

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.13520 of 2016 and
W.M.P.No.11860 of 2016

Tvl.Alakapuri Bar,
rep by its Manager,
No.109, Ettines Road,
The Nilgiris. Petitioner

Vs.

- 1.The Government of Tamil Nadu
rep its Secretary,
Commercial Tax Department,
Fort St.George, Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Commercial Taxes,
Commercial Tax Department,
Chepauk, Chennai.
- 3.The Commercial Tax Officer,
Uthagai (South) Assessment Circle,
Uthagai. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records pertaining to the impugned notice issued by the 3rd respondent in TIN No:33102601237/2014-15 dated 29.03.2016 and to quash the same.

For Petitioner : Ms.Lakshmi Sriram
For Respondents: Mr.Cibi Vishnu,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorari to call for the records pertaining to the impugned notice issued by the 3rd respondent in TIN No:33102601237/2014-15 dated 29.03.2016 and to quash the same.

2.It is the case of the petitioner that it is a registered Dealer on the file of the respondent and is running

a hotel establishment having an F-3 license issued by the Government of Tamil Nadu under the Tamil Nadu Liquor and License Permit Rules, 1981 to serve liquor in its premises. The Government issued an order in G.O.(Ms).No.47, Commercial Taxes and Registration (B-1) Department dated 27.03.2012 amending the Second Schedule to introduce levy of tax at 14.5% on the petitioner at the 3rd point of sale to its customers for IMFL manufactured within the State and at the 2nd point of sale of IMFL manufactured outside the State. Aggrieved over the said Amendment, the Association filed a Writ Petition in W.P.No.22072 of 2012 before this Court and this Court granted an order of interim stay. Thereafter, several Writ Petitions were filed by F-2 (Membership Clubs) and other F-3 licensees, including the petitioner herein, challenging the aforesaid notification. All the Writ Petitions were dismissed by this Court by order dated 31.03.2015, against which the petitioner and others filed Special Leave Petition before the Hon'ble Supreme Court of India and the same is pending and the learned counsel on either side submitted that the Apex Court has not granted any interim order in the pending Special Leave Petition. Further according to the petitioner, they have paid a sum of Rs.1,00,000/- to the 3rd respondent and the petitioner has not collected taxes from their customers and had paid the amount out of their own pocket.

3. When the matter is taken up for hearing today, Ms.Lakshmi Sriram, the learned counsel appearing for the petitioner submitted that instead of going into the correctness of the order passed by the 3rd respondent, it would be suffice to grant liberty to the petitioner to approach the 1st respondent for waiver of the tax.

4. Mr.Cibi Vishnu, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that such liberty can be given to the petitioner to approach the 1st respondent.

5. In these circumstances, I give liberty to the petitioner to give a representation for waiver of the tax before the 1st respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the representation, the 1st respondent is directed to consider the petitioner's representation for waiver and pass orders, on merits and in accordance with law, within a period of four weeks, thereafter.

6. The respondents are directed to maintain status quo till orders are passed by the 1st respondent in the representation to be given by the petitioner.

7.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary, Government of Tamil Nadu,
Commercial Tax Department,
Fort St.George, Secretariat,
Chennai - 600 009.

2.The Commissioner of Commercial Taxes,
Commercial Tax Department,
Chepauk, Chennai.

3.The Commercial Tax Officer,
Uthagai (South) Assessment Circle,
Uthagai.

1 cc to Special Government Pleader, sr.23010

1 cc to M/s.Laxmi Sriram, Advocate, sr.22718

W.P.No.13520 of 2016
and W.M.P.No.11860 of 2016

ksj co
kra 25.04.2016

सत्यमेव जयते

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