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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 28.02.2022

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.Nos.4067, 4069 and 4072 of 2022

1. M/s. Cuddalore & Villupuram District
Recreation Club,
Rep. by its President, Mr.M.Ravichandran,
Old No.23/A, 23/B, New No.328,
Cuddalore Main Road, Vriddhachalam,
Cuddalore District - 606 001.
... Petitioner in W.P.No.4067 of 2022
2. M/s. T.Chandran
Partner, M/s. Hotel Anandha,
No.710, Junction Road,
Vriddhachalam,
Cuddalore District - 606 001.
... Petitioner in W.P.No.4069 of 2022
3. Mr.Ravichandran
Proprietor, M/s. Hotel P.P.S.,
No.5/3-A, Parthasarathy Street,
Vriddhachalam,
Cuddalore District - 606 001.
... Petitioner in W.P.No.4072 of 2022

Vs.

1. The Commissioner of Prohibition & Excise
Office of the Commissioner of Prohibition & Excise,
Govt. of Tamil Nadu,
Chepauk, Chennai - 600 005.
2. The District Collector
Cuddalore District,
Cuddalore.
3. The Asst. Commissioner (Excise)
Office of the Asst. Commissioner (Excise)
Cuddalore District,
Cuddalore - 607 001.
... Respondents in all the writ petitions



Prayer in W.P.No.4067 of 2022 : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to forthwith refund the Privilege Fee and Licence Fee of Rs.6,10,000/- for the period of 2017-2018, Rs.6,10,000/- for the period of 2018-2019, Rs.8,25,000/- for the period of 2019-2020 and Rs.8,25,000/- for the period of 2020-2021 totally sum of Rs.28,70,000/- for non-transactional period of the petitioner's club under Licence F.L.2 No.5/2010-2011.

Prayer in W.P.No.4069 of 2022 : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to forthwith refund the Privilege Fee and Licence Fee of Rs.1,32,493/-for the non-transactional period 01.04.2017 to 04.09.2017 of the petitioner's Hotel under Licence F.L.3 No.14/2002-2003.

Prayer in W.P.No.4072 of 2022 : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to forthwith refund the Privilege Fee and Licence Fee of Rs.1,32,493/-for the non-transactional period 01.04.2017 to 04.09.2017 of the petitioner's Hotel under Licence F.L.3 No.21/2008-2009.

For Petitioner : Mr.L.Palanimuthu
in all the writ petitions

For Respondents : Mr.S.Ravichandran,
Additional Government Pleader
in all the writ petitions

COMMON ORDER

In these three writ petitions, the respective petitioners were licensee for FL2 and FL3 Licence, which was granted for the year 2017 or it has been renewed for the said period.

2. However, according to the petitioners, because of the order passed by the Hon'ble Supreme Court, dated 31.03.2017 in C.A.Nos.12164 - 12166 of 2016, there was a closure of Bar attached with the hotels run by these petitioners or hotels or club run by these petitioners, therefore being the period of closure since there was no business transaction, they want to refund of the licence as well as privilege fee paid by them and in this regard, the respective petitioners had made representations in the year 2019.

3. Having considered the said representations or requests,



the first respondent, i.e., the Commissioner of Prohibition & Excise, Chepauk, Chennai, had given instruction to the second respondent, District Collector, Cuddalore, who in turn give instruction to the third respondent, Assistant Commissioner (Excise), Cuddalore, to have an inspection of the premises of the club / hotel of the petitioners and to send a report.

4. In response to the said directive issued by the first respondent in all these three cases, the respective third respondent, i.e., the Assistant Commissioner (Excise), Cuddalore, having completed the inspection, had sent a recommendatory report on 21.09.2021, 17.12.2019 and 16.12.2019 respectively in all these cases to the first respondent that, what is the amount can be refunded to each of these petitioners.

5. Despite these recommendatory report submitted by the third respondent, in each of the cases to the first respondent, thereafter no further follow up action taken and no orders have been passed with regard to the refund of the fee sought for by the petitioner. Therefore, these petitioners have approached this Court by filing these writ petitions.

6. Heard Mr.L.Palanimuthu, learned counsel appearing for the petitioner who having reiterated the aforestated would seek indulgence of this Court to issue suitable directions by way of mandamus.

7. Heard Mr.S.Ravichandran, learned Additional Government Pleader appearing for the respondents who would submit that, if already after completing the inspection, respective third respondent had sent a report to the first respondent in September 2021, based on which, further action would be taken and orders would be passed by the first respondent with regard to the refund of the licence as well as the privilege fee payable to the petitioners, for which each of the petitioners are entitled to, within a time frame that may be stipulated by this Court.

8. Having considered the said submission made by both sides and by taking into account the factual matrix as discussed above, this Court is inclined to dispose of these writ petitions with the following order :

that there shall be a direction to the first respondent, to consider the report submitted by the third respondent, dated 21.09.2021, 17.12.2019 and 16.12.2019 respectively in all these cases and pass orders regarding the claim of the petitioners for refund of licence and privilege fee for the non-



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business transaction period, i.e., between 01.04.2017 and 22.08.2021 or any other related period and accordingly, pass the orders for such refund of the amount within a period of six weeks from the date of receipt of a copy of this order.

9. With these directions, these writ petitions are disposed of. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

tsvn

To

1. The Commissioner of Prohibition & Excise
Office of the Commissioner of Prohibition & Excise,
Govt. of Tamil Nadu,
Chepauk, Chennai - 600 005.
2. The District Collector
Cuddalore District,
Cuddalore.
3. The Asst. Commissioner (Excise)
Office of the Asst. Commissioner (Excise)
Cuddalore District,
Cuddalore - 607 001.

+3ccs to M/s.AL.Ganthimathi, Advocate, S.R.Nos.13109 to 13111

+1cc to the Government Pleader, S.R.No.13395

W.P.Nos.4067, 4069
and 4072 of 2022

NK(CO)
SU(21/03/2022)