BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P.(MD) No. 28380 of 2022

Vijayakumar ... Petitioner

Vs.

1. The District Collector,
   Trichy District, Trichy.

2. The District Manager,
   Tamil Nadu State Marketing Corporation Ltd.,
   (TASMAC), BHEL Nagar, Thuvakudi,
   Trichy. ... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, directing the Respondents to refund the refundable deposits to the Petitioner pertaining to the Bars attached to the TASMAC shops No.10401 and 10331 situated at Mettukadai and Manapparai – Sevalur Junction Road, Manapparai, Trichy District respectively based on the Petitioner's representation dated 27.07.2022.

For Petitioner : Mr. N.Anandakumar

For R1 : Mr. K.S.Selvaganesan
Additional Government Pleader

For R2 : Mr. S.Sivanesan,
Standing Counsel

ORDER

Heard Mr. N.Anandakumar, Learned Counsel for the Petitioner, Mr. K.S.Selvaganesan, Learned Additional Government Pleader for the First Respondent and Mr. S.Sivanesan, Learned Standing Counsel for the Second Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for directing the Respondents to refund the refundable deposits to the Petitioner pertaining to the Bars attached to the TASMAC Shops Nos.10401 and 10331 situated at Mettukadai and Manapparai – Sevalur Junction Road, Manapparai, Trichy District, by considering the representation dated 27.07.2022 made by the Petitioner in that regard.

3. The Second Respondent has filed a memo dated 20.02.2023 stating as follows:-

"1) It is submitted that the Petitioner was granted license to sell snacks and collect empty bottles at the bar attached to the TASMAC

Shop Nos. 10401 situated at Mettukudi, Manapparai, Sevalur Manapparai Taluk, Trichy District in the year 2018. The Petitioner had deposited an amount of rs.1,83,000/- towards security deposit for the said license in relation to TASMAC Shop No.10401.

2. It is submitted that the Petitioner after running the shop for about 1 month sought to be relived of the license in respect of the bar attached to TASMAC Shop No.10401. On 01.09.2018, the Second Respondent's office passed an order cancelling the license granted to the Petitioner for TASMAC Shop No.10401 in Na.Ka.No. 778/2017/CV-3, dated 01.09.2018 and he was directed to pay two-month license fee towards the premature cancellation of the license and due to violation of Rule 50 of the Tender Conditions. As the Petitioner had not operated for a long duration, the TASMAC Corporation adjusted the said security deposit amount against the receivables for the two-month receivable which amounted to Rs. 1,88,000/- (Rs.94,000/- per month).

3. It is submitted that with respect to the license granted in respect of TASMAC Shop No.10331 to the Petitioner under License No.70/2018-19 under Ref.No.331/RV-3/2018 dated 03.01.2019, the

Petitioner had deposited a security deposit of Rs.2,61,000/-. The Petitioner operated the license from January 2019 to September 2019. The License fee payable for this duration was calculated as Rs.21,17,880/- and the GST payable for this entire duration was Rs. 3,77,410/- which is calculated from 99% of the total license fee for the said period i.e., Rs.20,96,721/-. The GST obligation was to the account of the License Holder, and is specifically so mentioned in the License Certificate issued to the Petitioner. The Petitioner however did not make the GST payment and the same was borne by the TASMAC Corporation. The security deposit is thus being held for payment of the GST amount payable by the Petitioner.

TASMAC Shop No.10401

Sl.No	Particulars	TASMAC Shop No.10401
1.	Security Deposit	Rs. 1,83,000/-
2.	Period of License	1 month (October 2018)
3.	Penalty imposed for premature termination	2 month license fee-adjusted against the security deposit of Rs.1,88,000/- (Rs. 94,000/- per month license fee) -Violation of Rule 50 of Tender Rules.
4.	GST obligations	

TASMAC Shop No.10331

Sl.No	Particulars	TASMAC Shop No.10331
1.	Security Deposit	Rs. 2,61,000/-
2.	Period of License	9 months (January 2019-September-2019)
3.	Penalty imposed for premature termination	
4.	GST obligations	Rs.3,77,410/-partly adjusted against the Security Deposit.

It is evident from the said memo that as against the sum of Rs. 1,83,000/- and Rs. 2,61,000/- deposited in respect of Shop Nos.10401 and 10331, respectively the liabilities of the Petitioner towards the TASMAC Corporation amounting to Rs. 1,88,000/- and Rs. 3,77,410/- have been partly adjusted and the balance amount of Rs. 5,000/- and Rs. 1,16,410/- is remaining due. In such circumstances, the question of directing the Respondents to refund the security deposit does not arise for consideration.

In fine, the Writ Petition is dismissed. No costs.

27.02.2023

NCC : Yes/No
Index : Yes/No
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Note: Issue order copy by 04.08.2023.

P.D. AUDIKESAVALU, J.

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To

1. The District Collector,
   Trichy District, Trichy.

2. The District Manager,
   Tamil Nadu State Marketing Corporation Ltd.,
   (TASMAC), BHEL Nagar, Thuvakudi,
   Trichy.

W.P.(MD) No. 28380 of 2022

Dated : 27.02.2023