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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. 31-EX

Kolkata, the 12th January, 2009.

NOTIFICATION

In exercise of the power conferred by the sections 85 and 86 of the Bengal Excise Act, 1909 (Ben Act V of 1909), the Governor is pleased hereby to make, with immediate effect, the following rules:-

RULES

1. **Short title:** These rules may be called the West Bengal Excise (Shifting of existing site or change of premises of Excise License) Rules, 2009.
2. **Definition:** In these rules unless there is anything repugnant in the subject or context, the words and expressions used shall have the same meanings as respectively assigned to them in the Bengal Excise Act, 1909 (Ben. Act V of 1909) and the rules made thereunder.
3. **Application:** These rules shall apply to the shifting of site or change of premises of any Excise license granted under the Bengal Excise Act, 1909 and rules framed there under.

4. Procedure of shifting:

- 4.1. An application shall be made by a licensee with requisite court fee stamp along with the original copy of Treasury Challan showing deposit of non-refundable application fee applicable to the initial grant of that category of license in the proposed area in this regard, to the Collector, for change of site or shifting of existing licensed premises (i) within the same excise district or (ii) to a neighbouring excise district specifying clearly the reasons for such shifting.

Provided that no non-refundable application fee shall be payable in cases when:

- 4.1.1. the proposed site or premises where the license will operate after shifting is within the excise district where the existing site of the license is located and the Collector is satisfied that such change or shifting is necessary in the interest of the people residing in the area or that such change or shifting is due to change of existing rules or procedures, which are beyond the control of the licensee.
- 4.1.2. non-refundable application fee has already been paid in connection with the first application and an alternative site within the same excise district is offered by the applicant if it transpires, on enquiry, that the site offered earlier does not conform to the requirements of existing rules and regulations.
- 4.2. On receipt of the application referred in sub-rule 4.1, the Collector shall be the competent authority to consider the application of shifting of an existing site for the retail sale of liquor and certain other intoxicants when the proposed site falls within the same ward or Gram Panchayat where the existing site is located and the proposed site is objection free in terms of Rule 8 of the West Bengal Excise (Selection of New Sites and Grant of License for Retail Sale of Liquor and Certain Other Intoxicants) Rules, 2003 as amended.
- 4.3. In all other cases not covered by sub-rule 4.2 where an application for shifting of an existing site or change of premises of an existing licensed premise has been made, the Collector shall forward the application of shifting of site or change of premises with his opinion in writing to the Excise Commissioner having regard to the reasons for shifting specified in the application and the realization of revenue potential in the area. While forwarding the application to the Excise Commissioner, the Collector shall specifically record his satisfaction or otherwise as to whether
- 4.3.1. the proposed new site of the excise license for retail sale of liquor and certain other intoxicants does not attract restrictions imposed under rule 8 of the West Bengal Excise (Selection of New Sites and Grant of License for Retail Sale of Liquor and Certain Other Intoxicants) Rules, 2003 as amended.
- 4.3.2. the proposed site is suitable in all respects, as may be applicable, for grant of license for all other categories of license not covered by 4.3.1.

Provided that the Collector shall consider the case only when the said license has been operating at the existing site for at least five years at a stretch except when the Collector is satisfied that the shifting or change of site of an excise license covered by 4.3.1 is necessary in the interest of the people residing in the area or that such change or shifting is due to change or existing rules or procedures, which are beyond the control of the licensee.

Provided further that such prayer of shifting or change of site in the neighbouring excise district shall not be allowed more than once.

- 4.4. On receipt of application with all necessary documents and opinion of the Collector, the Excise Commissioner shall consider the application and
- 4.4.1. in case of the proposed shifting of excise license within the same district, the Excise Commissioner shall forward the same with his opinion to the State Government for consideration.
- 4.4.2. in case of shifting to a neighbouring excise district, the Excise Commissioner shall consider the prayer and recommendation of the Collector in whose jurisdiction the existing site falls and shall send the same to the Collector of the excise district, under whose jurisdiction the proposed site falls, for processing the matter under clause 4.3.1 and 4.3.2 of sub-rule 4.3 above. On receipt of application, documents and opinion of the Collector, under whose jurisdiction the proposed site falls, the Excise Commissioner shall forward the same to the State Government for consideration.
- 4.5. On approval of the shifting of the licensed premises to a new site, the licensee shall pay an amount equivalent to the amount payable for the initial grant of a new license applicable to that category of license and the area where the new site is located. Necessary amendments shall be made in the license on receipt of Treasury Challan showing deposit of initial grant fee in this regard.

Provided that no initial grant fee as mentioned shall be payable in the case of change of site or shifting of existing licensed premises when the Collector is satisfied that such change or shifting is necessary in the interest of the people residing in the area or that such change or shifting is due to change of existing rules or procedures, which are beyond the control of the licensee.

By order of the Governor,

C. M. BACHHAWAT,
Principal Secretary to the Govt. of West Bengal.