

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6463 OF 2015

M/s Crescent Entertainment and
Tourism Ltd. Mumbai through
its Authorized person .. Petitioner

Vs.

The State of Maharashtra and others .. Respondents

Mr. V.D. Sapkal, Advocate h/f Mr. S.P. Katneshwarkar,
Advocate for the petitioner
Mr. V.J. Dixit, Sr. Advocate with Mr. S.B. Yawalkar, AGP for
the respondent/State
Mr. A.K. Muley, Advocate for respondent no.2

CORAM : S.V. GANGAPURWALA &
K.K. SONAWANE, JJ.
DATE : 20/07/2016

ORAL ORDER :

We have heard Mr. Sapkal, learned counsel for the petitioner, Mr. V.J. Dixit, learned Senior Advocate for respondent nos.1 and 3 and Mr. Muley, learned counsel for respondent no.2.

2. Initially, petition was filed seeking benefit of entertainment duty waiver/other incentives pursuant to the eligibility certificate dated 7/1/2015. During

pendency of the petition, respondent no.2 issued show cause notice on 16/2/2016, thereby calling upon the petitioner to show cause as to why eligibility certificate dated 7/1/2015 should not be cancelled. The writ petition was amended challenging the said show cause notice also.

3. After we had heard the matter for some time, Mr. Muley, learned counsel for the respondent no.2, on instructions, states that respondent no.2 is withdrawing the impugned show cause notice with liberty to issue fresh show cause notice and make enquiry to that effect.

4. In that event, Mr. Sapkal, learned counsel for the petitioner submits that as the eligibility certificate stands as of today, the petitioner be given benefit of the entertainment duty waiver and other incentives as per the eligibility certificate dated 7/1/2015. Submissions to that regard were strongly opposed by Mr. Dixit, learned Senior Counsel for respondent nos.1 and 3, stating that there is a cloud over the validity and legality of the eligibility certificate and till the respondent no.2 issues fresh show cause notice and enquiry is completed, the said

relief be kept in abeyance.

5. As the show cause notice to the said eligibility certificate is being withdrawn with liberty to issue a fresh show cause notice, then at present the eligibility certificate dated 7/1/2015 stands till the said eligibility certificate is set aside in accordance with law. The petitioner certainly cannot be deprived of the benefit of eligibility certificate dated 7/1/2015, however, at the same time, the interest of the respondents will also have to be safeguarded.

6. Considering the aforesaid conspectus, we pass the following order :-

A) The respondent no.2 is allowed to withdraw the impugned show cause notice with liberty to issue fresh one.

B) The respondent no.2 shall give benefit of entertainment duty waiver/other incentives as per the scheme applicable to the petitioner for which eligibility certificate dated 7/1/2015 has been issued to him.

C) The petitioner shall maintain a separate account of the said entertainment duty waiver/other incentives and shall also give an undertaking to this Court within a period of two (2) weeks to the effect that if in an enquiry conducted by the respondents pursuant to the show cause notice to be issued, if the eligibility certificate is set aside, the petitioner would deposit the amount recovered by way of benefit of entertainment duty waiver/other incentives with the respondents within four (4) weeks from the date of the decision of the respondents pursuant to the show cause notice that may be issued and subject to any further remedies available to the petitioner.

D) In case any such enquiry is conducted pursuant to any show cause notice that may be issued, the parties shall co-operate in the said enquiry.

7. With the aforesaid observations, the writ petition stands disposed of with no order as to costs.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

arp/