



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.2605 of 2021

and

W.M.P. (MD)No.2143 of 2021

V.A.Tilak Raj

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Department of Home, Prohibition and Excise,
Fort St.George, Secretariat, Chennai - 09.

2.The District Collector,
Tuticorin,
Turicorin District.

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

... Respondents

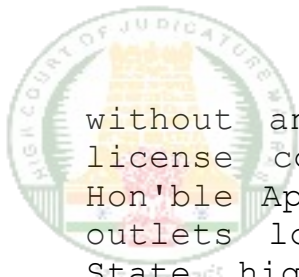
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent No.2 to refund the license fee to the petitioner under Rule 24A of Tamil Nadu Liquor (License and Permit) Rules, 1981 along with interest for the loss of petitioner due to closure of his bar from the period 01.04.2017 to 31.08.2017 and 17.03.2020 till 31.08.2020 by considering the representation made by the petitioner on 07.11.2020 within time stipulated by this Court.

For Petitioner : Mr.Lajapathi Roy.T

For Respondents : Mr.Anand,
Government Advocate.

ORDER

Hotel Visaka was granted FL3 license. It is being renewed from time to time. The petitioner has paid the license fee



without any default. The case of the petitioner is that the license could not be operated during two periods. When the Hon'ble Apex Court passed an order for removal of liquor vending outlets located within a particular distance from National and State highways, the petitioner had to close their bar on 01.04.2017. It was reopened only on 01.09.2017, after the Hon'ble Apex Court issued certain clarificatory directions. Likewise, during Covid-19 pandemic period, the bar remained closed for 171 days ie., from 17.03.2020 to 31.08.2020. Since during these periods, the petitioner did not transact any business under the license, the petitioner sought proportionate refund of the license fee. A request was made in this regard on 07.11.2020. Since it was not acted upon, the present writ petition came to be filed.

2.The learned Government Advocate for the respondents submitted that the District Collector, Tuticorin has forwarded the application of the petitioner to the third respondent recommending refund a sum of Rs.2,45,959/-, since the petitioner did not transact any business during intervening period. The learned counsel for the petitioner would point out that the respondent have not taken note of the closure of the petitioner's bar in the year 2017, pursuant to the directions of the Hon'ble Supreme Court.

3.Therefore, I direct the respondents to proportionately refund the license fee for the non-transactional period ie., from 01.04.2017 to 01.09.2017 and again from 17.03.2020 to 31.08.2020. The respondents can either make proportionate refund or adjust the same against the petitioner's future liability. However, the question of paying any interest does not arise.

4.The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Note : In view of the present lock down owing to

<https://hcservices.ecourts.gov.in/hcservices/>



COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To:

1.The Principal Secretary,
Department of Home, Prohibition and Excise,
Fort St.George, Secretariat, Chennai - 09.

2.The District Collector,
Tuticorin,
Turicorin District.

3.The Commissioner of Prohibition and Excise,
Prohibition and Excise Department,
Ezhilagam, Chempauk,
Chennai - 600 005.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-10955[F] dated 15/03/2021)

+1 CC to M/s.SPL GP (SR-12168[F] dated 18/03/2021)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-12169[F] dated 18/03/2021)

W.P (MD) No.2605 of 2021
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GS (21.04.2021) 3P 7C