

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.1662 of 2018 & WMP.No.2068 of 2018

Annamalai University Alumni
Club rep.by its President
Mr.Ramasubramaniam ...Petitioner

Vs

- 1.The Commissioner of Prohibition &
Excise, Chepauk, Chennai-5.
- 2.The Excise Commissioner,Excise Commissioner Office,
Ezhilagam, Chennai-5.
- 3.The Assistant Commissioner
(Excise), Kanchipuram District.
- 4.The Deputy Accountant General,
Office of the Accountant General,
Teynampet, Chennai-18. ...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorari to call for the
records of the order of the first respondent in his proceedings
RC.No.P & E 2(4)/3780/2016 challenging the order dated 27.9.2017
and quash the same.

For Petitioner : M/s.S.Sivaraman

For Respondents 1 to 3 : Mr.J.Pothiraj, SGP

For Respondent-4 : Mrs.Hema Muralikrishnan

ORDER

Mr.J.Pothiraj, learned Special Government Pleader accepts
notice for respondents 1 to 3. Mrs.Hema Muralikrishnan, learned
Standing Counsel accepts notice for the fourth respondent. Heard

both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved by a demand issued by the first respondent dated 27.9.2017 directing the petitioner to pay the difference in annual privilege fee with retrospective effect from 2014-15 in respect of FL2 licence granted to the petitioner.

3. The petitioner is a society registered under the provisions of the Societies Registration Act, 1975 and it is a recreation club for the alumni of Annamalai University and it is stated to be in existence since 1975. The petitioner club was granted FL2 licence during the excise year 2013-14 by order dated 29.8.2013.

4. The case of the petitioner is that the licence was issued after G.O.Ms.No.23 Home, Prohibition and Excise Department dated 10.4.2013 was issued, which prescribes the privilege fee for the licence holder within the limits of Chennai and outside the areas.

5. The said Government Order provides for differential rate of privilege fee i.e for the licensees, whose establishments are located within Chennai city limits, the privilege fee was Rs.10 lakhs and for others outside Chennai city limits, it was Rs.6 lakhs.

6. Therefore, the petitioner would state that at this juncture, the first respondent is not justified in demanding the difference in the annual privilege fee, that too, with retrospective effect from 2014-15.

7. It appears that the impugned demand has not emanated from the first respondent, but appears to have been on account of an objection raised by the fourth respondent. In any event, the first respondent has to justify as to how such a demand for differential privilege fee can be made with retrospective effect and more so, when the petitioner would contend that the licence was granted to them much after issuance of G.O.Ms.No.23. This Court finds that an objection has been raised by the petitioner vide representation dated 24.10.2017, which appears to have been handed over to the first respondent even on that day in the afternoon.

8. In the light of the above, the writ petition is disposed with a direction to the first respondent to consider the petitioner's objection dated 24.10.2017, afford an opportunity of personal hearing to the authorized representative of the petitioner and pass a speaking order on merits and in accordance with law. The above direction shall be complied with within a period of 12 weeks from the date of receipt of a copy of this

order and till then, no coercive action shall be initiated against the petitioner for recovery of the amount demanded in the impugned notice dated 27.9.2017. No costs. Consequently, the connected WMP is closed.

RS

Sd/-
Assistant Registrar(ccc)

//True Copy//

Sub Assistant Registrar

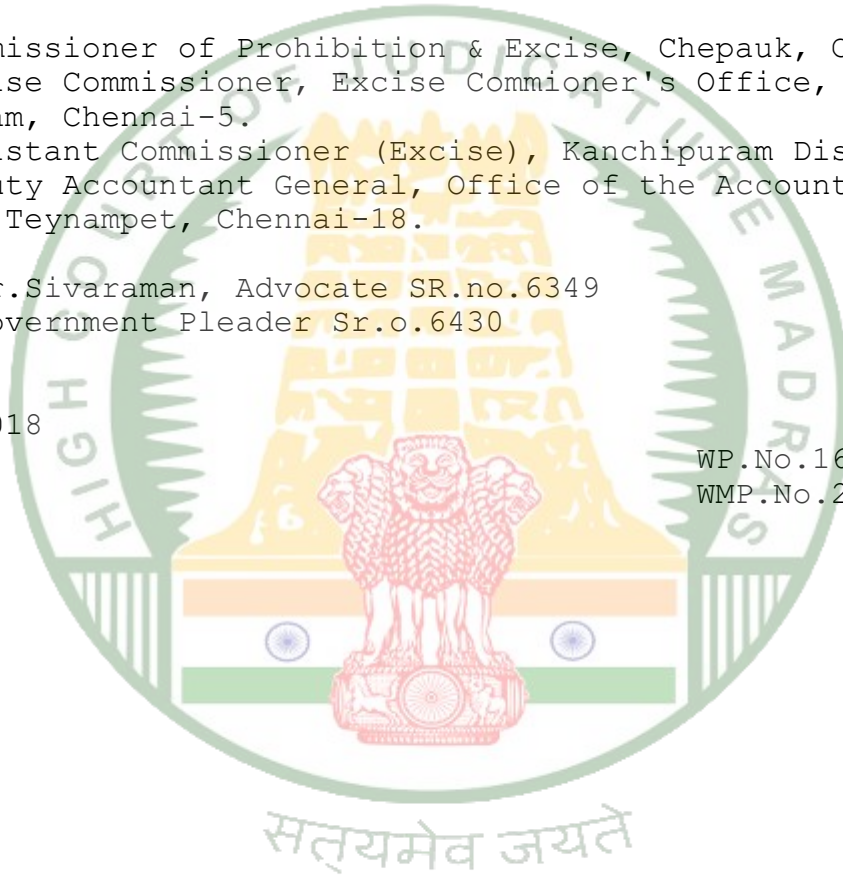
To

- 1.The Commissioner of Prohibition & Excise, Chepauk, Chennai-5.
- 2.The Excise Commissioner, Excise Commioner's Office, Ezhilagam, Chennai-5.
- 3.The Assistant Commissioner (Excise), Kanchipuram District.
- 4.The Deputy Accountant General, Office of the Accountant General, Teynampet, Chennai-18.

+1cc to Mr.Sivaraman, Advocate SR.no.6349
+1cc to Government Pleader Sr.o.6430

SAI (CO)
sm:15.2.2018

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