IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.27785 to 27789 of 2012 &
M.P.Nos. 1 & 2 of 2012 &
W.M.P.Nos.16748 to 16750 of 2016

1. T.Gunasekaran .. Petitioner in W.P.No.27785 of 2012
2. K.Satheesh Kumar .. Petitioner in W.P.No.27786 of 2012
3. S.N.Sekar .. Petitioner in W.P.No.27787 of 2012
4. M.Chandran .. Petitioner in W.P.No.27788 of 2012
5. S.Jaganathan .. Petitioner in W.P.No.27789 of 2012

Vs

1. The Managing Director,
   TASMAC,
   Egmore,
   Chennai - 600 008.

2. The Senior Regional Manager,
   TASMAC,
   Coimbatore.

3. The District Manager and
   Deputy Collector,
   TASMAC,
   Erode District. .. Respondents in all Wps

Common Prayer in all WP'S

PETITION under Article 226 of The Constitution of India praying for the issuance of a writ of certiorari, calling for the records relating to the order passed by the 3rd respondent dated 27.08.2012 made in Na.Ka.No.0923/2012/R2 and quash the same.

For Petitioners : Mr.N.Chinnaraj
(for all W.Ps)

For Respondents : Mr.Johnkennady
(for all W.Ps)

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COMMON ORDER

These writ petitions are challenging the notice issued by the 2nd respondent directing the writ petitioners to deposit 2.5% of the total sales amount, which were due from the writ petitioners.

2. The writ petitioners were working as Supervisors in TASMAC and it was a pre-condition that they are liable to pay 2.5% of the total sales amount for running the bars attached with TASMAC Wine Shops.

3. The writ petitioners mainly contended that there were no persons to conduct the bars and the bars were unable to leased out to the third parties. Under these circumstances, they were forced to run the bars inspite of sustaining heavy loss.

4. The learned counsel appearing for the writ petitioner submitted that the same issue was considered by this Court earlier in the batch of writ petitions on 03.01.2008 in W.P.No.19231 of 2007 etc., batch and the order is extracted here under :

> "It is also made clear that as far as the petitioners are concerned, if any salary or other benefit to which they are entitled to from the time of their being appointed to run the shops, is due, the respondent is directed to make payment of the same to those employees. In a given case if any amount has been paid by the petitioners. In a given case if any amount has been paid by the petitioners in respect of fixation of 2.5% or 1.5% in the past, it becomes necessary to permit the respondent to conduct an enquiry over the same and find out the situation. Accordingly, permission is granted. In a given case if the amount is paid and no collection is made, the respondent is directed to repay the same. If it is found that the petitioners have got any profit out of it, they should be directed to make payment to the respondent.

5. Accordingly, the discretion was provided to the competent authorities either to fix 2.5% or 1.5% of the total sales amount, then such a discretion is provided to the authorities, the respondents had imposed 2.5% without considering the fact that the Supervisors / Writ Petitioners themselves were conducting the bars attached with the TASMAC Shop and sustaining heavy loss.

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6. The learned counsel for the writ petitioner submitted that some of the writ petitioners are now working and some left the job. Under these circumstances, this Court is of the view that the respondents shall reconsider and pass appropriate orders in respect of fixation of 2.5% or 1.5% of the total sales amount, in accord with the factual circumstances of each case.

7. With these, the order of recovery issued by the respondents are quashed and liberty is granted to the respondent to reconsider the entire factual circumstances relating to the conducting of bars attached with TASMAC Shop and the profit and loss situation by providing opportunity to the writ petitioners and pass appropriate orders either by fixing 2.5% or 1.5% and thereafter decide the issue as early as possible by passing appropriate orders.

8. With this observation the writ petition is allowed. No costs. Consequently, connected WMPs and MPs are closed.

jer/ak

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Managing Director,
   TASMAC,
   Egmore,
   Chennai - 600 008.

2. The Senior Regional Manager,
   TASMAC,
   Coimbatore.

3. The District Manager and
   Deputy Collector,
   TASMAC,
   Erode District.

+1 CC to Mr.N.CHINNARAJ Advocate SR.NO.36859

W.P.Nos.27785 to 27789 of 2012
& M.P.Nos. 1 & 2 of 2012
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