

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.8572 OF 2018

ORDER:

The present writ petition came to be filed seeking to declare the Memo No.31024/81/2017, Exc.II-Rev. dated 8.1.2018, issued by the 1st respondent, which is communicated by the 2nd respondent vide C.R.No.H3/3270/2016/CPE/Ex-2 dated 25.1.2018 as illegal and arbitrary.

It is the case of the petitioner that pursuant to the issuance G.O.Ms.No.1 dated 1.1.2008, by the 1st respondent, inviting applications from the licensees in Form DM1, for grant of Letter of Intent for expansion of production capacities of the existing Indian Made Foreign Liquor manufactories, the petitioner submitted an application dated 24.1.2011 with the 2nd respondent, seeking issuance of letter of intent, for expansion of his production capacity from 54,43,200 PLS to 84,43,200 PLS. Along with the said application, the petitioner paid a sum of Rs.35.00 lakhs towards non-refundable fee and a sum of Rs.15.00 lakhs being the first installment towards adjustable special fee to be adjusted towards license fee for excise duty or both, on commencement of the production.

This Court vide its order dated 04.04.2018, in W.P.No.5680 of 2018, the identical proceedings as impugned in the present case, directed the 1st respondent therein to return a sum of Rs.1.5 Crores with interest at 9% per annum from the date of payment till date repayment. Subsequently, in W.P.No.4201 of 2018, this Court vide order dated 14.6.2018, directed the 1st respondent herein to refund a sum of Rs.4.5 Crores along with interest at 9% per annum.

Though the learned Government Pleader for Prohibition and Excise, tried to distinguish the orders passed therein with the impugned proceedings on the ground that the Government never withdrew the policy by giving permission of expansion and then rejected the application submitted by the petitioner seeking expansion of his unit. A perusal of the impugned order shows that the Government had really withdrawn its intention to grant licence for expansion of Indian Made Foreign Liquor of the petitioner company from 54,43,200 PLS to 84,43,200 PLS, vide G.O.Ms.No.690 Revenue (Excise-IID) Department, dated 19.12.2012 and G.O.Ms.No.691 Revenue (Excise-IID) Department, dated 19.12.2012.

Having regard to the orders passed by this Court in the above said two writ petitions and since the present writ petition is identical to the one referred to above, the writ petition is allowed setting aside the Memo No.31024/81/2017, Exc.II-Rev. dated 8.1.2018, issued by the 1st respondent, which is communicated by the 2nd respondent vide C.R.No.H3/3270/2016/CPE/Ex-2 dated 25.1.2018 and consequently direct the respondents to return a sum of Rs.50,00,000/- (Rupees fifty lakhs only) with interest at 9% per annum from the date of deposit till date of repayment. No order as to costs.

Office is directed to enclose the copy of the order dated 14.6.2018, passed by this Court in W.P.No.4201 of 2018, to this order. Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

C. PRAVEEN KUMAR,J

Date:05.11.2018.
Gk

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