

In the High Court of Judicature at Madras

Dated : 25.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.15075, 15076, 15169 to 15174, 15349 to
15363, 15499 to 15505 & 15508 to 15513 of 2018 & all
connected pending WMPs

- 1 S.SAKTHI (SHOP NO.4448) ... PETITIONER in WP No.15075 of 2018
NO.21 ANNA MAIN ROAD KOLAPAKKAM
CHENNAI- 600 128.
- 1 K.KATHIRESAN (SHOP NO.4600) ... PETITIONER in WP No.15076 of 2018
NO.32 THIRUMUDIVAKKAM MAIN ROAD
THIRUMUDIVAKKAM CHENNAI-600 144.
- 1 S.UMAPATHI ... PETITIONER in WP No.15169 of 2018
S/O.SITHARAMAN RESIDING AT NO.18
PIRUTHIVAKKAM PRATHANA SALAI VENKATAPURAM
AMBATTUR CHENNAI 53
- 1 M.MUTHUKUMAR ... PETITIONER in WP No.15170 of 2018
S/O. MANICKAM RESIDING AT NO.67
PALLIKUPPAM SENNEERKUPPAM POONAMALLEE
CHENNAI- 56.
- 1 G.SIVAKUMAR ... PETITIONER in WP No.15171 of 2018
S/O. GANGATHARAN RESIDING AT NO.1 PRATHANA
SALAI KOMALAPUAM PATTABIRAM CHENNAI-72.
- 1 S.BABU ... PETITIONER in WP No.15172 of 2018
S/O. SANKARAN RESIDING AT NO.27
CHOO LAIMEDU MAIN ROAD CHOO LAIMEDU
THIRUMULLAIVOYAL CHENNAI-62.
- 1 S.SANGEETHARAJ ... PETITIONER in WP No.15173 of 2018
S/O. PAULRAJ RESIDING AT NO.87
P.N. ROAD KAMARAJ NAGAR,
AVADI CHENNAI-71.
- 1 ANNAMALAI ... PETITIONER in WP No.15174 of 2018
S/O. RAJAN RESIDING AT NO.13 ALAMPAKKAM
MAIN ROAD ALAMPAKKAM CHENNAI-116.

- 1 P.PERUMAL ... PETITIONER in WP No.15349 of 2018
S/O. PALANIANDI SHOP NO. 59 KUMARAPATTI
PALLAPATTI POST MADURAI DISTRICT.
- 1 S.RENUGA DEVI ... PETITIONER in WP No.15350 of 2018
W/O. SIVAKUMAR SHOP NO. 175 NO.83 MULLA
SHAHIB STREET CHENNAI-79.
- 1 T.BALAMURUGAN ... PETITIONER in WP No.15351 of 2018
S/O. THANGARAJ SHOP NO.30 NO.96 CHEN
XAVIER STREET CHENNAI-01.
- 1 G.KALAISELVI ... PETITIONER in WP No.15352 of 2018
W/O. GOVINTHARAJ SHOP NO. 131 NO.83 MULLA
SHAHIB STREET CHENNAI-79.
- 1 K.RAJENDIRAN ... PETITIONER in WP No.15353 of 2018
S/O. KUPPAM SHOP NO. 721 NO.9 B.BLOCK
KOTHACHAVADI STREET WEST SAIDAPET CHENNAI-15.
- 1 P.PERUMAL ... PETITIONER in WP No.15354 of 2018
S/O. PALANIANDI SHOP NO.77 KUMARAPATTI
PALLAPATTI POST MADURAI DISTRICT.
- 1 C.VINOD KUMAR (SHOP NO.503) ... PETITIONER in WP No.15355 of 2018
NO.3 GENGAI AMMAN KOIL STREET KODAMBAKKAM
CHENNAI 24
- 1 S.SAKTHIVEL (SHOP NO. 4137) ... PETITIONER in WP No.15356 of 2018
NO.126 ARTHI AVENUE AGARAM MAIN ROAD
SELAIYUR CHENNAI 73
- 1 P.CHELLAPANDI (SHOP NO. 4082)... PETITIONER in WP No.15357 of 2018
NO.8 ULAIPPALI NAGAR MOOVARASMPETTAI
THIRUSULAM CHENNAI 43
- 1 K.TAMILALAGAN (SHOP NO. 4498)... PETITIONER in WP No.15358 of 2018
RAVI STREET VADAKKUPATTU VILLAGE
MEDAVAKKAM CHENNAI 100 KANCHIPURAM DISTRICT
- 1 T.ARULMUTHU (SHOP NO.4110) ... PETITIONER in WP No.15359 of 2018
NO.1 NEHRU NAGAR POZHICHALUR MAIN ROAD
POZHICHALUR CHENNAI 75
- 1 R.BABU (SHOP NO. 4085) ... PETITIONER in WP No.15360 of 2018
NO.4 M.G.R.ROAD STATE BANK COLONY
NANGANALLUR CHENNAI 61

- 1 A.VEERAMANI (SHOP NO. 4118) ... PETITIONER in WP No.15361 of 2018
NO.16 LAKSHMI NARAYANA NAGAR 4TH STREET
PAMMAL CHENNAI 75
- 1 N.SARAVANAN (SHOP NO. 4141) ... PETITIONER in WP No.15362 of 2018
FLAT NO. 149/2C VISHESAPURAM PAMMAL
CHENNAI 75
- 1 N.SARAVANAN (SHOP NO.4334) ... PETITIONER in WP No.15363 of 2018
NO.15 THIRUNEERMALAI MAIN ROAD NAGELKENI
CHROMPET CHENNAI 44
- 1 V.SENTHIKUMAR ... PETITIONER in WP No.15499 of 2018
S/O.VIJAYARAGAVAN SHOP NO. 728 NO.1
MUVENTHAN STREET RAJIV GANDHI NAGAR
NESAPAKKAM CHENNAI 78
- 1 S.KARTHICK ... PETITIONER in WP No.15500 of 2018
S/O.M.SUBRAMANI SHOP NO. 8737 NO. 508 4A
509/1B ANS NAGAR PALAVEDU THIRUNINRAVUR
CHENNAI 55
- 1 T.THANGARAJ ... PETITIONER in WP No.15501 of 2018
S/O.TAMILMANI SHOP NO. 105 NO.34 BROADWAY
ROAD CHENNAI 01
- 1 S.BALU ... PETITIONER in WP No.15502 of 2018
S/O.SUNTHARAM SHOP NO.99 NO.16 JILLS
STREET CHENNAI 01
- 1 P.PERUMAL ... PETITIONER in WP No.15503 of 2018
S/O.PALANIANDI SHOP NO. 64 KUMARAPATTI
PALLAPATTI POST MADURAI DISTRICT
- 1 V.RAJENDIRAN ... PETITIONER in WP No.15504 of 2018
S/O.VEERAPAN SHOP NO. 104 55 ERUKANCHERI
HIGH ROAD VYASARPADI CHENNAI 39
- 1 S.NAGARAJ ... PETITIONER in WP No.15505 of 2018
S/O.SOMASUNDARAM SHOP NO. 134 NO.16 JILLS
STREET CHENNAI 01
- 1 G.R.RAJESH ... PETITIONER in WP No.15508 of 2018
S/O.GANESH RESIDING AT: NO.7 JOHN KENNADY
STREET JAFFERKHANPET CHENNAI-83.
- 1 SENTHIL ... PETITIONER in WP No.15509 of 2018
S/O.GOVINTHASAMY RESIDING AT NO.11 EVENING
BAZAAR ROAD EVENING BAZAAR CHENNAI-1.

1 R.KANDAPPARAMAN ... PETITIONER in WP No.15510 of 2018
S/O.RAMASAMY RESIDING AT: NO.20 INDIRA
GANDHI STREET VIJAYALAKSHMIPURAM AMBATTUR
THIRUVALLUR-600 063.

1 G.SURESH S/O.GOPAL ... PETITIONER in WP No.15511 of 2018
RES. AT NO.37-591 VADAKKU MADA VEETHI ST
AMBATTUR CHENNAI-600 050

1 E.MURUGAN S/O.ELLAPPAN ... PETITIONER in WP No.15512 of 2018
RES. AT NO.147 VALLAR NAGAR AMBATTUR
CHENNAI-600 062

1 M.RAMYA ... PETITIONER in WP No.15513 of 2018
W/O.MUTHUKRISHNAN RES. AT NO.7 JOHN
KENNADY STREET JAFFERKHANPET CHENNAI-83

VS

1 THE TAMIL NADU STATE
MARKETING CORPORATION LTD. (TASMAC) REP.
BY ITS MANAGING DIRECTOR CMDA TOWER GANDHI-
IRWIN ROAD EGMORE CHENNAI-600 008.

2 THE TAMIL NADU STATE
MARKETING CORPORATION LTD. (TASMAC) REP.
BY ITS SENIOR REGIONAL MANAGER ILA BUILDING
ANNA SALAI CHENNAI-600 002.

... RESPONDENT R1 & R2 in WP No.15075 of 2018 &
15076/2018, 15355 TO 15363/2018

3 THE TAMIL NADU STATE MARKETING
CORPON. LTD. (TASMAC) REP. BY THE DISTRICT
MANAGER KANCHEEPURAM (NORTH) DT.
INDUSTRIAL ESTATE THIRUMAZHISAI UNIT
KANCHEEPURAM DT-123.

... R3 IN WP. 15075, 15076/2018 15356, 15357,
15358, 15359, 15360, 15361, 15362, 15363/2018

1 THE MANAGING DIRECTOR,
TAMILNADU STATE MARKETING CORPORATION LTD.,
4th FLOOR, THALAMUTHU NADARAJAR MALIGAI,
EGMORE, CHENNAI-8

2 THE SENIOR REGIONAL MANAGER,
TAMILNADU STATE MARKETING CORPORATION LTD.,
LLA BUILDING, ANNASALAI,
CHENNAI-6.

...1st AND 2nd RESPONDENT in WP No. 15163 TO
15174/2018, 15349, 15350, 15351, 15352, 15353
& 15354/2018, 15499 TO 15505/2018 15508,
15509, 15510, 15511, 15512 & 15513/2018

THE DISTRICT MANAGER,
TAMILNADU STATE MARKETING CORPORATION LTD.,
THIRUMAZHISAI,
THIRUVALLUR EAST, CHENNAI-123.

... 3rd RESPONDENT IN WP.15169, 15170, 15171,
15172, 15173, 15174/2018, 15500 TO 15510, 15511,
15512/18

THE DISTRICT MANAGER,
TAMILNADU STATE MARKETING CORPORATION LTD.,
CHENNAI NORTH, B4, AMBATHUR INDUSTRIAL ESTATE,
CHENNAI-58.

... 3rd RESPONDENT IN WP.15349, 15350, 15351, 15352,
15353 & 15354/2018, 15355,/2018, 15501, 15502,
15503, 15504, 15505/2018, 15509/18

THE DISTRICT MANAGER,
TAMILNADU STATE MARKETING CORPORATION LTD.,
CHENNAI SOUTH, B4 AMBATHUR INDUSTRIAL ESTATE,
CHENNAI-58.

... R3 IN WP.15499/2018, 15508, 15513/2018.

WP No.15075 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Forbearing the respondents from demanding the huge licence fee of Rs.8,68,209/- for the Month of May 2018 for the Shop No.4448, from the petitioner and consequently direct the respondents to reduce the licence fee for the month of May 2018 based on the actual sales in the bar premises of the petitioner.

WP No.15076 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Forbearing the respondents from demanding the huge licence fee of Rs.2,48,626/- for the Month of May 2018 for the Shop No.4600, from the petitioner and consequently

direct the respondents to reduce the licence fee for the month of May 2018 based on the actual sales in the bar premises of the petitioner.

WP No.15169 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the licence fee of Rs.1,99,318/- for the month of June 2018 from the petitioner bar attached to TASMAC wine shop No.8908, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 9.6.2018

WP No.15170 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the licence fee of Rs.2,74,317/- for the month of June 2018 from the petitioner bar attached to TASMAC wine shop No.8733, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 9.6.2018

WP No.15171 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the licence fee of Rs.5,48,638/- for the month of June 2018 from the petitioner bar attached to TASMAC wine shop No.9086, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 8.6.2018

WP No.15172 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the licence fee of Rs.1,70,262/- for the month of June 2018 from the petitioner bar attached to TASMAC wine shop No.9005, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 9.6.2018

WP No.15173 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the licence fee of Rs.5,41,131/- for the month of June 2018 from the petitioner bar attached to TASMAC wine shop No.8720, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 8.6.2018

WP No.15174 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the licence fee of Rs.9,67,083/- for the month of June 2018 from the petitioner bar attached to TASMAC wine shop No.9146, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 9.6.2018

WP No.15349 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Directing the respondents not to demand the licence fee of Rs. 2,12,098/- for the month of June 2018 from the petitioner bar attached to TASMAC win Shop No. 59, Based upon the last month sale of the wine shop, and consequently direct the respondent to reduce the license fee for the month of June 2018 by considering the representation dated 18.06.2018.

WP No.15350 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Directing the respondents not to demand the licence fee of Rs. 3,61,419/- for the month of June 2018 from the petitioner bar attached to TASMAC win Shop No. 175, Based upon the last month sale of the wine shop, and consequently direct the respondent to reduce the license fee for the month of June 2018 by considering the representation dated 18.06.2018.

WP No.15351 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Directing the respondents not to demand the licence fee of Rs. 3,72,219/- for the month of June 2018 from the petitioner bar attached to TASMAC win Shop No. 30, Based upon the last month sale of the wine shop, and consequently direct the respondent to reduce the license fee for the month of June 2018 by considering the representation dated 18.06.2018.

WP No.15352 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Directing the respondents not to demand the licence fee of Rs. 2,49,996/- for the month of June 2018 from the petitioner bar attached to TASMAC win Shop No. 131, Based upon the last month sale of the wine shop, and consequently direct the respondent to reduce the license fee for the month of June 2018 by considering the representation dated 18.06.2018.

WP No.15353 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Directing the respondents not to

demand the licence fee of Rs. 3,34,967/- for the month of June 2018 from the petitioner bar attached to TASMAL win Shop No. 721, Based upon the last month sale of the wine shop, and consequently direct the respondent to reduce the license fee for the month of June 2018 by considering the representation dated 18.06.2018.

WP No.15354 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Directing the respondents not to demand the licence fee of Rs. 3,05,053/- for the month of June 2018 from the petitioner bar attached to TASMAL win Shop No. 77, Based upon the last month sale of the wine shop, and consequently direct the respondent to reduce the license fee for the month of June 2018 by considering the representation dated 18.06.2018.

WP No.15355 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from demanding the huge licence fee of Rs. 3,55,982/- for the month of June 2018 for the Shop No. 503 from the petitioner and consequently direct the respondents to reduce the licence fee for the month of June 2018, based on the actual sales in the bar premises of the petitioner

WP No.15356 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from demanding the huge licence fee of Rs. 7,49,254/- for the month of June 2018 for the Shop No. 4137 from the petitioner and consequently direct the respondents to reduce the licence fee for the month of June 2018, based on the actual sales in the bar premises of the petitioner

WP No.15357 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from demanding the huge licence fee of Rs. 4,11,162/- for the month of June 2018 for the Shop No. 4082 from the petitioner and consequently direct the respondents to reduce the licence fee for the month of June 2018, based on the actual sales in the bar premises of the petitioner

WP No.15358 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from demanding the huge licence fee of Rs.9,94,582/- for the month of June 2018 for the Shop No. 4498 from the petitioner and consequently direct the respondents to reduce the licence fee for the month of June 2018, based on the actual sales in the bar premises of the

petitioner

WP No.15359 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from demanding the huge licence fee of Rs. 6,64,407/- for the month of June 2018 for the Shop No. 4110 from the petitioner and consequently direct the respondents to reduce the licence fee for the month of June 2018, based on the actual sales in the bar premises of the petitioner

WP No.15360 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from demanding the huge licence fee of Rs. 3,58,941/- for the month of June 2018 for the Shop No. 4085 from the petitioner and consequently direct the respondents to reduce the licence fee for the month of June 2018, based on the actual sales in the bar premises of the petitioner

WP No.15361 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from demanding the huge licence fee of Rs.6,40,298/- for the month of June 2018 for the Shop No. 4118 from the petitioner and consequently direct the respondents to reduce the licence fee for the month of June 2018, based on the actual sales in the bar premises of the petitioner

WP No.15362 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from demanding the huge licence fee of Rs. 4,18,000/- for the month of June 2018 for the Shop No. 4141 from the petitioner and consequently direct the respondents to reduce the licence fee for the month of June 2018, based on the actual sales in the bar premises of the petitioner

WP No.15363 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from demanding the huge licence fee of Rs. 9,35,000/- for the month of June 2018 for the Shop No. 4334 from the petitioner and consequently direct the respondents to reduce the licence fee for the month of June 2018, based on the actual sales in the bar premises of the petitioner

WP No.15499 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to

demand the Licence Fee of Rs.3,19,456/- for the month of May 2018 from the petitioner bar attached to TASMAC Wine Shop No. 728, Based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license for the month of June 2018 fee by considering the representation dated 18.6.2018

WP No.15500 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the Licence Fee of Rs.3,83,866/- for the month of June 2018 from the petitioner bar attached to TASMAC Wine Shop No. 8737, Based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license for the month of June 2018 fee by considering the representation dated 18.6.2018

WP No.15501 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the Licence Fee of Rs.1,81,819/- for the month of June 2018 from the petitioner bar attached to TASMAC Wine Shop No. 105, Based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license for the month of June 2018 fee by considering the representation dated 18.6.2018

WP No.15502 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the Licence Fee of 2,10,750/- for the month of June 2018 from the petitioner bar attached to TASMAC Wine Shop No.99, Based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license for the month of June 2018 fee by considering the representation dated 18.6.2018

WP No.15503 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the Licence Fee of Rs.1,85,045/- for the month of June 2018 from the petitioner bar attached to TASMAC Wine Shop No.64, Based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license for the month of June 2018 fee by considering the representation dated 18.6.2018

WP No.15504 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the Licence Fee of Rs.1,94,058/- for the month of June 2018 from the petitioner bar attached to TASMAC Wine Shop No.104, Based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license for the month of June 2018 fee

by considering the representation dated 18.6.2018

WP No.15505 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the Licence Fee of Rs.3,19,199/- for the month of June 2018 from the petitioner bar attached to TASMAC Wine Shop No.134, Based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license for the month of June 2018 fee by considering the representation dated 18.6.2018

WP No.15508 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Directing the respondents not to demand the licence fee of Rs.6,00,296/- for the month of May 2018 from the petitioner bar attached to TASMAC win shop No.670, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of May 2018 by considering the representation dated 14.06.2018

WP No.15509 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Directing the respondents not to demand the licence fee of Rs.3,82,140/- for the month of June 2018 from the petitioner bar attached to TASMAC win shop No.168, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 14.06.2018

WP No.15510 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus Directing the respondents not to demand the licence fee of Rs.5,36,635/- for the month of June 2018 from the petitioner bar attached to TASMAC win shop No.8935, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 14.06.2018

WP No.15511 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the licence fee of Rs.5,74,376/- for the month of June 2018 from the petitioner bar attached to TASMAC wine shop No.8909, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 14.06.2018

WP No.15512 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to

demand the licence fee of Rs.2,28,171/- for the month of June 2018 from the petitioner bar attached to TASMAC wine shop No.8775, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of May 2018 by considering the representation dated 14.06.2018

WP No.15513 of 2018

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the licence fee of Rs.3,30,197/- for the month of June 2018 from the petitioner bar attached to TASMAC wine shop No.652, based upon the last month sale of the wine shop and consequently direct the respondent to reduce the license fee for the month of May 2018 by considering the representation dated 14.06.2018.

For Petitioners in WP.Nos.15075,
15076 & 15355 to 15363 of 2018 : Mr.K.Selvaraj

For Petitioners in WP.Nos.15169 to
15174, 15349 to 15354, 15499 to
15505 & 15508 to 15513 of 2018 : Mr.M.Manimaran

For Respondents in all the WPs : Mr.Arumugha Rajan

COMMON ORDER

Mr.Arumugha Rajan, learned Standing Counsel accept notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. In these writ petitions, the petitioners, who were granted licence to sell eatables and collect empty bottles and cartons in the bar attached to the respective TASMAC retain vending shops, have sought for a direction to forbear the respondents from demanding huge licence fee for the month of May 2018 for their respective shops and consequently direct the respondents to reduce the licence fee for the month of May 2018 based on the actual sales in the respective bar premises, in which, the petitioners had been granted a licence to sell eatables and collect empty bottles and cartons.

3. The reason for seeking such a prayer is on account of the fact that around 1700 shops were said to have been closed on and from 29.4.2018 pursuant to the orders passed by the Hon'ble Division Bench of this Court dated 28.4.2018 and that the shops in question, which were not affected by the order of the Hon'ble Division Bench of this Court, had shown an abnormal increase in the sales. Consequently, the respondents now demand that 3.5% of the sales for

the month of May 2018 should be paid as a licence fee in June 2018.

4. The case of the petitioners is that the sales in the shops for the month of May 2018 do not reflect the actual figure, that the increase in sales was on account of the closure of the bars, which were abutting the highways and that therefore, the patronage for the shops in question and other similarly located shops are more for the month of May 2018 till the Hon'ble Supreme Court passed an order on 23.5.2018 directing to open all the shops abutting the main roads. Consequently, the State Government issued necessary orders on 04.6.2018 directing to reopen all the shops, which were closed pursuant to the order of the Hon'ble Division Bench of this Court dated 28.4.2018. In this regard, the petitioners are stated to have given representations and requested the respondents that a realistic amount may be collected from them as a licence fee and that the respondents should not mechanically adopt the sale value in the respective shops for the month of May 2018 so as to fix the licence fee. The representations are stated to be pending and since the authorities are insisting on 3.5% of the sales for the month of May 2018 as a licence fee to be payable in June 2018, the petitioners have rushed to this Court.

5. The learned Standing Counsel appearing for the respondents submit that though it may be true that the sales had increased in May 2018 only on account of the closure of 1700 shops, the petitioners took advantage of the situation and earned more revenue during the said period and that therefore, the respondent - Corporation was justified in their demand of 3.5% of the sales as licence fee payable by the respective petitioners in June 2018.

6. This Court has carefully considered the submissions made by the learned counsel on either side.

7. Though the learned Standing Counsel appearing for the respondents may be right in stating that the petitioners took advantage of the closure of shops abutting the main roads, the fact remains that when more than 1000 shops were closed, the patronage for the other shops, which are remaining open, would be eventually on the higher side, but it is only for a period of one month. Thus, the licence fee, which is demanded from the respective petitioners should have a realistic calculation based on the actual sales, which would normally take place in a shop after the orders are passed by the State Government dated 04.6.2018. Since the licence fee is payable in the month of June 2018, this Court is inclined to issue appropriate directions.

8. For all the above reasons, the writ petitions are disposed of by directing the respective petitioners to pay 3.5% of the sales, which occurred during the month of April 2018 as a licence fee for the month of May 2018 payable in the month of June 2018. The

respondents shall accept the same without prejudice to their rights. Along with the payment receipts, the petitioners are also directed to submit representations to the respondents. On receipt of the representations, the respondents shall consider the same, take note of the sales in the respective TASMAL retail vending shops for the months of January, February and March 2018 and take a conscious decision in the matters in accordance with law. The petitioners are further directed to pay the licence fee in terms of the above directions within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

TO

- 1 THE MANAGING DIRECTOR,
THE TAMIL NADU STATE
MARKETING CORPORATION LTD. (TASMAL)
CMDA TOWER, GANDHI-IRWIN ROAD,
EGMORE, CHENNAI-600 008.
- 2 THE SENIOR REGIONAL MANAGER,
THE TAMIL NADU STATE
MARKETING CORPORATION LTD. (TASMAL)
LLA BUILDING,
ANNA SALAI, CHENNAI-600 002.
- 3 THE DISTRICT MANAGER,
THE TAMIL NADU STATE
MARKETING CORPORATION LTD. (TASMAL)
KANCHEEPURAM (NORTH) DT.
INDUSTRIAL ESTATE THIRUMAZHISAI UNIT
KANCHEEPURAM
- 4 THE MANAGING DIRECTOR,
TAMILNADU STATE MARKETING CORPORATION LTD.,
4th FLOOR, THALAMUTHU NADARAJAR MALIGAI,
EGMORE, CHENNAI-8
- 5 THE DISTRICT MANAGER,
TAMILNADU STATE MARKETING CORPORATION LTD.,
THIRUMAZHISAI EAST,
CHENNAI.

6 THE DISTRICT MANAGER,
TAMILNADU STATE MARKETING CORPORATION LTD.,
CHENNAI NORTH,
B4, AMBATHUR INDUSTRIAL ESTATE,
CHENNAI-58.

7 THE DISTRICT MANAGER,
TAMILNADU STATE MARKETING CORPORATION LTD.,
CHENNAI SOUTH,
B4 AMBATHUR INDUSTRIAL ESTATE,
CHENNAI -58.

+1cc to Mr.K.Selvaraj, Advocate SR.No.39866
+4cc to Mr.M.Manimaran, Advocate SR.No.39821 to 39824
+1cc to Mr.P.Arumugarajan, Advocate SR.No. 39988

WP.No.15075 of 2018 etc.cases

GN(27/06/2018)



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