

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.11244 of 2010

ORDER:

The petitioner was a licensee to run a Bar and Restaurant under the provisions of the A.P. Excise (Grant of licence of selling by Bar and conditions of licence) Rules, 2005. Form No.2B licence was issued on 08.07.2006. The licence pertains to the premises bearing Door No.12/28, Neela Mahal Road, Gudivada, Krishna District and the boundaries of premises were also mentioned in the licence. The petitioner submitted a blue print plan of the premises and the licence was granted after inspection of the premises. On the objections raised by the Accountant General of Andhra Pradesh, Hyderabad, a demand notice was issued on 18.05.2008 for payment of 10% additional licence fee. Challenging the same, the petitioner filed W.P. No.12696 of 2008 and this Court disposed of the said writ petition by order dated 19.06.2008 with the following observations:

“On the analysis above, the Writ Petition is disposed of declaring that the 3rd respondent's proceedings impugned herein bearing Rc.No.169/2008/A2 dated 18.5.2008 be treated as a show cause notice to the petitioner. The petitioner is at liberty to submit a response to the 2nd respondent, who is stated by the learned Government Pleader for Excise to be the competent authority, setting out the objections to the determination of the petitioner's liability to pay the 10% of the additional licence fee, within 7 days from the date of receipt of a copy of this order. On receipt of such response from the petitioner, if any, and within the time stipulated above, the 2nd respondent shall consider the issue including by due consideration of all the petitioner's objections and pass a final order which shall be communicated to the petitioner. Till then, no coercive action shall be initiated against the petitioner for recovery of the amount specified in the impugned order.

The writ petition is disposed of as above at the stage of admission, after hearing the learned counsel for the petitioner and the learned Government Pleader for Excise.

There shall be no order as to costs.”

After disposal of the writ petition, the petitioner submitted a detailed explanation on 09.07.2008. Without considering the said explanation, by quoting the operative portion of the order of this Court, a fresh demand notice was issued in February 2010 styling it as “Show Cause Notice” directing the petitioner to pay an amount of Rs.1,40,000/- as specified by the A.G. Audit Party. A perusal of the impugned notice does not show the consideration of detailed explanation submitted by the petitioner.

In the circumstances, this Court is constrained to set aside the impugned proceedings and remand the matter to respondent No.2 for consideration of the explanation submitted by the petitioner on 09.07.2008, pursuant to the order of this Court in W.P.No.12696 of 2008 dated 19.06.2008, and pass appropriate orders thereon within a period of three months from the date of receipt of a copy of this order. Till such time, no coercive steps shall be taken against the petitioner.

Accordingly, this Writ Petition is allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

10.03.2016

MVA