



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE **ABDUL QUDDHOSE**

W.P. (MD) Nos. 13631 and 13633 of 2020

Sri Pandian Hotels

rep., by its Proprietor B.S.Terry ... Petitioner in
W.P(MD).No.13631 of 2020

Hotel Theni International

rep., by its Managing
Director Vinod Mathew ... Petitioner in
W.P(MD).No.13633 of 2020

Vs

The Commissioner of Prohibition and Excise,
Prohibition and Excise Department,
Ezhilagam, Chepauk, Chennai 600 005. ... Respondent in both
Petition

COMMON PRAYER: Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondent to refund the proportionate privilege fee and licence fee for the non transactional period of five months and 18 days i.e., from 17.03.2020 to 03.09.2020 based on the representation of the petitioner club dated 21.09.2020 and 20.09.2020 respectively.

In both petitions.

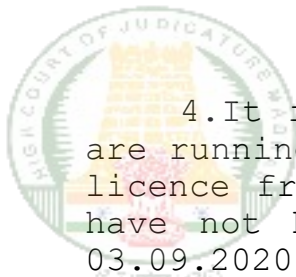
For Petitioners	: Mr.T.Bashyam
For Respondent	: Mr.C.Ramesh Special Government Pleader

COMMON ORDER

These writ petitions have been filed for a Writ of Mandamus seeking for a direction to the respondent to refund the proportionate privilege fee and licence fee for the non transactional period of five months and 18 days i.e., from 17.03.2020 to 03.09.2020 based on the representation of the petitioners club, dated 21.09.2020 and 20.09.2020 respectively.

2. Heard Mr.T.Bashyam, learned counsel appearing for the petitioners and Mr.C.Ramesh, learned Special Government Pleader appearing for the respondent.

3. By consent of both sides, these writ petitions are taken up for final disposal at the admission stage itself.



4. It is the contention of the petitioners that the petitioners are running Hotels at the respective places after getting proper FL3 licence from the respondent. But, due to COVID-19 lock down, they have not been able to run their licensed bar from 17.03.2020 to 03.09.2020. The petitioners submitted that for the said period, they have paid the privilege fee and licence fee in advance. The petitioners rely upon Rule 24-A of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981 and as per the said Rule, the petitioners have given representation on 21.09.2020 and 20.09.2020 respectively seeking for refund of privilege fee and licence fee paid by them in advance for the aforesaid period. But, according to the petitioners, till date, the same has not been considered by the respondent. In such circumstances, the petitioners have filed these writ petitions.

5. Rule 24-A of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981 reads thus:-

"if any licensee, who has not transacted any business under the licence, shall apply to the licensing authority for refund of the licence fee along with the licence granted to him. On receipt of the application, the licensing authority may refund the licence fee, if he is satisfied that the licensee has not transacted any business under licence granted to him"

6. The petitioners have given representation to the respondent under the aforesaid Rule. It is the duty of the respondent to consider the same on merits. Therefore, this Court is inclined to dispose of these writ petitions by issuing the following directions:-

"the respondent is directed to consider the representation of the respective petitioners, dated 20.09.2020 and 21.09.2020, on merits and in accordance with law and as per Rule 24-A of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981, after affording opportunity of hearing to the petitioners, within a period of four(4) weeks from the date of receipt of a copy of this order."

7. With the above directions, these Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



rmk

To

The Commissioner of Prohibition and Excise,
Prohibition and Excise Department,
Ezhilagam, Chepauk, Chennai 600 005.

+2 CC to Mr. T. BASHYAM, Advocate (SR-19261, 19260 [F] dated
07/10/2020)

+1 CC to SPL GP (SR-19325[F] dated 07/10/2020)

W.P. (MD) Nos. 13631 and 13633 of 2020
05.10.2020

VB (16.10.2020) 3P 5C