

THE TAMIL NADU PROHIBITION APPEAL AND REVISION RULES, 1983*

(G.O. (Ms). No.101, Prohibition and Excise (V), 16th February 1983)

No. SRO A-33(b)/1983

In exercise of the powers conferred by clause (i) of sub-section (2) of Section 54 of the Tamil Nadu Prohibition Act 1937 (Tamil Nadu Act X of 1937), the Governor of Tamil Nadu hereby makes the following Rules to regulate appeals against and revision of orders passed under the said Act or under any Rule made there under:-

RULES

1. Short title and extent-(i) These Rules may be called the Tamil Nadu Prohibition Appeal and Revision Rules, 1983.

(ii) They shall apply to the whole of the State of Tamil Nadu.

(iii) The provisions of these Rules shall not apply to cases where specific provisions have been made otherwise in any other Rule framed under the Tamil Nadu Prohibition Act 1937 (Tamil Nadu Act X of 1937).

2. Appeal-(1) An appeal shall lie to the District Collector from an order of any officer of the Revenue Department subordinate to the Collector other than of a District Revenue Officer or Additional Collector or from an order of any officer of the Prohibition and Excise Department working under the control of the Collector and discharging function under the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) or under any Rule, notification or order made under the said Act or under the condition of a licence issued under the Said Act.

(2) An appeal shall also lie to the District Collector from an order of an officer of any other department who has been expressly made subject to the control of the District Collector in respect of any function discharged by that officer under the said Act, Rule, notification or order or who is discharging any function under the said Act, notification or order, delegated to him by the District Collector.

(3) Against an order passed by the District Collector or District Revenue Office or Additional Collector or Joint Commissioner of Prohibition and Excise, an appeal shall lie to the Commissioner of Prohibition and Excise.

*Published in Part III-Section 1(a) of the Tamil Nadu Government Gazette, Extraordinary dated the 18th February 1983.

(4) No appeal shall lie to the Commissioner of Prohibition and Excise against an order passed by him in the discharge of his functions as a Collector.

(5) An appeal shall lie to the Government from an original order passed by the Commissioner of Prohibition and Excise and against an original order passed by the Commissioner in the discharge of his functions as a Collector.

(6) Where, an order has been passed by an authority with the prior approval of a higher authority not being the Government, an appeal shall lie to the authority higher in rank of the authority who granted the prior approval, or to the Government, as the case may be.

(7) No appeal shall lie in a case where an order is passed by the appropriate authority with the prior approval of the Government or by the Government themselves.

(8) Where a licence or permit is suspended under sub-section (4) of Section 23 of the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937), by an order of an authority shall, in exercise of its power under this Rules, stay, modify or cancel that order.

¹[(9) The appellate authority may confirm, modify or set aside the order appealed against or confirm, reduce, enhance or set aside the penalty imposed by the said order.

(10) In a case where no appeal is preferred against any order against which an appeal shall lie, under this Rule, notwithstanding anything contained in this Rule, appellate authority may of his own motion, call for and examine the records, relating to such order and may confirm, modify or set aside the said order or confirm, reduce, enhance or set aside the penalty imposed by such order.]

NOTES

Suspension of licence: It was alleged that liquor was served in bottles to persons who did not stay in hotels but served liquor in the hotel's licence room. All these matters have to be adjudicated before the Appellate Forum and not by way of writ.

Right of the state: State is vested with the right to manufacture and sale of liquor. It can part with such rights for consideration. Such consideration is neither tax nor excise duty.

The State can part with the right to trade any liquor for a consideration. Contracts between the lessee and the Government are statutory. The rights are governed by Rules. Lessee cannot claim refund of deposit on his discontinuation of

¹ Sub-rules (9) and (10) were added by G.O.(Ms). No.981, Home, P&E (V) Dept., dated 31st August, 1989.

doing business nor can demand damages from the State Government. Section 56-A and 56-B are absolute bar for the Court to grant such relief.

3. Revision-Against an appellate order passed under Rule 2, by an appellate authority specified in column (1) of the Table below, the revisional authority specified in column (2) thereof shall exercise the power of revision either in application made within the period mentioned in Rule 5 or suo motu.

THE TABLE

Appellate Authority (2)	Revisional Authority (2)
1. District Collector	Commissioner of Prohibition and Excise
2. Commissioner of Prohibition and Excise	Government.

(2) The revisional authority may confirm, modify or set aside the order sought to the revised or confirm reduce, enhance or set aside the penalty imposed by such order.

4. Stay of Orders-(1) The authorities in whom appellate or revisional powers are vested by these Rules, may order stay of operation of the orders appealed against, or sought to be revised.

(2) For this purpose, an application for grant of stay of the orders of any officer under the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) or the Rules, shall be presented along with the appeal or revision petition explaining the grounds on which the order may be stayed.

(3) If the appeal or revision petition is admitted and if the appellate or revisional authority is satisfied on examination of the grounds urged, it may, order stay the operation of any order pending disposal of the appeal or revision petition, as the case may be, subject to such condition or terms as may be laid down in the said order.

5. Limitation- Save as otherwise provided in any other Rule made under the Tamil Nadu Prohibition Act, 1937(Tamil Nadu Act X of 1937) every appeal or revision petition shall be presented within one month from the date or receipt of the order appealed against or against which revision is sought.

Provided that the Commissioner of Prohibition and Excise or the State Government, as the case may be, may, for sufficient reasons to the recorded in writing,

entertain an ²(appeal or revision petition at any time within three months) beyond the aforesaid period.

6. General-(1) The fee leviable in respect of appeal petition and revision petition shall be at the rates specified in Schedule II to the Tamil Nadu Court-Fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955). The fee leviable shall be paid in the form of Court-fee-stamps.

(2) An appeal or revision petition shall state in clear terms the grounds of appeal or revision, as the case may be, and it shall be accompanied by the original or a copy of the order sought to be appealed against or revised.

(3) No order by way of appeal or revision under any of the foregoing Rules shall be passed prejudicial to any person without giving him reasonable opportunity to make his representation in writing.

NOTES

The State can part with the right to trade any liquor for a consideration Contracts between the lessee and the Government are statutory. The rights are governed by Rules. Lessee cannot claim refund of deposit on his discontinuation of doing business nor can demand damages from the State Government. Section 56-A and 56-B are absolute bar for the Court to grant such relief.

7. Repeal-(1) The Rules published with Revenue Department Notification No.797, dated the 15th October 1937, published at page 1784 of part 1 of the Fort St. George Gazette, dated the 19th October 1937, are hereby repealed.

(2) Notwithstanding such repeal anything done or any action or proceedings taken under the said Rules, in so far as they are not inconsistent with the provisions of these Rules, shall be deemed to have been done or taken under these Rules.

² Substituted for the expression "appeal or revision at any time" by G.O. (Ms). No138, P & E, dated the 16th August 1994.