

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**W.P.No.31377 of 2017**

**ORDER:**

Heard counsel for petitioner and the Government Pleader for Proh. & Excise(AP) appearing for respondents.

2. Petitioner has assailed the order dt.13.09.2017 of the 4<sup>th</sup> respondent suspending the petitioner's Excise Shop License after booking a case in Cr.No.145 of 2017 dt.06.09.2017 under Section 34(a) of the A.P. Excise Act, 1968.

3. It is not in dispute that the said case has been booked against the petitioner on the confession of a third party, who claimed to have purchased certain liquor bottles from the petitioner's shop, without "HEALS" on the bottles.

4. Counsel for petitioner contends that to the show cause notice dt.07.09.2017, given to him prior to the passing of the impugned order, detailed explanation has been given by the petitioner, but without even adverting to its contents by merely stating that the explanation is not convincing, the impugned order was passed.

5. Counsel for petitioner has relied on the order dt.13.09.2017 passed by this Court in W.P.No.30969 of 2017 wherein, in similar circumstances, this Court set aside the order of suspension and remanded the matter back to the 4<sup>th</sup> respondent to consider the explanation of the licensee and also to provide opportunity of hearing.

6. Having regard to the said decision, the Writ Petition is allowed setting aside the order dt.13.09.2017 of the 4<sup>th</sup> respondent and the 4<sup>th</sup> respondent is directed to consider the explanation of the petitioner, give him an opportunity of hearing and then decide, whether Rule 35 of the A.P. Excise (Grant of License of Selling by Shop and Conditions of License) Rule, 2012 is attracted or not. This exercise shall be completed within a period of six (06) weeks from the date of receipt of a copy of this order. No costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

15<sup>th</sup> September, 2017.  
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**M.S.RAMACHANDRA RAO, J**

