**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

(PROCEEDINGS THROUGH VIDEO CONFERENCING)

**LPA No.490 of 2021 (O&M)**
**Date of Decision: 29.06.2021**

**M/s Amrik Wines**

...Appellant

Versus

**State of Punjab & others**

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**
**HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Dharamvir Sharma, Senior Advocate with
Mr. Harit Sharma and Mr. Tushar Sharma, Advocates
for the appellant.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

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**AUGUSTINE GEORGE MASIH, J.**

This appeal has been preferred by M/s Amrik Wines (a partnership firm) engaged in business of liquor trade in Districts Gurdaspur, Pathankot and Hoshiarpur, where the firm was holder of six licences for Excise Circle, Pathankot in District Pathankot for the sale of Punjab Medium Liquor (PML) & Foreign Liquor (including IMFL, IFL, BEER, WINE, RTD AND cider). Appellant – firm failed to clear the dues and the balance was calculated and conveyed to it. The dues under the Punjab Excise Act, 1914 having not been cleared, the same is being sought to be recovered under the provisions Punjab Land Revenue Act, 1887 (hereinafter referred to as '1887 Act'). The appellant – firm had sought quashing of the orders dated 20.04.2017 (Annexure P-5) and 10.09.2020 (Annexure P-6) as also two auction notices, both dated 12.03.2021 (Annexures P-7 and P-8) for recovery of excise revenue to the tune of Rs.5,88,08,449/-.

The challenge was posed on the plea that the recovery of the amount which is sought to be made of arrears of amount payable under the Punjab Excise Act, 1914, could not be made as arrears of land revenue under the provisions of the 1887 Act as the land revenue has been abolished vide the Punjab Land Revenue (Abolition) Act, 1997. With the abolition of the land revenue, any land revenue or additional land revenue payable under the provisions of the 1887 Act shall be deemed to have been abolished. The said plea of the appellant – firm stands rejected by the learned Single Judge vide judgment dated 13.05.2021 leading to the filing of the present appeal, where the said judgment has been assailed.

2. Learned Senior counsel for the appellant – firm has asserted that the provisions of Section 98 (1) (c) of the 1887 Act have been misread and misinterpreted by the learned Single Judge. He asserted that the said Section clearly spells out that the amount is recoverable only under the 1887 Act. Any amount which is sought to be recovered in the form of land revenue cannot be given effect to under the provisions of the 1887 Act with the abolition of the land revenue and the additional land revenue by virtue of the Punjab Land Revenue (Abolition) Act, 1997. He, thus, asserts that no recovery of arrears of land revenue can be made. His submission is that the arrears or dues under the Punjab Excise Act, 1914 can only be made through the provisions, which are provided thereunder or any other mode but not under the 1887 Act, as prior to giving effect to the recoveries of any other dues under any other enactment, it has to be declared as land revenue which

having been abolished cannot be recovered under the 1887 Act. Prayer has, thus, been made for setting aside the judgment passed by the learned Single Judge, dated 13.05.2021 and for quashing of the impugned orders.

3. We have considered the submissions made by the learned senior counsel for the appellant – firm and with his assistance have gone through the various provisions of the Acts but do not find ourselves in agreement with him.

4. The issue which has been raised by the learned senior counsel for the appellant – firm to the effect that the recovery of the dues under the Punjab Excise Act, 1914 as arrears of land revenue under the 1887 Act is not permissible after the abolition of the land revenue and additional land revenue vide the Punjab Land Revenue (Abolition) Act, 1997 would not detain us as heading itself of Section 98 of the 1887 Act, gives an indication to the contrary. Section 98 reads as follows:-

> **"98. Other sums recoverable as arrears of land-revenue** - In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely : --
>
> **(a)** fees, fines, costs and other charges, including the village-officers' cess payable under this Act,
>
> **(b)** revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42 in cases

> in which the revenue so due has not been included in the assessment of an estate ;
>
> **(c)** fees payable to district boards or local boards under section 33 of the Punjab Districts Boards Act, 1883, for the use of or benefits derived from such works as are referred to in section 20, clauses (i) and (j) , of that Act;
>
> **(d)** sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation works , not being sums recoverable as arrears of land-revenue under any enactment for the time being in force; and
>
> **(dd) to (i)** XXXX XXXX
>
> **(j)** sums payable by a person who is surety for the payment of any of the foregoing sums or of any other sum recoverable as an arrear of land revenue;
>
> **(k)** loss caused to the Government by its employees thorough misappropriation;”

As per the above, in addition to any sum recoverable as arrears of land revenue under this Act or any other enactment for the time being in force, the nature of sums mentioned therein could be recovered. It is clearly mentions that the fees, fines, costs and other charges can be recovered including recoveries under various heads and loans as specified under the various clauses of the said Section. Even sums payable by a person, who is surety for payment of any of the sums mentioned in the said Section or any other sum recoverable as arrears of land revenue, has also been included which could be recovered as land revenue. Therefore, it is clear that the 1887 Act itself provided for not only recovery of arrears of land revenue but all such recoveries which have been specified in the said Section.

In other words, if under the provisions of any other Act, recovery is to be effected of any charges due which includes fees, fine, costs etc., the same could be recovered under the provisions of the 1887 Act, if the said Act so provides. The recovery which is sought to be made from the appellant – firm being of licence fee and ancillary charges thereto, (including interest and penalty etc.) under the Punjab Excise Act, 1914, the abolition of the land revenue would not, in any manner, effect the recovery of such dues as land revenue under the 1887 Act.

5. In this regard, reference to Section 60 of the Punjab Excise Act, 1914 may be made which deals with recovery of dues including all excise revenue. Section 60 of the Punjab Excise Act, 1914 reads as follows:-

> **60. Recovery of dues:-**
>
> **(1)** The following moneys namely –
>
> (a) all excise revenue,
>
> (b) any loss that may accrue, when in consequence of default a grant has been taken under management by the Collector or has been resold by him under Section 39, and
>
> (c) all amounts due to the Government by any person on account of any contract relating to the excise revenue,
>
> May be recovered from the person primarily liable to pay

the same, or from his surety (if any), by distress and sale of his movable property, or by any other process for the recovery of arrears of land revenue due from land-holders or from farmers of land or their sureties,

**(2)** When a grant has been taken under management by the Collector or has been resold by him under Section 39, the Collector may recover in any manner authorized by sub-section (1), any money due to the defaulter by any lessee or assignee.

**(3)** In the event of the default by any person licensed or holding a lease under this Act all his distillery, brewery, warehouse or shop, premises, fittings or apparatus and all stocks of (intoxicant) or materials for manufacture of the same held in or upon distillery, brewery, warehouse or shop premises shall be liable to be attached in satisfaction of any claim for excise revenue or in respect of losses incurred by (State) Government through such default and to be sold to satisfy such claim, which shall be a first charge upon the sale proceeds."

In sub-section 1 (c), it is clearly mentioned that the recovery can be effected by the process in the form of recovery of arrears of land revenue. "Excise revenue" has been defined in Section 3 (9) of the Punjab Excise Act, which means revenue derived or derivable from any payment, duty, fee tax, confiscation or fine imposed or ordered under the provisions of Punjab Excise Act, or of any other law for the time in force relating to liquor or intoxicating drugs but does not include a fine imposed by a Court of Law. Hence, the recovery which is being sought to be made would fall under the provisions of Section 60 of the Punjab Excise Act, 1914. The mode and mechanism for recovery would be under the provisions of Sections 66, 67, 68 and 79 of the 1887 Act.

6. In the light of the above,we do not find any ground to interfere in the judgment passed by the learned Single Judge, dated 13.05.2021, rather uphold the same. The present appeal, therefore, being devoid of any merit, stands dismissed.

**CM-1208-LPA-2021**

In the light of the dismissal of the main appeal, no orders are required to be passed in the present application as the same has been rendered infructuous.

Disposed of as such.

**(AUGUSTINE GEORGE MASIH)**
**JUDGE**

**(ASHOK KUMAR VERMA)**
**JUDGE**

**29.06.2021**
*Harish*

| Whether speaking/reasoned: | Yes/No |
|---|---|
| Whether Reportable: | Yes/No |