

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 23.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.32493 of 2006

and

M.P.No.1 of 2009

G.Kunjappan

... Petitioner

Vs

1.The State of Tamilnadu
Represented by its
Secretary to Government,
Prohibition and Excise (11) Department,
Fort St. George, Chennai - 9.

2.The District Collector,
Erode District,
Erode.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records pertaining to the G.O.Ms.No.81 dated 05.04.2004 issued by the First Respondent herein and the consequential order dated 14.06.2005 made in Va.Pa.14/91/J1 passed by the Second Respondent herein, quash the same.

For Petitioner : Mr.N.Manokaran

For Respondents: Mr.A.Zakir Hussain
Government Advocate

सत्यमेव जयते
O R D E R

The issue involved in the writ petition is that the respondents had demanded a amount as notional loss in connection with the arrack shop, for which the petitioner granted license for the year 1981-82.

2.In various writ petitions challenging the demand of like nature, this Court had quashed the demand made for notional loss on the ground that the details as to how the notional loss was arrived was not furnished to the petitioner and that there is no explanation for the inordinate delay in making the demand. In one such order of this Court passed in W.P.No.32718 of 2013, dated 07.06.2018, it has been held as follows:

"4.Firstly, the impugned notices are bereft of particulars, as to the date on which the petitioner has surrendered the shop and the date on which the shop has been allotted to a third party. Further, the impugned notices did not give any details and straight-away distraint order has been passed. That apart, for 24 years, no action was initiated against the petitioner and it would be harsh on the petitioner to now proceed against him for the alleged loss caused on account of the surrender of the shop. It was well open to the second respondent to make recovery as and when the petitioner surrendered the shop. Having not done so, the question of directing the second respondent to proceed with the impugned proceedings cannot be entertained. For the above reasons the writ petition is allowed and the impugned order is quashed. No costs. Consequently, connected miscellaneous petition is closed."

3.In the instant case also, the impugned order does not explain the reason for the inordinate delay on the part of the respondents seeking for the notional loss. This Court is unable to appreciate as to how the petitioner would be in a position to substantiate their case after such inordinate delay and on this short ground, the writ petition requires to be allowed.

4.With these observations, the writ petition is allowed and consequently, the impugned order in Proc.No.P & E 10(1)/31891/94 (S.R.) dated 06.11.2006 is quashed. No costs. Consequently, connected miscellaneous petition is closed.

rst

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamilnadu,
Prohibition and Excise (11) Department,
Fort St. Goerge, Chennai - 9.

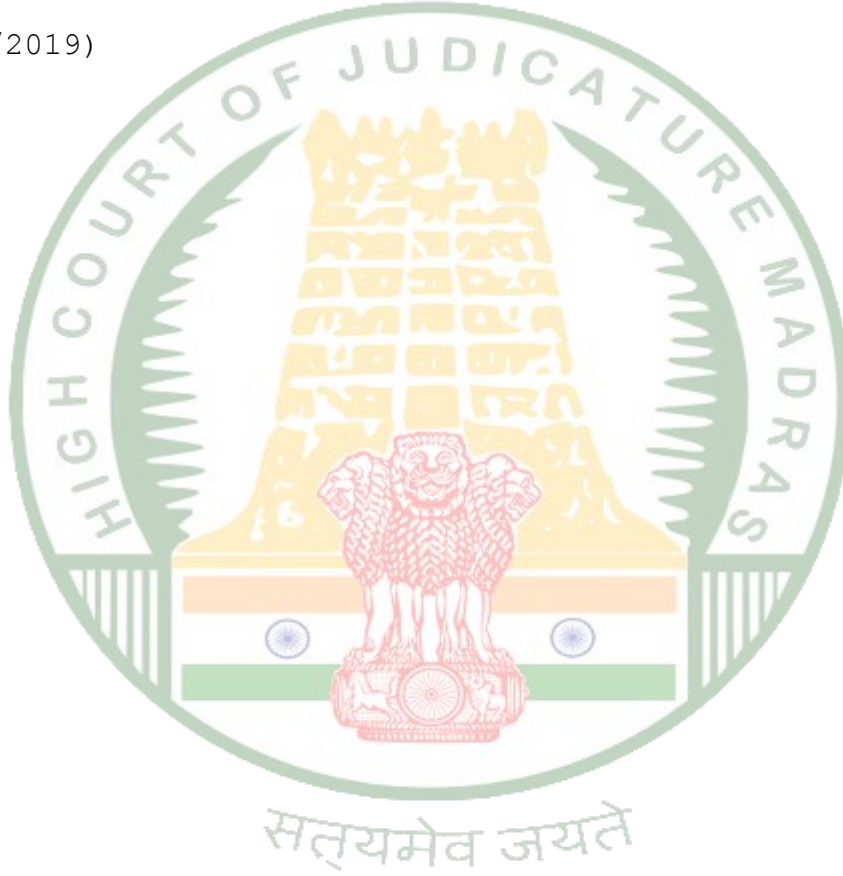
2.The District Collector,
Erode District,
Erode.

+1cc to Mr.N.Manokaran, Advocate, SR.No.62987

+1cc to the Govt.Pleader, Vide Sr.No.63820

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and
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Kak(18/09/2019)



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