

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

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

Appeal No. 08/2023

MA No. 01/2023 in Appeal No. 08/2023

Date of Institution: 20-11-2023

Date of Order: 22-11-2023

**In the matter of:**

M/s Kanda Wine through

Shri Arun Kumar Lic. L-2/L-14/L-2S/L-14S Unit No. 3,

Santoshgarh, District Una (Year 2023-24) .....Appellant

**Vs**

1. Collector (Excise)-cum- Jt. Commissioner (ST&E),  
North Zone, Palampur, District Kangra
2. Deputy Commissioner State Taxes & Excise, Una,  
District Una. ....Respondents

**Present:**

1. S/Shri H. S. Rana and Amrinder Singh Rana, Learned Advocates  
for the appellant.
2. Shri Wishve Bhaskar, ACST&E, Legal Cell, for the Respondent.

**ORDER**

1. The present appeal filed under section 68 (2) of the Himachal Pradesh Excise Act, 2011, by M/s Kanda Wine through Sh. Arun Kumar L-2/L-14/L14S Lic. Santoshgarh Unit (Year 2023-24), is against the order dated 17-11-2023 passed by the Collector (Excise), North Zone, Palampur,



District Kangra, whereby L-2/L-14/L-2S, L-14S licenses granted in favour of the appellant in respect of Unit above have been cancelled under section 29 of the HP Excise Act, 2011 (read with condition no. 2.42 of the Annual Excise Announcements 2023-24) for non-payment of due monthly license fee for the month of September 2023, amounting to ₹45, 85, 881/-. The due fee, above, was payable latest by November 7, 2023. Along with the appeal above, the appellant has also filed an application seeking stay of the impugned order dated 17-11-2023 and allowing it to continue with the cancelled Unit subject to depositing of maximum of ₹10, 00, 000/- of the balance license fee for the month of September 2023.

2. Briefs in the matter are that the appellant was granted retail liquor licenses in form L-2/L-14/L-2S, L-14S in respect of vends under Unit No. 3 Santoshgarh, District Una, for the year 2023-24. The respondent No. 1 received a report submitted by the respondent No. 2, that the appellant licensee has not paid the due monthly license fee for the month of September 2023. The respondent No. 1 issued a notice dated 17 November 2023 to the appellant. After hearing the appellant, the respondent No. 1 vide order dated 18-11-2023 cancelled the licenses in respect of Santoshgarh Unit under section 29 of the Himachal Pradesh Excise Act, 2011 read with condition No. 2.42 of the Annual Excise Announcements. The appellant, feeling aggrieved against the aforesaid order has preferred the present appeal.

3. On request of the appellant the matter was listed for hearing on the date of institution itself i.e. 20-11-2023. The appellant during the course of hearing sought stay of the impugned order dated 18-11-2023. Learned Counsels for the appellant submitted that due to lean season and consequently less



footfall of customers, the appellant has suffered huge financial loss. Learned Counsels also pleaded that the unit vends being in border areas have only added to the loss. The representative for the Department submitted that the appellant has not deposited the payable license fee for the month of September 2023, which was payable latest by November 7, 2023 as per approval of the Government vide Endst. No. EXN-F (I)-1/2023 dated 25<sup>th</sup> September, 2023 and, therefore, the application does not merit to be entertained. **The Departmental representative further submitted that the license fee for the month of October 2023** which was also payable by 7<sup>th</sup> of November has also not been paid by the appellant as the aforesaid approval of the Government for deferment of license fee for retail vends for the year 2023-24 was applicable up to the month of September 2023 and therefore the appellant was liable to pay the license fee for the month of October 2023 on or before 7<sup>th</sup> November 2023. Replying to the arguments of huge loss being suffered on account of lean season and vends being situated at border areas, the representative for the Department submitted that there is no provision for compensation of loss on above stated grounds of loss by the appellant. The counsel for the Department submitted that the appellant should prove his bonafide in the matter by depositing the pending fee at least for the month of September 2023.

4. The matter was accordingly ordered to be listed on the next day i.e. 21-11-2023 at 12:00 noon. The appellant on 21-11-2023 submitted that it can only deposit ₹ten lakh today. One more opportunity was granted to the appellant and was directed to deposit half of the pending license for the month of September, 2023 on that day itself i.e. 21-11-2023 by 03:00PM and the remaining half on the next day i.e. 22-11-2023 by 11:00AM. However the



appellant expressed its inability to deposit the concerned amount on both the dates.

5. I have heard the arguments of both the parties, perused the case record and gone through the case events. In reference with case in hand it would be pertinent to refer to condition No. **2.42 of the Annual Excise ANNOUNCEMENTS (year 2023-24):**

*“The annual license fee (as per bid/tender offered) shall be divided into twelve installments so that the entire license fee is cleared by 15 March of the financial year. The license fee payable for a particular month shall be deposited into the government treasury by the 7th day of the subsequent month failing which the concerned District In charge shall send the report to Zonal In-charge concerned within three days. The Zonal In-charge shall cancel the license of vend/unit within three days positively in case the licensee fails to deposit the monthly license fee and the advance amount deposited shall be forfeited.*

*However, if the licensee deposits monthly license fee, the cancellation proceedings in respect of defaulting unit/vend may be dropped by the Zonal In-charge by imposing a maximum penalty of Rs. 1, 00, 000/- and the licensee shall be allowed to continue the operations. The entire process to be concluded by the Collector In-charge within three days.”*

The date of payment of license fee for the month of September 2023 which was 7<sup>th</sup> of October, 2023 as per the Annual Excise ANNOUNCEMENTS for the year 2023-24 was deferred only till 7<sup>th</sup> November 2023 as per approval of the Government vide Endst. No. EXN-F (I)-1/2023 dated 25<sup>th</sup> September, 2023. However, from the perusal of record and as per admission of the fact by the appellant himself, balance license fee of ₹45, 85, 881/- for the month of September 2023 is still payable and was not paid by the appellant. Moreover, the license fee for the month of October 2023 is also due and the same was to be paid by 7<sup>th</sup> of November 2023.

The provisions of section 29 of the HP Excise Act, 2011, under which the licenses of the vends of the appellant w.r.t. Santoshgarh Unit have been cancelled, are as under:



*29. Power to cancel or suspend licenses etc.—Subject to such restrictions as the State Government may prescribe, the authority granting any lease, license, permit or pass under this Act, may cancel or suspend it—*

*(a) if it is transferred or sublet by the holder thereof without the permission of the said authority; or*

*(b) if any excise duty or countervailing duty or, other fee payable by the holder thereof is not duly paid; or*

*(c) in the event of any breach by the holder of such lease, license, permit or pass or by his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions of such license, permit or pass;*

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Thus, the appellant, by not depositing the license fee, as per terms and conditions of the license granted to him, has breached the provisions of the HP Excise Act, 2011 and conditions No. 2.42 of the Annual Excise ANNOUNCEMENTS, year 2023-24. Further, during the course of hearing of the case, the appellant, despite having being given opportunity to deposit the due fee has failed to deposit the defaulted sum, therefore, the impugned order passed by respondent No. 1 is legally valid having being passed in accordance with the provisions of the Act *ibid* and conditions of the ANNOUNCEMENTS for the year 2023-24.

In view of above, I do not find any merit in the appeal which is dismissed and the order dated 18-11-2023 passed by the respondent No. 1 is upheld.

6. The miscellaneous application also stands dismissed accordingly. The concerned parties be informed accordingly.



**Financial Commissioner (Excise)  
Himachal Pradesh**

Endst. No. DoST&E/FC(E)-Reader/2023/31666-70 Dated:22-11-2023

**Copy for information and further necessary action to:**

1. M/s Kanda Wines through Shri Arun Kumaro Son of Shri Ram, r/o village & P.O. Basdehra sub tehsil Mehatpur District Una, HP {Lic. Unit No. 3, Santoshgarh Units (Year 2023-24), District Una}.
2. Collector (Excise)-cum-Jt. Commissioner State Taxes & Excise, North Zone, Palampur, District Kangra, HP.
3. Dy. Commissioner State Taxes & Excise, District Una, HP.
4. Legal Cell, HQ.
- ✓ 5. *IT cell*

*W. Mehta*  
Reader

**ORDER**