THE STRAIT-JACKETED INDIAN WINE MARKET

India, the world's largest democracy, sounds like an enticing market. That impression lasts right up the moment it's time to fill in the forms and hand over money for the many fees and taxes involved. Subhash Arora has taken the time to make sense of it all - a very brave undertaking.

Consumption of alcohol is discouraged in the Indian Constitution, yet India is a 500m-case spirits and beer market. This should make it a good prospect for wine, but the continuously changing rules and procedures for marketing wine in India, coupled with high duties at both federal and state level, has strait-jacketed the market. Nevertheless, a continued increase in demand for wine has kept the industry optimistic.

Bureaucratic tangle

In 2001, the government removed wine imports from the shackles of licensing. Earlier, only hotels and diplomats were allowed to import it, with special licenses, after justifying the import requirement. The new policy allowed anyone to import – without a license.

This appeared to be a straightforward step that simplified wine distribution. In fact, there are a myriad of laws governing the sales and distribution in various states, some of which impose strong non-tariff barriers, difficult for anyone unfamiliar with India's bureaucratic procedures.

Section 47 of The Constitution of India, which gives power to individual states to control the production and distribution of alcohol, states: "the State shall endeavour to bring about prohibition of the consumption, except for medicinal purposes, of intoxicating drinks and of drugs which are injurious to health." Wine falls into this category. And while wine importing is under the control of the federal government, distribution falls under the jurisdiction of individual states.

Importing is freely allowed, but is subject to customs duty at borders. Anyone may import wine, pay the customs duty of 150% of Assessable Value (CIF Value +1%) and get the wine released, after proving that it is for self consumption. Special Additional Duty (SAD) of 4% is levied on the total cost, including the customs duty, making it effectively 10% - to a total duty of 160%. "SAD is refundable, but the procedure is too complex to apply for a refund and is always included in the costing by the importers," says Debjit Dasgupta, secretary of the newly formed Delhi Foreign Liquor Association.

Hotels and restaurants are exempted from this duty if they have foreign exchange earnings. The DFCEC (Duty Free Credit Entitlement Certificate) license is issued by the Director General of Foreign Trade, valued at 5% of the foreign exchange earnings of the past three years. This entitles them to import wines, spirits and a host of other specified equipment for own-use.

Wine may be stored in a bonded warehouse, whether private or public, as long as certain specifications are met, including the deposit of a bank guarantee for 25% of the total payable customs duty. No interest is charged for 90 days, after which 15% per annum is levied on a quarterly basis, for a period of 12 months. A further extension of six months may be granted, but after this time the wine must be removed from the warehouse (after paying the applicable duty), or re-exported. The warehouse is under the control of an assigned officer, who physically removes the wines requested, after ensuring that the duty is paid.

While valid, the DFCEC license is physically handed over by the hotels to several importers, which can be anywhere in India endorsed by the customs officer. There is no uniformity in the policy of charging interest. States like Maharashtra debit the amount in the license, whereas Delhi insists that cash is deposited, even though hotels may not normally need to pay customs duty.

Whereas customs duties are charged by the central government and involve relatively simple procedures, sales are monitored and controlled by the excise department in each state, through wholesalers who must procure an excise license. Each state has its own policy which can change from year to year every April, thus putting the importer into a strait jacket of paperwork.

It gets worse

Excise duties are levied at three levels in most states. The first level is the wholesale license that entitles a wholesaler/distributor to sell the product to licensed buyers. Its nomenclature is different in every state: in Delhi it's L-1F, while in Haryana it is L1B-F. In Delhi the L-1F costs Rs.600,000 ($11,600) for one fiscal year, from April to March. A fresh application needs to be made every year. There is a lot of paperwork and it takes six to eight weeks to procure, during which time no sale is possible; license fees are payable for 12 months.

In Maharashtra, the license costs Rs.75,000, whereas in Bangalore, the third-largest market, it is not required as sales are made through the state alcohol monopoly, Karnataka State Beverage Corporation. The monopoly charges a 7.1% premium and helps with logistics only. Generally, Karnataka's system is streamlined and easier to deal with. In Rajasthan, the liquor wholesale license comes in the shape of excise bond and costs Rs.600,000 annually. In Haryana the wholesale license, the L1B-F, costs Rs.1.5m and is for the sale of up to 10,000 cases of wine, beer or spirits. For additional sales of up to 10,000 cases, Rs.1m is charged annually.

Importers may also work as wholesalers, but in most states they distribute through wholesalers who charge them a premium and offer logistics. Therefore, an importer might appoint a distributor in Haryana, who procures the L1B-F wholesaler license, and thus may service more than one importer.

Label registration

Each label must be registered annually in most states at different rates. These costs may be borne by the importer, retailer or the foreign producer based on mutual agreement, the

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strength of the brand and the prices negotiated. The retailer or hotel does not share this cost.

In Delhi it costs Rs.5,000 a label. Until last year, it was nil in Haryana, but from the financial year 2012/2013 it is now Rs.10,000 ($194.00) a label. Rohit Mehra, director of Mohan Bros, who has been in the wine and spirits importing business for more than two decades, says, "the new policy dictates that every wholesaler who distributes must register separately for each label. This will make selling in Haryana expensive and hurt small importers. It will also limit brands entering the market."

Haryana has a complex selling policy. The wholesaler with an L1-BF license must sell to the holders of an L-2 license against highest sealed bids. Retailers such as department stores like Spencer's, Nature's Basket, and Reliance, on the other hand, must hold an L-10B license – and can only procure from the two closest holders of an L-2 license. The cost of a retail license has shot up, from the relatively modest Rs.10-15m of three to four years ago, covering a cluster of two to three outlets, to the sum of Rs.130m today. This license covers both wine and the far more lucrative beer and liquor.

In Mumbai (Maharashtra), the first 10 labels can be registered at Rs.5000 each, after which it costs Rs.2500 only. In states like Tamil Nadu, it's possible to ship directly to hotels from out of the state, but as from 2012, it costs Rs10,000 a label, which has caused wine prices to escalate.

Not surprisingly, importers are upset about the uncertainties and continual changes surrounding wine. "The government is always interested to increase taxes," says Debjit Dasgupta, who argues that it's counterproductive. He says that, for example, the Haryana government may believe that introduction charges and higher license fees may bring them more taxes. "But the number of wholesalers will go down, the cost of every wine bottle will go up and the customer will lose. Moreover, the registration charge will ensure that lesser labels are available to the consumer."

Just to complicate things...

There is also excise duty – known as the vend fee – which is payable on every bottle by the buyer, which is included in the price. Each state has its own policy. In Delhi, it is charged at 65% of the wholesale price (WSP), which is computed without considering the customs duty and the retail margin. For a WSP of more than Rs.1000, only 50% of WSP is chargeable. In Maharashtra, the rates are based on the maximum retail price (MRP) and vary from around Rs.225 to Rs.600. In Karnataka it works out to Rs.225 a bottle.

After the wine is removed from the customs bonded warehouse, it must be shifted to the excise warehouse licensed to the wholesaler, who must apply for supply for the transport permit (TP) before transporting it to the licensed buyer. The TP is issued after the excise is deposited, and the wines are transported to the buyer within a specified period, which can vary from a day in Delhi to a couple of weeks in some states. While a wholesaler may represent several small importers and only offer logistics support, they must have a bonded warehouse.

For exports out of state, the excise duty does not have to be paid but the order must be received from the buyer and an Export Permit obtained from the authorities. This must be countersigned by the inspector in that state confirming that the goods have been delivered and the local duty paid.

Wine samples can be imported by air through a courier and in reasonable quantity on the discretion of the customs officer. A duty of 160% is currently charged on the assessable value, as appraised by the government official. No other duties are payable.

Besides the duties and high state taxes, the ever-tightening procedures can play havoc with the importers. Technical oversights are liable to be prosecuted, and arrests and prison sentences are not uncommon in cases of tax evasion. Some of the procedures include a declaration by the wholesaler that the price being charged is the lowest in every state. Dasgupta says, "It's not practical to give the genuine affidavit when the cost of distribution is different in each state."

Hanging like a Damocles sword is a directive by the Food Safety and Standards Authority of India (FSSAI) threatening to bring wine imports under its control for quality checks. That would add to the cost and procedural complexity.

A long way to go

If the taxes and procedures sound too complex, it's because the authorities are, as yet, clueless about wine, as it did not exist as a category until a decade ago. Wine in India is going to take time and perseverance. In the end, as more consumers become wine lovers, the structure will have to become more flexible and importer-friendly. The best thing to be hoped, at present, is that wine will be decoupled from spirits, and thereby expand the market. "I am sure that during the next three years the wine import business will be booming, despite the procedural constraints," says Dasgupta, "as the government realises that more sales means more revenues and will hopefully relax the procedures." ■