

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
OFFICE OF THE COMMISSIONER OF EXCISE, ENTT. & LUXURY TAX
L & N BLOCK. VIKAS BHAWAN, I.P. ESTATE, NEW DELHI

No. F.1(19)/Ex./IMFL/2014-15/ 1661

Dated : 08/9/15

ORDER

Whereas, M/s Carlsberg India Pvt. Ltd. has filed an application dated 19.11.2014 vide which they have requested for destruction of beer on 15510 cases and waiver of excise duty thereon. The pleas of the licensee for waiver was that 1D bar code of the stock brought from June 2013 to October, 2013 was damaged due to rain so they could not sale the liquor which caused expiring of the same and subsequently become non human consumable as new bar codes were not issued by the department.

AND WHEREAS, so many discussions were held with official of M/s Carlsberg India Pvt. Ltd. and they have been directed several times to submit the details related to I.P. number with 2D bar codes of the bottles of the cases whose 1D bar codes claimed as damaged against which the said liquor cases were imported.

The matter has been examined by the competent authority i.e. Commissioner (Excise) under Rule 60 of Delhi Excise Rules, 2010 and decided that waiver of excise duty on the stock of 15510 case of Tuborg and Carlsberg brand of beer due to damage of 1D bar code as claimed by the licensee, can not be given for the following reasons:

The licensee has claimed that 1D bar code of 15510 cases damaged due to rain and rubbing of cases which is not acceptable as :

- (i) Licensee has failed to convince how and when the consignment was damaged as no report of damage due to rain was ever reported by licensee or the Excise Inspector posted at BWH.
- (ii) Secondly if the Barcode damaged just due to season of rain then it is the responsibility of the licensee to pay excise duty has licensee as failed to use proper ink and paper prescribed by the GS1 India.
- (iii) The licensee was liable to give the details of the damaged cases with IP Number, 1D barcode number of damaged cases and 2D bar code of the bottles in such cases but failed to give inspite of several direction

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given in the meetings held with representatives of the licensee with officers of the department.

- (iv) The Excise Inspector has reported that the consignment claimed to be expired and have become non human consumable was brought without 2D barcode whereas the department has issued direction that June 2013 onwards no liquor would be brought without 2D barcode.
- (v) The submission of the licensee about damage of 1D barcode due to heavy rains is apparently wrong as the consignment of liquor is brought in covered and safe conditions and it was the responsibility of the licensee to bring the liquor consignment safe and 15510 cases can not be imagined to be damaged in one go as no such instance was ever reported by the licensee or by the Excise Inspector.

Hence, the licensee has not only misrepresented the fact but brought consignment without 2D barcode in non compliance of the directions and used rain as a cause of damaging of 2D barcode, is a afterthought to deprive the department its legitimate excise duty as stock was expired due to negligence of the licensee and the Rule 60 of Delhi Excise Rules, 2010 is not applicable. Therefore the competent authority has decided that licensee should deposit the excise duty and thereafter the stock may be destroyed, as per detail given below:

S.No	NAME OF THE BRAND	SIZE	QTY. IN CASES	QTY. IN UNIT	EXCISE DUTY	TOTAL
1	TUBORG CLASSIC STRONG BEER	650 ml.	8146	97752	44.70	43,69,514.40
2	TUBORG CLASSIC STRONG BEER	500ml.	2189	52536	39.91	20,96,711.76
3	CARLSBERG ELEPHANT SS PR. BEER	650ml.	264	3168	63.79	2,02,086.72
4	CARLSBERG ELEPHANT SS PR. BEER	500ml.	218	5232	49.45	2,58,722.40
5	CARLSBERG ELEPHANT SS PR. BEER	330ml.	216	5184	34.87	1,80,766.08
6	TUBORG GOLD BEER	650ml.	1127	13524	49.40	6,68,085.60
7	TUBORG GOLD BEER	500ml.	208	4992	36.18	1,80,610.56
8	TUBORG GOLD BEER	330ml.	653	15672	27.68	4,33,800.96

9	TUBORG BOOSTER PREMIUM BEER	650ml.	41	492	68.49	33,697.08
10	TUBORG BOOSTER PREMIUM BEER	500ml.	44	1056	49.45	52,219.20
11	TUBORG BOOSTER PREMIUM BEER	330ml.	1036	24864	37.22	9,25,439.08
12	CARLSBERG CHILL A.M. PR. BEER	650ml.	470	5640	68.49	3,86,283.60
13	CARLSBERG CHILL A.M. PR. BEER	500ml.	375	9000	54.25	4,88,250.00
14	CARLSBERG CHILL A.M. PR. BEER	330ml.	523	12552	37.22	4,67,185.44
		Total	15,510		G. Total	Rs.1,07,43,372.88

Further it is directed that while depositing the said duty, a note in remarks column may also be made to this effect.


(RAJESH KUMAR)
Asstt. Commissioner (IMFL)
Dated :

No. F.1(19)/Ex./IMFL/2014-15/

Copy to :

1. M/s Carlsberg India Pvt. Ltd., B-230, Okhla Industrial Area, Phase-I, New Delhi.
- ✓ 2. AC (ESCIMS).