

DEPARTMENT OF EXCISE
PANAJI 4267
Inward No.
Date: 17/07/2017

Government of Goa
Department of Finance (Revenue & Control)
Secretariat, Porvorim
Bardez - Goa. 403521

No. 1/9/2016-Fin(R&C)(c)/2684

Dated:- 14 /07/2017

- Read:**
- (1) Order No. No. 1 / 9 / 2016 - Fin (R&C)(b) dated 07/02/2017.
 - (2) Order No. No. 1 / 9 / 2016 - Fin (R&C)(c) dated 27/03/2017.
 - (3) Order No. No. 1 / 9 / 2016 - Fin (R&C)(c) dated 05/04/2017.

ORDER

WHEREAS, the Hon'ble Supreme Court of India vide its Judgment dated 15 / 12 / 2016 in Civil Appeal Nos. 12164-12166 of 2016 [Arising out of SLP (C) No.14911-14913 of 2013] has issued the following directions under Article 142 of the Constitution of India, viz.: -

- (i) All States and Union Territories shall forthwith cease and desist from granting licences for the sale of liquor along national and state highways;
- (ii) The prohibition contained in (i) above shall extend to and include stretches of such highways which fall within the limits of a municipal corporation, city, town or local authority;
- (iii) The existing licences which have already been renewed prior to the date of this order shall continue until the term of the licence expires but no later than 1 April 2017;
- (iv) All signages and advertisements of the availability of liquor shall be prohibited and existing ones removed forthwith both on national and state highways;
- (v) No shop for the sale of liquor shall be (i) visible from a national or state highway; (ii) directly accessible from a national or state highway and (iii) situated within a distance of 500 metres of the outer edge of the national or state highway or of a service lane along the highway.
- (vi) All States and Union Territories are mandated to strictly enforce the above directions. The Chief Secretaries and Directors General of Police shall within one month chalk out a plan for enforcement in consultation with the state revenue and home departments. Responsibility shall be assigned inter alia to District Collectors and Superintendents of Police and other competent authorities. Compliance shall be strictly monitored by calling for fortnightly reports on action taken.
- (vii) These directions issue under Article 142 of the Constitution.

AND WHEREAS, in order to implement the directives of the Hon'ble Supreme Court, a Plan of Action was prepared and issued vide Order dated 07/02/2017 (read at (1) above).

AND WHEREAS, vide Order dated 27 / 03 / 2017 (read at (2) above), certain directions were given by the Government in order to modify the coverage of the Plan of Action dated 07/02/2017 as prepared by the Committee headed by the Chief Secretary and approved by the Government, viz.: —

1. *In regards to advertisement / signages indicating availability of liquor, the same need to be removed within 500 meters from the edge of the highways or service lanes, as the case may be. Further, in rest of the area of State, the Goa Excise Duty Act, 1964 prohibits alcohol advertisement and the same be enforced;*
2. *In regards to wholesale license, as they are not permitted to sell to a consumer and only stock material for purpose of sale to another licensee, they do not fall within the purview of the decision, provided they do not display any advertisement / signage;*
3. *In regards to bars & restaurants and taverns, in view of the legal advice tendered, the same are not covered by the judgment and therefore their licenses be renewed. However, the renewal is subject to any further directives of the Apex Court; and*
4. *All shops / vends, i.e. retail sale of liquor in packed / sealed bottles, however being explicitly covered under Supreme Court decision, within distance of 500 meters radius; cannot be permitted and therefore license shall not be renewed.*

AND WHEREAS, the Hon'ble Supreme Court of India vide its Orders dated 31 / 03 / 2017 in IA Nos. 4-6, 7-9, 10-12, 13-15, 16-18, 19-21, 22-24, 25-27, 28-30, 31-33, 34-36, 37-39, 40-42 in Civil Appeal Nos. 12164-12166 of 2016 has further clarified and issued revised directions in respect of the judgment dated 15.12.2016 in Civil Appeal Nos. 12164-12166 of 2016, issued certain directions under Article 142 of the Constitution of India, mainly to prohibit sale of liquor along the national and state highways w.e.f. 01st April, 2017.

AND WHEREAS, vide Order dated 05/04/2017 (read at (3) above), certain directions were further given by the Government to modify the coverage of the Plan of Action, in view of revised orders dated 31/03/2017 of the Hon'ble Supreme Court of India which further clarifies the judgment dated 15/12/2016 and covers retail sale of liquor for the purpose of consumption on

the premises i.e. in bars & restaurants and in case of areas comprised in local bodies with a population of 20,000 people or less, where the distance of 500 meters shall stand reduced to 220 meters; viz. :-

(i) Sr. No. (3) of the instructions in order dated 27/03/2017 (read at (2) above) stands deleted; and

(ii) The Commissioner (Excise) shall proceed to renew the licenses of the retail sale of liquor to the licensees located beyond 220 metres from the outer edge of the state and national highways, except in the areas comprising the census towns of Curchorem, Margao, Mormugao, Panaji, Mapusa & Ponda and Village Panchayats of Taleigao, Sancoale and Curti-Khandepar having a population of over 20,000.

AND WHEREAS, several representations have been received from various Liquor Traders, Hoteliers, Bar & Restaurant owners and other affected persons; stating that the method adopted for measuring the distance, is not in terms of what the Hon'ble Supreme Court has stated i.e. by accessible distance, and that the method adopted by radial measurement is erroneous.

AND WHEREAS, these representations were referred to the Law Department and Ld. Advocate General for Goa, by the Government for legal advice.

AND WHEREAS, after the detailed legal consultations were taken up by the State Government in the matter; it is brought to the notice of the Government, that the directions of the Hon'ble Supreme Court of India takes into consideration three aspects, namely, (a) visibility, (b) direct accessibility, and (c) the distance from the outer edge of the National Highway/ State Highway. Further the judgment does not stipulate that the distance should be measured radially.

Para 24(v) of the judgement dated 15/12/2016 states that "No shop for the sale of liquor shall be (i) visible from a national or state highway; (ii) directly accessible from national or state highway and (iii) situated within a distance of 500 meters of the outer edge of the national or state highway or of a service lane along the highway", and therefore the distance to be considered shall be measured by considering the nearest approachable road access to the shop selling liquor, from the National Highway or State Highway.

The directions at no. (iii) of para 24(v) has to be read in conjunction with direction nos. (i) and (ii) of para 24(v) and therefore the interpretation of the distance as referred to in para 24(v)(iii) has to be a distance by road. However, it should be ensured that, neither the said vend/ liquor shop is visible nor it is directly accessible. If a person has to travel more than 220 mtrs or 500 mtrs,

as the case may be, to reach the vend, mere fact that it falls within 500 mtrs of the aerial/radial distance would not preclude the Authorities concerned from granting necessary permission / renewal of licence, subject to fulfilment of the other two conditions, namely the same should not be visible nor directly accessible.

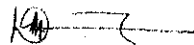
NOW, THEREFORE, the Government of Goa hereby further amends the directions given in the Order dated 27/03/2017, as regards the modification of the coverage of the Plan of Action dated 07/02/2017 (as amended from time to time), as prepared by the Committee headed by the Chief Secretary and approved by the Government, as follows, namely: —

In the Order dated 27/03/2017, for the direction no. (4), the following direction shall be substituted, namely: —

"4. If a person has to travel by road from the outer edge of the highway to reach the shop / vend, i.e. retail sale of liquor in packed / sealed bottles, and the distance from such highway to the shop / vend is more than the prohibited distance, then the same shall not preclude the Authorities from granting necessary permissions and /or renewal of the licence, subject to the condition that the shop / vend i.e. retail sale of liquor is not visible nor directly accessible."

Further, the Commissioner (Excise) is directed to consider individual request being made by the affected licensee for re-measurement of the distance as per above guidelines and proceed to renew the licence, provided the directions above and other conditions of grant / renewal of licence, are fully met.

**By Order and in the name of the
Governor of Goa**



(Daulat Hawaldar, IAS)
Finance Secretary

To:

1. Director General of Police, Panaji – Goa.
2. Commissioner of Excise, Panaji – Goa.
3. Principal Chief Engineer, Public Works Department, Panaji – Goa.
4. Director, Directorate of Settlement and Land Records, Panaji – Goa.
5. District Collector, North Goa District, Panaji – Goa.
6. District Collector, South Goa District, Margao – Goa.
7. Superintendent of Police, North Goa District, Porvorim – Goa.
8. Superintendent of Police, South Goa District, Margao – Goa.
9. Director of Municipal Administration, Panaji – Goa.
10. Director of Panchayats, Panaji – Goa.

Copy to,

1. Chief Secretary, Secretariat, Porvorim – Goa.
2. O.S.D. to Hon'ble Chief Minister, Ministers Block, Secretariat, Porvorim – Goa.