनांक ..... को कर दी।

प्राप्त किया उस अनुसार

शराब	बल्क लिटर्स	शक्ति	प्रुफ लिटर्स	बोतल	आधान अद्धा	पव्वा	प्रुफ लिटर्स

ति हस्ताक्षर

सत्यापन करने वाले अधिकारी के हस्ताक्षर तथा अधिकारिक मुद्रा

हस्ताक्षर जिला आबकारी अधिकारी तथा दिनांक तथा अधिकारिक मुद्रा

[21]
Procedure & Conditions for
REGISTRATION OF CONTRACTORS

[Notification under Rule 63 of the Rajasthan Excise Rules, 1956]

[1] LATEST NOTIFICATION

S.O. 345–dated 13-2-2001–No. F 4(12)FD/Ex/2001 part II–Pub in Raj. Gaz–E.O. part IV(Ga) II–dated 15-1-2001, page 439(1)—In exercise of the powers conferred by sub-rule(5) of rule 63 of the Rajasthan Excise Rules, 1956 and in supersession of this department's Notification No. F.1.(9)FD/Ex/94 dated 28-12-94 the State Government hereby prescribes the following procedure for registration of contractors with the Excise Department; namely–

1. Those person(s) already registered with the Excise Department on the date of this notification, shall be deemed to have been registered under this Notification.

2. The person(s) applying for registration should be otherwise eligible to be a contractor under Rajasthan Excise Act, 1950 and rules made thereunder.

3. The Excise Commissioner. Rajasthan, Udaipur shall be competent authority to grant registration.

4. Eligible person/association of persons/firm/company/HUF etc. seeking registration shall apply to the competent authority in the Form as specified by the Excise Commissioner.

5. The competent authority after such enquiry, as is deemed necessary, may grant the registration in the from as specified by him.

6. Registration granted under this notification shall remain into force until the registered person/association of persons/firm/company/HUF etc. do not become defaulter of excise revenue or black listed or licence granted is suspended or cancelled under the provisions of Rajasthan Excise Act. 1950 and rules made thereunder.

[No. 4(12)FD/Ex/2001 part II]

[2]

Notification–S.O. 345–No. F. 1 (9) FD/EX/94 dated 28.12.1994—Published in Raj. Gaz.–EO–IV C (II) dated 13.1.1995, page 413 (2)

Now Superseded by above

S.O. 345.–Under sub rule (5) of Rule 63 of the Rajasthan Excise Rules, 1956 the State Government hereby prescribed the following procedure and conditions for registratikon of contractors in the Excise Department :–

Registration of Contractors

1. It shall be necessary for a person/firm/Company/HUF etc. to get itself registered as a Contractor with the State Excise Department to become eligible for taking part in the

tenders/auctions of shop or group of shops of excisable articles.

2. The Competent Authority for registration shall be the Excise Commissioner Rajasthan, Udaipur,

3. The Applicant shall be, in case of-
(i) an Individual, the person himself.,
(ii) a HUF, the Karta;
(iii) a firm, any of the partners;
(iv) a company, the Managing/Executive Director, and
(v) others, one of the constituents having major share.

4. For registration, application in the prescribed form (Appendix 'A') shall be submitted to the Competent Authority by the notified date. The Competent Authority reasons of public interest and expediency may accept application for registration even after the notified date.

5. The application shall be accompanied by:-

(a) Solvency Certificate in the prescribed form (Appendix-'B'), This certificate should not be more than 15 days old on the date of application.
(b) A spare copy of passport size photograph of the applicant, with his signature affixed thereon, duly attested by the Executive Magistrate/District Excise Officer of the area/district to which the applicant belongs.
(c) Challan or Bank Draft of the prescribed amount of registration fee.
(d) No dues certificate of the State Excise Department if the applicant has been or is a licensee of the Department in Rajasthan.
(e) No dues certificate in respect of sales tax, if the applicants is registered with the Commercial Taxes Department of Rajasthan.
(f) Copy of the latest Income Tax Assessment Order, if the applicant is an income tax assessee.

6. Following registration fee shall be deposited in cash in the Bank or a Bank draft drawn in favour of the Excise Commissioner, Rajasthan, Udaipur shall be attached with the application. The Registration Fee shall not be refundable.

	Category of Contractors	Registration Fees
[1](I)	contractors for country liquor, IMFL & Beer	[2][10,000]
(II)	Contractors for LPH & Bhang and other excisable Articles.	[2][5000]

7. The Competent Authority after making or causing to be made enquiries as he deems fit to satisfy himself about the information contained in the application and to adjudge suitablity of the applicant, may grant registration to the applicant in the prescribed form.

8. **Validity**—The registration certificate will be valid for 2 years.

9. **Provisional Registration**—If the competent Authority is of the opinion that in some case or cases the enquiries envisaged under clause 7 are likely to take much time whereby an applicant may be deprived of taking part in the tender/auction, he may grant provisional registration certificate in such cases valid for 3 months provided the applicant is prima facie found suitable and has not incurred any of the disqualifications. The applicant, however, shall be required to obtain a registration under clause 7 prior to finalisation of a contract, if any, with the Excise Department.

1. Substituted vide S.O. 368 dated 10-2-95 Published in Raj. Gaz. EO 4(GA) I dated 14-2-95. Page 441.
2. Substituted by S.O. 110 dated 9-7-98-Pub in Raj. Gaz. EO IV C (II) dated 9-7-98; page [illegible] (ii) for Rs. 2000/- and Rs. 1000/- respectively.

10. **Renewal of Registration**—The registration certificate may be renewed each time for a further period of 2 years. The application for renewal of registration shall be in the prescribed form and all the provisions of initial registration shall mutatis mutandis be applicable. Renewal fees however, shall be equivalent to [1][xxx] of the amount of Registration fee prescribed in clause 6 and shall be non-refundable.

[2][11. **Furnishing of Solvency with Bids/Tenders**—The registered contractors shall be required to furnish solvency of amount not less than 5% of the reserve price of the contract with the bids/tenders. One or more registered contractors, shall however be eligible to participate jointly in tender/auction and their solvency amount out together shall be considered against the required 5% of the reserve price of the Contract.]

General Conditions

12. The applicant should not have been convicted under the provisions of Rajasthan Excise Act/Rules and prosecution under the Act/Rules should not be pending against him.

13. Registration of contractor may be cancelled by the competent authority, if it is found that the Registration Certificate has been obtained by fraud or by furnishing false information by the applicant. In addition to cancellation of registration he will also be liable for Criminal Prosecution.

14. The competent authority shall be empowered to cancel registration of the contractor in case he violates any provisions of Excise Act/Rules made thereunder.

15. If the applicant is black-listed under Rajasthan Excise Act/Rules he will not be eligible for registration.

16. In the matters of dispute decision of the Competent Authority shall be final

The above procedure and conditions will come into force with immediate effect

APPENDIX 'A'

GOVERNMENT OF RAJASTHAN

STATE EXCISE DEPARTMENT

APPLICATION FORM FOR REGISTRATION OF CONTRACTOR

(To be submitted to the Excise Commissioner, Udaipur)

1. Name of Applicant:
2. Name of Father/Husband:
3. Name of the FIRM/COMPANY, if any, represented by the Applicant:
4. [i] Permanent Residential Address of the applicant:]
House No.....Colony.....Village.....City..... Tehsil.....District.....State.....
(Enclose certificate of Bonafide Residence from Judicial/ Executive Magistrate).
[ii] Pressent Address :

1. Deleted by S.O. 50 dated 10-2-1995. Pub. in Raj. Gaz. EO-4(GA) I Dated 14-2-95 Page 441.
2. Substituted by S.O. 368 dated 10-2-1995. ibid.

5. Business/Occupation:
6. Business Address:
7. Name of Banker:
8. Category for which registration required: Mark (√) against the following Category:-
   [1][1. Contractor for country liquor, IMFL & Beer ☐
   2. Contractor for LPH/Bhang & other excisable Articles ☐
9. Solvency Amount:
   (Enclose solvency certificate in the prescribed form).
10. Whether Income Tax Payee: (in case YES' quote the Permanent Account No. and enclose copy of latest Income Assessment Order).
11. Whether registered under: Rajasthan Sales Tax/Central Sales Tax (if 'YES' enclose No. Dues Certificate from concerned Commercial Taxes Officer)
12. Details of Previous Excise Contracts, if any:

Name of Contract/Group	Year	Contract/Amount

Note : If the applicant has been an Excise Contractor in the past, no dues certificate ıe concerned State Excise Department be enclosed.

13. Whether applicant has been black-listed under Rajasthan Excise Act/Rules, if 'yes' give details.
14. Whether applicant has been convicted/prosecuted under Rajasthan Excise Act/ Rules, if 'yes', give details.
15. Amount of Registration Fee deposited Rs.
    (1) if deposited in cash, enclose copy of challan No. & Date
    (2) If Bank Draft is enclosed.
    Name of Bank
    Branch
    Draft No.
    Date
16. (a) If applicant is a registered firm/company, submit certified copy of partnership deed/articles of associaton.
    (b) If the firm is a partnership firm or a company, give names and addresses of all partners of the firms or directors of the company.
    (A separate sheet may be enclosed for this purpose)

Signature
(APPLICANT/FIRM/COMPANY)

Note:-If any other person signs the application on behalf of the applicant, he should uthorised to do so by a valid power of attorney and a certified copy of such power ıttorney should be enclosed.

Substituted vide S.O. 368 dated 10-2-95.

DECLARATION

I..... S/o..... Solemnly declare that the above information is true to the best of my knowledge and belief.

Signature
(APPLICANT OR AUTHORISED REPRESENTATIVE OF THE FIRM/COMPANY)

APPENDIX – 'B'

SOLVENCY CERTIFICATE FOR TENDERER/ BIDDER AND GUARANTOR

(To be furnished to Rajasthan State Excise Deptt.)

PART-I

1. Name.....
2. Father's Name.....
3. Full Residential address.....House No.....Ward No..... Village/Town..... Tehsil..... .....Police Station..... Distt.....State.....
4. Occupation.....

Affix your recent passport size Photograph duly attested by an Executive officer (with seal, full name & designation of the concerned officer)

AFFIDAVIT

(On Rs.5/-Non-Judicial Stamp Paper)

1. I.....S/o.....aged... ...Occupation..... .R/o Village/ Town.....Tehsil.....Police Station .....District.....do hereby solemnly and sincerely affirm and state as under:-
2. I hereby declare that I am the sole owner/joint owner of the immovable property/ properties mentioned below and I am in exclusive/Joint possession and enjoyment of this/these property/properties with full legal rights and control and there are no encumbrances or any liabilities or charges on this/these properties.

Description of immovable property/ properties	Details of properties including house/ khasra/plot No. etc.	Location	Extended of ownership (full or share in the property/ per title deeds)	Current Market Value of property/ properties indicated in Col.4
1	2	3	4	5

i) Agricultural land
ii) Residential house
iii) Other immovable property
iv) Vacant sites

3. In support of the contents of para 2, certified copies of the documents (e.g. latest available Jamabandi, Title deeds Etc.) mentioned below are also enclosed:
   (i) .....
   (ii) .....
   (iii) .....

Place.....
Dated..... Signature of dependent

VERIFICATION

I..... S/o ..... Age..... Occupation..... S/o..... Village/Town..... Tehsil..... Police Station..... Distt..... do hereby verify that the contents of para No. 1 to para No.3 are correct and true to the best of my knowledge and are based on documents. Nothing is false and nothing has been concerned. So help me God.

Place.....
Dated..... Signature of deponent

Solemnly sworn and affirmed before me this..... day of ..... 199..... by Shri..... S/o..... identified by Shri ..... S/o..... explained to the deponent who having understood the same as put his Signature/Thumb impression in my presence at.....

Judicial Magistrate/Executive Magistrate
Full Name.....
Seal.....

PART-II

I certify that after due enquiry I find that Shri..... S/o..... R/o..... Tehsil..... Police Station..... District..... is solvent to the extent of Rs. (in figures)..... (in words) Rs..... and the details of properties furnished by him are correct. The approximate market value of immovable properties based on the enclosed title deeds etc. and current market value relating thereto, mentioned is Rs.....

Tehsildar/Revenue Officer
Full Name.....
Seal.....

Countersigned by
Additional Collector/Sub-divisional Officer

Place..... Full Name.....
Dated..... Seal.....

22

The Rajasthan Exise (Grant of Restaurant/ Bar Licences) Rules, 2004

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[22]

[1]The Rajasthan Excise (Grant of Restaurant, Bar Licences) Rules, 2004

G.S.R. 51.- In exercise of the powers conferred by section 41 of the Rajasthan Excise , 1950 (Rajasthan Act II of 1950), the State Government is hereby pleased to make the owing rules and orders with reference to proviso to sub-Section (3) of the said section previous publication of these rules be dispensed with as the State Government considers the said rules be brought into force at once, namely:-

1. Short title and Commencement.— (1) These rules may be called the Rajasthan ise (Grant of Restaurant, Bar Licences) Rules, 2004.

(2) They shall come into force with immediate effect.

2. Definitions —In these rules, unless the context otherwise requires,-

(a) "Restaurant Bar Licence" means a 'retail on licence for the sale of beer (including ight beer but excluding beer of strength above 8.75 degree proof), ready to drink (R.T.D.) ior and wine granted to a restaurant which makes sale to consumers for consumption he restaurant.

(b) The words and expressions defined in the Rajasthan Excise Act, 1950 and asthan Excise Rules, 1956 and not defined in these rules shall have the meaning as ined in the Rajasthan Excise Act, 1950 and Rajasthan Excise Rules, 1956, as the case y be.

3. Eligibility and procedure for grant of licence.—(1) Only such restaurants which form to the criterion laid down by the Government from time to time and which do possess any of the disqualifications mentioned in sub-rule (6) shall be eligible to apply 'orm 'A' for a Restaurant Bar Licence.

(2) Every application for a Restaurant Bar licence shall be signed-

(a) by each partner, if the applicant is a partnership firm;

(b) by the Managing Director or Director authorized in this behalf, if the applicant company. The registered name and address of the company alongwith names of others ectors would also be furnished.

(3) Every application for a Restaurant Bar licence shall be accompanied by process of Rs. 5000/- and an amount equal to the following amount of initial fee which shall in addition to the fee payable under rule 69 (1) of the Rajasthan Excise Rules, 1956:-

.No.	Place where restaurant is situated	Initial Fee (Rs. in lac)
[1.	Restaurant situated in and within 5 Kms of municipal or urban agglomeration Limit, Which ever is farther of:	-
	(a) Jaipur and Jodhpur	2.00
	(b) Other Divisional Headquarters, Mt. Abu and Jaisalmer	1.67
	(c) Other District Headquarters	1.34
	(d) other Municipalities and Bhiwadi (District Alwar)	1.00
2.	Other places not covered by S.No.1	0.50]

Notification No. F.4(85)FD/Ex/2003/dated 11-2-2004 publised in Raj. Gaz. Part-4(g) dated 11-2-2004 page 87(1) - 87(8)

Substitute by S.O.2, Notification F.4(17) FD/Excise/2004, Date 1-4-2005.

(4) The District Excise Officer concerned shall initial the application noting the date of receipt and cause each application to be entered in register maintained for this purpose.

(5) Each application shall then be scrutinized by the District Excise Officer with regard to the suitability of the applicant for holding the licence. Before forwarding the application to Excise Commissioner through Additional Commissioner concerned for final orders, case shall be put up before the committee, constituted by the State Government in this behalf.

(6) An application for licence shall be liable to be rejected for the following reasons:-

(a) If it has not been signed properly or is incomplete.

(b) If the applicant has been convicted or punished for any offence under the Rajasthan Excise Act, 1950, the Narcotic Drugs & Psychotropic Substances Act, 1985 or rules made thereunder.

(c) If the applicant is found to have been convicted for any non-bailable offence.

(d) If there are arrears of excise due outstanding against him.

(e) If the applicant is below the age of 18 years.

(7) Notwithstanding anything contained in these rules, the Excise Commissioner shall be competent to reject any application for licence without assigning any reason whatsoever.

4. Deposition of minimum licence fee and grant of licence.—(1) As soon as the applicant receives the sanction of licence to him, he shall within 15 days, deposit into the Treasury the minimum licence fee prescribed under rule 69 (1) of the Rajasthan Excise Rules, 1956.

(2) The District Excise Officer concerned, after satisfying himself that the minimum licence fee has been deposited into Treasury shall inspect the location of the premises where the beer, RTD and Wine shall be stored and the counters where it shall be sold and submit his report to the Excise Commissioner who will issue the licence accordingly, under his signature and the seal of his office in Form 'B'.

5. Cancellation of sanction/Licence.—A sanction for grant of licence or the licence issued under these rules shall be liable to be cancelled:

(i) If the amount of minimum licence fee is not deposited within 15 days from the receipt of information of sanction of licence.

(ii) If any of the provisions of Rajasthan Excise Act, 1950, Rajasthan Excise Rules, 1956 or these rules have been violated;

(iii) For any breech of conditions of the licence:

(iv) If it is found that licence has been obtained by fraud or misrepresentation of facts.

6. Any person holding a licence under these rules shall be bound by the conditions, if any, imposed by the Government with regard to the purchase of liquor to be sold in the restaurant but the licensee may import into Rajasthan under permission from Excise Commissioner beer, ready to drink liquor and wine bottled in other countries from a licensee of other state authorized to make such a sale.

7. Refund of initial fee for licence not sanctioned.— In case an application for licence is not sanctioned and is rejected for no fault on the part of the applicant, the applicant shall be entitled to refund of initial fee paid by him. The amount of process fee shall, however, not be refunded.

8. Fees for the renewal of licence.—A licence granted under these rules shall expire on 31st day of March every year. A person seeking renewal of the licence granted to him shall apply in accordance with Rule 72-A of the Rajasthan Excise Rules and shall be

ompanied by a treasury receipt showing the payment of renewal fee equivalent to initial prescribed in rule 3 (3) of these rules, and the minimum licence fee payable under rule (1) of the Rajasthan Excise Rules, 1956.

9. Rules to have overriding effect.— In case there is any conflict between the visions of these rules and the Rajasthan Excise Rules, 1956, the former shall prevail.

Form-A

[Rule 3 (I)]

The Excise Commissioner,
Rajasthan, Udaipur
Through: The District Excise Officer,.....

1. I/We.....son of.....residing at.....District.....request that I/We may be granted Restaurant Bar Licence for the retail sale of beer (including draught beer but excluding beer of strength above 8.75 degree proof), ready to drink (R.T.D.) liquor and wine for consumption on the premises of our restaurant.....situated at.....for the year ending 31st March.....
2. I/We have deposited a sum of Rs.....towards the process fee and initial fee for the above licence in Treasury.....vide challan....No.....dated.....(enclosed herewith).
3. I/We agree to abide by the provisions of the Rajasthan Excise Act, 1950 and Rules framed thereunder.
4. I/We declare that I/We do not suffer from any of the disqualification prescribed by the Rajasthan Excise/grant of Restaurant Bar Licences Rules, 2004 which may render me/us ineligible to hold the licence applied for.
5. I/We declare that to the best of my/our knowledge and belief the information furnished herein is true and complete.

Place:

Date:

Signature (s) of the applicant (s)

[Form B]

[Rule 4 (2)]

Licence for the Retail on Sale of Beer, ready to drink (R.T.D.) liquor and Wine at Restaurant

ence No.

ne of the licence-holder.....

Licence for retail sale of beer (including draught beer but excluding beer of strength ve 8.75 degree proof), ready to drink (RTD) liquor and wine is hereby granted to.....for in his Restaurant situated at permises.....during the year ending March 31,.....on ayment of initial fee of Rs. (in words.....) prescribed under sub-rule (3) of Rule 3 ajasthan Excise. (Grant of Restaurant Bar Licence) Rules, 2004 and minimum fee of .... (in words .....) prescribed under rule 69 (1) of the Rajasthan Excise Rules, 1956 subject he following special conditions and such other conditions as may be prescribed in

this behalf from time to time by the Excise Commissioner and the provisions of the Rajasthan Excise Act, 1950 and the rules framed there under.

Special Conditions

1. The licensee shall, in addition to initial fee, pay licence fee at the rate prescribed in Rule 69 (1) of the Rajasthan Excise Rules, 1956 subject to the minimum fee of Rs..... (in words.....) per year or a part thereof.
2. If at any time the fee assessed exceed the minimum fee paid such excess shall be paid by the licensee before he obtains for sale Beer (including draught beer but excluding beer of strength above 8.75 degree proof), ready to drink (RTD) liquor and wine from the person authorized to make such a sale to him. Provided that with the prior permission of the Excise Commissioner, the licensee can also import into Rajasthan beer (including draught beer but excluding beer of strength above 8.75 degree proof), ready to drink (R.T.D.) liquor and wine bottled in other countries from outside Rajasthan. Licence shall be allowed to lift draught beer from the breweries on such terms and conditions as Excise Commissioner may specify.
3. Sale of Beer other than strong beer, R.T.D. liquor and Wine shall be made only at the licensed premises of the Restaurant. These varieties of liquor shall be served to the consumers only in the room earmarked for the purpose of dining or such other place/places in the Restaurant as may be approved by the Excise Commissioner.
4. No sales shall be made on dry days.
5. No sales shall be made after zero hours in the night.
6. No sales shall be made to a visitor below the 18 years of age.
7. Licensee shall have to get his 'store' where he intends to store beer, R.T.D. liquor and wine approved by the District Excise Officer. No liquor shall be stored in a place other than 'store' approved by the District Excise Officer and the dining hall. A true account of beer, RTD liquor and wine stored in the 'store' shall be maintained. Necessary entries in the stock register would be made on arrival of fresh stock or while removing a part of it to 'dining hall' for the purpose of sale.
8. A true and detailed account of the balance of stock on 1st April of every year and the quantity purchased after that through permits till the date of application of every transport permit along with the amount deposited for fresh intended purchase shall be submitted to the District Excise Officer concerned along with application of every permit for transport.
9. In case of default or infringement by the licensee or his servant of any condition of this licence or of any provisions of the Rajasthan Excise Act, 1950, or the provisions of the N.D.P.S. Act, 1985 or Rules framed thereunder or any order passed by the Excise Commissioner it shall be in the competence of the Excise Commissioner to cancel this licence and to forfeit the initial fee and the licence fee.

10. The licensee shall be under obligation to provide all necessary information and cooperation to the officials of Excise Department visiting the restaurant during the course of official duty.
11. The licensee shall provide neat and clean seating arrangement.
12. The Restaurant must be attached with well-equipped sanitary facilities and separate toilets for men and women with running water.
13. Any dispute arising out of this licence or with regard to any term and condition of this licence shall be subject to the jurisdiction Udaipur only.

Date of Issue:

Excise Commissioner
Rajasthan Udaipur

I.....(Licence No.....) of restaurant.....Place.....
vledge the receipt of the licence granted to me and do hereby accept and undertake
le by its terms and conditions.

Signature of licensee

THE RAJASTHAN OPIUM SOMKING PROHIBITION ACT, 1950

(Act No. VII of 1950)

[Made by His Highness the Rajpramukh on the 22nd day of May, 1950]

As amended by the following: -

1. Rajasthan Act No. 27 of 1957, w.e.f. 01-09-1957.

An act to provide for the Prohibition of opium smoking.

WHERE as it is expedient to prohibit the smoking of opium and to prevent the assembling of persons for the purpose of opium smoking. It is hereby enacted by follows :-

1. **Short title, extent and commencement.** - (1) This Act may be called the Rajasthan Opium Smoking Prohibition Act, 1950.

(2) [1][It extends to the whole of the State of Rajasthan.]

(3) It shall come into force at once.

2. **Definitions.** - In this Act, unless there is anything repugnant in the subject or context—

(i) "Opium" includes chandu, madak and every other preparation or admixture of opium which may be used for smoking;

(ii) "Place" includes a building, house, shop, booth, chhapar, tent, vessel, raft and vehicle and part there of.

3. **Opium smoking assembly.** - An assembly -of two or more persons in designated an opium smoking assembly if the common object of the persons composing that assembly is to smoke opium or to prepare opium for smoking purposes:

Provided that a man and his wife shall not be deemed to be an opium smoking assembly within the meaning of this section, even if their common object be to smoke opium or to prepare opium for smoking purposes.

Explanation - An assembly which was not an opium smoking assembly, when it assembled may subsequently become such an assembly.

4. **Member of opium smoking assembly.** - Whoever, being aware of facts which render an assembly an opium smoking assembly, intentionally joins that assembly or continues therein, is said to be member of that assembly.

5. **Presumption raised by presence of opium or opium "smoking appliances.-** The presence of any opium and of any pipe or apparatus for the smoking of opium or for the preparation of opium for smoking purposes in any place where two or more persons are assembled, shall be held sufficient to raise a presumption that such

1. Substituted by Rajasthan Act No. 27 of 1957.

sons have assembled at such place for the purposes of smoking opium or of preparing um for smoking purposes.

6. Penalties for opium smoking, etc. - Whoever—

(a) smokes opium;

(b) gathers, keeps or possesses appliances, pipes, apparatus or instruments d for the purpose of smoking of opium or of preparing opium for smoking purposes; ll be punished with imprisonment for a term which may extend to six months with fine which may extend to one thousand rupees or with both.

7. Penalty for being member of opium smoking assembly. - Whoever is ıember of an opium smoking assembly shall be punished with imprisonment for ·rm which may extend to six months, or with fine which may extend to one thousand ıees or with both.

8. Penalty for opening, keeping or having charge of place used for such embly.—Whoever opens, keeps or uses any place or permits any place to be cpened, ɔt or used, for the purposes of an opium smoking assembly or has the care or nagement of or in any way assists in conducting the business of any place used kept for the purposes aforesaid shall be punished with imprisonment for a term ich may extend to six months, or with fine which may extend to one thousand ɔees, or with both.

9. Penalty when owner fails to give notice of use of place for such ɛmbly.— Whoever being the owner of any place and knowing or having reason believe that such place whether in his actual occupation or otherwise, is being is about to be used for the purposes of an opium smoking assembly fails, either nself or through his agent or manager, to give the earliest possible notice of such owledge or belief to the Collector or the officer in charge of the nearest police tion or to an Excise Officer shall be punished with a fine which may extend to e hundred rupees.

10. Enhancement of punishment on second conviction.— Whoever having ɔn previously convicted of an offence under this Act is again convicted of an offence der this Act shall be liable on such subsequent conviction to twice the punishment ıich might be imposed on a first conviction for such offence.

11. Search warrants and powers to search. — If a District Magistrate, a b-Divisional Magistrate or a Magistrate of the First Class upon information received d after such enquiry (if any) as he considers necessary, has reason to believe that y place is being or is likely to be, used for the purposes of an opium smoking ɛembly he may issue a warrant to-an officer of the Excise Department not below : rank of an Inspector, authorising him (a) to enter such place by day or night th any persons whose assistance such officer may consider necessary; (b) to search parts of such place in which such officer has reason to believe that any opium any appliances or apparatus for the preparation of opium or for opium smoking

are concealed and all or any persons whom he may find in such place; (c) to arrest all persons whom such officer may find in such place, whether they are actually engaged in smoking opium or not; (d) to seize all opium and. apparatus, instruments and appliances for opium smoking or for the preparation of opium which may be found in such place.

12. Application of the Code of Criminal Procedure, 1898 to warrants and searches.— The provisions of the Code of Criminal Procedure, 1898 of the Central Legislature [1][X x x x] shall apply to the execution of warrants and to searches made under section 11.

13. Bail and security.— When any person arrested under this Act is prepared to furnish bail he shall be released on bail or at the discretion of the officer making the arrest on his own bond.

14. Aid to Excise Officers.— Every officer of the Police and Land Revenue Departments shall be bound to give reasonable aid to any Excise Officer in carrying out the provisions of this Act upon notice given and request made.

15. Report to be made in the case of arrest or seizure. — Whenever any officer makes any arrest or seizure under this Act he shall without delay and in any case within forty eight hours forward every person arrested and everything seized with a full report of all particulars of the arrest or seizure to the Magistrate by whom the warrant was issued.

16. Confiscation' and destruction of opium.— On the conviction of any person for an offence under this Act the Court may order that any opium or any instrument, apparatus or appliance in respect of, or by means of which such offence has been committed, or any receptacle, package or covering in which such opium, instrument, apparatus or appliance was found, and any other contents of such receptacle, package or covering, shall be confiscated or destroyed.

17. Offences to be triable by the first Class Magistrate only.— No Magistrate other than a Magistrate of the First Class, shall try any offence punishable under this Act.

18. Bar of certain suits.— No suit shall lie in any Civil Court against the [2][State Government] or any Collector or Excise officer for damages for any act in good faith done or ordered to be done in pursuance of this Act.

19. Power to make Rules.— (1) The [2][State Government] may make rules to carry out objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may

(a) regulate the disposal of things confiscated under this Act, and

(b) prescribe and regulate the payment of rewards out of fines imposed under this Act.

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1. Omitted by Rajasthan Act No. 27 of 1957.
2. Substituted by Rajasthan Act No. 27 of 1957.

20. Tender of pardon to accused persons turning approver.—(1) Whenever or more persons are prosecuted for any offence under this Act, the Magistrate ', if for reasons to be recorded by him, he things fit, tender to any accused a lon on condition of his making a full and true disclosure of all facts connected ı the offences.

(2) Such accused person, shall, on accepting the tender, be a competent witness he case and shall not be liable to punishment so long as the pardon remains in :e.

21. [1][x x x]

THE RAJASTHAN OPIUM SMOKING PROHIBITION RULES, 1957

ɔtification No. F. 1(10) E & T/57, dated 18.01. 1958,.published in Raj. Gaz., Part IV-C, dated 22.05.1958]

As amended by the following :—

1. Notification No. F. 1(17) E & T/60, dated 18-4-1961, published in Raj. Gaz., ı IV-C, dated 25-5-1961.

In exercise of the powers conferred by section 19 of the Rajasthan Smoking hibition Act, 1950 (Act No. VII of 1950), the Government of Rajasthan makes following rules, namely :—

I. INTRODUCTORY

1. (1) These Rules may be called the Rajasthan Opium Smoking Prohibition es, 1957.

(2) They shall come into force at once.

2. In these rules the words **"the Act"** shall mean the Rajasthan Opium Smoking hibition Act, 1950.

II. DISPOSAL OF THINGS CONFISCATED

3. Upon confiscation under section 16 of the Act, the court may order of any x x x] opium or any instrument or apparatus or any receptacle packs or covering confiscated shall be made over to the District Excise Officer or Assistant :nmissioner, Excise after the period of appeal has expired or if an appeal has been de to the knowledge of the court, against the order of the confiscation, then until h appeal is disposed of:

Provided that if any article is of perishable nature, it may be disposed of immediately the court or the said Excise Officer, as the case may be, by giving reasons in ting for such disposal and the sale proceeds shall be credited in the Government :asury as deposit till the period of appeal expires or until the appeal is disposed as the case may be.

Omitted by Rajasthan Act No. 27 of 1957.

Explanation. - Perishable articles are those in respect of which arrangement cannot be made to keep them in the same condition as they were at the time of seizure. till the time of final decision or proper arrangement cannot be made for their safe custody.

4. Articles received from the Magistrate under rule 3, shall be in the following manner:-

(1) Sum other than prepared opium shall be disposed of in accordance with the provisions of the Rajasthan Opium (Disposal of Confiscated) Rules, 1956:

(2) Any prepared opium and smoking apparatus shall be destroyed by the Assistant Commissioner, Excise so as to make them totally unfit for use:

[1][(3) All other articles shall, unless otherwise directed by the Excise Commissioner in any particular case, be sold by auction by the Assistant Commissioner. Excise, within a reasonable time and shall in the absence of any bid be destroyed.]

[2][5. x x x]

6. Disposal of articles in cases not covered by the above rules shall be in such manner as the Excise Commissioner, Rajasthan, may be general or special order, direct.

7. All sale proceeds shall be credited to Government treasury under proper such as Excise Revenue immediately after any sale under these rules.

III. REWARDS

8. (a) On final decision of a case resulting in a conviction or pardon under section 20 of the Act, the Deputy Commissioner, Excise of the Division concerned may grant reward on the recommendation of the Assistant commissioner, Excise of the District up to Rs. 100 in each case to all such persons who have contributed in any way leading to the detection of the case or conviction of the accused person or persons.

(c) If the Deputy Commissioner, Excise considers that in any particular case the amount of Rs. 100/- is not sufficient he may with the previous sanction of the Excise Commissioner, Rajasthan and Administrative Department of the Government grant a larger reward not exceeding Rs. 250 and Rs. 500 respectively in each case.

THE RAJASTHAN PREVENTION OF JUVENILE SMOKING ACT, 1950

(Act No. VI of 1950)

[Made by His Highness the Rajpramukh on the 22nd day of May, 1950]

As amended by the following: -

1. Rajasthan Act No. 27 of 1957, w.e.f. 1-9-1957.

An act to prevent Jurenile from smoking tobacco.-

1. Substituted by Notification No. 1 (17) E&T/60, dated 18-4-1961.
2. Omitted by Notification No. F. 1(17) E & T/60, dated 18-4-1961.

WHEREAS it is expedient to make provision for the prevention of smoking luveniles in [1][the state of Rajasthan] it is hereby enacted as follows :-

1. Short title, extent and commencement. - (1) This Act may be called the ısthan Prevention of Juvenile Smoking Act, 1950.

(2) [1][It extends to the whole of the State of Rajasthan.]

(3) It shall come into force at once.

2. Definitions. - In this Act, unless there is anything repugnant in the subject ontext--

(i) "Tobacco" means tobacco in any form and includes any smoking mixture nded as a substitute for tobacco.

(ii) "Public place" means any place other than residential quarters to which public for the time being has access whether on payment or otherwise and includes public street, bazar, lane, bye-lane, railway station, railway carriage and any veyance plying on hire.

(iii) [2][xxx]

3. Penalty for selling tobacco to children.—If any person sells or gives or mpts to sell or give to a person who appears to be under the age of sixteen years, ept on the written order of the parent, guardian or employer of such person, any acco he shall be liable, on conviction in the case of first offence to a fine not eeding twenty-five rupees, in the case of a second offence to fine not exceeding y rupees, and in the case of third and every subsequent conviction to a fine not eeding one hundred rupess.

4. Seizure of tobacco being smoked by juvenile in public place.— If any son, apparently under the age of sixteen years, be found smoking or attempting smoke tobacco in any public place it shall be lawful for any Patel, Lambardar, ıcher of a School or College, Member of Municipal Committee, Member of a Village ıchayat, Legal Practitioner, Registered Medical Practitioner, Member of Parliament a State Legislature or Magistrate to seize such tobacco as may be found in his ssession and destroy it.

5. Summary jurisdiction.—Notwithstanding anything contained in the Code Criminal Procedure, 1898 of the Central Legislature [2][x x x] offences under this t may be tried by any Magistrate or Bench of Magistrates in the manner provided summary trial in that Code.

6. [2][x x x]

7. [2][x x x]

❑❑❑

Substituted by Rajasthan Act No. 27 of 1957.
Omitted by Rajasthan Act No. 27 of 1957

PART-IV

Important

NOTIFICATIONS

Under

THE RAJASTHAN EXCISE ACT, 1950,

❑ **Editorial Note—CAUTION** Please note that–

1. Some relevant notifications have been reproduced in the commentary of section concerned. Some remaining important notifications are being reproduced here under section-wise. Please consult the Rajasthan Gazette in case of any doubt.
2. Due to difficulties of frequent amendments, several amendments, notifications are not traceable even from Gazette, Rajasthan Law Times, Rajasthan State Current Statutes etc., Please excuse us and inform the lapses, if any, so that it may be rectified in the next supplement

SECTION-9

[1] Additional Commissioners appointed as Excise Officers incharge of areas. (As amended.)

[1] अधिसूचना धारा 9 (1) के अधीन नियुक्तियाँ—राजस्थान आबकारी अधिनियम 1950 (1950 का राजस्थान अधिनियम 2) की धारा 9 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में पूर्व में जारी अधिसूचना क्रमांक प.11(28) वित्त/आय/83 जयपुर, दिनांक 14-9-1984 को अधिक्रमित करते हुए राज्य सरकार इससे संलग्न सारणी के स्तम्भ संख्या 2 में विर्निदिष्ट अधिकारियों को इसके स्तम्भ संख्या 3 में प्रत्येक के सामने विर्निदिष्ट क्षेत्रों के प्रभारी आबकारी अधिकारी एतद् द्वारा तत्काल प्रभाव से नियुक्त करती है, जिनके मुख्यालय स्तम्भ संख्या 4 विर्निदिष्ट स्थानों पर होगें।

सारणी

क्र.	अधिकारियों का पद नाम	क्षेत्र जिसका वह अधिकारी प्रभारी होगा	मुख्यालय
1.	अतिरिक्त आयुक्त, आबकारी उदयपुर	1. आबकारी जिला उदयपुर (राजस्व जिला उदयपुर एवं राजसमन्द) 2. आबकारी जिला चित्तौड़गढ़ (राजस्व जिला चित्तौड़गढ़)	उदयपुर

म.	अधिकारियों का पद नाम	क्षेत्र जिसका वह अधिकारी प्रभारी होगा	मुख्यालय
		3. आबकारी जिला बाँसवाड़ा (राजस्व जिला बाँसवाड़ा)	
2.	अतिरिक्त आयुक्त, आबकारी जयपुर	1. आबकारी जिला जयपुर (राजस्व जिला जयपुर) 2. आबकारी जिला भरतपुर (राजस्व जिला भरतपुर एवं धौलपुर) 3. आकारी जिला सीकर (राजस्व जिला सीकर) 4. आबकारी जिला झुन्सुनू (राजस्व जिला झुन्झुनू) 5. आकारी जिला अलवर (राजस्व जिला अलवर) 6. आबकारी जिला दौसा (राजस्व जिला दौसा)	जयपुर
.	अतिरिक्त आयुक्त, आबकारी जोधपुर	1. आबकारी जिला जोधपुर (राजस्व जिला जोधपुर) 2. आबकारी जिला पाली (राजस्व जिला पाली) 3. आबकारी जिला सिरोही (राजस्व जिला सिरोही) 4. आबकारी जिला जालौर (राजस्व जिला जालौर) 5. आबकारी जिला बाड़मेर (राजस्व जिला बाड़मेर एवं जैसलमेर)	जोधपुर
.	अतिरिक्त आयुक्त, आबकारी अजमेर	1. आबकारी जिला अजमेर (राजस्व जिला अजमेर) 2. आबकारी जिला नागौर (राजस्व जिला नागौर) 3. आबकारी जिला भीलवाड़ा (राजस्व जिला भीलवाड़ा) 4. आबकारी जिला टोंक (राजस्व जिला टोंक)	अजमेर
.	अतिरिक्त आयुक्त, आबकारी कोटा	1. आबकारी जिला कोटा (राजस्व जिला कोटा)	कोटा

क्र.	अधिकारियों का पद नाम	क्षेत्र जिसका वह अधिकारी प्रभारी होगा	मुख्यालय
		2. आबकारी जिला बाँरा (राजस्व जिला बाँरा) 3. आबकारी जिला बून्दी (राजस्व जिला बून्दी) 4. आबकारी जिला सवाईमाधोपुर (राजस्व जिला सवाईमाधोपुर एवं करौली) 5. आबकारी जिला झालावाड़ (राजस्व जिला झालावाड़)	
6.	अतिरिक्त आयुक्त, आबकारी बीकानेर	1. आबकारी जिला बीकानेर (राजस्व जिला बीकानेर) 2. आबकारी जिला चूरू (राजस्व जिला चूरू) 3. आबकारी जिला श्रीगंगानगर (राजस्व जिला श्रीगंगानगर) 4. आबकारी जिला हनुमानगढ़ (राजस्व हनुमानगढ़)	बीकानेर

[अधिसूचना सं. (एफ.11(18) वित्त/आब/2005 दिनांक 7-5-2005]

[2] Excise Officers appointed as Incharge of the areas (district) with their Head quarters.

[No.F.11 (28) FD/Ex/183, S.O. 227, dated 29.11.1991, Pub. in Raj. Gaz. pt. 4 (ga), dated 29.11.1991, p. 311, As amended from time to time vide notifications dated 7.1.1993, 23.11.1993, 16.6.1994 and 9.12.1994] In exercise of the powers conferred by sub-section [1-A] of section 9 of the Rajasthan Excise Act, 1950) (Raj. Act 2 of 1950) and in supersession of all earlier notification in this regard, the State Government hereby appoints with immediate effect. the officer specified in column (2) of the table appended hereto as Excise Officers in-charge of the area with headquarters at the places specified against each respectively in column No. 3 & 4 thereto-

TABLE

S.No.	Designation of the officers	Area of which the officer shall be incharge	Head-quarters
1	2	3	4
1.	District Excise Officer, Udaipur	Revenue District of Udaipur & Rajsamand	Udaipur

2	3	4
E.O. Banswara	Revenue distt. Banswara & Dungarpur	Banswara
E.O. Chittorgarh	Revenue district Chittorgarh	Chittorgarh
E.O. Bhilwara	Revenue district Bhilwara	Bhilwara
E.O. Kota	Revenue district Kota	Kota
E.O. Bundi	Revenue district Bundi	Bundi
E.O. Jhalawar	Revenue district Jhalawar	Jhalawar
E.O. Baran	Revenue district Baran	Baran
E.O. Jaipur	Revenue district Jaipur	Jaipur
E.O. Ajmer	Revenue district Ajmer	Ajmer
E.O. Alwar	Revenue district Alwar	Alwar
E.O. Bharatpur	Revenue district Bharatpur & Dholpur	Bharatpur
E.O. Swaimadhopur	Revenue district Swaimadhopur & Karauli	Swaimadho-pur
E.O. Sikar	Revenue district Sikar	Sikar
E.O. Jhunjhanun	Revenue district Jhunjhunu	Jhunjhunu
E.O. Tonk	Revenue district Tonk	Tonk
E.O. Dausa	Revenue district Dausa	Dausa
.O. Jodhpur	Revenue district Jodhpur	Jodhpur
.O. Pali	Revenue district Pali	Pali
.O. Sirohi	Revenue district Sirohi	Sirohi
.O. Jalore	Revenue district Jalore	Jalore
.O. Barmer	Revenue district Barmer & Jaisalmer	Barmer
.O. Nagaur	Revenue district Nagaur	Nagaur
.O. Bikaner	Revenue district Bikaner	Bikaner
.O. Churu	Revenue district Churu	Churu
.O. Shri Ganganagar	Revenue district Shri Ganganagar	Shri Ganganagar
O. Hanumargarh	Revenue district of Hanumargarh	Hanumargarh
O. (Prosecution) ir	High Court Bench, Jaipur	Jaipur
O. (Prosecution) pur	High Court Bench, Jodhpur	Jodhpur

[3] नवीनतम संशोधन

उपरोक्त अधिसूचना में निम्न परिवर्तन किए गए है—

क्रम सं.	पदनाम	क्षेत्र	मुख्यावास
[1]1.	जिला आबकारी अधिकारी	राजस्व जिला, कोटा	कोटा
2.	जिला आबकारी अधिकारी	राजस्व जिला, सिरोही	सिरोही
3.	जिला आबकारी अधिकारी	राजस्व जिला, बारां	बारां
4.	जिला आबकारी अधिकारी	राजस्व जिला, जालोर	जालोर
5.	जिला आबकारी अधिकारी	राजस्व जिला, चुरू	चुरू।
★	★	★ ★	★
[2]1.	जिला आबकारी अधिकारी जनजाति क्षेत्र	राजस्व जिला बांसवाड़ा एवं डूंगरपुर	बांसवाड़ा।

(c) Delegation of Powers

[4] [Noti.No. F.49 (1), dt. 15-5-1951: pub in R.G. pt. 1. dt. 19-5-51.]

S.R. 50.-In exercise of the powers conferred by sub-section (I-B) of sec. 9 of the Rajasthan Excise Act, 1950, the Government of Rajasthan is pleased to delegate the Excise Officers not below the rank of Inspector with the powers under sections 43,44 and 47 of the said Act.

[5] (Noti.No. F. 49(1), dt.15-5-1951: pub. in R.G.Pt., 1, dt.19-5-51).

S.R. 50.-In exercising of the powers conferred by sub-sec (3) of S.9 of the Rajasthan Excise Act, 1950, the Government of Rajasthan is pleased to authorise the Excise Commissioner to delegate the following subordinate officers all or any of his powers under mentioned against them, namely.

1. Deputy Excise Commissioner—

Section 15, 60, 46 and 67 (1) (b) in so far as the complaint, or report is not for offences under sections 60 and 61.

2. Assistant Excise Commissioners—

Section 15 (Power to grant passes for Import and transport) sections 46(a), 67 (1)(b) in so far as it relates to provisions other than sections 60 and 61 and 69 (3).

3. Excise Inspectors—

Section 15 (Powers to grant passes for transport)

(Superseded by Notification dated 26-10-61)

[6] [Noti. No.F.15(5/5)Ex/52, dt. 25-8-1952]

In exercise of the powers conferred by notification No.F.49(1), dated 15th May, 1951 under sub-section (3) of section 9 of the Rajasthan Excise Act, 1950, I hereby authorise the Deputy Excise Commissioners to exercise my powers under section 15 in respect of grant of passes for the export of Foreign and Indian made Foreign Liquors.

1. एस.ओ. 348 सं.एफ 11(65) वित्त/आब/98 दिनांक 22-12-98 द्वारा विनिर्दिष्ट-राजस्थान राजपत्र विशेषांक, भाग 4(ग) II दि. 26-12-98, पृष्ठ 399 पर प्रकाशित।
2. एस.ओ. 289 दिनांक 5-11-97—एफ 11(71) वित्त/आब./97—राजस्थान राजपत्र, विशेषांक—4(ग)(II) दि. 1-12-97 पृष्ठ 415 पर प्रकाशित। शेष जिला आबकारी अधिकारियों का क्षेत्राधिकार यथावत् रहेगा।

[7] [Noti.No.7208-Ex.G/6-62,dt.11.7.1961,pub.R.G.pt.II(a),dt.17.8.1961,p.167].

In exercise of the powers conferred by Notification under sub-secton (3) of section ıe Rajasthan Excise Act, 1950 (Act 2 of 1950), and in supersession of previous ation No. 746/750 dated the 28th May, 1951, I hereby authorise the following officers rcise my powers to the extent and under sections mentioned against each:-

1. Deputy Commissioner Excise-	Section 46 and Section 67(1)(b) in so far as a complaint or the report is not for offence under section 60 and section 61
2. Asstt. Commissioner Excise-	Section 46(a) and section 67(1)(b) in so far as a complaint or the report is not for offences under sections 60 and 61 and 69 (3)

[8] [Noti.No.F.15(46)Ex.46-62/78,dt.24.1.1962; pub.in R.G.Pt.IV-C,Ext.,dt.26.4.62].

In exercise of the powers conferred by Notification under sub-section (3) of section ıe Rajasthan Excise Act, 1950 (Act 2 of 1950) and in the supersession of previous ation No.746/750, dated the 28th May, 1951, I hereby authorise the following Officers rcise my powers to the extent and under sections mentioned against each :

1. Depurty Commissioner, Excise	Section 46 and Section 67(1)(b) in so far as a complaint or the report is not for offences under section 60 and section 61
2. Asstt. Commissioner Excise-	Section 46(a) and section 67 (1) (b) in so far as a complaint or the report is not for offences under sections 60 and 61 and 69(3).

[9] [Noti.No.1(99) E & T/60, dt.11.11.1963, pub. in R.G.Pt.I(B), dt.14.4.63].

In exercise of the powers conferred by sub-section (3) of section 9 of the Rajasthan : Act, 1950 (Act 2 of 1950), the State Government hereby authorise the Excise ıissioner to delegate the Additional Excise Commissioner all or any of his power the said Act

[10] [Noti.No.F.66(5)1(6) Exg].

In Exercise of the powers conferred by sub-section (3) of section 9 of the Rajasthan : Act, 1950 (Act II of 1950), read with Government of Rajasthan Finance (Rev. & Affairs) Department Notification No. F.1(99) ET/60, dated 11th November, 1963, I : delegate all my powers under the Rajasthan Excise Act, 1950, (Act II of 1950) Additional Excise Commissioner.

[11] [Noti.No.F.1(85)FD/Ex67-(2),dt.18.9.1969,. pub.in R.G.G. Pt.IV-C,dt.16.10.69.]

S.O.64.-In exercise of the powers conferred by sub-sction (3) of section 9 of the .han Excise Act, 1950 (Rajasthan Act II of 1950) the State Government authorises xcise Commissioner, Rajasthan to delegate to the Assistant Excise Officers all or f the powers under section 46(a)-, section 67(1)(b) in so far as complaint or report for offences under sections 60 and 61 section 69(3).

[12] [Noti.No.F.56(7)Estt/Ex/64/3582,dt,15.12.1969..pub.in R.G.G.Pt.IV-16.4.70,P.33].

G.S.R.13.-In exercise of the powers conferred by Finance (Excise) Department ıcation No.1(85)FD/Ex/67-(2), dated 18th September, 1969, I, hereby delegate to the

Assistant Excise Officers my powers under section 46(a), section 47(1)(b) in so far as complaint or report is not for offences under sections 60 and 61 and section 69(3) of the Rajasthan Excise Act, 1950(Act II of 1950), to be exercised within their respective Jurisdiction.

SECTION 12

[[13] संख्या एफ. 4(62) वित्त/आब/96 दिनांक 31.3.97 राज. राज-पत्र, विशेषांक भाग 4(II) दिनांक 11.4.97 पृष्ठ 19 पर प्रकाशित।]

अधिसूचना एस.ओ. 12- राजस्थान आबकारी अधिनियम 1950 (1950 का राजस्थान अधिनियम सं. 2) की धारा 12 के खण्ड (ख) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए और किसी खुदरा अनुज्ञप्ति धारी द्वारा उसकी अनुज्ञप्ति की क्षेत्रीय सीमाओं के भीतर आबकारी योग्य वस्तुओं के परिवहन के संबंध में जारी की गयी समस्त पूर्व अधिसूचनाओं और आदेशों को अतिष्ठित करते हुए राज्य सरकार आबकारी आयुक्त द्वारा विहित "परिवहन घोषणा प्ररूप" संलग्न किये बिना, किसी खुदरा अनुज्ञप्तिधारी द्वारा अपनी अनुज्ञप्ति की क्षेत्रीय सीमाओं के भीतर आबकारी योग्य वस्तुओं का परिवहन किये जाने को, इसके द्वारा, प्रतिषिध करती है।

SECTION 14

[14] [Noti. No. F.1(87)E & T/59-II, dt. 30.11.1961, pub. in R.G.G. Pt. IV-C, dt. 28.12.61].

In exercise of the powers conferred by section 14 of the Rajasthan Excise Act, 1950 (2 of 1950), and in supersession of this Department Notification No. F.1(58) E & T/51-1, dated the 22nd January, 1959 (published in the Rajasthan Gazette, Part IV-C, dated 12th May, 1959) the State Government hereby prescribe

(1) In relation to the following excisable articles, the maximum quantities specified against them are under which may be imported or exported without a pass for personal use throughout the territories of the State of Rajasthan to which the said Act extends-

(a) Country liquor	0.75 litres.
(b) (i) foreign liquor (other than Beer, fermented liquor and rectified spirit)	1.50 litres.
(ii) Beer and fermented liquor	4.50 litres.
(c) Bhang	1.00 gram.

(2) the maximum quantities of all excisable articles which may be transported without a pass for personal use to be those as declared under sub-section (1) of section 5 of the said Act as the limit of sale by retail.

[15] [Noti.No.F.3(2) SRI51-II,dt.31.10.1962; pub. in the R.G.Ext.,Pt.IV-C,dt.31.10.62 and as amended by Noti.dt.5.10.64, pub.in R.G.G. Pt. IV-C,dt, 7.1.65.]

In exercise of the powers conferred by section 14 of the Rajasthan Excise Act, 1950 (Act 2 of 1950), and in partial modification of Excise and Taxation Department Notification No.F.1(87) E & T/59-11,dated the 30th November, 1961 the State Government hereby prescribes, generally for all the territories of the State of Rajasthan to which the said Act extends.-

(a) two units to be the maximum quantity for import, and

(b) four units to be the maximum quantity for export or transport, without a pass issued under section 15 the said Act, for personal use by foreign tourists holding all

liquor permits issued by Indian Missions abroad or by the Directors/Assistant ors in the Government of India Tourist Officers abroad or by Director or Assistant or of the Government of India Tourist Offices, Bombay, Calcutta, Delhi or Madras.

Note—One unit for the purposes of this notification shall be construed as equal of the following or the. metric equivalents thereof, namely:—

(i) One quart bottle of spirit, or

(ii) Two quart bottles of winess, or

(iii) Nine quart bottles of fermented liquors of a strength exceeding two percent of alcohol by volume, or

(iv) Twenty seven quart bottles of fermented liquors of a strenght not excedding two per cent of alcohol by volume.

SECTION 17 (d)

[16] Conditions & Restrictions on Establishment or licence of the BONDED EHOUSE.

[Please see with Rules at S.No.(21).

[17] अधिसूचना—राजस्थान भू-राजस्व अधिनियम 1956 (सन् 1956 का राजस्थान अधिनियम 15) की धारा 260 की उप धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राज्य : एतद् द्वारा निदेश देती है कि नीचे दी गई अनुसूचि के कॉलम 1 में वर्णित अधिकारियों द्वारा कालम वर्णित अधिकारियों पर अधिरोपित कर्त्तव्यों तथा उन्हें प्रदत्त शक्तियों का कालम 3 में वर्णित प्रादेशिक ारिता क्षेत्र के भीतर राजस्थान आबकारी कर अधिनियम 1950 (सन् 1950 का राजस्थान अधिनियम 2) के अधीन लाइसेन्सधारियों से वसूली या संदेय समस्त शोध्य (जिसमें लाइसेन्स फीस तथा आबकारी सम्मिलित है) तथा शास्तियों (दाण्डिक न्यायालयों द्वारा अधिरोपित शास्तियों के अपवर्णित करते हुए) सूली के संबंध में किया जायेगा।

अनुसूची

अधिकारी	अधिकारियों पर अधिरोपित कर्त्तव्यों तथा उन्हें प्रदत्त शक्तियों	प्रादेशिक अधिकारिता क्षेत्र
	2	3
सहायक आबकारी अधिकारी	राजस्थान भू-राजस्व अधिनियम 1956 की धारा 239 के अधीन जिलाधीश के कर्त्तव्य एवं शक्तियों	संबंधित अधिकारिता क्षेत्र में जिसके लिये सहायक आबकारी अधिकारी नियुक्त है।
निरीक्षक आबकारी विभाग	राजस्थान भू-राजस्व अधिनियम, 1956 की धारा 299 एवं राजस्थान भू-राजस्व (पेमेन्टस, क्रेडिट्स, रिफन्ड एण्ड रिकवरी) रूस 1958 के नियम 23 के अधीन तहसीलदार के कर्त्तव्य एवं शक्तियाँ।	संबंधित अधिकारिता क्षेत्र में जिसके लिये निरीक्षक आबकारी विभाग नियुक्त है।

धेसूचना सं. 46 (31)/राज/ग्रुप-4/75 दिनांक जून 5, 1975]

[18] Delegation of Powers to Excise Officers under Rajasthan Land Revenue Act for Recovery of Excise dues as Arrears of Land Revenue as Amended time to time.

अनुसूची

क्र.	आबकारी अधिकारी का पदाभिदान	प्रादेशिक अधिकारिता का क्षेत्र
1.	जिला आबकारी अधिकारी, जयपुर	राजस्व जिला जयपुर
[1][2.	जिला आबकारी अधिकारी, दौसा	राजस्व जिला दौसा
2ए.	जिला आबकारी अधिकारी, टौंक	राजस्व जिला टौंक]
3.	जिला आबकारी अधिकारी, भरतपुर	राजस्व जिले भरतपुर एवं धौलपुर
4.	जिला आबकारी अधिकारी, अलवर	राजस्व जिला अलवर
5.	जिला आबकारी अधिकारी, सवाई माधोपुर	राजस्व जिले सवाई माधोपुर एवं करौली
6.	जिला आबकारी अधिकारी, अजमेर	राजस्व जिला अजमेर
7.	जिला आबकारी अधिकारी, सीकर	राजस्व जिला सीकर
8.	जिला आबकारी अधिकारी, जोधपुर	राजस्व जिला जोधपुर
9.	जिला आबकारी अधिकारी, जालोर	राजस्व जिला जालोर
10.	जिला आबकारी अधिकारी, पाली	राजस्व जिला पाली
11.	जिला आबकारी अधिकारी, श्रीगंगानगर	राजस्व जिला श्रीगंगानगर
12.	जिला आबकारी अधिकारी, बीकानेर	राजस्व जिला बीकानेर
13.	जिला आबकारी अधिकारी, नागौर	राजस्व जिला नागौर
14.	जिला आबकारी अधिकारी, उदयपुर	राजस्व जिले उदयपुर एवं राजसमन्द
15.	जिला आबकारी अधिकारी, जनजाति क्षेत्र (मुख्यालय) बांसवाड़ा	राजस्व जिले डूंगरपुर एवं बांसवाड़ा
16.	जिला आबकारी अधिकारी, कोटा	राजस्व जिला कोटा
17.	जिला आबकारी अधिकारी, चित्तौड़गढ़	राजस्व जिला चित्तौड़गढ़
18.	जिला आबकारी अधिकारी, भीलवाड़ा	राजस्व जिला भीलवाड़ा
19.	जिला आबकारी अधिकारी, झुंझुनू	राजस्व जिला झुंझुनू
20.	जिला आबकारी अधिकारी, बाड़मेर	राजस्व जिले बाड़मेर एवं जैसलमेर
21.	जिला आबकारी अधिकारी, हनुमानगढ़	राजस्व जिला हनुमानगढ़
22.	जिला आबकारी अधिकारी, चुरू	राजस्व जिला चुरू
23.	जिला आबकारी अधिकारी, झालावाड़	राजस्व जिला झालावाड़
24.	जिला आबकारी अधिकारी, बारां	राजस्व जिला बारां
25.	जिला आबकारी अधिकारी, बूंदी	राजस्व जिला बूंदी
26.	जिला आबकारी अधिकारी, सिरोही	राजस्व जिला सिरोही

1. Substituted by Notification No. F. 11(41) FD/Ex/99 dated 17-4-2001 published in Raj. Gaz. E.O. Part 4 (Ga) II dated 24-4-2001.

SECTION-28

Notifications Imposing Excise Duty

❑ Introductory Note

There are three sets of Notifications out of which two are not in force-

I S.O.252, dated 30-3-1977
[Superseded by S.O.232 dated 9-12-96

II S.O.232 dated 9-12-96
[Superseded by S.O.15 dated 31-3-97]

III S.O.15 dated 31-3-97 (in force)
[Please refer to commentary of section 28, supra for details along with latest text of this notification]

Note-Notifications sets I & II are being reproduced hereunder alongwith some ortant notifications for reference.

Notification-set I

[Superseded by S.O.232 dated 9-12-96]

]19] No.F.4 (228) FD/Gr.IV/77-14, dated 30.3.1977, Pub. in R.G.Gaz.Pt. 4(ga), Ext.dated 3-1977, p.519. (as amended subsequently from time to time upto Notfn.dated 31-3-96) S.O.252.

In exercise of the powers conferred by S.28 of the Rajasthan Excise Act. 1950 of 1950), and in supersession of notification Nos. F.3 (15) FD/EX/74, dated 21-11-1974 29-1-1995, the State Government hereby imposes excise duty on the following excisable icles manufactured in Rajasthan under any licence granted under the aforesaid Act rules made thereunder or in any distillery, pot still or brewery established or licensed der the aforesaid Act or rules made thereunder and countervailing duty on such excisable icles imported into the State at the rate specified-below:—

1. Excise duty—

(A) When exported out of the State—

(i) Indian made foreign liquor except denatured spirit and denatured spirituous preparation. [1][Rs.5.00 per L.P.Litre].

(ii) Denatured Spirit Re.0.03 per litre.

(iii) Denatured Spirituous preparations prepared from spirit. distilled in the same distillery. Re.0.25 per litre.

(iv) Denatured Spiritiuous preparations not covered by (iii) Re.0.65 per litre.

(B) When consumed in the State:-

(i) Indian made foreign spirit including liquors and fermented liquors except denatured spirit and denatured spirituous preparations:- [2][Rs.100/-per L.P.Litre].

(ii) Indian made Rum for Defence Service [3][Rs.25/-per L.P. Litre].

. Substituted vide Noti. dated 26-3-87 w.e.f. 1-4-87.
2. Substituted Noti. No. F.4(97)FD/EX/95 dated 31-3-96 w.e.f. 1-4-96.
3. Substituted vide noti. dated 17-8-95 w.e.f. 21-8-95.

Personnel stationed in Rajasthan obtained and supplied under the following conditions, namely:-

The supply is according to the scale sanctioned by the Government of India and is through the Canteen Stores Department (India) and not, through any other source, the supply labels with the letters 'CSD' embossed on them and bearing labels with the words 'For Military Personnel only' conspiciously printed on them with red letters; and separate account is maintained for such supplies.

(ii) Indian made Rum for Border. Security Force [1][Rs.25/-per L.P.Litre]

Personnel stationed in Rajasthan obtained

and supplied under the following conditions, namely:-

(1) the quantity of Rum imported for consumed by the said personnel stationed in Rajasthan shall not exceed [2][11,621] bottles per month.

(2) the supply is in bottles bearing labels with the words 'For Border Security Force in Rajasthan only' conspicuously printed on them with red letters,-

(3) separate account is maintained for such supplies: and

(4) the supply is solely for personal use of Border Security Force Personnel stationed in Rajasthan and is certified as such by the competent authority.

2[iii-A) India made Rum for the Ex-Military Personnel residing in Rajasthan obtained and supplied under the following conditions, namely.,- [3][Rs.25/-per L.P.Litre]

The supply is according to the scales sanctioned by the Government of India and is through the Canteen Stores Department (India) and not through any other source, the supply is in bottles with letters C.S.D. embossed on them and bearing labels with the words 'For Ex-Military Personnels only' conspicuously printed on them with red letters and separate account is maintained for such supplies.]

[3][iv) Beer and Indian made fermented liquor

(a) If the strength is upto 8.75% of proof spirit Rs.6.40 per Bulk litre.]

(b) If the strength is more than 8.75% and upto 15% of proof spirit. Rs. 9.60 per Bulk litre.

(v) Denatured spirit and denatured spirituous preparations. Rs. 1.40 per litre.

2. Contervalling Duty—To be prepared before import or its Import is under Bond to be paid when the Bond is broken.

3. Particulars not available

[4][Rs. 4.00 per L.P. Litre on bulk and Rs. [5][5.00] per L.P. Litre on bottled.]

1. Subs vide noti dated 17-8-95 w.e.f. 2-2-83.
2. Inserted vide Noti. dated 4-4-83.
3. Substituted vide Noti. dated 17-8-95 w.e.f. 2-2-83.
4. Substituted vide Noti. No. F. 4(97) FD/EX/95 dated 31-3-96. published in Raj. Gaz. Part 4 (Ga) dated 31-3-96 page 586.
5. Added vide Noti. dated 3-8-88.

[1][4. **Import duty on beer**—To be paid before Import or if its import is under Bond, be paid when the Bond is broken

[2][At the rate of Rs. 1.60 per Bulk litre.]

Notifications – Set II

[3][20] **अधिसूचना एस.ओ. 232—दिसम्बर 9,1996 [Superseded vide S.O. 15 ed 31.3.97]**

वित्त (आबकारी) विभाग

राजस्थान आबकारी अधिनियम, 1950 (1950 का राजस्थान अधिनियम सं. 2) की धारा 28 ा प्रदत्त शक्तियों का प्रयोग करते हुए और पूर्वोक्त अधिनियम या उसके अधीन बनाये गये नियमों के अधीन ए की गयी किसी अनुज्ञप्ति के अधीन राजस्थान में, या पूर्वोक्त अधिनियम या उसके अधीन बनाये गये मों के अधीन स्थापित या अनुज्ञप्त किसी आसवनी मद्य निर्माण शाला, बोटलिंग संयन्त्र में विनिर्मित नलिखित आबकारी कर योग्य वस्तुओं पर आबकारी शुल्क और राज्य में आयातित ऐसी आबकारी कर य वस्तुओं पर प्रतिशुल्क नीचे विनिर्दिष्ट दरों से, इसके द्वारा तुरन्त अधिरोपित करती हैं—

1. **आबकारी शुल्क—**

(क) जब राज्य से बाहर निर्यात किया जाये—	
(i) विकृत स्पिरिट स्पिरिटयुक्त निर्मितियों को छोड़कर भारत में निर्मित विदेशी शराब	3.00/- रु. प्रति एल.पी.लिटर
(ii) स्पिरिट से तैयार की गयी विकृत स्पिरिटयुक्त निर्मितियां जो उसी आसवानी में आसुत की गयी हो— देशी शराब	1.00/- रु.प्रति एल.पी. लिटर
(iii) बियर	1.00/- रु. प्रति बल्क लिटर
(iv) चिरे हुये पोस्ट डोडे	रु. 3.00/- प्रति किलो
(ख) जब राज्य के भीतर उपयोग किया जाये—	
(i) विकृत स्पिरिट और विकृत स्पिरिटयुक्त निर्मितियों को छोड़कर शराब और किण्वित शराब को सम्मिलित करते हुए भारत में निर्मित विदेशी स्पिरिट	100.00/- रु. प्रति एल.पी. लिटर
(ii) रक्षा सेवा, भूतपूर्व सेना कार्मिकों और राजस्थान में आस्थित सीमा सुरक्षा बल के लिये भारत में निर्मित रम जो निम्नलिखित शर्तों के अधीन अभिप्राप्य और प्रदायित की गयी हो, अर्थात् प्रदाय विहित माप-मान के अनुसार और केन्टीन स्टोर विभाग (भारत) के माध्यम से हो न कि किसी अन्य स्रोत से। प्रदाय बोतलों में हो जिन पर अक्षर "सी.एस.डी." उभरे हुए हों और ऐसे लेबर लगे हों जिन पर लाल अक्षरों में शब्द क्रमशः केवल सेना कार्मिकों के लिए", केवल भूतपूर्व सेना कार्मिकों के लिए" सहज दृश्य रूप में मुद्रित हो और ऐसे प्रदायों के लिए पृथक् लेखा रखा जाये।	50.00/- रु. प्रति एल.पी. लीटर
(iii) बीयर और भारत में निर्मित किण्वित शराब;	
(क) यदि शक्ति, फ्रूट स्पिरिट 8.75 तक हो,	10,00/- रु. प्रति बल्क लिटर
(ख) यदि शक्ति, फ्रूट स्पिरिट के 8.75% से अधिक हो।	15.00/- रु. प्रति बल्क लिटर
(iv) चिरे हुये पोस्त डोडे	25.00/- रु. प्रति कि.ग्रा.
(v) सामान्यतः प्रचलित पद्धति के बाहर अर्थात् अनन्य विशेषाधिकार के लिये इस रूप में प्राधिकृत खुदरा अनुज्ञाप्तिधारियों से निम्नलिखित वस्तुओं पर आबकारी अधिभार :	
(क) भारत में निर्मित विदेशी शराब	[1][रु. 25.00 प्रति बल्क लीटर
(ख) बीयर	रु. 5.00 प्रति बल्क लीटर"]

2. **प्रतिशुल्क—**

आयात होने के पूर्व संदत्त किया जाये या यदि आयात बोण्ड के अधीन हो तो संदत्त किया जाये जब बोण्ड समाप्त हो।	आबकारी कर योग्य विभिन्न वस्तुओं पर आबकारी शुल्क के लिये दर्शित दरों पर जैसी कि भाग-I के अधीन प्रत्येक के सामने वर्णित है।

3. **आयात शुल्क—**

आयात होने के पूर्व संदत्त किया जाये या यदि आयात बोण्ड के अधीन हो तो तब संदत्त किया जाये जब कि बौण्ड समाप्त हो।

(i) बोतल बन्द की गयी भारत में निर्मित विदेशी शराब पर	5.00/- प्रति एल.पी. लिटर
(ii) भारत में निर्मित विदेशी शराब के बल्क पर	4.00/- रु. प्रति बल्क लिटर
(ख) बीयर	[2][3.00/-रु. प्रति बल्क लिटर
[2][(ग) मोलाशीश (शीरा)	रु. 20.00 प्रति किंवन्टल
[3][(घ) चिरे हुये पोस्ट डोडे	रु. 5.00 प्रति किलो

Section 41

[21] Noti.No.F.4(25) FD/EX/90.dt.19-2-1991: Pub.in R.G. Ext.Pt. IV-C(II),dt.20-2-1991, p. 671(15).

S.O.324.-In exercise of the powers conferred by Section 41 of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950), the State Government hereby withdraws: the Notification

1. Substituted vide Noti. No. F. 4(10) FD/EX/95 dated 21-7-95 published in Raj. Gaz. dated 28-7-95 on page 148.
2. Substituted vide Noti. No. F 4(9) FD/EX/95 dated 1-4-94 w.e.f. 1-4-94.
3. Superseded vide Notification No. F. 4(62)FD/EX/96 dated 31-3-97 w.e.f. 1-4-97.

1. एस.ओ. 333 सं. एफ. 4(62) वित्त/आब.96 दिनांक 31-3-1997 द्वारा प्रतिस्थापित ।
2. Substituted vide Notification No. F. 4(62) FD/EX/96 dated 23-5-97. w.e.f. 31-3-97
3. Substituted by S.O.52 dated 7-5-98 Raj.Gaz-EO-IV C II dated 23-5-98, page 85

(10) FD/EX/81, dt.10-2-1989, as published in the Rajasthan Gazette part IV-C dated) regarding imposing excise duty on various varieties of Country Liquor with effect 4-1991.

Section 42

[22] Noti. No. F22/A/Sett.84/Part-II, dt. 16-12-1993; pub. in R.G. Ext., 1(kh), 2-94, p.667.

In exercise of the powers conferred by clause (C) of Section 42 of the Rajasthan Act, 1950 (Act No.2 of 1950), the Excise Commissioner, with the previous sanction State Government, hereby issues the following notification, with immediate effect, :-

The licence for the retail sale of Country Liquor for each shop/Subshop in the es/Towns in tribal Sub-plan area, as notified in the Official Gazette from time to r in any area for which the Excise Commissioner, being of the opinion that reasonable ds exist for doing, so, may be granted on condition of payment of licence fee for or part thereof as mentioned below:

1.	Where population is upto 10,000 (According to 1991 Census).	Rs.5000/-
2.	Where population is more than 10,000 but less than 50,000 (According to 1991 Census).	Rs. 10,000/-
3.	Where population is 50,000 and above. (According to 1991 Census).	Rs. 20,000-

Section 43

[23] परिपत्र—मदिरा दुकानों के संचालन में अनावश्यक पुलिस हस्तक्षेप

राज्य सरकार के ध्यान में लाया गया है कि आबकारी विभाग की प्रवर्तन शाखा के कर्मचारियों द्वारा तौर पर अनुज्ञापत्र की शर्तों की पालना हेतु मदिरा के संचालन में अनावश्यक हस्तक्षेप किया जा रहा है।

अनुज्ञापत्र की शर्तों की पालना एक प्रशासनिक कार्य है एवं इस हेतु आबकारी विभाग की निरोधक वर्तन शाखा का हस्तक्षेप अपेक्षित नहीं है। इस प्रकार के हस्तक्षेप से अनुज्ञाधारी के सामान्य कार्य में बाधा र होती है तथा मदिरा दुकानों पर पुलिसकर्मियों की अनावश्यक उपस्थिति से ग्राहकों में एक भय का रण बनता है जिससे अप्रत्यक्ष तौर पर मदिरा की अवैध बिक्री को ही बढ़ावा मिलता है।

अत: इस परिपत्र के माध्यम से पुन: निर्देशित किया जाता है कि आबकारी विभाग की प्रवर्तन ा के अधिकारी एवं कर्मचारी अनुज्ञापत्र की शर्तों की पालना जैसे कारण से मदिरा दुकानों को विजिट करेंगे। किसी दुकान के संचालन में किसी अन्य अनियमितता की संभावना प्रतीत होने पर ही दुकान निरीक्षण किया जा सकेगा। इस संबंध में कोई कठिनाई होने पर क्षेत्र से संबंधित अतिरिक्त आयुक्त कारी अथवा आबकारी आयुक्त की जानकारी में मामला लाया जा सकता है।

यदि इन निर्देशों के उपरान्त भी किसी अधिकारी अथवा कर्मचारी द्वारा अनावश्यक हस्तक्षेप किये का मामला पाया जाता है तो उसके इस प्रकार के कृत्य को राज्य सरकार के निर्देशों की अवहेलना कर अनुशासनात्मक कार्यवाही की जावेगी।

शासन सचिव (वित्त)

परिपत्र क्रमांक प. 11(11) वित्त/आब./06 दिनांक 1-8-2006

Section 71-Exemptions

❑ LATEST NOTIFICATIONS

[24] S.O.346.-December 30, 1994 In exercise of the powers conferred by Section 71(2) of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 of 1950) the Government of Rajasthan is pleased to exempt from payment of Export duty of Indian made foreign liquor manufactured in the State and exported to a place outside India M/S. Amarpali Agencies Pvt. Ltd. Jetpura, Jaipur on the following terms and conditions.-

1. Payment for the liquor exported shall be received in foreign currency only.
2. The exporting company shall enter into bond with such surety or security to such extent and in such manner and under such conditions as may be laid down by the Excise Commissioner, Rajasthan in this behalf.
3. The bond shall be discharged only if proper proof of the goods having duly exported to the satisfaction of the Excise Commissioner is furnished within a period of 40 days failing which full amount of export duty leviable on such goods shall be realised.
4. All the rules, regulations and direction issued by the Government of India in this respect shall be complied with.

[No.F.4 (59)FD/EX/94.dated 30-12-1994]

[25] Noti.S.O.182. July 29, 1998—

In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950) the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempt from the permit fees on import of rectified spirit by the Rajasthan State Government Sugar Mills Ltd. to the extent to which rate of permit fee on import of rectified spirit exceeds Rs. 3.00 Per Bulk Litre w.e.f. 29-7-98.

[No.F.4(37)FD/EX/98 dated 29-7-98, pub.in Raj.Gaz-EO-IV (Ga)(II)dated 29-7-98. page 198]

NOTIFICATION

[26] In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950), the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempt from the payment of surcharge on beer by the-

1. Rajasthan Tourism Development Corporation.
2. Rajasthan State Hotel Corporation.

From 1-10-98 to 31-3-99 or coming into Force of the Finance bill whichever is earlier.

Provided that the surcharge on beer so realised from consumers by above licencees from 1-10-1998 to 31-3-1999 shall have to be deposited with the Excise Department.

[No.F.1(13) FD/EX/98 dated 22-3-99]

NO.F.1(21) FD/Ex/98. dated 6-5-99—In exercise of the powers conferred by ı (2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. 2 he Government of Rajasthan is pleased to order that the minimum licence fees ıe under rule 69(1) and 69(AA) of Rajasthan Excise Rules, 1956 and annual recoverable under second proviso to Rule 3-A (2) of the Rajasthan Liquor wholesale trade and retail off licences) Rules, 1982 for the licences granted ·lusive privilege system shall be recoverable on proportionate basis from the for the periods during which the licences were granted in the year 1996-97 ·dingly exempted from payment of these fees for the period for which licences granted.

8| S.O. 175—In exercise of the powers conferred by sub-section(2) of section Rajasthan Excise Act, 1950), (Act No. II of 1950, the State Government being ›inion that reasonable grounds exist for doing so, hereby exempts the Rajasthan ıb from the payment 'of licence fee prescribed under rule 54 of the Rajasthan tules, 1956 for occasional licence on the occasion of World Cup Polo matches ·ld from 24-9-2000 at to 01-10-2000 Jaipur.

No.F.1 (5) FD/Ex/2000 dated 30-8-2000 pub. in R.G.-4(Ga)II–EO dated 4-9-2000 page

29| S.O. 379—In exercise of the powers conferred by sub-section(2) of section ıe Rajasthan Excise Act, 1950 (Act No. II of 1950), the State Government being ›pinion that reasonable grounds exist for doing so, hereby exempts Canteen Stores nent from payment of additional fee prescribed under rule 72-A in respect of renewal ıicences granted under rule 47(1)(a) of the Rajasthan Excise Rules, 1956 for the ›97-98 and 1998-99.

[No.F.4(8)FD/EX/2000 dated 2-3-2001 Pub. in R.G. E.O.–4(Ga) II Dt. 12-3-2001 page

|30| S.O. 446—In exercise of the powers conferred by sub-sectio of Section 71 Rajasthan Excise, 1950 (Act No. II of 1950) State Government being of the opinion :asonable grounds exist for doing so, here by exempts, with effect from 1-4-2001.

(i) such retail licencees who have been granted licence under exclusive privilege ı from the payment of fee prescribed under rule 69-B of the Rajasthan Excise Rules, to the extent to which it exceed the amount of Rs. 0.50 per bulk litre.

(ii) such wholesale licencees who have been granted licence under rule 47(1)(a) : Rajasthan Excise Rules, 1956 and who manufacture IMFL/Beer outside Rajasthan the payment of fee prescribed under rule 69(1) of the said rules.

[No.F.4(12)FD/EX/2 dated 31-3-2001 Pub. in Raj. Gaz. EO. 4(Ga) II dated 31-3-2001 625-26.]

|31|S.O.113.-July 6, 2001—In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Act No. II of 1950), the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempts the Rajasthan State Ganganagar Sugar Mills Ltd., in respect of the unlifted country liquor shops run by it in non tribal area of the State during the years 1999-2000 and 2000-2001 from payment of annual licence fee and composite fee subject to the condition that any amount already deposite against these levies shall not be refunded.

(No. F. 1 (6) FD) Ex/2000 dated 6-7-2001,]

|32| S.O. 114.- July 6, 2001 In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Act No. 11 of 1950), the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempts the Rajasthan State Ganganagar Sugar Mills Ltd., in respect of the unlifted Indian made foreign liquor and Beer wholesale and retail shops run by it during the year 1999-2000 and 2000-2001, from the payment of:-

(1) excise surcharge prescribed by Notifications No. F. 4 (72) FD/Ex/96 Dated 09-12-96 as amended from time to time.

(2) Minimum licence fee payable under rule 69 (1) of the Rajasthan Excise Rules, 1956,

(3) Annual licence fee and brand fee payable under the Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail off Licences.) Rules, 1982, and

(4) Supervision-charges payable by wholesale licensees.

Subject to the condition that any amount already deposited against these leavies shall not be refunded.

[No. F. 1 (6) FD/Ex/2000. Dated 6-7-2001]

[S.No. 39 & 40 Published in Raj. Gaz. E-O,-4 (Ga) (II) dated 10-7-2001, page 165.]

|33| In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950), the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempts with effect from 1-4-2002 the manufacturers of IMFL and beer in the State [1][from the payment of 75% and 50% of the amount of bottling fee respectively] prescribed under rule 69 (2) of Rajasthan Excise Rules, 1956 in respect of the quantity exported by them in such a manner as may be prescribed by the Excise Commissioner.

[Notification No. F.4(12) FD/Ex/2002 dated 1-4-2002 & Published in Raj. Gaz. Part-IV (c) dated 1-4-2002]

|34| S.O. 347.-In exercise of the powers conferred by sub-section (2) of section 71 of Rajasthan Excise Act, 1950 (Act No. II of 1950, the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempts hotel bar/club bar licensees from payment of additional fee prescribed under rule 72-A of Rajasthan Excise Rules, 1956 in respect of renewal for the year 1994-95 of the licences granted to them under the Rajasthan Excise (Grant of Hotel Bar/Club Bar Licences) Rules, 1973.

[Notification No. F. 1(9) FD/Ex/2001 dated 6-2-2002 Published in Raj. Gaz. Part-IV (c) dated 15-2-2002 Page 446]

1. Substituted for words "from the payment of 50% of the amount of bottling Fee" vide F. 4(44) FD/Excise/2005/Part-II dated 26-4-2006.

[35] In exercise of the powers conferred by sub-section (2) of section 71 read with ction 72 of the Rajasthan Excise Act, 1950 (Act No.11 of 1950), the State Government being the opinion that reasonable grounds exist for doing so, hereby with effect from 2-11-1999 empts from the provision of rule 69 B of the Rajasthan Excise Rules, 1956 so far as it relates permit fee for bringing into of Rum in the State of Rjasthan for consumption by personnel longing to the Armed Forces/Border Security Force.

[Notification No.F.4 (14)FD/Ex.03 dated 31-7-2003]

[36] In exercise of the powers conferred by sub section (2) of section 71 of the ajasthan Excise Act, 1950 (Rajasthan Act No.IIof 1950), the State Government being of the pinion that reasonable grounds exist for doing so, hereby exempts such retail on licensees om the payment of additional fee prescribed under rule 72-A of Rajasthan Excise Rules, 1956 respect of renewal for the year 1994-95 who had deposited the renewal fee by 31-3-94.]

[Notification F3 (5) FD/Ex./2001 dated 20-2-2004.]

[37] In exercise of the powers conferred by sub-section (2) of Section 71 of the ajasthan Excise Act, 1950 (Rajasthan Act II of 1950) and in supersession of this department otification No. F.4 (12) FD/Ex/2001 Pt II dated. 31-3-2001 the State Government being of the pinion that reasonable grounds exist for doing so hereby exempts with effect from 1-4-2004:

[1][(i) such retail licensees who have been granted licence under exclusive privilege system from the payment of fee prescribed in respect of IMFL and Beer under rule 69-B of the Rajasthan Excise Rules, 1956 to the extent to which it exceeds the amount of Rs. 1.00 per bulk litre.] Deleted

(ii) Rajasthan State Ganganagar Sugar Mills from the payment of:

(a) [2][deleted]

(b) Licence fee prescribed under S. No. 13 A of the table appearing below rule 68 of the Rajasthan Excise Rules, 1956 for wholesale vend of the country liquor.

(iii) all such wholesale licensees having licence under rule 47 (1) (a) of rule 47 (4) who deal exclusively in wine, ready to drink liquor or Foreign liquor bottled in other countries (popularly known as BIO) from the payment of licence fee prescribed in rule 68 of the Rajasthan Excise Rules, 1956 or elsewhere to the extent to which it exceeds Rs. 2,00,000/-

(iv) all wholesale licensees of IMFL and beer from the payment of brand fee payable under proviso (2) to rule 3 of the Rajasthan Foreign liquor (Grant of wholesale Trade & Retail off licences) Rules, 1982 in respect of wine, ready to drink (RTD) liquor and foreign liquor bottled in other country (popularly known as Bottled-In-Origin or BIO) to the extent to which it exceeds Rs. 10,000/- per brand.

[Notification GSR 54-No. F. 4 (85) FD/Ex/2003 dated 19-2-2004 w.e.f 1-4-2004.]

[Published in Raj. Gaz. E.O. - 4 (Ga) I dated 19-2-2004. Page 92-93]

[38] In exercise of the powers conferred by sub-section (2) of Section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act II of 1950), the State Government being of the opinion that reasonable grounds exist for doing so hereby exempts, with immediate effect:-

(i) All distilleries, breweries and bottling plants from the payment of licence fee prescribed in rule 68 of the Rajasthan Excise Rules, 1956 in respect of the laboratory licence held by them.

(ii) Manufacturers of country liquor from the payment of 50% amount of the bottling fee on country liquor sold and sent out of the state.

(iii) manufacturers of IMFL and beer, manufacturing outside Rajasthan from the fee prescribed under rule 68 of the Rajasthan Excise Rules, 1956 if they are making supplies in Rajasthan through Rajasthan State Beverages Corporation Limited only.

(iv) Distilleries situated in Rajasthan payment of fee prescribed at S. No. 12 of the table given in rule 68 of the Rajasthan Excise Rules, 1956.

[Notification No. F. 4 (17) FD/Ex/2004 dated 1-4-2005.]

[39] **S.O. 46**—In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No. II of 1950) and in partial modification of this department notification No. F. 4(12) FD/Ex/2002 dated 01-04-2002 so far as it relates to Ready to Drink (R.T.D.) liquor (excluding Beer) having alcoholic strength upto 8.75 degree proof, the State Government being of the opinion that reasonable grounds exist for doing so, hereby exempts with effect from 1-6-2004, the manufactures of such RTD in the State from the payment of 75% of amount of bottling fee prescribed under rule 69(2) of the Rajasthan Excise Rules, 1956 in respect of the quantity exported by them in such a manner as may be specified by the Excise Commissoner.

[Notification No. F. 4(85) FD/Ex./2003-VI dated 19-6-2004]

[40] In exercise of the powers conferred by sub-section (2) of section 71 of the Rajasthan Excise Act, 1950 (Rajasthan Act No.II of 1950) the Government being of the opinion that resonable grounds exist for doing so, hereby exempts all retail licensees of foreign liquor and beer from the operation of section 14 of that said Act in respect of foreign liquor and beer purchased by them from Rajasthan State Beverages Corporation Limited subject to the condition that transportation, following such purchse, shall accompany ""Bill-cum-Transport Pass" issued by the incharge of the concerned depot of Rajasthan State Beverages Corporation Limited in the form specified by the Excise Commissioner.

[Notification No.F-4(44)FD/Excise/2005 Pt.-III dated 12-5-2006.]

[41] The State Government being of the opinion that reasonable grounds exist for doing so hereby exempts, with immediate effect:--

(i) all distilleries, breweries and bottling plants from the payment of licence fee prescribed in rule 68 of the Rajasthan Excise Rules, 1956 in respect of the laboratory licence held by them;

(ii) manufactures of country liquor from the [1][Payment of 75% amount] of the bottling fee on country liquor sold and sent out of the State.

(iii) Manufacturers of IMFL and beer, manufacturing outside Rajasthan from the fee prescribed under rule 68 of the Rajasthan Excise Rules, 1956 if they are making supplies in Rajasthan through Rajasthan State Beverages Corporation Limited only.

(iv) distilleries situated in Rajasthan from payment of fee prescribed at S.No.12 of the table given in rule 68 of Raj. Excise Rules, 1956.

[Notification No. F.4 (17) FD/Excise/2004 dated 1-4-2005 Published in Raj.Gaz.Ex. ordi.4(Ga)(II){Dt.1-4-2005 Page-10.]

1. Substituted for words "from payment of 50% of the amount of bottling Fee" vide F. 4(44) FD/Excise/2005/Part-II dated 26-4-2006.

Miscellenous

1. **Meaning of Reduction** - Reduction of spirits means the diluction with water.

2. **Meaning of Blending** - Blending of spirits means the mixing together of two or more spirits of different strength.

Requirement for R/S and E.N.A. according BIS

Characteristic	For Rectified Spirit	For E.N.A.
1. Relative density at 15°C	0.8171	0.8124 to 0.8168
2. Ethanol content percent by volume at 15.6°C, min	94.68	94 to 96
3. Miscibility with water	Miscible	Miscible
4. Alkanity	Nil	Nil
5. Acidity as acetic acid gm/100 ml. max.	0.002	0.002
6. Residue on evoparation, g/100ml. max.	0.005	0.002
7. Esters (g/100ml,max)	0.02	0.01
8. Lead (as pb) g/100ml	Nil	Nil
9. Methyl alcohol content	to pass test	to pass test
0. Furfural content	to pass test	to pass test
1. Fusel oil content	to pass test	to pass test
2. Aldehdes (as CH_3 CHO) g/100 ml. max.	0.006	0.004
3. Permanganate reaction time, min	-	30
4. Copper Cas cu), g/100 ml. max.	0.0004	0.0002
5. Isopropyl alcohol, acetone and other ketones	to pass test	to pass test

Requirement of 40 U.P. Country Liquor as per I.S. Specification No. 5287 L 1989

Characteristic	Specific Standard
Ethyl Alcohol Content (At 15/15°C)	34.28%v/v
Total acids as Tartaric acid (Expressed in terms of 100 Lts, of A/A) N.M.T.	100 gm
Volatile acids as acetic acid (g/100 liters of A/A), max.	50
Esters as ethyl acetate (g/100 liters of A/A), min	3
Higher alcohols as amyl alcohol (g/100 liters of A/A), max.	250
Aldehydes as acetaldehyde (g/100 liters of A/A), max.	35
Furfural (g/100 liters of A/A), max.	12
Copper (as cu), parts million, max.	10 ppm
Methyl alcohol	To pass test
Total ash, percent (m/v), max.	0.10
Residue on evoparation, Percent (m/v), Max.	2.00

Requirement of Characteristic according Bureau of Indians standard (BIS) Code

Charateristic	Whisky	Rum	Gin	Brandy	Vodka
Residue of evaporation, Percent (m/v),Max.	2.00	2.00	2.50	3.00	1.00
Total ash, percent (m/v), max.	0.10	-	-	0.50	-
Volatile acids as acetic acid (g/100 liters of A/S), Max	50	100	5	100	10
Esters as ethyl acetate (g/100 liters of A/A), min.	Malt why. -10 Why. -2 Blended malt why -5	20	2	Grape brandy - 10 Brandy -2 Blended grape brandy -5	25
Higher alcohols as amyl alcohols (G/100 liters of A/A), Max	350	300	50	Grape brandy -350 Blended grape brandy -350 Brandy -250 Brandy -200	50
Aldehydes as acetaldehyde (g/100 liters of A/A), max.	Malt why -45 Why. -15 Blended malt why -5	45	20	Grape brandy -45 Blended grape brandy -45 Brandy -15	15
Furfural (g/100 liters of A/A), max.	12	8	-	12	12
Copper (as cu), parts million, max.	10	10	10	10	10
Methyl alcohol	To pass test	To pass test	To pass test	To pass test	To pass test