

**OFFICE OF THE EXCISE COMMISSIONER, ,
EXCISE AND TAXATION COMPLEX,
RAILHEAD COMPLEX, JAMMU.**

Order No: 330 EC of 2022

Date: 11 /03/2022

Sub: Consideration order in compliance to Hon'ble High court order dated 25.02.2022 passed in WP(C) No. 292/2022, titled Labh Singh and Others Vs UT of J&K and Others.

Whereas, the petitioners have filed a writ petition before the Hon'ble High Court of Jammu Kashmir and Ladakh praying therein for following relief:

a). An appropriate writ, order or direction in the nature of writ of mandamus commanding the respondents to extend the validity of the licenses (JKEL-2) issued in favour of the petitioners for suitable period so as to cover 11 months time period, as has been stipulated in the Excise Policy 2021-22 and notice for e-auction of retail vends dated 11-04-2021, which notice for e-auction is off-shoot of the Excise Policy, 2021-22; wherein the validity period of license JKEL-2 has been shown as 01-05-2021 to 31-03-2022.

Or in the alternative

An appropriate writ, order or direction in the nature of writ of mandamus commanding the respondents to refund bid amount deposited by the petitioners proportionately, keeping in view the number of months during which licenses JKEL-2 remain valid till 31-03-2022.

b). An appropriate writ, order or direction in the nature of writ of mandamus commanding the respondents to adequately compensate the losses being suffered by the petitioners because of forcible closure of their retail liquor vends due to complete lockdown/weekend lockdowns/restrictions imposed by the Government owing to COVID 19 pandemic in the UT of J&K during which the petitioners operated their retail liquor

vends with considerable restrictions and potential sales as have been expected could not be generated.

c). Any other relief, which this Hon'ble Court, in the facts and circumstances of the case deems fit and proper.

Whereas, the case was listed before the Hon'ble Court on 25-02-2022 and the Hon'ble Court has passed the following directions

"Learned Advocate General in all fairness submits that the respondents have no objection to consider the representation of the petitioners if they file the same before the authorities.

Accordingly, it is directed that the petitioners shall file representation before the authorities concerned within a period of two days and the same shall be considered by them before the next date of hearing fixed in the case."

Whereas, the petitioners submitted the representation to the Excise Department for consideration in accordance with the Order dated 25-02-2022 passed by the Hon'ble Court in WP(C) No. 292/2022, titled Labh Singh and Others Vs UT of J&K and Others.

Whereas, the Government had issued S.O No: 164 of 2021, dated 6th May, 2021, which is reproduced as under:

"S.O 164. In the Excise Policy 2021-22, notified Vide S.O 114 Dated 31 March 2021, amendments are made as following:-

1. Insertion of clause 27 after Clause 26.

Clause 27. Force Majeure- If the Liquor trade in the Union Territory of Jammu and Kashmir is shutdown due to Government mandated/instituted lockdowns owing to Covid-19 pandemic surge, Excise Department shall be at liberty to consider exempting the liquor trades from their revenue obligations to the extent it is payable for the period of closure of trade".

2. The existing Clause 27 in the existing Policy 2021-22 shall be renumbered as Clause 28."

Whereas, since S.O No. 164 dated 6th May 2021 as reproduced above is a part of Excise Policy for the year 2021-22 Issued by the Government vide S.O No. 114 dated: 31-03-2021 and the JKEL-2 Licenses have been granted as per the provisions of said policy, it has been decided to consider the claims of the petitioners strictly as per S.O No. 164 of 2021, dated 6th May, 2021.

Now therefore, in view of above, it is hereby Ordered that all JKEL-2 Licenses (granted in terms of Excise Policy 2021-22) who claim any relaxation in terms of S.O No. 164 of 2021, dated 6th May, 2021 are hereby advised to submit their detailed claims with all the relevant documents supported by duly sworn in affidavit, to concerned Range Excise & Taxation Officer within a period of (07) days from the date of issuance of this Order for verification. No claim shall be accepted after expiry of seven days from issuance of this Order. The Excise & Taxation officer concerned, shall, after due verification of claims strictly in terms of **S.O No. 164 of 2021, dated 6th May, 2021** shall submit the report through Deputy Excise Commissioner (Executive) concerned within a period of 15 days from receipt of claim.


11/3/2022
Excise Commissioner, J&K.

Ec/Legal/2022-23/8649

Copy to the:

Dated: 11-03-2022

1. Deputy Excise Commissioner (Executive) Jammu/Kashmir for information with request to kindly expedite the verification to proceed further in the matter.
2. Sr. Private Secretary to Ld. Advocate General for information of Learned AG.
3. Private Secretary to Financial Commissioner, Finance, (Additional Chief Secretary), civil Secretariat, Jammu for kind information of Worthy Financial Commissioner (Additional Chief Secretary).
4. Excise & Taxation Officers of concerned Ranges for immediate compliance.