IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2020

CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.9340 of 2020

M/s.Ajantha Wines (License No.75/FL2),
Rep. by its Sole Proprietor G.V.K.Moorthy,
No.45, Vinayagar Street, Thirukanur,
Puducherry 605 501. ..Petitioner

Vs.

1.The Commissioner (Excise),
Government of Puducherry,
Office of the Excise Commissioner,
Secretariat, Puducherry-605 001.

2.The Deputy Commissioner (Excise),
Excise Department, Government of Puducherry,
Thattanchavadi, Puducherry. ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Mandamus directing the 1st Respondent to pass orders on the Appeal submitted by the petitioner dated 18.05.2020 under Section 60(2) of the Puducherry Excise Act 1970 within a time frame fixed by this Court.

For Petitioner : Mr.C.Vigneswaran

For Respondents : Mr.J.Kumaran, AGP (P)

O R D E R

Learned counsel for the petitioner has filed a memo, dated 16.07.2020 on behalf of the petitioner praying that the petitioner be permitted to withdraw the Writ Petition.

2. Acceding to the request, the Writ Petition is dismissed as withdrawn. No costs.

3. Another memo of even date has also been filed to the effect that a reminder dated 03.07.2020 has been filed before the Appellate Authority after filing of appeal on 18.05.2020 pointing to certain urgency in the matter. Despite this, the Authority has not taken the appeal up for hearing and adjudication.

4. The petitioner may well pursue this before the Appellate Authority as Section 60(2) of the Puducherry Excise Act, 1970 would allow the Appellate Authority to consider and grant, if he were so inclined, interim protection.

5. Mr.Kumaran, learned Additional Government Pleader for the respondents agrees that such power to grant interim protection is a normal incident of the appellate powers.

6. This proposition is supported by a decision of this Court in the case of Paulsons Litho Works V. Income Tax Officer ((1994) 208 ITR 676 Mad), wherein in the context of the Income Tax Act, 1961, a learned single Judge of this Court has held that an Appellate Authority, once seized of a valid appeal is vested with all incidental and ancillary powers to grant interim protection pending the appeal, even in the absence of a statutory provision in this regard.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner (Excise),
Government of Puducherry,
Office of the Excise Commissioner,
Secretariat, Puducherry-605 001.

2.The Deputy Commissioner (Excise),
Excise Department, Government of Puducherry,
Thattanchavadi, Puducherry.

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AD(CO)
KKV/17/08/2020