THE HON'BLE SRI JUSTICE A.V. SESHA SAI

W.P.Nos.11436/2011, 11740/2011 & 11741/2011

COMMON ORDER:

Since these three writ petitions share similar grievances, this Court deems it appropriate and apt to dispose of these three writ petitions by way of a common order.

2. Heard Sir J.U.M.V. Prasad, learned counsel for the petitioners and the learned Government Pleader for Prohibition and Excise for the respondents.

3. Petitioners herein participated in the auction of liquor shops in Kurnool District. On the ground that the Government sustained loss due to the cancellation of auction due to the alleged lapses on the part of the petitioners, the Prohibition and Excise Superintendent issued proceedings dated 09.03.2007 asking the petitioners to pay a sum of Rs.11,05,000/-, Rs.11,20,000/- and Rs.9,15,000/- respectively. The petitioners herein filed revisions against the said demands and the State Government vide orders dated 25.08.2008 allowed the said revisions, setting aside the said orders of the Prohibition and Excise Superintendent. While the situation being so, the Excise Inspector issued the impugned notices asking the petitioners to pay the amounts covered by the earlier orders passed by the Prohibition Excise Superintendent. The said notices are under challenge in the present writ petitions.

4. This Court, while ordering Rule Nisi granted interim stay orders on 25.04.2011 and thereafter extended the same till further orders on 02.08.2011.

5. No counter affidavits have been filed denying the averments in the writ affidavit and in the direction of justifying the impugned action.

6. It is contended by the learned counsel for the petitioners that the impugned notices are highly illegal, arbitrary, without jurisdiction and opposed to the very spirit and object of the provisions of the A.P. Excise Act and the Rules framed thereunder. It is further submitted that since the State Government did set aside the earlier demands raised by the Excise Superintendent, it is absolutely not open for the respondent authorities to claim the same amounts once again.

7. On the contrary, it is contended by the learned Government Pleader that there is no illegality nor there is any irregularity in the impugned action and as the Government sustained loss because of the lapses on the part of the petitioners, the respondents are perfectly justified in asking the

petitioners to pay the amounts.

8. There is absolutely no controversy on the reality that earlier when the Excise Superintendent raised the demand for the same amounts, the petitioners herein carried the said issue to the Government by way of revisions and the State Government vide orders dated 25.08.2008 had set aside the said demands. There is absolutely no dispute with regard to the fact that the said orders passed by the State Government on the revisions filed by the petitioners became final and the same are intact. Therefore this Court finds no justification on the part of the Excise Inspector who is the subordinate authority to issue the impugned notices. In the considered opinion of this Court, the impugned action is totally one without jurisdiction.

9. For the aforesaid reasons, the writ petitions are allowed, setting aside the impugned notices dated 08.11.2010 issued by the Prohibition and Excise Inspector, Dhone, Kurnool District. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V. SESHA SAI, J

Date:14.6.2016

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THE HON'BLE SRI JUSTICE A.V. SESHA SAI

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W.P.Nos.11436/2011, 11740/2011 & 11741/2011

Dated 14th June, 2016

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