

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(111)

CWP-500-2024

Decided on : 10.01.2024

M/s A.S. & Company

Versus

.....Petitioner(s)

State of Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present:- Mr.N.S.Boparai, Advocate,
Mr.Puneet Verma, Advocate for the appellant (s).

G.S. Sandhawalia, J. (Oral)

1. Challenge in the present writ petition, filed under Article 226 and 227 of the Constitution of India is to a show cause notice dated 20.12.2023 (Annexure P-1) issued by the Collector-cum-Deputy Commissioner (Excise) Patiala Zone, Patiala, whereby petitioner had been asked to put in appearance on 09.01.2024.

2. Apparently the notice has been issued on account of the fact that one of the erstwhile partner of the petitioner-firm was involved in criminal proceedings and in such a background the notice was issued for cancellation of L-2/L-14A licence granted under the Excise Policy, 2023-24.

3. Mr.Boparai has stressed upon the fact that the said partner, namely, Akshay Kumar Chhabra had been expelled/removed/retired from the business partnership vide resolution allegedly signed on 18.11.2022. Reference is also made to the dissolution cum retirement deed executed between the other partners (Annexure P-2) and that a fresh partnership deed was then executed on 23.11.2022 (Annexure P-3) and the same was also submitted to the Assistant Commissioner (West) Excise Department, Ludhiana

on 25.11.2022 (Annexure P-4). It is accordingly submitted that as per the show cause notice reference has been made to the earlier partnership deed dated 20.06.2022 (Annexure P-10) when the initial allotment was done.

4. It is submitted that there was a renewal done on 15.03.2023 (Annexure P-21) w.e.f. 01.04.2023 for the Excise Policy, 2023-24 and therefore, the expelled partner had nothing to do with the fresh licence granted and the show cause notice is based on wrong facts. Reference is made to pendency of CWP-4130-2023 wherein vide interim order dated 03.03.2023 (Annexure P-18) it was also noticed that the vends had been closed for 26 days which is on account of freezing of the same in view of the involvement of the erstwhile partner at that point of time. It was also noticed that the adjudicating authority vide order dated 15.02.2023 (Annexure P-17) had imposed certain conditions to protect its interests and directed that a sum of Rs.2,83,66,403/- be deposited with the NCB in instalments apart from the fact that another sum of Rs.66,33,597/- lying with the ICICI Bank was to be adjusted against the share of the said erstwhile partner. It is submitted that the necessary compliance has been done which was also noticed by the Co-ordinate Bench.

5. Notice of motion.

6. Mr.Saurabh Kapoor, Addl.A.G., Punjab accepts notice on behalf of the respondents and submits that it is only a show cause notice which has been issued and the petitioner, instead of putting in appearance before the competent authority, has approached this Court and taken time before the competent authority.

7. Keeping in view the above narration of facts, we are of the considered opinion that it is open to the petitioner to file a detailed response in

pursuance of the show cause notice issued. However, since the petitioner is involved in liquor business and there was a freezing order earlier, it would be appropriate that if any adverse order is passed after hearing the petitioner, the said order be not implemented for a period of 7 days after the copy of the order is provided so that the petitioner can avail its remedy in accordance with law in order to safeguard its interests, since apparently the authorities were well aware of the fact of change of the partners when the renewal of the partnership was done for the year 2023-24.

8. With the above-said observations, the present writ petition stands disposed of.

(G.S. SANDHAWALIA)
JUDGE

January 10th, 2024
sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No