

ANDHRA PRADESH EXCISE (DISPOSAL OF CONFISCATED AND OTHER ARTICLES) RULES, 1969

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1. Short title, extent and commencement :-

- (1) These rules may be called the Andhra Pradesh Excise (Disposal of Confiscated and other Articles) Rules, 1969.
- (2) They shall extend to all the areas in the State of Andhra Pradesh where the Andhra Pradesh Excise Act, 1968 is in force.
- (3) They shall come into force at once.

2. Definitions :-

In these rules, unless the context otherwise requires,-

- (a) 'Act' means the Andhra Pradesh Excise Act, 1968;
- (b) 'confiscated articles' means the articles or things specified in Section 45 of the Act and ordered for confiscation under Section 46;

(c) 'licensed premises' means the premises in respect of which a licence has been granted under the Act.

3. Confiscated articles to be made over to the Assistant Commissioner of Excise (Enforcement) or the Excise Superintendent :-

All confiscated articles shall be made over to the Assistant Commissioner of Excise (Enforcement) concerned or to the Excise Superintendent concerned for disposal in accordance with these rules.

4. Officers authorised to order confiscation :-

Subject to the limits specified against each, the following officers shall be authorised to enquire into and determine cases or confiscation under sub-section (2) of Section 46 of the Act :

5. Method of disposal of confiscated intoxicants :-

(1) Any liquor confiscated shall ordinarily be destroyed. If any fermented wash fit for distillation is confiscated, an officer not below the rank of a Sub- Inspector, may order to destroy under a panchanama, taking samples thereof for chemical examination.

(2) Where the quantity of arrack confiscated is less than four litres, it shall be destroyed and where it is four litres or more it shall be sent to the nearest Government distillery for redistillation and sale in case the cost of transport and other incidental charges incurred thereby do not exceed the amount likely to be realised therefrom and in other cases, it shall be destroyed.

(3) Confiscated toddy fit for human consumption shall be sold to the nearest toddy shop licensee for a reasonable price, while that unfit for use shall be destroyed under a panchanama.

(4) Confiscated Indian liquor or foreign liquor in sealed bottles or other receptacles, the contents of which may reasonably be believed not to have been tampered with, shall be sold in public auction fixing a reserve price which shall not be less than-

(a) Seventy five percent of the market price of such liquor (excluding taxes and duties) in the case of bottled liquor with the seals intact; and

(b) fifty percent of the market price of such liquor (excluding taxes and duties) in the case of loose liquor :

Provided that the highest bid offered shall not exceed the maximum price, if any, fixed therefor and that such bidder holds a licence to sell liquor under the Act;

Provided further that if no satisfactory bid is received in auction the Commissioner may pass orders regarding its disposal in such other manner as he deems fit and the article shall be disposed of accordingly.

(5)

(a) Confiscated denatured spirit of quantity less than three bulk litres, shall be destroyed; and where the quantity exceeds three bulk litres and it has been found to conform to the standard quantity by the Chemical Examiner, it shall be sold in auction to the licensees thereof; Denatured spirit found to be diluted shall be sent to the nearest distillery for reprocessing and shall be issued to the licensees after such reprocessing in case the cost of transport and other incidental charges incurred thereby do not exceed the amount likely to be realised therefrom and in other cases it shall be destroyed.

(b) Confiscated denatured spirit preparations commonly known as Varnishes. French Polish and Break-fluids, which are found to be fit for use by the Chemical Examiner for Excise shall be sold in auction.

(6)

(a) All confiscated toilet preparations, perfumes and essences containing alcohol, other than essences used in the manufacture of potable liquors, Varnishes, French Polish and Break Fluids, shall be sold in public auction in case they conform to the standards and in other cases they shall be destroyed.

(b) Essences containing alcohol used in the manufacture of potable liquors shall be destroyed, if they are found not fit for use by the Chemical Examiner.

(7) Confiscated rectified spirit shall be sold either to the nearest distillery or licensees on payment of the cost at the market rate, in case the cost of transport and handling charges likely to be incurred thereon does not exceed the cost obtained on sale and in other cases it shall be destroyed. Confiscated methyl alcohol, methylated spirit or higher alcohol shall be destroyed.

(8)

(a) All confiscated hemp and other intoxicating drugs other than ganja, siddi and bhang and (ganja, siddi and bhang less than fifty grams) in weight shall be destroyed.

(b) All confiscated ganja, siddi, or bhang which on examination is found to be unfit for human consumption shall, with the previous sanction of the Deputy Commissioner concerned be destroyed.

(c) All confiscated ganja, siddi or bhang, fifty grams and more in weight, and fit for human consumption shall be sent to the Director of Enforcement (Excise) who shall arrange for its disposal in consultation with the Narcotics Department of the Government of India. The said officer shall maintain a register showing an account of the receipts and disposal of confiscated ganja, siddi and bhang sent to him.

(9) Confiscated Mohwa flower shall be transferred to a Government distillery for disposal.

6. Disposal of other confiscated articles :-

All confiscated articles, other than those specified in Rule 5, shall, unless otherwise directed by the Commissioner, be sold in auction and in the absence of any bid, they shall be destroyed.

Explanation Stills, implements or apparatuses confiscated shall be rendered unfit for use before being offered for sale and confiscated utensils and such other articles of metal may, if the Commissioner so directs, be rendered unfit for use before being offered for sale.

7. Intoxicant deemed to be unfit for use :-

Any intoxicant kept in any licensed premises which on an examination is found to be unfit for use by reason of its termination or admixture with any other intoxicant or article prohibited under rules or for any other reasons, shall be destroyed by the Excise Sub-Inspector after obtaining the order of the Asst. Commissioner of Excise (Enforcement) concerned or the Excise Superintendent concerned.

8. Mode of destruction :-

Any intoxicant liable to be destroyed under these rules, shall be destroyed in the presence of the Magistrate or officer who has ordered the confiscation or in the presence of any Excise Officer not lower in rank than of an Inspector.

9. Destruction of intoxicants not to affect other proceedings

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The destruction of any intoxicants under these rules shall not affect any proceedings that may be deemed necessary to be taken for breach if any, of the conditions or restrictions subject to which any licence in respect of such intoxicant has been granted.

10. Disposal to be deferred in certain cases :-

Disposal by sale or otherwise of confiscated articles may be deferred until the expiry of the period of limitation for preferring the appeal on the order of confiscation passed by the Magistrate, Commissioner or any other officer ordering confiscation as the case may be, and if an appeal is preferred against such order, until the appeal is finally disposed of :

Provided that,-

(a) in the case of a confiscated animal the disposal shall be so deferred unless the owner thereof deposits with the Assistant Commissioner of Excise (Enforcement) concerned or the Excise Superintendent or other officer authorised in this behalf by the Commissioner such sum as that officer deems sufficient for the feeding and upkeep of such animal pending its disposal.

(b) If the confiscated article is liable to speedy any natural decay or if the disposal thereof would be beneficial for the owner it may be disposed of immediately.

11. Procedure for release of confiscated articles :-

(1) If any order of confiscation in respect of any article is set aside on appeal or revision, such article, if it has not been sold already, or the sale proceeds thereof, and the balance of the amount, if any deposited for feeding up-keep or safe custody thereof, shall be given to its owner or his authorised agent.

(2) Where there is no claimant in respect of the released article or the proceeds of the sale thereof, the Asst. Commissioner of Excise Enforcement concerned or the Excise Superintendent shall publish in such manner as he deems fit the order of release and shall also cause a notice of such order to be affixed at a public place in the village in which the seizure of the thing was effected, in the office of the Tahsildar of the taluk or in the nearest police station or excise station of such village.

(3) If, within two months from the date of such notice, no person entitled to receive the released article or its proceeds claims the same the released article shall be sold and the amount of such sale proceeds after deducting charges, if any, incurred by the Department or as the case may be the net proceeds if sold already, shall be held in deposit.

(4) Where there is no rightful owner of the sum so held in deposit, it shall rest in the Government.

(5) The net proceeds of all confiscated article shall be credited into the nearest Government treasury without any delay.

12. Rules to apply for disposal of seized property on compounding the offence :-

Any liquor manufactured in contravention of the Act and seized as liable to confiscation under the Act, shall be disposed of in accordance with these rules, in case the offence is compounded under Section 47 of the Act.