

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.40943 of 2016 & WMP.No.34911 of 2016

Tvl.Hotel Lions India Pvt. Ltd.,
rep.by its Authorized Signatory/
Director ..Petitioner

Vs

- 1.The State of Tamil Nadu, rep.by
the Secretary, Department of
Prohibition and Excise, Secretariat,
Fort St.George, Chennai-9.
- 2.The District Collector,
Kancheepuram District.
- 3.The Commissioner, Prohibition
and Excise Department,
Ezhilagam, Chempauk, Chennai-5.
- 4.The Assistant Commissioner
(Excise), Kancheepuram.
- 5.The Managing Director, Tamil Nadu
State Marketing Corporation Ltd.,
Gandhi Irwin Bridge, Chennai-8. ...Respondents

PETITION under Article 226 of The Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus to
call for the records of the impugned order RC.No.P&E 2(2)/
4950/2016 dated 20.10.2016 passed by the 3rd respondent, quash
the same and thereby direct the 3rd respondent to renew the
license of the petitioner.

For Petitioner : Mr.R.S.Jeevarathinam, SC for
Ms.Madhuri Donti Reddy
For Respondents : Mr.S.Diwakar, SGP

ORDER

Mr.S.Diwakar, learned Special Government Pleader accepts
notice for the respondents. Heard both. By consent, the writ
petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition seeking to quash the impugned order dated 20.10.2016, passed by the third respondent and consequently, direct the third respondent to renew the license of the petitioner.

3. The learned counsel for the petitioner submits that the issue involved in this writ petition is squarely covered by the common order passed by this Court in W.P.Nos.34214, 34215, 34328, 34347 to 34350 and 34492 of 2015 dated 10.6.2016 wherein identical impugned orders were put to challenge and the writ petitions were disposed of.

4. The learned Special Government Pleader does not dispute the above factual position.

5. At this stage, it would be useful to refer to the operative portion of the common order passed in the batch of case in W.P.Nos.34214, 34215, 34328, 34347 to 34350, 34492 of 2015, which reads as follows:-

"5. At this stage, it has to be pointed out that rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. No person is going to benefit by belatedly filing application for grant or renewal of license. Only in cases where the delay is on account of mala fide reasons, and when delay has not been explained satisfactorily, the authorities would be justifying in holding that the delay cannot be condoned. However, in the instant cases, no such observation or averment has been made in the impugned orders. That apart, the Tamil Nadu Liquor (Licence and Permit) Rules, 1981, has not fixed any outer time limit as found in other tax statutes like Tamil Nadu Value Added Tax, Customs Act or Central Excise Act. Therefore, the authorities viz., the Commissioner of Prohibition and Excise is empowered to condone the delay by examining the facts.

6. I have carefully examined the facts of each case and found that in no case there is any mala fide intention on the part of the petitioner to belatedly file the application and all of them have been granted license more than ten years ago and it has been periodically renewed. It is also brought to my notice that application fee for renewal of

license has been paid well within the stipulated time and there is no delay. Therefore, this Court is of the view that renewal application has to be considered on merits and should not be rejected on the ground of delay.

7. In the result, all the writ petitions are allowed and the delay in filing the application for renewal is condoned. The third respondent is directed to consider the petitioners' application for renewal of FL3 License, in accordance with law, and pass orders within a period of eight weeks from the date of receipt of a copy of this order."

6. Following the said order, this writ petition is allowed and the delay in filing the application for renewal is condoned. The third respondent is directed to consider the petitioner's application for renewal of FL3 license in accordance with law and pass orders within a period of eight weeks from the date of receipt of this order. No costs. Consequently, WMP is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government of Tamil Nadu, Department of Prohibition and

Excise, Secretariat, Fort St.George, Chennai-9.

2.The District Collector, Kancheepuram District.

3.The Commissioner, Prohibition and Excise Department, Ezhilagam Chepauk, Chennai-5.

4.The Assistant Commissioner(Excise), Kancheepuram.

5.The Managing Director, Tamil Nadu State Marketing Corporation Limited,

Gandhi Irwin Bridge, Egmore, Chennai-8.

+1cc to Mr.Maduri Donti Reddy, Advocate, S.R.No.68388

+1cc to the Government Pleader, S.R.No.68106

sku (CO)
md(01/12/2016)

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