



W.P.Nos.9177 of 2021 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

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THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.9177, 9181, 9182, 9185, 9468, 9684, 9685, 9686, 9688, 9744,
9811, 9821, 9824, 9834, 9856, 9868, 9873, 10105, 10108, 10109, 10110,
10112, 10116, 10117, 10119, 10121, 10122 and 10353 of 2021

and

W.M.P.Nos.30116, 30117, 30113, 30118 of 2021, 362 of 2022, 30121,
30122, 30120, 30119 of 2021, 364 and 365 of 2022, 30124, 30126, 30125,
30123, 30127 and 30128 of 2021

W.P.No.9177 of 2021:-

Hotel Manhattan,
Represented by its Proprietor
Mr.T.L.Ramachandran,
No.1, Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

... 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 and Excise,
Government of Tamil Nadu,
Ezhilagam, Kamarajar Salai,
Chepauk, Chennai – 600 005.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to refund the license and privilege fees paid in respect of License No.F.L.3 No.11/2006-07 for Excise year 2019-2020 and 2020-2021, corresponding to the period of lockdown of 171 days when no business operation was permitted, in accordance with Rule 24A of the Tamil Nadu Liquor (License and Permit) Rules, 1981.

For Petitioner : Mr.A.Suresh
(in all W.Ps)
For Respondents : Mr.V.Arun
(in all W.Ps) Additional Advocate General asst by
Mr.S.Ravichandran
Additional Government Pleader

COMMON ORDER

In view of commonality of the issue involved in this batch, these writ petitions are considered and decided by this common order.

2.All these writ petitions have been filed seeking a writ of mandamus to direct the respondents to refund the license and privilege fees paid in respect of F.L.3 license of the respective petitioners. Though there is a slight variation in the prayers made by the petitioners, the gist of the relief sought by the petitioners is only for refund of privilege fee and license fee for the



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period during which they had not transacted business, on account of closure of this Bar/Hotel etc., on account of out break of Covid-19 pandemic.

3. At this juncture, pertinent it is to point out that this Court, today, *vide* separate order, allowed three writ petitions being W.P.Nos.10355, 13590 and 13591 of 2021, involving identical issue considered in a batch of cases. In those three writ petitions, the prayer was for a Writ of Certiorarified Mandamus and not for a Mandamus simplicitor as is sought in these cases. Relevant portion of the said order passed in W.P.Nos.10355, 13590 and 13591 of 2021 is extracted below for reference:-

“14. Admittedly, there is no dispute that the country was under lockdown on account of the precautionary measures taken both by the Union Government and the State Government due to the outbreak of Corona Virus (Covid -19) pandemic. Lockdown was imposed by the Union Government under the provisions of the National Disaster Management Act. The State Government implemented the Lock down had issued notification whereby all bars, clubs, hotels etc., were also asked to be shut down during the period of lockdown.

15. Rule 24A of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981 reads as under:-

“A licensee who has not transacted any business under the license 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



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satisfied that the licensee has not transacted any business under licence granted to him.

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

16. There are two parts from the aforesaid provisions. The first part deals with a situation, where a licensee who has not transacted any business under the licence may apply to the licensing authority for refund of the licence fee. 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.

17. The proviso to Rule 24A of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981 deals with a situation where the licensee has not transacted any business for any part of the year. The case of the respective petitions are covered by the proviso to Rule 24A of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981. Therefore, the respondent as the licensing authority was required to refund the proportionate licence fee and privilege fee for the proportionate period when the petitioner had not transacted due to lockdown imposed.

18. The petitioners are therefore entitled to refund of the proportionate licence fee and privilege fee in accordance with proviso to Rule 24A of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981.

19. Considering the above, the petitioners are entitled to refund of the licence fee and privilege fee or in the alternative entitled for a set off and/or adjustment of the aforesaid amount for the succeeding licence period, if the licence were renewed. Therefore, the second respondent shall adjust the proportionate amount for the period when there was lock down which incapacitated the respective petitioners from carrying the liquor business against ensuing renewal of the licencess or in the alternative refund the



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proportionate amount to the respective petitioners.

20. These writ petitions stand allowed with the above observation. No costs. Consequently, connected writ miscellaneous petition is closed.”

4. Therefore, the petitioners' cases are to be answered in favour by directing the refund of the amounts paid by them during the period when they were unable to operate their bars/hotel etc., due to outbreak of Covid – 19 pandemic.

5. In view of the above, these writ petitions also stand allowed in terms of paragraph 19 of the order passed in W.P.Nos.10355, 13590 and 13591 of 2021, extracted above. No costs. Consequently, connected writ miscellaneous petitions are closed.

25.07.2023

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation: Yes/No
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To

- 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 and Excise,
Government of Tamil Nadu,
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C.SARAVANAN, J.

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