

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

CORAM

THE HON'BLE MR. JUSTICE C.SARAVANAN

W.P.No.26231 of 2010

and

M.P.No.2 of 2010

N.Sekar,
S/o.P.Natarajan

... Petitioner

Vs

1.The Assistant Commissioner (Excise),
Erode, Erode District.

2.The Divisional Excise Officer,
Erode.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in respect of the impugned order dated 29.01.2008 passed by the 1st respondent in his proceedings Na Ka 72193/07J3 and quash the same and consequently by considering the representation of the petitioner herein dated 18.08.2009, direct the respondents herein to refund the caution deposit amount to the petitioner.

For Petitioner : Mr.I.C.Vasudevan

For Respondents: Mr.N.Inbanathan

Additional Government Pleader

ORDER

The petitioner has challenged the impugned order dated 29.01.2008, on the ground that the said order has been passed in violation of Principles of Natural Justice in as much as neither the notice was issued to the petitioner nor the petitioner was heard before the said order was passed.

2. It is further submitted that the petitioner had deposited a sum of Rs.1,00,000/- as caution deposit when he obtained the license for running a IMFL Shop (Retail Imported Liquor Shop) with respondents. It is stated that instead of refunding the amount, the 1st respondent has passed the impugned order and imposed penalty, since the petitioner sent representations for refund of Rs.1,00,000/- paid by the petitioner as caution deposit.

3. The learned counsel for the respondents submits that the impugned order has been passed in terms of prevailing G.Os and since the petitioner failed to maintain the required stock, he was subjected to penalty of Rs.2,27,840/-.

4. Heard the learned counsel for the petitioner and the respondents.

5. It is noticed that the impugned order has been passed in violation of Principles of Natural Justice in as much as no notice was issued to the petitioner to appropriate the amount paid by the petitioner towards caution deposit towards the alleged penalty payable by the petitioner.

6. Since there is a violation of Principles of Natural Justice, the impugned order dated 29.01.2008 is quashed and the case is remitted back to the 1st respondent to pass a fresh order within a period of 3 months from the date of receipt of a copy of this order. The impugned order passed by the 1st respondent which stands quashed by this order shall be treated as notice.

7. The petitioner is directed to file his reply/representation, if any, with in a period of one month from the date of receipt of a copy of this order.

8. On such reply/representation being filed by the petitioner, the respondents shall hear the petitioner and pass appropriate orders with in a period of 3 months as indicated above.

9. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To

1.The Assistant Commissioner (Excise),
Erode, Erode District.

2.The Divisional Excise Officer,
Erode.

+1 cc to M/s.I.C.Vasudevan, Advocate Sr.No. 5318
+1 cc to The Government Pleader Sr.No. 6078

W.P.No.26231 of 2010
and
M.P.No.2 of 2010

SR.-I (CO)
RMP (04/03/2021)



WEB COPY