

The U.P. Settlement of Country Liquor Licence (Tender-Cum-Auction) Rules, 1985

UTTAR PRADESH

India

The U.P. Settlement of Country Liquor Licence (Tender-Cum-Auction) Rules, 1985

Rule

THE-U-P-SETTLEMENT-OF-COUNTRY-LIQUOR-LICENCE-TENDER-CU of 1985

- Published on 1 January 1985
- Commenced on 1 January 1985
- [This is the version of this document from 1 January 1985.]
- [Note: The original publication document is not available and this content could not be verified.]

The U.P. Settlement of Country Liquor Licence (Tender-Cum-Auction) Rules, 1985Published vide Notification No. 15695/Licence-3, dated March 22, 1985In exercise of the powers under clause (c) of Section 41 of the U.P. Excise Act, 1910 (U. P. Act No. IV of 1910), the Excise Commissioner, with the previous sanction of the State Government, makes the following rules for determining consideration for the grant of licence for exclusive privilege under Section 24 of the said Act, by tender-cum-auction system :

1. Short title, commencement and application.

(1)These Rules may be called the Uttar Pradesh Settlement of Country Liquor Licence (Tender-cum-Auction) Rules, 1985.(2)They shall come into force at once.(3)These rules shall apply to grant of exclusive privilege of selling country liquor by retail where the Excise Commissioner decides to grant licence by tender-cum-auction system.

2. Definitions.

- In these rules unless there is anything repugnant in the subject or context,-(a)'Act' means the U.P. Excise Act, 1910;(b)'auctioning authority' means the Collector;(c)'auction purchaser' means the person whose bid or tender is accepted by the auctioning authority;(d)'highest bidder' means the person who offers the highest fee by bid or tender;(e)'Licence Fee' means the money payable in respect of shop or grant of shops under Section 30 of the Act in consideration of the grant of licence under Section 24 of the Act, besides the issue price payable for the minimum guaranteed quantity

for the shop or group of shops;(f)['Minimum guaranteed quantity' means the minimum quantity of country liquor as fixed by the Collector of the district guaranteed by the auction-purchaser to be lifted by him from the country liquor Bonded Warehouse, specified by the Excise Commissioner, for the purpose of being sold by retail in his country liquor shop or group of shops during the Excise year or part of the excise year for which he has obtained the licence. However, that the total minimum guaranteed quantity for district shall not be less than the quantity fixed by the Excise Commissioner for the whole district.] [Substituted by Notification No. 493/X-97-B, dated 12th Feb., 1990, published in U.P Gazette, Part 1, Section (Kha), dated 17th Feb., 1990.](g)'Issue price' means the price of country liquor calculated at the rate notified by the Excise Commissioner from time to time and payable by the licensee of country liquor shop or group of shops as part of sum under Section 30 read with Section 24 of the Act, for the entire minimum guaranteed quantity.(h), 'U. P. Excise Rules, 1910' mean the rules published with the Board of Revenue, Uttar Pradesh Notification No. 423/V-294-B, dated September 26, 1910, as amended from time to time.

3. [Power to fix number and group of shops. [Substituted by Notification No. 1871/UPA-Licence-3, dated 19th February, 1989.]

- The Collector shall be competent to fix number shops or group of shops and subject to Rule 2 (f) the minimum guaranteed quantity of country liquor in relation to Such shops or group of shops. A group of shops shall not consist of shops falling in more than one Sector in urban areas and shops falling in more than one Excise Inspector's Circle in other areas :Provided that the Collector may, in special circumstances when it is otherwise very difficult to achieve sufficient revenue increase and it is found necessary in revenue interest to increase the size of the group of country liquor shops for conducting the auction successfully, from a bigger group of country liquor shops not exceeding the Tahsil limits with the previous sanction of the Excise Commissioner.]

4. Settlement to be by tender-cum-auction system.

- Subject to the provisions of these rules and subject to the payment of issue price that consideration for licence for selling country liquor by retail shall be settled by tender-cum-auction system as hereinafter laid down.

5. U. P. Excise Rules, 1910, to apply.

- The provisions of the U. P. Excise Rules, 1910, under the heading "Fees" relating to the procedure of auction and the procedure after acceptance of a bid shall so far as it is not inconsistent with these rules, apply mutatis mutandis to the tender-cum-auction under these rules.

6.

(1)Before the commencement of the bidding at an auction of the shop or group of shops, as the case may be, any person who is eligible under the U. P. Excise Rules, 1910, to bid at an auction may submit a tender in a sealed cover addressed to the auctioning authority containing-(i)the name of

tenderer, his father's name and address;(ii)the name or location of the shop or the group of shops for which he has offered his tender;(iii)the sum of money offered in figures as well as in words.No tender received after this commencement of the auction shall be taken into consideration.(2)The tender shall be accompanied by the demand draft for a sum not less than ten per cent of the sum offered, drawn on a Scheduled Bank in favour of the auctioning authority and any tender not accompanied by such demand draft, shall be rejected by the auctioning authority forthwith upon opening the sealed cover under sub-rules (9) or (10) as the case may be.(3)The demand draft of a person whose tender is not accepted shall, if he so desires, be returned forthwith.(4)The sealed cover containing the tender shall be superscribed with the words "TENDER FOR THE.....COUNTRY LIQUOR SHOP/GROUP OF SHOPS FOR THE YEAR". The tenderer may obtain acknowledgment for the sealed cover presented.(5)A tenderer shall also be eligible to participate in the bidding at an auction for the same shop or group of shops.(6)The tenderer should be present at the place of auction at the time of opening of the tenders which shall be after the bidding is over, but his absence shall in no way affect his tender or auction proceedings.(7)A tender once submitted shall not be withdrawn before the expiration of sixty days or until any bid or tender in respect of the shops or group of shops is accepted, by the auctioning authority, whichever earlier.(8)The auctioning authority shall announce at the commencement of the auction, the number of tenders received for a particular shop or group of shops.(9)The tender shall be opened only when the auctioning authority is of opinion that any bid offered for a shop or group of shops in auction is worth consideration.(10)Where the auctioning authority does not consider any bid to be worth consideration and decides to postpone the auction, the tenders shall be opened only at the close of the final auction. In such a case it shall be open to any person to submit tender till the final auction for a particular shop or group of shops commences.

7. Acceptance of bid or tender.

(1)After opening the tenders the auctioning authority shall consider all bids and tenders and accept the bid or tender which in his opinion is best in the interest of the State revenue :Provided that where the highest bid or tender is not accepted he shall record the reasons for the same.(2)If no tender or bid is satisfactory in the opinion of the auctioning authority he may reject all the tenders and bids and order for fresh tender-cum-auction of the shop or group of shops after recording reasons therefor.

8. [Monthly statement of liquor to be lifted. [Rules 8 to 12, Substituted by Notification No. 493/X-97-B, dated 12th Feb., 1990, published in U.P. Gazette, Part I, Section (Kha), dated 17th Feb., 1990.]

(1)The auction-purchaser shall, before obtaining licence submit to the licensing authority for his approval a monthly distribution statement of country liquor to be lifted by him showing the monthly breakup of the minimum guaranteed quantity for the Excise year that will be lifted by him in each month as per requirements, indicating the issue price payable by him every month.The licensing authority shall before approving the monthly distribution statement so submitted revise the statement in order to ensure that the issue price instalment for the first six months shall not be less

than fifty per cent of the annual issue calculated for the total minimum guaranteed quantity fixed by the Collector and any one month's issue price shall be one-twelfth of the annual issue price subject to a variation of ten per cent of the average monthly issue price. The decision of the licensing authority shall be binding on the auction-purchaser.(2)The licensee shall lift the monthly minimum guaranteed quantity approved for a month till the last working day of that month. The right to lift the monthly minimum guaranteed quantity approved for that month but left unlifted, on the close of last working day of the month shall be forfeited, unless specifically permitted to be lifted in the subsequent months by the District Excise Officer.

9. Deposit of issue price.

- The issue price instalment for a month as specified in Rule 8 shall be deposited by the licensee into Government treasury of the district in which shop or group of shops are situated, by fifth of that month, or where that day or subsequent days happen to be holidays by the next working day, failing which the issue price to the extent of deficit payment shall stand adjusted from the security deposit and the licensee shall be called upon to make good the amount so adjusted within ten days. '

10. Consequence of failure to make good the deficiency.

- Where a licensee fails to make good the amount adjusted under Rule 9 within time, his licence shall be liable to cancellation. Where the licence is so cancelled it shall be settled afresh by tender-cum-auction system according to the provisions of these rules and any shortfall in the issue price shall be recoverable from the original licensee as arrears of land revenue.

11. Sale to be within licensed period.

- The licensee shall sell in retail the entire minimum guaranteed quantity for the excise year before the expiration of the term of licence. Any balance of quantity found outstanding and unsold at the expiration of the term of the licence shall be declared by the licensee to the Collector on the next day after the expiry of the last day of the excise year, which shall be returned by the licensee, to the Government Bonded Warehouse within two days thereafter and the licensee shall be entitled to such amount therefor as may be fixed by the Excise Commissioner after deducting from the issue price such percentage as the Excise Commissioner may think reasonable.

12. No claim for delay in supply.

- The licensee shall have no claim for damages or for remission of licence fee or issue price in the case of delayed supply of the country liquor.]