

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 28527 of 2015 (M)

PETITIONER : -

E.J.DAVIS, S/o LATE E.M. JOSE,
PROPRIETOR, HOTEL MALABAR ILLAM,
N.H. BYE-PASS ROAD, CHALIKKAVATTOM,
VYTTILA P.O., COCHIN - 19.

BY ADV.SRI.M.G.KARTHIKEYAN
SRI.C.C.THOMAS (SR).

RESPONDENTS : -

1. STATE OF KERALA, REPRESENTED BY SECRETARY,
TAXES (A) DEPARTMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE,
THIRUVANANTHAPURAM - 695 033.
3. THE DEPUTY COMMISSIONER OF EXCISE,
ERNAKULAM - 682 018.
4. THE CORPORATION OF COCHIN,
REPRESENTED BY ITS SECRETARY,
COCHIN - 682 011.

R4 BY ADV.SRI.PRAVEENK.JOY,SC,COCHIN CORPORATION
R4 BY SRI.P.K.SOYUZ,SC,COCHIN CORPORATION
BY GOVERNMENT PLEADER SRI. A.J. JOSE AEDAIODI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1 : COPY OF THE STAR CLASSIFICATION ORDER DATED 14.2.2012
ISSUED BY THE INDIA TOURISM, CHENNAI.

EXHIBIT P2 : COPY OF THE ORDER No. XC6-5178/2012 DATED 31.1.2013 PASSED
BY THE 2nd RESPONDENT.

EXHIBIT P3 : COPY OF THE D.D. DATED 11.2.2012 TAKEN IN FAVOUR OF
MAYORS RELIEF FUND, FOR AN AMOUNT OF Rs. 5,00,000/-.

EXHIBIT P4 : COPY OF THE CERTIFICATE DATED 13.2.2013 ISSUED BY THE
SECRETARY OF THE 4th RESPONDENT CORPORATION.

EXHIBIT P5 : COPY OF THE ORDER No. XC6-6783/2014 DATED 11.3.2014 PASSED
BY THE 2nd RESPONDENT.

EXHIBIT P6 : COPY OF THE APPLICATION DATED 21.5.2015 SUBMITTED BEFORE
THE SECRETARY OF THE 4th RESPONDENT.

EXHIBIT P7 : COPY OF THE APPLICATION DATED 1.9.2014 SUBMITTED BEFORE
THE 2nd RESPONDENT.

EXHIBIT P8 : COPY OF THE CERTIFICATE DATED 23.7.2014 ISSUED BY THE
HEALTH OFFICER OF THE 4th RESPONDENT.

EXHIBIT P9 : COPY OF THE JUDGMENT DATED 19.8.2015 IN WP(C) No. 18118/2015
PASSED BY THIS HON'BLE COURT.

RESPONDENTS' EXHIBITS : NIL.

// TRUE COPY //

P.A.TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 28527 of 2015

Dated this the 13th day of October, 2015

JUDGMENT

In the light of the ratio laid down in the judgment dated 19.08.2015 in W.P. (C) No.18118/2015, this writ petition is disposed of declaring that the petitioner has the 'No Objection Certificate' in view of the operation of the deeming provision.

2. In the facts and circumstances, respondents 1 and 2 shall consider petitioner's Exhibit P7 application keeping in view the 'No Objection Certificate' declared to have been possessed by the petitioner. If statute provides for treating the petitioner's application as a fresh one, it is open for the respondents to do so.

3. In view of the fact that this Court has already disposed of a similar writ petition declaring the legal position, I do not think that the objections raised by the learned counsel for the fourth respondent can be countenanced.

Needless to observe that the first and second respondents shall consider petitioner's application as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-