



LIQUOR INDUSTRY IN INDIA: THE PRACTICAL WAY FORWARD*

“Sometimes when making something so precious, beautiful and unique, it takes an extra helping heart” –

Anonymous

Introduction

In western countries people drink liquor for socializing with each other and it contributes to their healthy relationships but in India it is usually considered as bad habit by the society and hence it is generally consumed in private place or in secrecy. People tend to drink liquor in a large amount which is more than their tolerable limit leading to health problems of various kinds. Liquor industry in India is considered to be one of the most profitable trades in the nation considering its widespread consumption and at the same time garnering huge revenue for government in form of excise duty, Value added tax (VAT) etc.

Alcohol falls under the state list in seventh schedule of Indian Constitution. Meaning thereby that states are empowered to make laws on this subject and such law shall be applicable to that state only. Therefore, laws related to alcohol differ in different states. Article 47 of Indian constitution provides one of the directive principles of State policy as “**States shall endeavour to bring about prohibition of consumption of intoxicating drinks except for medicinal purposes**”.

In view of this, some states have created a blanket ban prohibiting the production, storage and sale of alcohol within their territory thereby making them DRY STATES. It is prohibited in states of Gujarat, Nagaland, parts of Manipur and in the Union Territory of Lakshadweep. Kerala is ushering in the prohibition in phased manner since 2014. In Bihar prohibition on liquor is scheduled from 1 April 2016. All other Indian states and union territories allow and regulate the sale of alcohol but have fixed the minimum legal drinking age which differs from state to state. It ranges from 18 in Madhya Pradesh, Goa etc to 25 in Meghalaya, Punjab, Maharashtra which in itself is an anomaly because a person aged 19 years cannot consume liquor in Punjab but can very well do so in Madhya Pradesh. This evidently points towards the lack of uniformity in law and its ill consequences.

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FAILURE OF STATE POLICIES PROHIBITING PRODUCTION AND SALE OF LIQUOR

The government policy of prohibiting production, storage and distribution of liquor in states like Gujarat has proved to be an utter failure. While making liquor trade illegal in some states like Gujarat the government has not been able to contemplate the unintended repercussions of the policy because the ultimate aim behind the entire policy could never be achieved rather it resulted into many more deadly effects. In Gujarat illegal liquor is supplied in all over the state and bringing turnover of millions of rupees to the people involved in this illegal trade involving even the politicians and bureaucrats of the state. Some of the liquors like *mahua* and *potli* are manufactured in the state itself under the nose of the government while Indian made foreign liquor like rum and whisky are smuggled which ultimately frustrate the entire purpose. The involvement of the police and other officials is easily Gujarat's worst kept secret.¹ Some reports reveal that prohibition on production and consumption of liquor does not fulfil its object of restraining alcoholics and encouraging the people to avoid drinking habit. Apart from it, prohibition has encouraged the bootleggers to fulfil the demand of liquor by smuggling it from other states where its trade is not prohibited. The law enforcement agencies like police, court has not been able to put restriction on production, storage, distribution and sale of liquor. In dry states it has been observed and found that cases of corruption have increased wherein police allows the bootleggers to sale liquor and takes bribe from them. Prohibition has also encouraged other organised offences like human trafficking, drug peddling etc.

The state has witnessed repeated liquor tragedies: 257 people died in Vadodra in 1989 from drinking spurious liquor and 157 people in Ahmedabad in 2009.² Gujarat government responded to these deaths by amending the law which provide for death penalty for making spurious alcohol. But the amended penalty has not eliminated death toll from spurious liquor. On May 5, 2014, two people died in Ahmedabad after consuming it.

In some states like Tamil Nadu during the prohibition era (1937-2001) it was found that death toll and cases of deteriorated health increased due to consumption of contaminated liquor. Considering this scenario the then Tamil Nadu Government lifted the ban. Andhra Pradesh government lifted the ban on liquor within two years in 1990s as it failed to control prohibition-

¹ K Diwanji, Amberish, Prohibition - Gujarat's worst kept secret, 2002. Article can be accessed at <http://www.rediff.com/election/2002/dec/11guj4.html>.

² Gupta, Aryan, A history lesson for Nitish Kumar: prohibition does not work, 2016. Article can be accessed at <http://scroll.in/article/676679/a-history-lesson-for-nitish-kumar-prohibition-does-not-work>.

related offenses, particularly illicit distillation and smuggling. Same is the case with Nagaland where prohibition was imposed in 1989 which proved to be a failure.

WAY FORWARD: REASONS FOR LIFTING THE BAN

Various reasons could be brought forward advocating that the ban on the production and sale of liquor should be lifted at the earliest. The reasons could be compressed and presented under the following heads -

Firstly legalizing the trade of liquor will bring huge revenue for cash-strapped government which it can utilize in various social welfare schemes. The same potential revenue is already present in the form of black money and is being utilized for many illegal purposes. But in this way this much needed fund could be brought to the state exchequer also preventing the corruption which is prevalent among the bureaucracy and law enforcement agencies. The revenue collected from the taxation of alcohol can be ploughed back in social initiatives like encouraging the youth to avoid drinking by highlighting the adverse impact of liquor on physical and mental health, future employment prospects and familial relationships. Through this step government can avoid the possibility of production and sale of spurious liquor products which had taken a death toll to such a large extent in prohibition era in Haryana and Tamil Nadu. Lifting the ban from liquor can provide the good quality liquor at reasonable price. Every year liquor industry is contributing approximately 90,000 Crore rupees to government revenue.

Secondly, it should also be considered that liquor industry gives job opportunities to lakhs of employable labor which is the ultimate backbone of any industrial society. Therefore it can bring stability to the employment scenario in an expanding economy like ours.

Thirdly, it is badly affecting the tourism industry because tourists are looking for other states where sale of liquor is legit business. To full fill the demand in Gujarat, for instance, Bootleggers are smuggling liquor from other states or union territories like Daman & Diu where rate of tax is very low. These liquors are sold at high price which is generating black money in the state as the revenue generated from the sale remains largely unaccounted. It is estimated that government is losing 10000 Crore rupees as no excise duty and VAT is levied on the production of home-made liquor and smuggled liquor.

Fourthly, the addiction to liquor cannot be eliminated by a mere ban on its production and consumption rather it needs specialized care and phased steps. The sudden unavailability of liquor in the state could lead to a situation of chaos for the addicted people. This leads to the crimes of

various kinds which often is a way through which these addicted persons try to exhale their frustration towards the regulations of the society. This also has resulted into many instances where youths having great potential to serve the society are piloted towards the dark. This is shown in many surveys that ban on liquor could not be easily taken by the consumers. They have to satisfy their need and this leads to the smuggling and illegal production of liquor, also resulting in the potential rise in crime rate.

TAXATION OF LIQUOR IN INDIA

Taxation of liquor started from the time of British rule in India. At that time it extended only to the Presidency towns. State machinery enforcing tax laws which existed at that time continues till present day but is now non efficient due to change in time and is also marred by corruption. Further, each state has its own policy related to excise duty or value-added tax. Rate of taxes on liquor are different in different states driving it away from uniformity. The rates also vary in case of foreign made and Indian made liquor. In state of Kerala, government enhanced the rate of tax on foreign made liquor from 120% to 135% and in case of beer and wine from 50% to 70% effecting from 2014.

Tax on the basis of alcohol content

According to current taxation laws in India, tax rate applicable to all types of alcohol is the same irrespective of the contents and quantity of alcohol present. It is recommended that the tax on production, distribution and sale of liquor should be on the basis of content of alcohol present in it. The effect of this policy decision will be that the price of beer in which alcohol content is less can go down. It may increase the consumption of less alcohol containing beverages like wine and beer. It might attract the regular drinkers to purchase the beer and wine rather than hard liquor. Through this step the government can achieve its social objective behind policy of putting prohibition on liquor by encouraging the Youth to avoid taking liquor containing alcohol in large amount. The rationale also is to deviate the drinkers away from the hard liquor which is the most susceptible to be made of low grade materials having ill effects on the health of the consumers.

Liquor to be part of GST

The goods and service tax is scheduled to be enforced from June, 2016. It will lead to uniform rate of indirect taxes on all commodities and services. GST will simplify and harmonize the complicated indirect tax framework in India. GST will widen the tax base, and result in better tax compliance due to a strong IT infrastructure. But to a great surprise, liquor is not made a part of the bill. According to the Bill, "all goods and services, except alcoholic liquor for human

consumption, will be brought under the purview of GST". This may be so because the state governments are afraid of losing control over the taxation and regulation of liquor industry. This is absolutely a politically influenced decision without any economic foundation. State machinery will continue to control the interstate movement of goods. This will lead to continuation of complex manual procedure necessary for obtaining the permission required for production and sale of liquor at different levels of state machinery which is afflicted by corruption and snail-pace working system. Therefore, extending the application of this act can avoid this problem.

Due to the present law as it stands, the manufacturers and retailers are facing the complexity in interstate movement of alcoholic beverages due to different regulations prevalent in different states. On the top of this the manufacturers do not get input credit for excise duty paid on purchasing raw material. The retailers cannot also set-off the tax credit of excise duty with Value-added tax charged on the invoice price of goods. Therefore, only the existing tax structure is responsible for the high prices of liquor prevalent today. "The archaic procedures related to licensing, interstate and intrastate movement of goods have been impediment in the natural growth of liquor industry which can benefit the manufacturer and the governments.³ According to the World Health Organization, almost 50% alcohol sold in India is non-commercial or illegal (350 million cases) which is causing huge loss to state exchequer besides the effects of this liquor on health are also in doubt. The GST is a great mechanism to address it.⁴

This policy measure can remove the regulatory problems associated with procedural aspect of sale of liquor. It can help to simplify the tax administration of liquor industry as presently different types of taxes are levied on it. It can also help to control illicit liquor trade by implementing stringent control on manufacture and movement of goods.⁵ But there is another recommendation. The tax should be based on alcohol content rather than price of liquor. If common rate of tax on liquor is not imposed under the Goods and Service tax regime due to non acceptance of the policy by the state government it will cause huge loss to the Government in terms of revenue.

Considering the advantage of including liquor as a part of GST and flaws of the existing burdensome and inefficient tax law it is wise for the government to usher in the larger interest by taking the above mentioned initiatives.

³ Mani, M, Alcohol should be included in GST, Aug 11, 2015. Article can be accessed at <http://www.thehindubusinessline.com/opinion/alcohol-should-be-included-in-gst/article7526827.ece>

⁴ Sanjay, P.R. and Mishra, Ashish k, The sober reality of making liquor in India, May 4, 2015. Article can be accessed at <http://www.livemint.com/Industry/IL7nR6USe1un4vgIcnYhdJ/The-sober-reality-of-making-liquor-in-India.html>

⁵ *Supra* 3.

CONCLUSION

Extent of consumption of liquor in India shows that prohibition has not been able to restrain the boozers. By continuing with the policy of prohibiting the production and sale of liquor the government has to forego the benefit of revenue of more than a billion rupees and in term of non-economic benefit the corruption will remain going on. Government should learn from the history that Prohibition has not proved to be an effective mechanism through which drinking habit could be controlled. But advocating the lesser consumption can be handy to restrain the boozers. Government can focus on introducing the chapter on repercussion of consuming liquor in school curriculum, initiating the anti-alcohol awareness programme as already in existence in Kerala. Government can allot the fund for starting public counselling centres the main purpose of which must be to bring into light the ill-effects of consumption of liquor and encouraging the youth to come out of the drinking habit and helping the interested youth to get control over this habit. Constitution mandates that government should prohibit intoxicating drinks which are harmful but prohibition on liquor trade has only lead to the sale of spurious alcohol. Despite noble intentions of state governments the prohibition policy has been proved to be a farce. It is high time that governments should rethink over its policies on this highly crucial subject matter.