IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.17267 of 2025
Reserved on:17.09.2026
Date of Decision: 29.09.2026
Date of uploading: 30.09.2026

M/s K.M. Distillery Pvt. Ltd.

…….Petitioner

Versus

State of Himachal Pradesh & Ors. … Respondents

Coram:
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? [1] Yes.

For the Petitioner: Mr. Arvind Sharma, Senior Advocate with Ms. Kiran Sharma and Mr. Digvijay Singh Thakur, Advocates.

For the Respondents: Mr. Anup Rattan, Advocate General with Mr. Rajan Kahol, Mr. Vishal Panwar, Additional Advocates General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

Sandeep Sharma, Judge:

Being aggrieved and dissatisfied with order dated 14.07.2025 passed by the Financial Commissioner (Excise), Himachal Pradesh (Annexure P-10), in exercise of powers under Section 29 of the Himachal Pradesh Excise Act, 2011 (hereinafter referred to as the ***'Act'***), for alleged breach of Sections 29(b) and (c) of the Act, whereby BWH-2, L-13C, L-15 and L-16 licences issued in

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[1] *Whether the reporters of the local papers may be allowed to see the judgment?*

favour of the petitioner came to be cancelled, petitioner, which is a company registered in the name and style of M/s K.M. Distillery Private Limited, having its manufacturing unit at Plot No. 25, Sector-5, Parwanoo, District Solan, has approached this Court in the instant proceedings filed under Article 226 of the Constitution of India, praying therein for the following reliefs:

> *"a. That a writ in the nature of mandamus may very kindly be issued thereby quashing and setting aside order dated 14.07.2025 (Annexure P-8).*
>
> *b. That a writ in the nature of mandamus may very kindly be issued thereby directing respondents to renew the licence in Form BWH-2 of the petitioner for the year 2025-26 and also restore L-13C, L-15 and L-16 licences of the petitioner."*

2. Quintessential facts relevant for adjudication of the case at hand, as emerge from the pleadings adduced on record by the respective parties, are that the petitioner-company named hereinabove was granted/issued licence, duly renewed till 2024-2025, in Form BWH-2 for running a bottling plant and also three other subsidiary licences in Form L-13C, L-15 and L-16, by respondent Nos. 2 and 3, respectively, in their capacity as Financial Commissioner (Excise) and Collector (Excise), respectively, for manufacture and sale of bottled country liquor. After expiry of the aforesaid period, petitioner had also applied to the competent

authorities for renewal of the aforesaid licences for the year 2025-2026 after paying the required fee for each licence.

3. On 02.06.2025, a team constituted under the orders of respondent No. 2, comprising of seven officers of the Excise and Taxation Department under the chairmanship of Mr. Ujjwal Singh Rana, Additional Commissioner, State Taxes and Excise, allegedly on the basis of some credible information, at 11:45 AM, carried out a surprise inspection at the licensed premises owned by the petitioner situated at Plot No. 25, Sector-5, Parwanoo and found the following quantities of holograms (for sealing) and holograms (for track and trace system) in the presence of Mr. Madan Lal and Mr. Jeetan Kumar:

> "a. Hologram (for sale in Haryana) Qts & Nips (total=48272)
>
> b. Track and Trace Hologram/stickers (total=42,387)
>
> c. Track and Trace Hologram/Stickers mentioning Frost Falcon Distillery (total=11640)
>
> d. Label 750 ml/Falcon Santra for sale in Haryana Sr.890800080045 (total 670)."

4. Besides above, raiding team, after having reached the office of the Assistant State Taxes and Excise Officer in charge (hereinafter "***ASTEO***"), directed him to open the 'REVENUE LOCK' of the bottling hall and allegedly found the following quantities of spirit/liquor in various vats and other irregularities:

"1. Quantity of ENA stored in SSV-II was found less by 9354.4 BLS, whereas, as per entry made in D-14, there should be 11,635.8 BL of ENA in SSV-II.

2. While measuring blending quantity, it was detected that quantity of Himachal Orange blend of country liquor (Batch No. 33 dated 25.3.2025) was found less by 149.02 BLS and quantity entered in D-14 register was 1468.0 BLS and it was found 1319.00 BLS.

3. During the process of inspection, the team allegedly found that 64 BLS less quantity of Himachal Orange blend of CL (Batch No. 34 dated 26.3.2025) was present in BV-2.

4. The team allegedly detected quantity of liquor in BV-5 measuring 29,729 BLS; however, allegedly such quantity was not entered in the statutory register, i.e. D-14.

5. CCTV installed for keeping strict vigil on day-to-day operation of bottling plant were found to be inoperative.

6. Allegedly, the team detected an empty pint of Race7 Whisky (for sale in Haryana), which was labelled showing the manufacturing unit M/s Frost Falcon Distillery Limited, Village Jorhi, District Sonipat, Haryana, on conveyor belt No. 2."

5. As per inspection report, Mr. Birbal Prakash, ASTEO in charge posted at the bottling plant, was present and, besides him, several other labourers/employees were present in the factory premises. The inspection team also found the following shortcomings on the part of the above-named Assistant State Taxes and Excise Officer deployed by the Excise and Taxation Department in the bottling plant of the petitioner:

Sr. No.	Type of spirit/blend	Name of VAT	Dip in cm	Physical stock (in BLS)	Stock as per record (in BLS)	Difference, if any (in BLS)
1.	ENA	SSV-2	32.8	2281.4	11635.8	(-)9354.4
2.	Blend Himachal Orange B. No.33	BV-1	29.4	1319.0	1468.02	(-)49.02
3.	Blend Himachal Orange B. No. 34	BV-2	249.0	11171	11235	(-)64
4.	Coloured liquid substance	BV-5	293.0	20729	0	(+)20729

6. Copy of the inspection report is placed on record as Annexure P-2. Inspection team also recorded the statements of persons namely Jeetan Kumar and Pura Ram with regard to alleged transportation of liquor from M/s K.M. Distillery Private Limited on 28.04.2025. In the afore backdrop and on the basis of the inspection report submitted by the inspection team of the Excise and Taxation Department, a notice under Section 29(b) and (c) of the Act came to be issued by respondent No. 1 to the petitioner, wherein, besides the irregularities mentioned in the inspection report, it was also alleged that as per statement of Mr. Pura Ram Sharma, who claimed himself to be an employee, petitioner-company illegally exported 800 cases of country liquor through a truck for sale in Haryana on 28.04.2025. It was also stated in the notice that an FIR No. 63 dated 03.06.2025 under Section 173 of BNSS, 2023, had been registered at Police

Station Parwanoo under Sections 318(4), 336(3) and 340(2) of BNS, 2023 and Section 39(2)(a) of the Himachal Pradesh Excise Act, 2011. Through aforesaid notice, petitioner came to be directed to show cause as to why action be not taken against it (Annexure P-3).

7. Petitioner submitted reply to the notice (Annexure P-5), raising therein the following points:

> I. Inspection conducted in the absence of the Directors of the Company.
>
> II. Conduct of inspection team is doubtful as premises were sealed by revenue lock and no production was undertaken since 1.4.2025.
>
> III. No electricity consumption for the period from 1.4.2025 to 2.6.2025.
>
> IV. Shri Pura Ram Sharma was not present on 28.04.2025 in the factory premises as he was attending the marriage of his nephew (Bhanja) in Rajasthan.
>
> V. Alleged material recovered from factory premises was implanted.
>
> VI. Jeetan Kumar and Madan Lal are not employees of the petitioner and they have sworn affidavits that no recovery was made in their presence.
>
> VII. So far as non-working of CCTV installed in the premises is concerned, the factory was not in production since 31.3.2025 and access to cameras was with the officials of the Excise and Taxation Department."

8. Along with the aforesaid reply, petitioner also submitted certain documents, i.e.:

a) Extract of Attendance Register from November 2024 till April 2025.

b) Electricity bills.

c) Affidavit of Madan Lal.

d) Affidavit of Jeetan Kumar.

e) Marriage card and photographs of the marriage of the son of sister (nephew) of Shri Puru Ram Sharma in Rajasthan."

9. Excise Department, through Collector, filed rejoinder to the reply filed by the petitioner (Annexure P-6) and Deputy Commissioner, State Taxes and Excise, also filed rebuttal to the reply (Annexure P-7).

10. In nutshell, it came to be submitted at the behest of the petitioner that the inspection team responsible for conducting raid/inspection on 02.06.2025 was not a legally constituted team as per State notification dated 26.04.2025. Petitioner-company also set up a case that petitioner unit was not in operation since 01.04.2025 as the unit was locked with revenue seal/paper seal issued by Financial Commissioner/Commissioner (Excise) on 31.03.2026 and the said revenue seal/paper seal was found intact on 02.06.2025 by the inspecting/raiding team. Petitioner also submitted that false evidence/witnesses had been planted by the inspecting/raiding team. To substantiate its aforesaid plea, it came to be submitted at the behest of the petitioner-company that persons namely Pura Ram,

Jeetan Kumar and Madan Lal, employees of M/s K.M. Distillery, have not supported the case of the respondents and filed their affidavits that nothing was recovered in their presence. Petitioner also submitted that Jeetan Kumar and Madan Lal are not the employees of petitioner M/s K.M. Distillery. Besides above, petitioner also attempted to set up a defence that Pura Ram was not at Parwanoo on 28.04.2025 when the allegation of 800 cases of liquor being transported for sale in Haryana was made. While producing on record extracts of the attendance register and salary register of the petitioner, petitioner-company also set up a case that Jeetan Kumar and Madan Lal are not employees nor working in the petitioner unit.

11. Besides above, petitioner also set up a case that the alleged head of inspection, i.e. Additional Commissioner, State Taxes and Excise, posted at headquarters, was neither Collector (Excise) nor he had been authorized by the Collector to carry out inspection. While referring to Rule 9.12 of Punjab Distillery Rules as applicable to the State of Himachal Pradesh as well as applicable to the bottling plants by virtue of Rules 43 and 55 of H.P. Bonded Warehouse Rules, 1987, petitioner submitted that inspection can be carried out by the Collector himself or by an officer authorized by the Collector, but since Additional Commissioner, State Taxes and Excise, was not

authorized by the Collector, the raid, if any, conducted by the aforesaid authority is vitiated.

12. Financial Commissioner, having taken note of the aforesaid defence/reply filed by the petitioner, proceeded to pass impugned order dated 14.07.2025 (Annexure P-10), wherein he rejected all the contentions raised at the behest of petitioner-company and ordered cancellation of licences held by the petitioner in Form BWH-2, L-13C, L-15 and L-16. In afore background, petitioner has approached this Court in the instant proceedings, praying therein for the reliefs, as have been reproduced hereinabove.

13. I have heard learned counsel for the parties and gone through the records of the case.

14. Precisely, the grouse of the petitioner, as has been highlighted in the grounds of petition and further canvassed by Mr. Arvind Sharma, learned Senior Counsel, duly assisted by Ms. Kiran Sharma, learned counsel representing the petitioner, is that Financial Commissioner (Excise), Himachal Pradesh, while passing impugned order, failed to take note of submissions/contentions recorded in the reply to the show cause notice submitted by the petitioner. Since Mr. Sharma, learned Senior Counsel, has made submissions with regard to the grounds raised in the reply to the show-cause notice, which have already been noted in the earlier part of the judgment, this Court

sees no necessity to take note of the same again for the sake of brevity. However, one ground/submission urged by Mr. Arvind Sharma, learned Senior Counsel, in addition to the submissions/contentions raised through reply to show cause notice, as stated hereinabove, is that Financial Commissioner/Commissioner, while passing impugned order, has not acted in a fair manner. He submitted that since inspecting/raiding team was constituted by aforesaid authority on 31.05.2025 (Annexure R-2/1) and after receipt of report of inspecting team, notice was also sent by aforesaid authority (Annexure P-3), there was no occasion, if any, for the afore authority to adjudicate the dispute. In nutshell, he submitted that Commissioner (Excise) could not be a judge of his own cause and as such, order impugned in the instant proceedings, being passed by the aforesaid authority, is not sustainable in the eye of law.

15. To the contrary, Mr. Anup Rattan, learned Advocate General, duly assisted by Mr. Rajan Kahol, learned Additional Advocate General, while supporting the impugned order passed by Financial Commissioner (Excise), submitted that there is no illegality or infirmity in the same and as such, no interference is called for. While making this Court peruse the impugned order passed by Financial Commissioner, Mr. Anup Rattan, learned Advocate General, attempted to persuade this Court to agree with his contention that all

the defences/contentions raised by the petitioner were duly met by the aforesaid authority and there is no reason to interfere with the impugned order.

16. Since petitioner herein has specifically raised an issue with regard to non-adherence of Notification dated 26.04.2025 issued by Government of Himachal Pradesh, Department of State Taxes and Excise, with regard to constitution of inspection team, this Court finds it apt to deal with the aforesaid issue at the first instance.

17. Mr. Arvind Sharma, learned Senior Counsel representing the petitioner, submitted that committee so constituted vide order dated 31.05.2025 (Annexure R-2/5) was not in accordance with the mandate of the Himachal Pradesh Excise Act, 2011 and the notification issued thereunder.

18. Before ascertaining the correctness of the aforesaid submission made at the behest of the petitioner, it would be apt to take note of certain relevant provisions of Himachal Pradesh Excise Act, 2011, as interpreted in judgment rendered in CWP No.16382 of 2025, titled as ***M/s Tiloksons Brewery & Distillery, Kala Amb, District Sirmour, H.P. Vs. State of Himachal Pradesh & Ors***.:

> *"5. Financial Commissioner and Collector.-*
> *(1) The State Government may, by notification, appoint an Excise and Taxation Commissioner who shall exercise all the powers of Financial Commissioner, and subject to the control of the State Government, the general superintendence and*

administration of all matters relating to excise shall vest in him.

(2) The State Government may, by notification, appoint as many Collectors as it may deem fit, to discharge in any specified area the functions of the Collector under this Act and the Collector shall, subject to the control of the Financial Commissioner, control all other Excise Officers within his jurisdiction.

(3) The jurisdiction of the Financial Commissioner shall extend to the whole State and the jurisdiction of Collectors shall extend to the areas of the State in which they are for the time being employed.

6. Other classes of Excise Officers and their powers and jurisdiction.-

(1) There shall be such other classes of Excise Officers as the State Government may, by notification, declare and it may appoint as many persons as it deems fit to be the Excise Officers of these classes.

(2) The State Government may, by notification, invest in any person, not being an Excise Officer, with powers to perform all or any of the functions of an Excise Officer, under this Act, and such person shall in the exercise of these functions be deemed to be an Excise Officer.

(3) The State Government shall, by notification, declare the powers to be exercised under this Act by the Excise Officer of each class.

(4) The jurisdiction of the Excise Officers shall, unless the State Government otherwise directs, extend to the districts in which they are for the time being employed.

***7.** Persons appointed under this Act to be public servants.- All persons appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.*

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.

9. Power to investigate.-

(1) The State Government may, by notification, invest any Excise Officer, with power to investigate any offence punishable under this Act, committed within the limits of the area in which the officer exercises jurisdiction.

(2) Every officer so empowered may within those limits 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.

10. Powers of Excise Officer to search, seize etc.-

(1) Whenever any Excise Officer not below such rank as the State Government may, by notification, specify has reason to believe that an offence punishable under this Act, has been, is

being, or is likely to be, committed by any person, in any place, and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, at any time, by day or night, enter and search such place.

(2) Any Excise Officer specified in sub-section (1) may seize anything found in such place which he has reason to believe to be liable to confiscation under this Act, and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid."

Section 6 of the Himachal Pradesh Excise Act, 2011 was amended as under by the Himachal Pradesh Excise (Amendment) Act, 2024:- "6. Other classes of Excise Officers and their powers and jurisdiction. – (1) There shall be the following classes of officers within their respective jurisdictions:-

(i) an officer not below the rank of Assistant State Taxes and Excise Officer in the State Taxes and Excise Department;

(ii) Executive Magistrate not below the rank of Tehsildar; and

(iii) Police Officer not below the rank of Assistant SubInspector in the Police Department.

(2) The aforesaid Excise Officers shall exercise the powers to enter, inspect, investigate, search and seize and obtain information under sections 8, 9, 10, 12 and 54 of this Act.

(3) The State Government shall, by notification appoint Police Officer or Official, on secondment basis from the Himachal Pradesh Police, for carrying out the purposes of this Act."

In exercise of powers conferred by Section 8 of the H.P. Excise Act, following notification was issued by the State on 26.04.2025 (Annexure P-17):-

"GOVERNMENT OF HIMACHAL PRADESH
DEPARTMENT OF STATE TAXES & EXCISE
File No. EXN-F(1)-3/2024 Dated Shimla-171002, 26th April, 2025
In supersession of Notification No. EXN-F(4)-1/2009-loose dated 22nd July, 2013 and in exercise of the powers conferred by Section 8 of the Himachal Pradesh Excise Act, 2011, the Governor of Himachal Pradesh is pleased to notify that the power under Section 8 of the ibid Act shall be exercised by the Officers defined under Section 6(1)(ii) who shall be accompanied by an Officer of the Department of State Taxes & Excise not below the rank of Assistant State Taxes & Excise Officer having jurisdiction and by a Police Officer defined under Section 6(1)(iii) not below the rank of Deputy Superintendent of Police having jurisdiction.

Sd/-
Principal Secretary (ST&E) to the Government of Himachal Pradesh"

"4(i)(b) Learned Senior Counsel for the petitioner submitted that inspection under Section 8 of the Excise Act is to be conducted in accordance with the Notification dated 26.04.2025. Power under Section 8 is to be exercised by the Officer defined under Section 6(1)(ii) who is to be accompanied by:
(i) an Officer of the Department of State Taxes & Excise not below the rank of Assistant State Taxes & Excise Officer having jurisdiction; and
(ii) a Police Officer defined under Section 6(1)(iii) not below the rank of Deputy Superintendent of Police having jurisdiction."

19. Mr. Sharma, learned Senior Advocate, vehemently argued that use of expression 'shall be accompanied' in the

notification suggests that presence of accompanying officer is intended to form part of the procedural framework governing such inspection. He submitted that inspection was carried out under Section 8 of the Excise Act, but absence of police officer in inspection would vitiate the inspection as constitution of team was not in consonance with the notification. While referring to judgment passed by Privy Council in case titled ***Nazir Ahmad v. King Emperor, AIR 1936 PC 253***, Mr. Sharma submitted that principle therein is being consistently followed till date that where a power has been given to do a certain thing in a certain way, the thing must be done in that way or not at all. He submitted that since team was not constituted strictly in terms of aforesaid provisions of law, raid conducted by inspection team constituted in terms of order dated 31.05.2025, being not in consonance with mandatory provisions of the Act as amended in the year 2024 and notification issued thereunder, is bad in the eye of law, as a result thereof, all the consequential action thereafter cannot sustain.

20. To the contrary, Mr. Anup Rattan, learned Advocate General submitted that surprise inspection was covered under Section 10 and not under Section 8 of the Act and as such, presence of police officer was not essential during inspection. He submitted that as per Section 8, any Excise Officer (of the rank specified by State

Government by a notification) can conduct inspection. He submitted that Section 10 also empowers the specified Excise Officer to conduct inspection. While referring to amended Section 6, Mr. Rattan submitted that apart from Assistant State Taxes and Excise Officer in the Department, the Executive Magistrate not below the rank of Tehsildar and police officer not below the rank of Assistant Sub Inspector have been authorized and empowered to enter, inspect, investigate, search, seize and obtain information under Sections 8, 9, 10, 12 and 54 of the Excise Act. He also referred to notification dated 26.04.2025 to state that power under Section 6(1)(ii) of the Act shall be exercised by an officer, who shall be accompanied by an officer of the Department of State Taxes and Excise not below the rank of Assistant State Taxes and Excise Officer and a police officer under Section 6(1)(iii) not below the rank of Deputy Superintendent of Police.

21. Bare reading of aforesaid provisions, though may lead to an interpretation that under Sections 8 and 10 of the Excise Act, any Excise Officer can inspect the premises and Executive Magistrate not below the rank of Tehsildar under Section 6(1)(ii), as also the police officer not below the rank of Assistant Sub Inspector under Section 6(1)(iii), are also Excise Officers, but officer falling under Section 6(ii), i.e. Tehsildar (or higher in rank to him), would not be able to exercise

powers under Sections 8 and 10 by himself; rather, he will necessarily have to be accompanied by an officer not below the rank of Deputy Superintendent of Police and by an Assistant State Taxes and Excise Officer.

22. This Court is in full agreement with Mr. Arvind Sharma, learned Senior Counsel representing the petitioner, that aforesaid interpretation would defeat the logic behind amendment of Section 6 and also object intended to be achieved by notification dated 26.04.2025, i.e. inclusivity of all wings during inspection in order to accord some protection to the licence holder to safeguard his interest. In case Assistant Sub Inspector of Police and Tehsildar are permitted to inspect the premises on their own, very purpose of issuing notification dated 26.04.2025 would be defeated.

23. Coordinate Bench of this Court in case ***M/s Tiloksons Brewery & Distillery, Kala Amb, District Sirmour*** (supra), had an occasion to deal with similar issue, wherein aforesaid Court, after having taken note of aforesaid provisions of law vis-à-vis issue involved therein, which is similar to the issue involved in the case at hand, held as under:-

> *"Harmonious interpretation of provisions therefore would lead to logical conclusion that power under Section 8 of the Excise Act can be exercised by the Executive Magistrate of First Class who is to be accompanied by an Excise Officer and a Police Officer as specified by the State Government. The*

> *team constituted by the respondents for inspecting petitioner's premises did not have Executive Magistrate of First Class. Apparently, this team did not even have Police Officer of the rank specified in the Excise Act & the Notification. The inspection report prepared by respondent No. 3 though mentions participation of a 'Special Investigation Cell' of District Police but does not give names of specific Police Officers or their ranks. The inspection report furnished by respondent No. 4 does not even state about association of any Police Officer during inspection. The reply filed by the respondents does not dispute inspection having been carried out under Section 8 of the Excise Act or the requirement of associating Executive Officer as also the Police Officer during inspection but tries to downplay it by pleading that procedural lapses would not vitiate the inspection. It has to be held that constitution of the team that inspected the premises was not in consonance with the Act & the applicable Notification."*

24. In the case at hand, it is not in dispute, rather stands admitted in the reply filed by the respondents that inspection was carried out under Section 8 of the Excise Act, but vide notification dated 26.04.2025, His Excellency the Governor of Himachal Pradesh notified that power under Section 8 of the Act shall be exercised by officers defined under Section 6(1)(ii), who shall be accompanied by an officer of the Department of State Taxes and Excise not below the rank of Assistant State Taxes and Excise Officer having jurisdiction and by a police officer defined under Section 6(1)(iii) not below the rank of Deputy Superintendent of Police having jurisdiction.

25. In the case at hand, Commissioner, State Taxes and Excise, Himachal Pradesh, vide office order dated 31.05.2025 (Annexure R-2/5), accorded authorization to conduct search with respect to unauthorized activity/manufacturing stated to have been carried out in M/s K.M. Distillery Private Limited, petitioner herein, under H.P. Excise Act and constituted team as under:

> "1) Sh. Ujjal Singh Rana, Additional CST&E (IT, EIU and Enforcement)
> 2. Sh. Aman Sophat, ACSTE O/o JCSTE (CZ) Una
> 3. Sh. Anurag Garg, ACSTE Ghumarwin
> 4. Sh. Manoj Sehgal, STEO O/o JCSTE (CZ) Una
> 5. Sh. Rupinder Singh, STEO BBN.
> 6. Sh. C.M. Lath, STEO Nalagarh
> 7. Sh. Nitin, STEO Nadaun
> 8. Sh. Dhian Singh, ASTEO O/o JCSTE (SZ) Parwanoo
> 9. Sh. Suraj, ASTEO MPB Baddi."

26. Though vide office order dated 31.05.2025, Additional Commissioner, State Taxes and Excise, as well as other officers of State Taxes and Excise Department, came to be included, but admittedly no police officer defined under Section 6(1)(ii) not below the rank of Deputy Superintendent of Police having jurisdiction ever came to be associated. Since inspection team was not in terms of mandatory provisions of Himachal Pradesh Excise Act as amended in the year 2025 and notification issued thereunder, entire inspection conducted by team constituted vide order dated 31.05.2025 is

vitiated. Though it came to be argued at the behest of respondent-State that procedural lapses would not vitiate the inspection, but this Court, while holding that constitution of team that inspected premises was not in consonance with the Act and applicable notification, has no hesitation to conclude that the very object intended to be achieved by notification dated 26.04.2025, i.e. with regard to inclusion of all wings during inspection in order to accord some protection to licence holder, would be defeated in case constitution of committee is not in accordance with Act and Rules. The very purpose and object of including officers other than those of Excise Department is to ensure fairness during raid/inspection. Since in the case at hand, inspection team did not have a police officer of the rank specified in the Excise Act and notification, coupled with the fact that inspection report furnished by respondent No. 2 does not even state about association of any police officer during inspection, raid/inspection carried out in the premises of petitioner on 02.06.2025 cannot be said to be in accordance with law.

27. Deviation from law in constitution of committee that inspected petitioner's premises compels this Court to arrive at a conclusion of declaring entire inspection to be vitiated or, in other words, the very foundation of issuing notice to petitioner and order passed thereupon illegal.

28. Having carefully perused afore judgment passed by the Co-ordinate Bench of this Court, this Court finds merit in the contention of Mr. Anup Rattan, learned Advocate General, submitted that Coordinate Bench of this Court, while passing judgment in ***M/s Tiloksons Brewery & Distillery, Kala Amb, District Sirmour*** (supra), had not set aside the report of inspection committee on the ground that its constitution was not in accordance with law, rather the same came to be set aside on some other ground. Careful perusal of judgment passed by Coordinate Bench of this Court in ***M/s Tiloksons Brewery & Distillery, Kala Amb, District Sirmour*** (supra), suggests that though aforesaid Court arrived at a definite finding that constitution of committee that inspected premises was not in consonance with mandatory provisions of Act as amended in the year 2024 and notification issued thereunder, but yet proceeded to quash impugned order passed by Commissioner, State Taxes and Excise-cum-Financial Commissioner, cancelling petitioner's licence in Form D-2 and L-1, on the ground that impugned order passed by Commissioner, State Taxes and Excise, cancelling petitioner's licence, does not at all reflect either application of independent mind or that order was passed after following proper procedure.

29. Since Coordinate Bench of this Court, in peculiar facts and circumstances, had not proceeded to quash entire inspection

proceedings, but if judgment rendered by it is read in its entirety, it clearly suggests that committee, which had inspected petitioner's premises, was not found to be constituted in terms of mandate of Act as well as notification, but instead of setting aside impugned order in that case on the aforesaid ground, matter was remanded back to Commissioner to decide the same afresh, taking into consideration observations made in that judgment.

30. However, in the instant case, this Court is of the definite view that constitution of committee, which inspected petitioner's premises, was not in accordance with law, coupled with the fact that very purpose and object of providing provision of law under Act with regard to constitution of committee as well as notification dated 26.04.2025, wherein Section 6 came to be amended, is/was to ensure that, to eliminate the element of bias and injustice, officers of other departments are also included in raiding team. Since provisions contained in the Act, as has been discussed hereinabove, clearly mandate inclusion of officer of other department in raiding team, it cannot be said that non-inclusion, if any, of officer not below the rank of Deputy Superintendent of Police is a procedural lapse, which can be ignored; rather, the same being a material defect in constitution of team, which admittedly is constituted in violation of Section 6, entire

inspection proceedings conducted by aforesaid committee need to be quashed and set aside.

31. Though during proceedings of the case, other submissions/arguments also came to be raised at the behest of petitioner, as have been recorded in the earlier part of judgment, but since, for the discussion made hereinabove, this Court is of the definite view that respondent deviated from law while constituting committee that inspected petitioner's premises, as a consequence thereof, entire inspection carried out by aforesaid committee is vitiated and, as such, consequential actions subsequently taken pursuant to aforesaid report submitted by team are of no consequence and, hence, this Court finds no necessity to deal with other grounds and same are left open.

32. Consequently, in view of the detailed discussion made hereinabove as well as the law taken into consideration, this Court finds merit in the present petition and, accordingly, the same is allowed. Impugned order dated 14.07.2025 (Annexure P-8) is quashed and set aside, with a direction to the respondents to renew the licence in Form BWH-2 in favour of the petitioner for the year 2026-27 and to restore the L-13C, L-15 and L-16 licences of the petitioner subject to fulfilment of all the conditions by the petitioner.

Petition stands disposed of in the aforesaid terms along with pending application(s), if any. Mr. Arvind Shama, learned Senior Counsel, submits that his client has deposited licence fee for the year 2025-26, but since the licence was not renewed for that year, the license fee deposited for 2025-26 may be adjusted towards licence fee for the year 2026-27. Accordingly, it is ordered that licence fee, if any, deposited by the petitioner shall be adjusted towards licence for the financial year 2026-27.

(Sandeep Sharma),
Judge

September 29, 2026
(Sunil)