

Uttar Pradesh Excise (Amendment) Act, 1998

07 of 1998

[06 February 1998]

CONTENTS

1. Short Title And Commencement
2. Amendment Of Section 30 Of U. P. Act No. Iv Of 1910
3. Validation And Consequential Provision
4. Repeal And Savings

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An Act further to amend the United Provinces Excise Act, 1910 Whereas, the State Government in April 1983 granted licences valid upto March 31, 1984 for wholesale vend of the Indian made foreign liquor in Form F.L. 2 on payment of fixed fee; And whereas the conditions of licence inter alia provided that the licensee had to pay prescribed assessed fee on the sale of Indian made foreign liquor and beer according to rules; And whereas in accordance with the conditions of licence the State Government issued notification dated May 25, 1983 requiring the licensees to pay fee assessed on the basis of sales at the rates specified therein; And whereas pursuant to the said notification demands were made upon the licensees which they challenged before the Hon'ble High Court; And whereas the Hon'ble High Court accepted the case of the licensees and inter alia held that the notification will have no effect on the privileges granted before May 25, 1983; And whereas by the Uttar Pradesh Excise (Amendment) Ordinance, 1984 (U. P. Ordinance No. 12 of 1984) promulgated by the Governor on May 30, 1984, Section 77 of the U. P. Excise Act, 1910 was amended by inserting a proviso to the effect that notification dated May 25, 1983 shall have effect and be deemed always to have effect from April 1, 1983; And whereas the said Ordinance No. 12 of 1984 was replaced by Uttar Pradesh Excise (Amendment) Act, 1984 (U. P. Act No. 23 of 1984); And whereas in view of the amended provisions of Section 77, the

notification dated May 25, 1983 was made effective with effect from April 1, 1983; And whereas the appeals filed by the State Government against the judgment and order of the Hon'ble High Court were dismissed by the Hon'ble Supreme Court on September 17, 1996; And whereas a review petition was filed by the State Government before the Hon'ble Supreme Court was also dismissed by the Hon'ble Supreme Court on January 28, 1997; And whereas substantial sums as assessed fee, had already been realized by the State Government on the basis of the said notification dated May 25, 1983; And whereas licensees have made good the said assessed fee by adjusting it in their prices realized from the customers, therefore in public interest the licensees cannot be allowed undue enrichment; And whereas it is necessary to validate the said realization of assessed fee by the State Government from the licensees; Now, therefore, it is hereby enacted in the Forty-ninth Year of the Republic of India as follows : 1. Notification No. 292(2)/XVII-V-1--1 (KA)--37-1997, dated 7.2.1998, published in U. P. Gazette (Extra.), dated 7.2.1998.

1. Short Title And Commencement :-

- (1) This Act may be called the Uttar Pradesh Excise (Amendment) Act, 1998.
- (2) It shall be deemed to have come into force on April 1, 1983.

2. Amendment Of Section 30 Of U. P. Act No. Iv Of 1910 :-

In Section 30 of the United Provinces Excise Act, 1910, hereinafter referred to as the principal Act, after sub-section (2) the following sub-section shall be deemed to have been inserted on April 1, 1983, namely :

"(3) For the financial year commencing on April 1, 1983 apart from the sum fixed for grant of licence under Section 24-A, the sum assessed called as assessed fee, on the basis of sales under the licence shall be payable, at the rate of rupees five per reputed quart bottle of all kinds of spirit, wine, liquor and Cordial and at the rate of paise sixty per reputed quart bottle of bear, stout and other fermented liquors by the wholesale vendors of foreign liquor."

3. Validation And Consequential Provision :-

Notwithstanding anything to the contrary contained in any contract, judgment, decree or order of any Court or acceptance of any fixed

sum for grant of licence under Section 24-A by the State Government or on its behalf by the Excise Commissioner for the financial year commencing on April 1, 1983, the assessed fee realized, over and above the said fixed sum, from the licensees at the rates mentioned in sub-section (3) of Section 30 of the principal Act shall be deemed to have been validly realized under the said sub-section as if the provisions of this Act were in force at all material times and no licensee shall be entitled to refund of such fee and if any licensee has not paid the said assessed fee the same shall be recoverable from him.

4. Repeal And Savings :-

(1) The Uttar Pradesh Excise (Amendment) Ordinance, 1997 (U.P. Ordinance No. 13 of 1997) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the provisions of the principal Act as amended by the Ordinance referred to in subsection (1) shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act as if the provisions of this Act were in force at all material times.