



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 428 OF 2025 (EXCISE)

BETWEEN:

1. THE DEPUTY COMMISSIONER OF EXCISE
DAKSHINA KANNADA DISTRICT
MARY HILL, MANGALURU - 575 008
D.K. DISTRICT
2. THE EXCISE INSPECTOR
MANGALURU EAST RANGE - 1
MANGALURU - 575 001
D.K. DISTRICT

...APPELLANTS

(BY SMT. NAMITHA MAHESH B.G., AGA)

AND:

1. K. SUNDARA BANGERA
S/O. SHESHAPPA
AGED ABOUT 66 YEARS
R/AT KALLAPAPU HOUSE
BADAGULIPADY, MALALI VILLAGE
P.O. MALALI - 574 151
MANGALURU TALUK, D.K. DISTRICT

...RESPONDENT

(BY SRI M. SUDHAKAR PAI, ADVOCATE)

Digitally
signed by
VEERENDRA
KUMAR K M
Location:
High Court of
Karnataka



THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 18.04.2024 PASSED IN WRIT PETITION No.10675/2024 (EXCISE) & ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. For the reasons stated in the affidavit accompanying the application—I.A.No.1/2025, the same is allowed, and the delay of 303 days in filing the appeal is condoned.
2. The appellant has filed the present appeal impugning an order dated 18.04.2024 passed by the learned Single Judge of this Court in W.P.No.10675/2024 (EXCISE) [**impugned order**].
3. The operative part of the impugned order reads as under:
 - "a) The petition is allowed.
 - b) The impugned notice dated 30.12.2023 issued by the respondent No.1 at Annexure-F is hereby quashed insofar as it relates to demanding the licence fee for



the excise year 2015-16 and 2016-17 to 2018-19 is hereby quashed.

- c) The respondent No.1 is hereby directed to grant licence to the petitioner for the excise year 2024-25 by collecting 50% of licence fee from the excise year 2019-20 to 2023-24 and full license fee as prescribed under Rule 8 of the Rules, 1968 for the current excise year 2024-25. The said exercise shall be concluded within two months from the date of receipt of certified copy of this order."

4. The controversy in the present appeal concerns the licence fee payable by the respondent for the renewal of the licence. This arises in the context where the respondent's licence was suspended during the 2015-16 licence period on account of a prosecution launched against him, and the respondent's request for renewal with retrospective effect after his acquittal.

5. At the outset, it is relevant to refer to Rule 5A of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 [**the Rules**]. The same is set out below.

5A. Renewal of licence :-

(1) The Excise Commissioner or the Deputy Commissioner, as the case may be, may on an application made to him along with the licence fee prescribed in Rule 8 renew the licence granted under these rules.

(2) Every such application shall be made at least one month before the expiry of the licence already granted: Provided



that the Excise Commissioner or the Deputy Commissioner, as the case may be, may accept and consider any such application made after the aforesaid period of one month, if he is satisfied that the applicant had sufficient cause for not making the application within that period.

(3) The licences granted prior to the first of July, 1999 may be renewed at the discretion of the Excise Commissioner or the Deputy Commissioner, as the case may be on payment of 50% (fifty per cent) of the fee prescribed under Rule 8 in respect of the entire period for which licence was not granted, for the purpose of maintaining continuity of the licences:

Provided that while renewing the licence under this sub-rule the Deputy Commissioner or the Excise Commissioner, as the case may be shall ensure that the total number of licences granted or renewed do not exceed the quota fixed in Rule 12, for grant of each kind of licence for an area.

6. A plain reading of Sub-rule (3) of Rule 5A of the Rules indicates that in cases where licence was granted prior to 01.07.1999, the same may be renewed at the discretion of the Excise Commissioner or the Deputy Commissioner as the case may be on payment of 50% of the fee prescribed under Rule 8, in respect of the entire period for which licence was not granted. The Sub-rule also specifies that such renewal is for the purposes of maintaining continuity of the licences.



7. Both parties are *ad idem* that the licence in the present case must be considered granted on the date it was first granted, i.e., in 1990. There is, thus, no cavil that Sub-rule (3) of Rule 5A of the said Rules is applicable.

8. The learned Single Judge held that Rule 5A(3) of the Rules would not be applicable on the ground that the licence was suspended and therefore could not be considered as a case where the licence "was not granted".

9. The learned Single Judge also observed that the licence was suspended for the year 2015-16, 2016-17 and 2017-18. And, the period of suspension ended with the licensee's acquittal on 22.09.2018. However, we are unable to accept that the licence in question could be construed as suspended after 01.07.2016. This is because the licence term expired on 30.06.2016. The licence was valid until 2016, but, as noted earlier, it was suspended. However, thereafter, there was no licence, as the term of the licence had expired, and the licensee was prevented from applying for renewal on account of the order passed by this Court in W.P.No.44547/2016 (EXCISE).



10. The licensee had preferred the said writ petition, *inter alia*, praying that the inquiry be conducted within the specified period, or in the alternative, the licence be renewed for the period 2016-17. The said petition was disposed of with liberty to the licensee to apply for renewal, if the trial in Criminal Case No.2740/2016 (Sherja A. Kole v. Deputy Commissioner of Excise, Dakshina Kannada District) resulted in acquittal of the licensee.

11. The licence fee to vend or deal in Liquor is essentially the consideration charged by the State to part with its right¹. In Harinarayan Jaiswal's case², the Supreme court had held as under:

"if the Government is the exclusive owner of those privileges, reliance on Article 19(1)(g) or Article 14 becomes irrelevant. Citizens cannot have any fundamental right to trade or carry on business in the properties or rights belonging to the Government, nor can there be any infringement of Article 14, if the Government tries to get the best available price for its valuable rights."

¹ Har Shankar v. Excise & Taxation Commr., (1975) 1 SCC 737

² (1972) 2 SCC 36



12. Viewed in this context, the licensee did not have a licence after 01.07.2016, as the term of the licence had elapsed and the State had not extended it thereafter. In this view, Sub-rule (3) of Rule 5A of the Rules would be squarely applicable for the period from 01.07.2016 till the licence is renewed.

13. During the said period, the licensee did not have a license to vend liquor. In terms of Sub-rule (3) of Rule 5A of the Rules, the licence could be renewed for the purpose of continuity of the licence, subject to the licensee paying 50% of the licence fee, provided that the concerned authorities, the Commissioner or the Deputy Commissioner as a case may be, was satisfied that the said benefit is required to be extended to the licensee.

14. In the present case, the learned counsel for the appellant submits that the licence may be renewed subject to the licensee paying 50% of the licence fee from 01.07.2016. The said contention is in conformity with Rule 5A(3) of the said Rules and merits acceptance.



15. In view of the above, the impugned order is modified and the present appeal is disposed of, with a direction that the licence granted to the licensee be renewed within a period of eight (08) weeks from date, subject to the licensee paying 50% of the licence fee as stipulated in Rule 8 of the said Rules, for the period from 01.07.2016 to till date.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

KMV
List No.: 1 SI No.: 4