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EXCISE DEPARTMENT

ORDER

The 5th April, 2013

No. 2158-I EX-07/2012/Ex.— In exercise of the powers conferred by sub-section (2) of Section 29 of the Bihar and Odisha Excise Act, 1915 (Bihar and Odisha Act II of 1915) (hereinafter referred to as the Act) and in supersession of all previous Orders/ Notifications if any on the subject, the State Government do hereby direct that any sum payable under sub-section (1) of the said Section in consideration of the grant of privilege for retail sale of India Made Foreign Liquor (IMFL) OFF and Country Spirit (C.S.) within the premises of the vendor shall, unless and otherwise directed by the State Government in any particular case or cases for any reason, be determined by the process of auction on a forward basis conducted online (henceforth referred to as 'e-auction') in accordance with the following procedure, namely :—

- (i) The dates for e-auction shall be fixed and notified by the Excise Commissioner with the prior approval of the State Government.
- (ii) The process of settlement shall be conducted by a departmental Excise Auction Committee (EAC), chaired by the Excise Commissioner and comprising 3 to 6 members appointed by him from time to time. The EAC may be guided from time to time by a core team as may be engaged by the government, comprising officials such as those from the Excise Department, State Procurement Cell (SPC), National Informatics Centre (NIC), Project OMEGA (Odisha Modernizing Economy, Governance and Administration). The EAC may also be assisted throughout the settlement process by IT support staff comprising of computer-trained officers as may be provided by

the government from time to time. The EAC members shall have Departmental access to e-auction website, validated by authorized Digital Signature Certificates. The EAC, with the technical support of IT support staff, shall be responsible for creating auction ids in e-auction system for each shop/ group of shops sufficiently before public issue of sale notice in Form A as prescribed from time to time, carrying out online pre-qualification scrutiny of bidders, online monitoring of live progress of e-auction, generating list of provisional highest bidders post e-auction and officially forwarding this report to respective District Collectors for grant of licences.

- (iii) On receipt of the notification mentioned in paragraph (i) along with the list of auction ids for corresponding shops from EAC, the concerned District Collectors shall issue sale notice in Form A as prescribed from time to time, inviting online applications from bidders for settlement of a shop or a group of shops at least ten days before the commencement of e-auction and shall give wide publicity to the same in such manner as he may consider necessary. EAC shall widely publicize the list of auction ids for corresponding shops in print and electronic media as also communicate the list to the Government for prominent display on official website of the department - <http://odisha.gov.in/excise/>.
- (iv) The settlement of retail shops of IMFL 'OFF' & C.S. shall be done individually and separately. Shops shall ordinarily not be settled in lots, except with the sanction of the Excise Commissioner based on recommendations of the respective District Collectors and any such surrender or cancellation of licences (of the lot) shall entail surrender or cancellation of the whole lot at the discretion of the authority.
- (v) The e-auction shall be conducted individually and separately under one unique e-auction id for each shop/group of shops to be processed by the EAC. A bidder can apply for one or more shops/ groups of shops in any district of the state. Bidders shall be required to obtain Digital Signature

Certificates (DSCs) through certified agencies, followed by self-registration on e-auction website with valid DSC. Bidders may also obtain multiple DSCs with self-registration of multiple online bidder profiles for participation in e-auction of multiple shops in the event of these auctions being conducted simultaneously.

- (vi) To qualify for participation in e-auction, the bidders shall be required to upload against each auction id/shop he is interested in, the following scanned, legible documents on their registered, DSC-validated profile on e-auction website before the end date for submission of documents online as notified in sale notice:
- (a) Original challan deposit receipt(s) under stipulated head of State Treasury, towards payment of non-refundable application fee for each shop, as notified in sale notice, as may be determined by the state government from time to time ;
 - (b) Original financial instruments in the form of Fixed deposit receipt of Scheduled Bank / Kissan Vikash Patra / Post Office Savings Bank Account / National Savings Certificate / Postal Office Time Deposit Account only, having validity of at least 90 days from the date of publication of sale notice and duly pledged in favour of the concerned District Collector and payable at the concerned District, towards Earnest Money Deposit (EMD) of each shop, equal to not less than three times the concerned shop's monthly reserve price or as maybe determined by the state government from time to time (No Cheque / Bank draft/ Cash Payment shall be accepted as EMD) ;
 - (c) Original up-to-date solvency certificate in respect of immovable property, equal to not less than twelve times the combined monthly reserve price(s) of the shop(s) the bidder intends to bid for ;
 - (d) Original VAT clearance certificate for the year preceding the publication of sale notice ;
 - (e) Original Income Tax Return for the year preceding the publication of sale notice ;

- (f) Original Excise no-dues certificate (in case of existing licensees) from the concerned authority up to two months preceding the publication of sale notice;
 - (g) An Affidavit in original, in Form B as prescribed from time to time, duly sworn in and executed before an Executive Magistrate/ Notary ;
 - (h) Original PAN card ;
 - (i) Original Voter ID or Adhaar Card.
- (vii) The registered bidder shall also be required to sign the ‘Terms and Conditions’ online through his registered, DSC-validated profile, acknowledging the following terms and conditions of e-auction:
- (a) Bidder or his associate is familiar with and understands the e-auction process on website and has the technical and/ or human resources to participate in e-auction process ;
 - (b) Bidder must have access to hardware and internet connectivity for participating in e-auction process ;
 - (c) Bidder shall honor each bid digitally signed and submitted by him in e-auction ;
 - (d) The onus of online uploading of genuine, stipulated documents shall lie on the bidder ;
 - (e) The bidder shall abide by the decisions of the Excise Commissioner in case of any grievances arising in course of the e-auction process.
- (viii) After the last date of online submission of pre-qualification documents by registered bidders, the EAC members with assistance of IT support staff, shall conduct online scrutiny of pre-qualification documents [verification of content of all scanned documents stipulated in paragraph (vi)] of bidders through their Department authorized DSCs. In case, the online documents, on scrutiny, are found to be defective and/or inadequate, the bidder’s profile shall be summarily rejected online along with the justification/ reason which can be viewed online by the concerned bidder and he shall not be permitted by the system to participate in e-auction process. Bidders who are found to

be eligible in online scrutiny shall be approved in the system by the EAC members with assistance of IT support staff. The e-auction pre-qualification status shall be updated automatically in the registered bidders' online profile before start date of e-auction, and system-generated e-mails and SMSs on pre-qualification status may also be sent to all registered bidders.

- (ix) Qualified bidders shall log on to e-auction website using registered DSCs before start time of e-auction of the shops, as notified in sale notice and as per 'terms and conditions' form signed online by the bidders.
- (x) The e-auction process shall be governed by the 'e-auction principles' as determined by the Government in Excise Department from time to time and which shall be published in sale notice and made available on e-auction website and official departmental website. The 'e-auction principles' may, among other details, envisage the following:
 - (a) Only qualified/approved bidders who have digitally signed the 'terms and conditions' form shall be allowed to participate in e-auction.
 - (b) E-auction end time and start time for each auction id, with permissible number and duration of time extensions shall be displayed online with details of each auction id.
 - (c) The e-auction shall be online, incremental/ forward auction, with bids submitted in terms of monthly consideration money and only above the fixed reserve price of each shop.
 - (d) Highest bid for a particular shop/auction id shall be displayed in real-time to all bidders of that particular shop/ auction id only.
 - (e) System-generated, random masking of identity of each bidder of a particular shop/auction id shall be in effect, with each bidder being able to see only his own masked id, the real-time highest bid amount for the concerned shop and the masked id of the corresponding highest bidder.
 - (f) The minimum and maximum permissible increments per bid shall be determined by the EAC and shall be in effect during live e-auction.

- (g) No reduction in bid shall be permitted once it has been digitally signed and submitted by a bidder and accepted by the system. Also, new bids that are same as current highest bid shall be disallowed, thereby preventing tie of bids.
- (h) The masked id and bid amount of provisional highest bidder of a particular shop/auction id shall be displayed to all the bidders immediately after end of e-auction slot for that particular shop/auction id.
- (i) In case of district-wide or area-wide communication network failure, only if duly certified by competent authorities from concerned network service providers of that area/ district, the e-auction for all shops/auctions ids affected during that network failure may be settled afresh at a later date by the Excise Commissioner.
- (xi) If no bid is received in e-auction for any shop/ group of shops, the Excise Commissioner may notify another date for settlement of shops through e-auction or may allow these shops to be run by other Government agencies and cooperative organizations with the licence fee as decided by the Government.
- (xii) After successful completion of e-auction for all auction ids/ shops, the list of provisional highest bidders with their respective bid amounts for all shops/auction ids shall be submitted officially by EAC to respective District Collectors.
- (xiii) Verification of original documents, including challan deposit towards non-refundable application fee of each shop and realization of EMD payment instrument towards each shop, shall be made in respect of the provisional highest bidders for each shop as recommended by EAC before the license is actually granted by the Collector. Such verification shall be done by the Superintendent of Excise assisted by at least one Inspector (and Deputy Superintendent of Excise wherever such posts are available), as nominated by the Collector before the license is actually granted by the Collector. For the purpose of this verification, all provisional highest bidders for respective

shop(s), shall be required to submit the following documents to respective District Collectors before the end date notified in sale notice:

- (a) Original documents under sub-paragraphs (a), (b), (c), (g) of paragraph (vi), and copies of documents under sub-paragraphs (d), (e), (f), (h), (i) of paragraph (vi), with same original up-to-date solvency certificate whose scanned copy was submitted online for pre-qualification before e-auction ;
- (b) Original documents to prove that he is the owner of the premises or has rented the premises where he intends to set up shop(s) in designated locality.

Failure to furnish the above documents before stipulated deadline or furnishing false documents shall be sufficient ground for cancellation of provisional highest bidder status and false/forged documents shall make the bidder liable for criminal proceedings under relevant provisions of IPC. Settlement of licence shall be done at the highest evaluated responsive bid for the concerned shop, as validated by the concerned Collector and EAC members. In case the highest evaluated responsive bid is considerably lower than the reserve price fixed for the concerned shop, the settlement may be done with the highest evaluated responsive bidder at a price negotiated by the concerned Collector. If the shop still remains un-settled, it shall be settled afresh through e-auction or be allowed to be run by other Government agencies and cooperative organizations with the licence fee as decided by the Government. If the provisional highest bidder defaults on propriety of documents submitted during physical scrutiny, the EMD tendered by him shall stand forfeited.

- (xiv) Post physical scrutiny of original documents, upon realization of advance consideration money as may be determined by the Government from time to time and after adjustment against deposited EMD, the highest evaluated responsive bidder shall be confirmed with the settlement of the shop. He shall then put his signature in the Register of Settlement and Register of Undertaking to lift the monthly minimum guaranteed quantity as may be determined by the Government from time to time and shall be then granted licence by the Collector.

- (xv) The licensee shall open the shop(s) after issuance of licence in the stipulated locality within stipulated time (as specified from time to time) from start of currency of licence.
- (xvi) The privilege once granted shall be valid for a period of one year, and unless and otherwise directed by the State Government, may continue for a maximum period of three years including the year of grant, subject to annual renewal of the licence for the second and third year succeeding the year of e-auction on terms and conditions to be prescribed by the State Government from year to year. In the event of any exigencies, if a shop is settled in the middle of the excise year through e-auction, the privilege may continue for remaining period of the original three year's validity, subject to annual renewal as per the terms and conditions.
- (xvii) The State Government reserves the right to refuse grant of privilege without assigning any reason thereof and settle the privilege before expiry of three years in the manner as may be decided by the State Government from time to time.
- (xviii) In case of expiry of validity period or omission of renewal or suspension/ cancellation or surrender of licence, the shop shall be settled through e-auction or be allowed to be run by other Government agencies and cooperative organizations with the licence fee as decided by the Government.
- (xix) The decision of the Excise Commissioner on any grievance arising in course of the e-auction process in the state shall be final.
- (xx) This order shall come into force with effect from the date on which it is published.

By Order of the Governor

S.P. THAKUR

Principal Secretary to Government