



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.15440 of 2020

Boopathy Lodge
Rep. by its Proprietor S.Uthayakumar
S/o Selvaraj,
No.17, Perumal Kovil,
Theppakulam,
Town Hall Road,
Madurai.

... Petitioner

Vs

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

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing 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 08.10.2020.

For Petitioners : Mr.T.Bashyam

For Respondent : Mr.C.Ramesh
Special Government Pleader

ORDER

This writ petition has 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 08.10.2020.

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, this writ petition is taken up for final disposal at the admission stage itself.

4.It is the contention of the petitioner that the petitioner is running Hotel at Madurai, 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 petitioner submitted that for the said period, he has paid the privilege fee and licence fee in advance. The petitioner rely upon Rule 24-A of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981 and as per the said Rule, the petitioner has given representation on 08.10.2020 seeking for refund of privilege fee and licence fee paid by them in advance for the aforesaid period. But, according to the petitioner, till date, the same has not been considered by the respondent. In such circumstances, the petitioner has filed this writ petition.

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 petitioner has 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 this writ petition by issuing the following directions:-

"the respondent is directed to consider the representation of the petitioner, dated 18.10.2020, 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 petitioner, within a period of four(4) weeks from the date of receipt of a copy of this order."

7.With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

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

+1 CC to M/s.T.BASHYAM, Advocate (SR-21671[F] dated 10/11/2020)
+1 CC to M/s.GP (SR-21739[F] dated 10/11/2020)

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06.11.2020

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SSS (CO)

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