

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

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

Appeal No.: 13/2025
Date of Institution: 08-10-2025
Date of Order: 17-12-2025

In the matter of:

M/s Nardeep Singh, Licensee of L-14 Vend,
Tihri Road, Amb Pathiar, Unit No. 40,
District Kangra, Himachal Pradesh **Appellant**

Vs.

Deputy Commissioner of State Taxes & Excise, Kangra at
Dharamshala, HP & Ors. **Respondents**

Parties Represented by:

1. Sh. Kulwant Singh Gill, Learned Advocate for the Appellant.
2. Sh. Rakesh Rana, Deputy Director (Legal), O/o CST&E, HQ, on behalf of the Respondents.

ORDER

(Appeal under Section 68(2) of the HP Excise Act, 2011)

1. The present Appeal preferred under Section 68 of the Himachal Pradesh Excise Act, 2011, is against the Notice dated 02-07-2025, issued by the Dy. Commissioner of State Taxes & Excise, Kangra at Dharamshala, vide which a demand of ₹8,94,647/- has been raised on account of pending License fee for the month of June 2025 in respect of Unit No. 40 being run by the Appellant.
2. The briefs in the matter are that the Appellant was operating an L-14 vend situated at Tihri Road, Amb Pathiar. Citing very low sales at



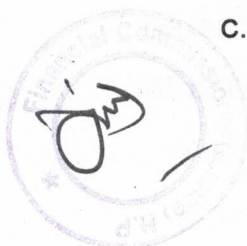
the said location, the Appellant requested for shifting of the vend to Tihri Road, Amb Pathiar Chowk. The Department, after due verification of the new location, the laid criteria and other prescribed norms, approved the shifting of the vend. However, impending law and order problem the Sub-Divisional Magistrate, Jawalamukhi, District Kangra, vide order dated 19-05-2025, suspended the operation of the said vend indefinitely with immediate effect. Feeling aggrieved, the Licensee filed CWP No. 8833 of 2025 and Cr.MMO No. 504 of 2025 before the Hon'ble High Court of Himachal Pradesh. The Hon'ble High Court, vide order dated 10-09-2025, set aside the Sub Divisional Magistrate, Jawalamukhi, order dated 19-05-2025. However, during the intervening period (19-05-2025 to 19-09-2025), the L-14 vend owing to the SDM's Jawalamukhi orders, remained closed. The Appellant claiming loss of revenue on account of closure of the vend defaulted in payment of due monthly license fee. The Deputy Commissioner of State Taxes & Excise, District Kangra, on account of short payment of license fees for the month of June 2025 in respect of Unit No. 40, Jawalaji, District Kangra, comprising L-14 Tihri road Chowk as one of vends under the Unit, raised a demand of ₹8,94,647/-, and, accordingly, issued a notice, dated 02-07-2025, against the Appellant. Felt aggrieved by the demand notice above, the Appellant has preferred the present Appeal.

3. The Learned Counsel for the Appellant submitted that the Appellant suffered severe financial losses due to the unlawful closure of the vend following the Sub Divisional Magistrate (SDM's) order dated 19.05.2025; the impugned order were subsequently quashed by the Hon'ble High Court of HP. It was further contended that since the vend remained closed for reasons beyond the control of the



Appellant/licensee, the recovery of license fee for the said period was unjustified. Accordingly, the Appellant pleads that the impugned notice dated 02-07-2025 may be withdrawn/set aside.

4. Sh. Rakesh Rana, Deputy Director (Legal), on behalf of the Respondents, submitted that the Appeal before the Financial Commissioner, as per provisions of the Section 68(2) of the Himachal Pradesh Excise Act, 2011 is fileable only against the orders of the Collector. In the present case, the Collector has not passed any order, therefore, the present appeal is not maintainable. Moreover, the Appeal has been filed against a *notice* issued by the Dy. CST&E, District Kangra at Dharamshala and not against any final or speaking order of the Authority; and the Appeal above was fileable before the Collector of the concerned Zone.
5. However, arguing the matter on merits the Learned Counsel for the Department submitted as under:
 - a. The notice issued by the Deputy Commissioner of State Taxes & Excise, Kangra, is legally valid and in accordance with the relevant provisions of Policy for the year 2025-26.
 - b. No injustice by this department has been done to the Appellant, as the closure of the vend in question was ordered by the Sub-Divisional Magistrate, Jawalamukhi, in view of the impending law and order problem.
 - c. The notice was issued for the recovery of license fee amounting to ₹8,94,647/- pertained to the whole Unit, and not merely in respect of the vend closed by the SDM. Moreover, the vend was ordered to be closed on 19.05.2025, implying that it remained



operational for the first 18 days of the month of May, 2025, the Appellant was bound to deposit the license fee at least of 18 days for which the vend remained open.

- d. The annual license fee for the vend in question was ₹32,59,297/-, and that, as per the payment schedule under the Excise Policy for the year 2025-26, the license fee for the month of May was payable @ 9%, which amounting to ₹2,93,337/-. Since the vend functioned only for 18 days in May, 2025, the proportionate fee works out to ₹1, 70,334/-. For the month of June, 2025, the applicable rate was 12%, amounting to ₹3, 91,115/-. Therefore, the total payable license fee for the period 19.05.2025 to 30.06.2025 in respect of the L-14 vend comes to ₹5, 14,118/- only and the default of the Appellant is for ₹ 8, 94,647/-.
- e. The notice for recovery of ₹8,94,647/- does not pertain solely to the vend in question, and hence, the Appellant's contentions that he has suffered loss in respect of L-14, Thiri Road, Amb Pathiyar Chowk, Jawalaji is not based on facts as the payable fees for the period 19-05-2025 to 30-06-2025, comes to ₹ 5,14,118/- only but the Appellant is liable to pay license fee of ₹ 8,94,647/-.
- f. There is no provision for remission or exemption of license fee under the Himachal Pradesh Excise Policy for the year 2025-26. On the contrary, Condition No. 10.1 of the said Policy explicitly provides that no compensation shall be due for any closure under Section 54 of the Punjab Excise Act, 1914, as applied to



Himachal Pradesh by virtue of Section 14 of the Himachal Pradesh Excise Act, 2011.

g. The recovery notice was issued in accordance with law and does not warrant withdrawal, as there exists no provision for exemption of license fee on account of temporary closure of a vend. A license fee of ₹2,95,821/- for the month of September, 2025, and ₹1,08,12,000/- for the month of October, 2025, is still outstanding against the Appellant. Hence, as the grounds of the Appeal and arguments of the Appellant lack merit and justification hence the Appeal may be dismissed.

6. I have carefully heard both the parties in the matter and have perused the relevant case record, arguments submitted by both the parties. The following issues are to be discussed and decided in the matter:

A. Whether the Appeal is maintainable before this forum?

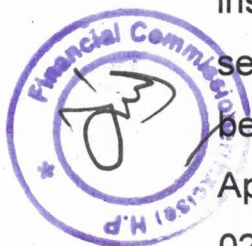
B. Whether the impugned Notice dated 02-07-2025 is valid and sustainable?

C. Whether any relief is admissible to the Appellant?

D. Final Order.

A. Whether the Appeal is maintainable before this forum?

Under Section 68 (1) of the Himachal Pradesh Excise Act, 2011, an appeal against any order passed by an Excise Officer lies, in the first instance, before the Collector of the Zone, and only thereafter, a second appeal under Section 68(2) of the Act, may be preferred before the Financial Commissioner (Excise). In the present case, the Appellant has directly approached this forum against the notice dated 02.07.2025 issued by the Deputy Commissioner of State Taxes &



Excise, Kangra at Dharamshala, without first availing the remedy of Appeal before the Collector as provided under Section 68(2) of the Act. On this ground alone, the appeal suffers from a procedural defect of maintainability and is liable to be rejected on the grounds of non-maintainability.

However, in the interest of justice and keeping in view the revenue of the Government involved, dismissing the Appeal on non-maintainability will only delay the matter hence the same is being disposed on the merits of the case.

B. Whether the impugned Notice dated 02-07-2025 is valid and sustainable ?

The impugned recovery notice dated 02.07.2025 has been issued by the Respondent Authority i.e. Dy. CST&E Kangra as the Appellant had failed to pay the due monthly license fees in accordance with the stipulated time period given in the HP Excise Policy for the year 2025-26. It is pertinent to note that the Appellant entered into the liquor contract with open eyes and it is obligatory on his part to abide by the provisions of the HP Excise Act, 2011 applicable Rules, Orders and the provisions of the Policy for the relevant year (2025-26). As the Appellant has failed to deposit the fee with the prescribed time frame, therefore, the notice of outstanding fees issued by the Dy. CST&E Kangra at Dharamshala is as per Condition No. 2.42 of the HP Excise Policy for the year 2025-26, the same therefore, being legal is sustainable and ordered accordingly.

7. The SDM Jawalamukhi, in his order dated 19-05-2025, had ordered the suspension of the vend with immediate effect on account of impending law and order problem, and to prevent any public



nuisance, and protect larger public interest. But, the SDM, as also has been observed in its order by the Hon'ble High Court of HP, has exceeded the scope of powers vested under Section 14 of the Himachal Pradesh Excise Act, 2011, by directing the suspension of the vend for a period beyond twenty-four hours without informing the Zonal Collector and the Financial Commissioner. Such power to close the vend as per provision under Section 14 of the Act is vested with District Magistrate only. In situations where the SDM apprehends disturbance or nuisance in or around a liquor vend, the proper course of action was to inform the Excise Department in writing, enabling the competent authority to take appropriate action in accordance with law, rather than ordering indefinite suspension of the vend.

C. Whether any relief is admissible to the Appellant?

For the contention raised by the Appellant that the excise dues/License fee for the said intervening period should be remitted, and the notice be withdrawn, Condition No. 10.1 of the Policy bars any compensation for any closure under section 54 of the Punjab Excise Act, 1914 (as applied to Himachal Pradesh)/ under section 14 of the H.P. Excise Act, 2011. There is no enabling provision for exemption, hence, the demand raised by the Department cannot be remitted. The Condition no. 10.1 of the HP Excise Policy for the year 2025-26 is as under:

Condition No. 10.1 " no compensation shall be due of r any closure under Section 54 of the Punjab Excise Act, 1914 (as applied to Himachal Pradesh under Section 14 of the Himachal Pradesh Excise Act,2011)".



Section 14 of the HP Excise Act, 2011 reads as under:

14. Power to close liquor vends.—*The Financial Commissioner shall prescribe the day(s) on which any liquor vend shall remain closed for*

observance of the dry days approved by the State Government or the Election Commission of India or the State Election Commission:

Provided that if the District Magistrate receives an information that a riot or unlawful assembly has occurred or is likely to occur in the vicinity of a liquor vend, he may, subject to the reasons to be recorded in writing, by order, require the licensee of such a liquor vend to keep the vend closed at such time as may be specified in such order:

Provided further that the order passed under the preceding proviso shall, at one time, remain in force for not more than twenty-four hours from the time, when it is made:

Provided further that the District Magistrate shall inform the Financial Commissioner and the Collector concerned of the order passed by him as soon as such order is made.

In view of above provisions, the Appellant has no legal backing in seeking relief from the Dy. CST&E Kangra. Hence, no relief is admissible to the Appellant.

D.Final Order:

In view of the discussion made hereinabove, this forum finds no illegality, irregularity, or infirmity in the impugned notice dated 02.07.2025 issued by the Deputy Commissioner of State Taxes & Excise, Kangra at Dharamshala. The appeal is, therefore, devoid of merit and is accordingly rejected. The impugned notice dated 02.07.2025 is hereby upheld.

8. In arriving at this conclusion, this forum is guided by the settled principle laid down by the *Hon'ble Supreme Court in State of M.P. v. Nandlal Jaiswal, (1986) 4 SCC 566*, wherein it was held that no person has a fundamental right to trade in liquor and such trade remains subject to the regulatory power of the State in public interest. Likewise, in *Maneka Gandhi v. Union of India, (1978) 1 SCC 248*, the



Court recognized that administrative action must be just, fair and reasonable, but may legitimately curtail individual rights when warranted by compelling public interest and law-and-order considerations.

9. Accordingly, as there exists no provision under the Himachal Pradesh Excise Policy, 2025-26 for grant of remission, compensation, or refund of license fee on account of closure of vend by the District Administration, the Appeal lacking in merit is rejected and the Appellant is directed to deposit the pending license fee forthwith. The Department of State Taxes & Excise cannot be held responsible for the loss, if any, occurred to the licensee due to such unlawful order of closure of vend passed by third party. The Appellant is at liberty to take up the matter with any other appropriate forum as it was the SDM Jawalamukhi, who had ordered the closure of the vend in violation of the provisos under Section 14 of the Act.

In view of above discussion and findings the Appeal filed before this forum stands rejected for the want of merit and the impugned notice dated 02.07.2025 being legal and within the provisions of the Excise Policy, is affirmed.

Let a copy of this order be supplied to all concerned. After due completion, the case file be consigned to the record room.

Announced today, the 17th day of December, 2025.



Financial Commissioner (Excise)
Himachal Pradesh

32095-100

Endst. No.: EXN/Fin.Comm.(Excise)/Reader-2025/

Dated: 17-12-2025

Copy forwarded for information and further necessary action:

1. M/s Nardeep Singh, S/o Sh. Sujan Singh, R/o Village Tillu, Tehsil, Nadaun, District Hamirpur, HP.
2. Collector (Excise)-cum-Joint Commissioner State Taxes & Excise, NZ, Palampur, HP.
3. Dy. Commissioner State Taxes & Excise, District Kangra at Dharamshala, HP.
4. Legal Cell, HQ.
5. IT Cell, HQ.
6. Guard file.

Financial Commissioner (Excise)
Himachal Pradesh

