

**BEFORE THE COMMISSIONER OF STATE TAXES &  
EXCISE - CUM - FINANCIAL COMMISSIONER (EXCISE)  
HIMACHAL PRADESH**

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

*Appeal No. 21/2024*

*Date of Institution: 23-08-2024*

*Date of Order: 21-05-2025*

**In the matter of:**

M/s Vaddy's

(A Unit of Yuuvdeep Ambitious Pvt. Ltd.),

L-4, L-5 (Year 2023-24) at Bhojpur,

Sundernagar, District Mandi (HP).

..... **Appellant**

**Vs.**

Joint Commissioner of State Taxes & Excise, North

Enforcement Zone, Palampur, District Kangra, HP.

..... **Respondent**

**Parties Represented by:**

1. S/Sh. Praveen Chauhan, Suneet Verma & Shubham Sood  
Learned Advocates for the Appellant.
2. Sh. Rakesh Rana, Deputy Director Legal (Legal-Cell, HQ)  
representative on behalf of the Respondent.

**ORDER**

1. This appeal filed under Section 68(2) of the Himachal Pradesh Excise Act, 2011, by the Appellant is against the order dated 27-06-2024, passed by the Collector (Excise)-cum-Joint Commissioner, State Taxes & Excise, Central Zone, Mandi, HP. Vide impugned order above, the Collector has imposed a demand of ₹ 2,57,704/- (**Rupees Two Lakh Fifty Seven Thousand Seven Hundred and Four only**) for violation of the provisions under the Himachal Pradesh Excise Act, 2011, HP Liquor License Rules, 1986 and



Condition No. 12(vii) of the Excise Announcements for the year 2023-24.

2. The briefs in the matter are that the Appellant is an L-4 and L-5 restaurant and bar licensee at Bhojpur, Sundernagar, District Mandi, Himachal Pradesh. An inspection of the Appellant premises was conducted on dated 29-03-2024, by the team of North Enforcement Zone (NEZ), Palampur, led by Sh. Suresh Thakur, ACST&E. During the inspection, following violations were found and reported to the Respondent:

- 1) 350mls of Black Dog Whisky, 130mls of Jacob Creek Wine, and 1950mls of Tuborg Strong beer was found in excess i.e. without Excise passes.
- 2) 300mls of Old Monk Rum, 3330mls of Blender Pride, and 10 bottles of Budweiser Magnum (650mls) Beer was found short from physical stock.
- 3) 3,00,090mls of IMFL/BII/BIO liquor, 1253 bottles (650mls) of Beer, and 2 bottles of Wine were found sold in excess (prior to inspection ) without any supporting Excise Passes by the licensee, after verifying it from the lifting and sales- cum -allocation report provided by the Cashier.
- 4) The Appellant/licensee was also found selling whisky in the form of bottles rather than the prescribed standard Peg system as was verified from the sales-cum-allocation report.
- 5) 258 empty bottles of IMFL/BIO/BII of different brands were found displayed over the sale counter without proper account thereof.

3. The above violations of the provisions under Section 43(b) & (d) of the Himachal Pradesh Excise Act, 2011, Rules 37(16) & (26) of the HP Liquor License Rules, 1986 and Condition No. 12(vii) of the HP Excise Announcements for the year 2023-24 by the Appellant were reported to the Zonal Collector. After hearing the appellant, the





Collector (Excise), CZ, Mandi, (HP) compounded the above violations for a sum of ₹ 2, 57, 704/-) (Penalty of ₹ 11,000/- u/s 66(1) of the Himachal Pradesh Excise Act, 2011, ₹ 80,284/- as License Fee and other levies on Beer and Wine, ₹1,15,420/- as Excise Duty, License fee and other levies on IMFL/BII/BIO Liquor and ₹ 50,000/- as penalty under provisions of Condition No. 12(vii) of the Excise Announcements for the year 2023-24). Aggrieved by the action of the Respondent and subsequent order by the Collector (Excise), CZ, Mandi, HP, the Appellant has preferred the present Appeal.

4. The Appellant submitted that the penalty imposed is excessive and based on misinterpretation of facts. The Appellant contends that it was not afforded an adequate opportunity of being heard and to present its case. The Appellant submitted that the persons, a bartender and a cashier, present during the inspection, were not equipped to represent the matter. The Appellant has also submitted that the inspection was conducted without prior notice. The Appellant further submitted that the cashier and the bartender had no knowledge of the liquor stock, as the same was not in their job profile. The Appellant pleaded that there was no variation in the liquor stock and the excess liquor found and reported by the inspecting team was in fact purchased from the nearest liquor licensee, therefore, the demand imposed is not justified.

5. The learned Advocate for the Appellant also submitted that the Collector (Excise), CZ, Mandi, HP has levied excise duty against the law, as Condition No. 12(vii) of the HP Excise Policy stipulates that in case any stock is found in excess, the same is required to be confiscated and will not be returned to the licensee. But, in the instant matter, pleaded the Appellant, the Collector (Excise) has levied duties, imposed penalties on the alleged excess stock instead of, as





per provisions of the Condition No. 12(vii) of the Policy, confiscating the same. The learned advocate for the Appellant also submitted that the Collector (Excise) has additionally imposed ₹ 1000/- as penalty under section 66(2) of the Act to waive of the temporary suspension of licensees (L-4 & L-5). This act of the Collector is contrary to the provisions of Condition No. 12(vii) of the Excise Policy vide which only ₹ 50,000/- as penalty is imposable on first offence by an L-4 & L-5 licensee. The learned Advocate pleaded that licenses becomes liable for cancellation on fourth offence only and therefore, invoking Section 66(2) of the HP Excise Act, 2011, in the present case, is against the spirit of Excise Policy. It is the argument of the Appellant that for the first offence a penalty of ₹50,000/- only was, therefore, required to be imposed alongwith confiscation of excess liquor.

6. Replying to the argument of the Appellant that due opportunity of being heard was not afforded, Sh. Rakesh Rana, Deputy Director Legal (Legal Cell, HQ) submitted that, the Notice was duly served upon the Appellant (Notice No. 1032 dated 10/04/2024) requiring Appellant appearance on 19-04-2024, before the Collector (Excise)-cum-Joint Commissioner of State Taxes & Excise, CZ, Mandi and show the cause for the contravention of aforementioned provisions of the Act, Rules and Policy. Replying to the argument of the Appellant that inspection was carried out without prior notice, the Counsel on behalf of the Respondent submitted that as per provisions of Section 8 (b) to 8 (e) of the H.P. Excise Act 2011, any notified Excise Officer may enter, inspect, examine and seize any liquor, any accounts and registers, at any time, any place, in which any liquor is kept for sale by any person holding a license under this Act.



7. The Learned Counsel on behalf of the Respondent also submitted that during the inspection of Appellant premises significant variations



in liquor stock were found and the Appellant had also not properly maintained Stock and Sale register. Moreover, the Appellant was found serving liquor in bottles rather than peg system. Thus, submitted the Learned Counsel on behalf of the Respondent, the Appellant had violated Rules 37(16) and 37(26) of the HP Liquor License Rules, 1986, Section 43(b) & 43(d) of the Himachal Pradesh Excise Act, 2011 alongwith Condition No. 12(vii) of the Excise Policy for the year 2023-24. Hence, the demand of ₹2, 57, 704/- has rightly been imposed for above violations of the provisions of the Act, Rule and Excise Policy for the year.

### Findings:-

8. I have heard both the parties and perused the relevant record minutely and the findings, on the issues and grievances raised by the Appellant, in the matter are as under:
  - I. The first contention of the Appellant is that adequate opportunity of being heard in the case was not afforded to it, as the persons, a bartender, a cashier present during the inspection and case hearing, before the Collector (Excise), were not equipped to represent the matter. This argument of the Appellant is not tenable as during the course of case hearing before the Collector (Excise) these persons have argued the case for the Appellant. The notice to appear before the Collector (Excise), CZ-Mandi, HP was issued to the Appellant and not to the bartender and cashier. The Appellant was at liberty to appear in person or through an expert/Counsel but the appellant preferred the Bartender & Cashier to represent its case before the Collector (Excise). Therefore, the pleadings of the Appellant that adequate





opportunity of being heard was not afforded and the persons present on its behalf to represent its case were not competent are not on merits and are liable to be set aside and are accordingly set aside.

- II. Another argument of the Appellant that the inspection was conducted without prior notice is also not tenable as the provisions under Section 8 of the Himachal Pradesh Excise Act, 2011 provide that any liquor premises can be inspected at any time, place. Relevant provisions under Section 8 of the Act, are as under:

**8. Power to enter and inspect.**—Any Excise Officer, not below such rank as the State Government may, by notification specify,—

(a) enter and inspect, at any time by day or by night, any place in which any licensed manufacturer carries on the manufacture of or stores any liquor;

(b) enter and inspect, at any time, any place in which any liquor is kept for sale by any person holding a license under this Act;

(c) examine any accounts and registers, test, measure or weigh any materials, stills, utensils, implements, apparatus or testing instruments or liquor found in that place;

(d) seize any accounts, register, measure, weights or testing instruments which he has reason to believe to be false or incorrect; and

(e) seize any liquor which he has reasons to believe to be unaccounted for in the accounts and registers maintained by the licensee.

So, in view of the above provisions of the Act, there was no need of any prior notice before inspection of any liquor premises. Therefore, the plea of the Appellant being contrary to the prescribed law is liable to be set aside and is accordingly set aside.



- III. The argument of the Appellant that the cashier and bartender had no knowledge of the stock, being not within their job profile, is not worth consideration on merits as the



Appellant is bound by the provisions of the Act, Rules and Policy to maintain up to date and correct account of the stock of the liquor. As per provisions of Section 57 of the Himachal Pradesh Excise Act, 2011, the liability for the offences committed by the employee or agent is on the employer:

**57. Liability of employer for offence committed by the employee or agent.**—The holder of a license, permit or pass under this Act as well as the actual offender, shall be liable to punishment for any offence punishable under sections 26, 39, 40, 43 or 44 committed by any person in his employ or acting on his behalf as if he had himself committed the same, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

The Appellant, in the instant case, has failed to take due and reasonable precautions to prevent the commission of above noted violations. Therefore, for the lack of merit and supporting material, the above argument of the appellant is rejected.

- IV. The Appellant has pleaded that the excess reported liquor was procured from local liquor licensees. This argument and plea of the Appellant is not acceptable, as the Appellant could not produce any document to establish the source of excess reported stock. For the want of supporting documents in this regard, the argument of the Appellant is invalid, and is liable to be rejected, and is accordingly rejected.



V. The Appellant has also pleaded that the Collector (Excise), CZ Mandi has levied excise levies against the law and in violation of Condition No. 12(vii) of the HP Excise Policy as



the policy provision vide condition above provides that any excess stock is to be confiscated and shall not be returned to the licensee. However, from the perusal of the case record and order of the Collector it is clear that part of the excess stock stood exhausted by the Appellant and such exhausted stock could not have been confiscated. However, the excess liquor stock, which was physically found in the premises, has been ordered to be confiscated by the Collector (Excise), CZ, Mandi, HP. Therefore, the excise levies have rightly been charged from the Appellant and penalty of ₹50,000/- has rightly been imposed for violation of the provisions of Section 43(b) and 43 (d) of the Himachal Pradesh Excise Act, 2011.

VI. The Appellant has pleaded that as per the provisions of Conditions No. 12(vii) of the Policy, license becomes liable for cancellation on fourth offence only. The plea of the Appellant is not worth consideration as Condition No. 12(vii), pertains only to a case where violation on account of excess stock is found. In the present case, there are other violations of the provisions of the Act, Rules and Policy, as well, viz:

i) The Stock and Sale register has not been maintained up to date which is a violation of Rule 37(16) of the HP Liquor License Rule, 1986:

**37(16):** Every licensee shall maintain the register for the class of business carried on by him and on the expiry of his license shall make them over to the Excise Officer-in-Charge of the district or some other Excise Officer empowered by the latter in this behalf under a valid receipt. The licensee shall submit all prescribed returns punctually and maintain true accounts of transaction from day to day in ink. it shall enter all figures in English numerals and other particulars in English or Hindi





characters, unless the Collector concerned, by special order noted on the license, permits the use of other numerals or characters.

- ii) The Stock and Sale register has not been maintained properly.
- iii) The Appellant has stored empty bottles of liquor in the licensed premises.
- iv) Stock of liquor has been found less in respect of certain brands of liquor.
- v) IMFL was being served in bottles rather than the prescribed peg system, which is in violations of the Rule 37(26) of the HP Liquor License Rule, 1986.

**37(26).** "No sale of liquor for consumption on the licensed premises shall be made by any measure other than standard stamped measure as approved by the Collector.

**Note:** -- A peg will be construed to mean 60ml while half a peg 30ml."

The above reported violations are not covered under Condition No. 12 of the HP Excise Policy for the year 2023-24 and only penalty for excess stock is prescribed vide Condition No. 12 (vii) of the Policy:

**12. General provisions regarding penalties for various offences:-**

- vii). The Zonal Collector besides confiscating the liquor shall compound the cases by levying penalty on the Bar owner of Rs. 50,000/- for the first offence, penalty of Rs.75,000/- for the second offence, penalty of Rs. 1,00,000/- for the third offence. The license shall be cancelled on 4th such offence. The confiscated liquor shall not be returned to the licensee and shall be disposed of as per the procedure prescribed under the H.P. Excise Act 2011 and Rules.



Thus, the license of the Appellant had become liable for cancellation on account of all other violations except the excess stock reported and the Collector (Excise), CZ, Mandi, rightly initiated penal



provisions under Section 66(2) of the Act and the order being within the provisions of the Act is legal and is upheld.

9. In view of the discussion above, none of the arguments adduced by the Appellant are sustainable and the demand levied on account of levies, duties and penalty under the enumerated provisions of the Act, Rules and Policy is upheld. The Appeal, as per discussion above, is accordingly dismissed, and the order dated 27-06-2024, imposing a penalty of ₹ 2, 57, 704/- is upheld.

Let the copy of this order be supplied to all concerned. File after completion be consigned to the record room.



Announced on 21<sup>st</sup> day of May, 2025.

**Financial Commissioner (Excise)  
Himachal Pradesh**

**Endst. No.:** EXN/CST&E-FC(E)/Reader-2025/-13315-21

**Dated:** 23-05-2025

Copy forwarded for information to:

1. M/s Vaddy's (A unit of Yuuvdeep Ambitious Pvt. Ltd.) L-4 and L-5 Licensee, Bhojpur, Sundernagar, District Mandi, HP- 175019.
2. Collector -cum- Joint. Commissioner State Taxes & Excise, CZ Mandi, District Mandi, HP.
3. Joint. Commissioner of State Taxes & Excise, North Enforcement Zone, Palampur, HP.
4. Dy. Commissioner of State Taxes & Excise, Mandi, HP.
5. Legal Cell, HQ.
- ✓ 6. IT Cell, HQ.
7. Guard file.

**Reader**