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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 10333/2018

RAD ELAN DISTRIBUTERS PVT LTD ..... Petitioner

Through: Mr A. K. Prasad and Ms Priyanka Goel, Advocates.

versus

DEPUTY COMMISSIONER EXCISE ..... Respondent

Through: Mr Anuj Aggarwal, ASC, GNCTD.

**CORAM:**
**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**O R D E R**

**% 04.10.2018**

**C.M. No.40289/2018**

1. Allowed, subject to all just exceptions.

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2. The petitioner has filed the present petition impugning a show cause notice dated 10.01.2017 calling upon the petitioner to show cause why action should not be taken against the petitioner in terms of the provisions of the Delhi Excise Act, 2009 read with Rule 70 of the Delhi Excise Rules, 2010.

3. The petitioner was issued a licence (L-1F) for dealing in foreign liquor. The petitioner’s license was suspended on 17.06.2016 as there were allegations on account of certain discrepancies found between goods imported by the petitioner and the stocks maintained by it. It is seen that thereafter, several show cause notices were issued to the petitioner. In the

show cause notice issued on 11.07.2016, it was alleged that out of 1809 Bills of Entry obtained by the respondent from the customs authorities, the petitioner had only supplied information in respect of 1712 Bills of Entry and 1363 Bills of Entry were not matched with the details so provided.

4. While, the said show cause notice was pending, the petitioner also filed an appeal before the Commissioner, Excise, Delhi under Section 72(2) of the Delhi Excise Act 2009 impugning the decision to suspend the petitioner's license.

5. On 04.08.2016, the respondent passed an order pursuant to the show cause notice issued earlier. The said order was impugned by the petitioner by way of a writ petition (W.P.(C) 8424/2016), which was disposed of by an order dated 14.12.2016. The order impugned therein (order dated 04.08.2016) was set aside and the respondents were directed to issue a fresh show cause notice and follow the principles of natural justice.

6. In compliance with the aforesaid order, a show cause notice dated 10.01.2017 was issued to the petitioner. The petitioner's grievance is that no details were provided to the petitioner to meet the allegations made in the said show cause notice. The petitioner sent numerous letters seeking copies of the documents relied upon by the respondent but did not receive any satisfactory response to its request. On 01.05.2017, the petitioner submitted an interim reply and once again requested the respondents to provide the RUDS(relied upon documents)/Bills of Entry. Thereafter, the petitioner was heard on several occasions but was not provided the RUDS.

7. It is stated that the petitioner was handed over certain documents, however, the same were incomplete. The petitioner submitted a final reply to the show cause notice on 23.01.2018 and, thereafter, also attended hearing

held on 19.02.2018. However, no order has been passed till date.

8. The learned counsel appearing for the respondent submits that there has been change in the incumbent appointed as the Deputy Commissioner, Excise and a fresh hearing would be provided to the petitioner.

9. In view of the above, the present petition is disposed of with the following directions:-

a) That the respondent shall provide all documents available with it, which are relied upon by the respondent within a period of six weeks from today. In particular, the documents would include the Bills of Entries in respect of which mismatch has been found.

b) The petitioner would be at liberty to file a fresh response to the show cause notice within a period of one week, thereafter.

c) The concerned Authority shall consider the petitioner's case and dispose of the same within a period of six weeks, thereafter, after affording the petitioner a reasonable opportunity to be heard.

10. The petitioner is also at liberty to approach the concerned Authority for revocation of suspension of the license and for permission to sell the goods which are currently lying seized by the Excise Department. Needless to state that if any such application is made, the same would be duly considered in accordance with law.

11. The petition is disposed of.

**VIBHU BAKHRU, J**

**OCTOBER 04, 2018/MK**