

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 566 of 2015 (U)

PETITIONER :

**HOTEL SIDHARTHA,
R.S.ROAD, CHALAKUDY,
REPRESENTED BY ITS MANAGING DIRECTOR,
MR.P.K.PRATHAPAN.**

**BY SRI.JOSEPH KODIANTHARA,SENIOR ADVOCATE
ADVS. SRI.V.ABRAHAM MARKOS
SRI.BINU MATHEW
SRI.TOM THOMAS (KAKKUZHIYIL)
SRI.ABRAHAM JOSEPH MARKOS
SRI.ISAAC THOMAS
SRI.NOBY THOMAS CYRIAC**

RESPONDENT(S):

- 1. STATE OF KERALA
REP. BY SECRETARY, TAXES (A) DEPARTMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE,
THIRUVANANTHAPURAM-695 001.**
- 3. THE DEPUTY COMMISSIONER OF EXCISE,
THRISSUR-688 001.**
- 4. THE CIRCLE INSPECTOR OF EXCISE,
IRINJALAKUDA-680 121.**

R1 TO R4 BY GOVERNMENT PLEADER SMT. C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 566 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE FL-3 LICENCE NO.TSR-14/12-13 RENEWED UPTO 31.03.2014.

EXHIBIT-P2: TRUE COPY OF THE REQUEST LETTER DATED 29.11.2008.

EXHIBIT-P3: TRUE COPY OF 2ND RESPONDENT'S ORDER NO.C6-1673/09 DATED 25.02.2009.

EXHIBIT-P4: TRUE COPY OF THE APPLICATION FOR RENEWING THE FL-3 LICENSE.

EXHIBIT-P5: TRUE COPY OF ORDER DATED 02.04.2014. ISSUED BY THE 1ST RESPONDENT.

EXHIBIT-P6: TRUE COPY OF THE ORDER OF MINISTRY OF TOURISM.

EXHIBIT-P6(A): TRUE COPY OF THE CLASSIFICATION CERTIFICATE ISSUED BY GOVT. OF INDIA.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 566 of 2015 (U)

Dated this the 9th day of February, 2015.

JUDGMENT

On 02.02.2015, the learned Government Pleader submitted that the issue raised in the writ petition stood squarely covered by the judgment dated 02.12.2014 in W.P.(C) No. 32315 of 2014. The learned counsel for the petitioner, however, sought time. Accordingly, the matter was posted to this day.

2. In the morning, when the matter was called, none represented the petitioner. The learned Government Pleader once again placing reliance on the judgment referred to above, insisted that the writ petition be dismissed in the light of the binding ratio of the said judgment. Since there was no representation for the petitioner, this Court decided to have the matter passed over so that there could be an opportunity for the learned counsel for the petitioner to be present before Court at least in the afternoon. Again, when the matter was called at 4' O clock, there was no representation for the petitioner. Nevertheless, in the light of the settled proposition of law, as has been held in the judgment dated

02.12.2014 in W.P.(C) No. 32315 of 2014, this Court proposes to dispose of the writ petition on the same lines.

3. The petitioner having three star classification was granted FL-3 licence, which was renewed up to 31.03.2014. In the light of the change of policy, later the Government confined FL-3 licence to 5 star hotels, which later came to be modified by this Court through judgment in Xavier's Residency v. State of Kerala (2014 (4) KLT 419) applying the same to the 4 star hotels as well.

4. It is evident from paragraph 5 of the writ petition that the petitioner's hotel was classified as a 3 star hotel for a period of 5 years with effect from 29.08.2014.

Since the facts are not disputed, I am of the opinion that the ratio of Xavier's squarely applies to the present factual matrix and accordingly reiterating the judgment dated 02.12.2014 in W.P.(C) No. 32315 of 2014, this Court dismisses the writ petition. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

