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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
EXCISE DEPARTMENT

No. 1007-EX/O/1R-03/08

Kolkata, the 31st October, 2008.

NOTIFICATION

In exercise of the powers conferred by the proviso to sub-section(3) of section 85, read with section 86 and 38 of the Bengal Excise Act, 1909 (Ben. Act V of 1909), the Governor is pleased hereby to make, with immediate effect, the following amendments in the Consolidated Rules, published with this Department notification No. 601-SR, dated the 30th March, 1915, as subsequently amended (hereinafter referred to as the said rules):-

Amendments

1. For rule 28, substitute the following rule :-

“28.(1) An allowance shall be made for the actual loss in transit by leakage and evaporation of spirits transported or exported by land in wooden or metal vessels at rates not exceeding the maximum quantities specified in the table below for wooden or metal vessels, as the case may be:-

	<u>Maximum quantities of allowance</u>	
	Wooden Vessels percent	Metal Vessels percent
a) for transport up to 900 kilometers	nil	nil
b) for transport exceeding 900 kilometers but not exceeding 1500 kilometers	0.20	0.10
c) for transport exceeding 1500 kilometers	0.60	0.30

Provided that, if in any case, the temperature of the spirits on arrival at their destination is found to be lower than that when they were dispatched, a further allowance shall be made, if necessary of 0.05 of a London Proof Litre per cent, for every degree Fahrenheit of difference between the two temperatures, in addition to any allowance that may be made under the sub-rule.

(2) The allowance made under this rule shall be determined by deducting from the quantity of spirits dispatched the quantities being stated in terms of London Proof litres and shall be calculated on the quantity of spirits contained in each vessel comprised in a consignment.

(3)(i) If the report of the Excise officer, by whom a consignment of spirits on arrival by land has been gauged and proved at its destination, should show that wastage to a greater extent than that indicated in sub-rule(1) has occurred, wastage fees at the rate of Rs. 186/- per L.P.L. are payable, on so much of the deficiency as is in excess of the allowances referred to in sub-rule(1) shall, on demand by the Collector, be paid in advance by –

- (a) the contractor, distiller, bottler or licensee of the warehouse or bond at the receiving end when such spirit is transported there; or
- (b) the contractor, distiller, bottler or licensee of the warehouse or bond importing such spirit when he is unable to submit documents showing payment of fees at the exporting end within three months of receipt of such spirit;

Provided that when such documents show that fees realized at the exporting end is less than that leviable at the receiving end, the differential amount of fees are to be paid on demand by the Collector; or

- (c) the contractor, distiller, bottler or licensee of the werehouse or bond exporting such spirit on receipt of report of the Excise officer at the receiving end by the Excise officer at the exporting end.

(ii) The contractor, distiller, bottler or licensee of the werehouse or bond mentioned in clause (i) may prefer an appeal to the Commissioner for remission of fees under clause(i) but only after payment of the same through the Collector who shall forward the same with his report to the Commissioner within a fortnight. The Commissioner, after giving a hearing to the appellant, may remit the fees so paid on good causes being shown and in case of remission, the amount remitted shall be refunded in the manner as ordered by the Commissioner.

(4) Fees on a deficiency of spirits in excess of the allowances referred to in sub-rule(1) shall, if levied, be realized by the Collector of the district in which the distillery or werehouse from which the spirits were dispatched is situated.”

2. for rule 28 A, substitute the following rule:-

“28 A. (1) An allowance shall be made for the actual loss in transit of country spirit transported by land in labelled and capsuled glass bottles at the rates not exceeding the maximum quantities specified below:-

	<u>Maximum allowable limit of wastage</u>
	percent
a) for transport up to 10 kilometers	Nil
b) for transport exceeding 10 kilometers but not exceeding 75 kilometers	0.03
c) for transport exceeding 75 kilometers	0.06

(2) The allowance made under sub-rule(1), shall be determined separately in respect of each type of packing for different strength of liquor received in the warehouse in any quarter of the year with reference to the quantity advised.

(3) If the report of the Excise officer receiving the consignment of country spirit transported by land shows that wastage to a greater extent than that indicated in sub-rule(1) has occurred, the contractor, distiller or licensee of the werehouse transporting the same shall be liable

to pay wastage fees at the rate of Rs. 186/- per L.P.L. prevailing on the last date of the quarter on demand by the Excise officer receiving the consignment and such payment shall be made within seven days of receipt of notice in this regard.

Provided that the licensee may prefer an appeal to the Commissioner for remission of fees under sub-rule(3), but only after payment of the same through the Collector who shall forward the same, with his report to the Commissioner within a fortnight. The Commissioner, after giving a hearing to the appellant, may remit the fees so paid on good causes being shown and in case of remission, the amount remitted shall be refunded in the manner as ordered by the Commissioner.”

3. for rule 38, substitute the following rule:-

“38.(1) An account shall be taken at the end of each quarter of the year by the Collector, Superintendent of Excise or an Excise officer above the rank of sub-Inspector of Excise specifically authorized by the Collector or the Superintendent of Excise, of the stock of spirit in the distillery or warehouse or bottling plant or bond in such manner as the Commissioner may direct.

(2) Whenever any wastage beyond 0.25 per cent of the total quantity of spirit in proof litre handled in a quarter is determined by the inspecting officer, an explanation of the licensee shall be obtained by the Collector who shall cause an enquiry about such wastage and pass such orders as he deems necessary;

Provided that if the wastage in proof litre exceeds 0.25 per cent of the total quantity or spirit handled in the year, the licensee shall be required to pay wastage fees at the rate of Rs. 186 per L.P.L., on such excess deficiency within a week on demand by the Collector.

Provided further that the licensee may, after making payment of the above mentioned demand, prefer an appeal to the Commissioner through the Collector for remission of the amount so paid. The Collector shall send the appeal petition to the Commissioner with his report within a fortnight. The Commissioner may, after giving the appellant a hearing, at his discretion, on good causes being shown, remit the amount so paid either fully or in part, and the amount so remitted shall be refunded to the party in the manner as ordered by the Commissioner.

(3) An additional allowance of 0.30 per cent on the proof quantity of spirit removed for bottling in a bonded warehouse shall be allowed during the quarter. For wastages exceeding the above limit in a quarter, the licensee shall pay within seven days on demand by the Collector wastage fees at the rate of Rs. 186/- per L.P.L. on such excess deficiency, applicable to intoxicants being bottled.”

4. for rule 38A, substitute the following rule:-

“38A. (1) The contractor, the distiller or licensee of a country spirit warehouse shall be required to pay wastage fees at the rate of Rs. 186/- per L.P.L. on country spirit lost in excess of 0.10 per cent of the total stock of country spirit handled in any country spirit warehouse dealing with country spirit in labelled and capsuled glass bottles calculated on the basis of the transaction during any quarter of the year and on demand of the Excise officer-in-charge of the warehouse and such payment shall be made in advance within seven days of receipt of notice in this regard.

Provided that the licensee may prefer an appeal to the Commissioner for remission of duty under sub-rule(1), but only after payment of the same, through the Collector who shall forward the same with his report to the Commissioner within a fortnight. The Commissioner after giving a hearing to the appellant may remit the fees in part or in full, on good causes being shown and in case of remission, the amount remitted shall be refunded in the manner as ordered by the Commissioner.”

By order of the Governor,

C.M. BACHCHAWAT,
Principal Secretary to the Govt. of West