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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI.,J

W.P. No.6588 of 2022

Tamil Nadu Billiards & Snooker Association,
Rep. By its General Secretary,
No.6, Devanathan Street, Mandaveli,
RA Puram, Chennai 600 028.

...Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The Commissioner of Prohibition & Excise,
Ezhilagam, Kamaraj Salai,
Chepauk 600 005.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to refund the proportionate privilege fee and license fee for the non-transactional period of 10 months and one day ie., from 17.03.2020 to 22.09.2020 (6 months and 5 days) and from 25.04.2021 to 22.08.2021 (3 months and 27 days) to the members of the petitioner Association who are running FL2 bar or otherwise adjust the proportionate amount for the year 2022-23 based on the representation of the petitioner Association dated 26.02.2022.

For Petitioner : Mr.Menon

For Respondents : Mr.P.Sathish,
Additional Government Pleader

ORDER

This petitioner seeks a Mandamus to the respondent to refund the proportionate privilege fee and license fee for the non-transactional period of 10 months and one day ie., from 17.03.2020 to 22.09.2020 (6 months and 5 days) and from 25.04.2021 to 22.08.2021 (3 months and 27 days) to the members



of the petitioner/Association who are running FL2 bar or otherwise adjust the proportionate amount for the year 2022-23 based on the representation of the petitioner/Association dated 26.02.2022.

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2. The petitioner prays for adjustment of fee towards the renewal amounts payable for the subsequent Excise Years or in the alternative, a direction for extension of the existing licence period for the period during which the country was under lock-down on account of on-going COVID-19 pandemic, since no business could be carried out by them at that time.

3. When the matters had come up on earlier occasions, this Court had directed that, notwithstanding the pendency of the writ petitions, the second respondent Commissioner of Prohibition and Excise was at liberty to consider the representations, hear the petitioners and pass orders. Today, it is brought to my notice that inquiry was initiated, the petitioner had been heard and order is awaited.

4. This Court's attention is drawn to Rule 24(A) of the Tamil Nadu Liquor (License and Permit) Rules, 1981 which reads as follows:

'24(A) Refund of licence fee in certain cases:--

A 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.

Provided that if any licensee has not transacted any business for any part of the year, the proportionate licence fee and privilege fee shall be refunded'

5. A perusal of Rule 24(A) indicates that if a licensee has not transacted business under the license, he is eligible for refund of licence and privilege fee proportionate to the period when the business was not transacted, upon the licensing authority satisfying himself that the licensee had, indeed, not transacted business during that period. Thus, it is for the Commissioner to satisfy himself that the establishments of the petitioner had not transacted business for the period of lock-down on account of the on-going COVID-19 pandemic, and if this averment is found to be correct, the licence and privilege fee shall be refunded in terms of Rule 24A. Mr.P.Sathish, Additional Government Pleader, fairly concurs with this direction. Let this exercise be done within a period of two (2) weeks from today.



6. However, in cases where an adjustment of licence and privilege fee are sought, he points out that Rule 24-A does not contemplate such adjustment. Thus, let this request be pursued by the respective petitioners before the second respondent and the same be decided by him in accordance with law.

7. This writ petition is disposed with the aforesaid directions. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

vsn

To

1.The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009

2.The Commissioner of Prohibition & Excise,
Ezhilagam, Kamaraj Salai,
Chepauk 600 005..

+1cc to Mr.Menon, Advocate, S.R.No. 19264

+1cc to the Government Pleader, S.R.No. 19488

W.P. No.6588 of 2022

KK(CO)

GN(29/03/2022)