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REVENUE AND EXCISE DEPARTMENT

NOTIFICATION

The 25th November 1997

S. R. O. No. 774/97—Whereas realisation of duty on M. G. Q. intended to be given effect from the date of issue of licence;

And whereas, the State Government considers it necessary to bring these rules into force at once under the proviso to sub-section (3) of Section 89 of the Bihar and Orissa Excise Act, 1915;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 89 of the Bihar and Orissa Excise Act, 1915, read with the proviso to sub-section (3) of the said section, the State Government do hereby make the following rules further to amend the Orissa Excise (Exclusive Privilege) Foreign Liquor Rules, 1989, namely :—

1. (1) These rules may be called Orissa Excise (Exclusive Privilege) Foreign Liquor (Amendment) Rules, 1997.

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the Orissa Excise (Exclusive Privilege) Foreign Liquor Rules, 1989 after rule 6, the following rules shall be inserted, namely :—

“6-A. Minimum guaranteed quantity of India Made Foreign Liquor :—

(1) (a) Every successful bidder of Foreign Liquor “OFF” shop/licensee of IMFL “ON” shop shall before obtaining licences, guarantee the sale of the minimum guaranteed quantity of Foreign Liquor as fixed by the Excise Commissioner. The bidder/licensee shall, before obtaining licence submit monthly distribution statement to the concerned Collector. The Licensee before the 30th June, may revise and resubmit the monthly distribution statement for the portion of the Excise year from August to March. The Collector shall be competent to revise and approve such revised statement. There shall be no further changes in the distribution statement so approved.

(b) M. G. Q. in LPL and duty thereon will be fixed by the Excise Commissioner from time to time subject to approval of Government.

(2) The licensee shall lift the monthly minimum guaranteed quantity approved for th atmonth before 5-00 P.M. on the last working day of that month. The right to lift the monthly minimum guaranteed quantity approved for that month and left unlifted, if any, by 5-00 P.M. on the last working day of the month shall be forfeited. Unless specially permitted to be lifted in the subsequent month or months by the Collector:

Provided that—

- (i) The Collector may for any special reasons permit the licensee to lift the short drawn minimum guaranteed quantity of the previous month in the succeeding month except for obtaining the order of the Commissioner of Excise in case of default and for any special reason, if the period exceeds one month.
  - (ii) The Commissioner, may, wherever if he deems it necessary permit the licensee to lift the short drawn minimum guaranteed quantity of any month other than the month of March in any subsequent month or months.
  - (iii) No unlifted quantity of the Foreign Liquor shall be permitted to be lifted beyond the last day of February.
- (3) Subject to the provisions of sub-rule (1) no licensee shall lift less than the specified minimum guaranteed of Foreign Liquor in any month. Excise duty of Foreign Liquor for the month as approved in the distribution statement under sub-rule (1) shall ensure lifting of the duty paid stock from the warehouse. In case of failure on the part of the licensee to lift the stock as guaranteed, action may be taken to make good the loss of Excise duty which shall be recovered from the bank guarantee/advance licensee fee deposited by the licensee at the time of settlement. Subject to provisions of sub-rule (1) no licensee shall lift less than the specified minimum guaranteed quantity of IMFL in any month. The Excise duty on IMFL for the month as approved in the distribution statement under sub-rule (1) shall be remitted into the Government Treasury of the District in which the shop is situated by fifth of the succeeding month. In case of default, the Excise duty to the extent of deficit amount without prejudice to any other mode of recovery shall be collected with the licence fee of the succeeding month. In case of further deficit the amount will be collected at the end of the year with 10 per cent fine on the deficit amount or as arrear licence fee under the provisions of OPDR Act.
- (4) After cancellation of the licence the right acquired by the defaulting licensee shall be liable for redisposal subject to provisions of sub-section (1) of Section 22 of the Act.
- (5) The licensee shall sell in retail entire minimum guaranteed quantity of Foreign Liquor for the Excise year before the expiry of the term of the licence. Any balance of Foreign Liquor found outstanding and unsold at the expiry of the previous year's licence shall stand forfeited to the Government. The Collector, may permit the succeeding licensee to take over the forfeited quantity of Foreign Liquor after payment of the Excise Duty and cost thereof and adjust it against the minimum guaranteed quantity of the Foreign Liquor guaranteed by the succeeding licensee.
- (6) The licensee shall have no claim for damages or for remission of consideration money in the case of delayed supply or non-supply of Foreign Liquor in a particular month which has been subsequently drawn by the licensee in the succeeding months.

#### 6-B. Sanction of Additional Quantity of Foreign Liquor—

The licensee shall not claim or supply for any particular brand of Foreign Liquor which is not available in the Warehouse or Warehouses and on such ground shall not avoid to satisfy the conditions of the minimum guaranteed quantity. However, subject to availability, the request for lifting of any particular brand required by the licensee shall be given at first-come of first-serve basis. But the particular brand required by the licensee may be considered on payment of Excise duty and also subject to such other terms and conditions as the Commissioner may specify from time to time.

#### 6-C Minimum guaranteed quantity of Bottling plant —

- (1) All the licensees of IMFL Bottling plants shall guarantee for bottling of 50% of the installed capacity of their bottling plants in a year, as the minimum guaranteed quantity. In case any short fall in the minimum guaranteed quantity fixed for the plant by the Excise Commissioner the licensee of the bottling plant shall be liable to make payment of the duty for the short fall quantity and the amount will be recovered as arrear dues from the licensee.

- (2) The licence of the Bottling Plant shall stand cancelled on default to make payment of arrear dues towards minimum guaranteed quantity by 31st March i. e. by end of the financial year;

Provided that Government may allow renewal of licence on payment of arrear dues outstanding towards the M. G. Q. along with the fine equivalent to an amount 10% of the shortfall revenue collectable.

[ No. 3198—LEX-39/97-Ex. ]

By order of the Governor

J. RATH

Under-Secretary to Government