HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 23624 of 2010

Order:

This writ petition was filed challenging the proceedings in Cr.No.3140/2010/CPE/G2, dated 04.09.2010, rejecting the request of the petitioner for refund of Rs.11,33,667/- for the period of cancellation of license from 03.06.2009 to 24.09.2009.

2. The petitioner was granted a license in Form-A4 for the period from 2008 to 2010. Thereafter, WP No.16889 of 2008 was filed by one Heeranagar Welfare Association stating that two educational institutions were within 100 meters from the A-4 shop. The licensee was issued a notice in letter dated 22.09.2008 to select an alternative premises since the existing premises cannot be continued in view of Rule 27 of the AP Excise (Lease of Right of Selling by Shop and Conditions of License) Rules 2005 as it being within 100 meters from Sri Chaitanya Junior Kalasala. Challenging the said notice, the licensee filed WP No.21387 of 2008 and the same was disposed of on 20.02.2009 granting three months time to licensee to relocate the shop. It was also ordered therein that in the event of licensee's failure to do so, the authorities were permitted to proceed against her as per law. Since the licensee failed to relocate the shop within the time prescribed, the license was cancelled by proceedings dated 03.06.2009. Later on, she applied for shifting of premises and the same was granted on 25.09.2009. Since, she could not continue the business from 03.06.2009 to 24.09.2009 due to the above circumstances she asked for refund of licence fee for the said period as she paid license fee for the entire period of two years from 01.07.2008 to 30.06.2010. Since the premises selected by her was contrary to Rule 27 of the AP Excise (Lease of Right of Selling by Shop and Conditions of License) Rules 2005 and in view of her lapse, the request of the licensee for refund of the license fee during the

above period was rejected, by an order dated 04.09.2010. Challenging the same, the above writ petition was filed.

3. In view of the statutory provision contained in Section 31(3) of the AP Excise Act, 1968, as interpreted by the Full Bench of this Court in **SLV Wines, Cuddapah District v. State of AP.**[1], the order of the respondents cannot be held to be erroneous.

4. In the circumstances, the Writ Petition is dismissed. However, in the circumstances, no costs.

5. As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. **RAMALINGESWARA RAO, J.**

Date: 25.02.2016
Nsr

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[1] 2009(5) ALD 170 (FB)