IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7757 OF 2017
(Suman w/o Shrikant Ghone Vs. The Hons'ble Minsiter, and others)

Mr.R.S.Shinde, Advocate for the petitioner.
Mr.S.K.Tambe, AGP for respondent Nos. 1 to 4.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 20/06/2018

PER COURT :

1. The petitioner is aggrieved by the order passed by the Hon'ble Minister (State Excise) dated 06/09/2014 in this petition filed on 23/01/2017.

2. I have heard the learned Advocate for the petitioner and the learned AGP at length.

3. The petitioner is the daughter in law of the original CL-II license holder Mr.Ghone. He had acquired the license in 2002 and operated a business for a period of only 1 year. The license expired in 2003. The husband of the petitioner Mr.Shrikant Ghone did not run the said business. He passed away in 2013. The petitioner, therefore, moved an application to inherit the CL-II license which

earlier stood in the name of her father in law. Respondent No.4, by order dated 07/08/2014 sought guidance from respondent No.2 with regard to the renewal request of the petitioner and eventually, respondent No.2 directed that the petitioner would have to deposit an amount of Rs.65,26,402/- as the license fee from 2003 to 2015 inclusive of interest, if the petitioner desires to inherit the said license.

4. The petitioner approached the Hon'ble Minister by filing a revision petition. The said authority relied upon the decision of the Full Bench of this Court in the matter of Jitendra Manindranath Bose Vs. State of Maharashtra and another (WP NO.3657/2010 decided on 11/08/2011) wherein it was concluded that the interest on the license fee could be reduced or waived by the State, though the State Government is not bound to refund the privilege fees charged from a licensee, when such licensee is prevented by the order of a Court or a similar reason not attributable to the Government when no business was carried out during a particular period.

5. It appears that the Hon'ble Minister has waived the interest and has directed the petitioner to deposit the requisite fees which are about Rs.33,57,300/- as on date upto the year 2018-2019.

6. Learned Advocate for the petitioner submits that she is not in a position to pay this amount. She prays for installments over a period of 3 years to pay the arrears and would also continue to pay the yearly renewal fees. Learned AGP opposes this request by contending that the law does not permit grant of installments and if the petitioner fails to pay any installment, it would be difficult to recover the said amount. He further submits that the law does not invest jurisdiction in this Court to grant such installments when it comes to outstanding taxes of the Government in the peculiar facts of this case.

7. Considering the above, I do not find that this Court can cause any indulgence in this matter. This petition, being devoid of merit, is therefore, dismissed.

8. In so far as the contention of the petitioner that the Commissioner, State Excise has issued a letter dated 17/10/2016 demanding interest of an amount of Rs.82,20,428/- notwithstanding the directions of the Hon'ble Minister, is concerned, the petitioner would be at liberty to assail the said communication before an appropriate authority by resorting to a remedy as may be permissible

in law.

9. Needless to state, if the petitioner desires to seek the renewal of CL-II license on the premise on which this petition is based, she may move an application to the Superintendent, State Excise, District Osmanabad, who would consider the said request in the light of the directions of the Hon'ble Minister dated 06/09/2014 by calculating the taxes for the further period upto 2018-2019.

(Ravindra V.Ghuge, J.)