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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4166 OF 2017

M/s. S.B. Agencies

...Petitioner

V/s.

The State of Maharashtra & Ors

...Respondents

Mr. Shyam Mehta, Senior Advocate a/w. Mr. Aditya Bapat i/b. S.B. Legal Prop S.G. Bane for Petitioner.
Ms. K.N. Solunke, AGP for State/Respondent Nos. 1 to 3.
Mr. M.R. Tambe, Sub Inspector of Excise Department.

CORAM : R.D. DHANUKA, J.
DATE : 19TH MARCH, 2018.

P.C. :-

1. Mr. Mehta, learned senior counsel for the petitioner states that there was no turnover of duty paid country liquor to retail shops or wholesale sale during the financial year 2016-2017 and 2017-2018 of the petitioner. The petitioner now seeks to apply for license for the financial year 2018-2019 only for sale of duty paid country liquor to retail shops.

2. The learned senior counsel on instructions states that if, the petitioner is required to apply for renewal of license for financial year 2016-2017 and 2017-2018, since there was no average sale turnover of duty paid country liquor, either to retail shops or to wholesalers,

the license fee being paid by the petitioner is only by way of advance, the petitioner in that event would be entitled to get refund of such license fee for financial year 2016-2017 and 2017-2018.

3. In so far as the financial year 2018-2019 is concerned, the petitioner is ready and willing to pay license fees on the basis of turnover of retail sale and wholesale sale for last three years, subject to the claim of the petitioner to get refund of the surplus amount to be determined at the end of the year.

4. The learned AGP on instructions from Mr. M.R. Tambe, Sub Inspector of Excise Department State Government states that if, at the end of the year if it is found that average turnover of the petitioner for retail sale as well as wholesale sale is less than the quantity mentioned in Government Gazette dated 25th January, 2018 and more particularly in respect of the Form CL-II, the petitioner in that event, would be eligible to claim refund of the surplus license fees paid by the petitioner. It is further submitted that in so far as the financial years 2017-2018, 2017-2018 are concerned, the petitioner can apply for refund of the excess license fee having been paid by the petitioner, if any, if it is found that the turnover, if any, of the petitioner during those two financial years was less than the quantity mentioned in the Government Gazette applicable to those two financial years. Statements made by both the counsel are accepted.

5. If any, application for refund is made by the petitioner for financial year 2016-2017 and 2017-2018 based on the aforesaid basis, such application for refund shall be considered by the concerned authority within four weeks from the date of receipt of such application for refund. If any, refund is payable by the respondents to the petitioner on such application, the same shall be paid within one week from the date of such decision being taken by the authority.

6. The petitioner can deposit such advance license fees and make an application for renewal of the license for the financial year 2016-2017, 2017-2018 and for 2018-2019 on or before 31st March, 2018. If any, such application is made on or before 31st March, 2018, the same shall be accepted by the respondents and shall be considered upon receipt of the advance payment of the license fees for financial year 2016-2017 to 2018-2019. License of the petitioner in the appropriate form shall be renewed within two weeks from the date of receipt of such application and payment.

7. Writ petition is disposed of in the aforesaid terms. Parties to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)