



W.P.No.16349 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM:

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.16349 of 2021

The VIP's Club,
Rep.by its Secretary K.Haridasan

... Petitioner

vs.

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

... Respondent

Prayer: Writ Petition is filed under article 226 of the Constitution of India, to direct the respondent to refund the proportionate privilege fee and licence fee for the non—transactional period of 5 months and 18 days i.e. from 17.03.2020 to 03.09.2020 based on the representation of the petitioner club dated 08.07.2021.

For Petitioner : M/s.D.Kalaiselvi

For Respondent : Mr.Ravichandran



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ORDER

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This writ petition has been filed seeking a writ of Mandamus to direct the respondent to refund the proportionate privilege fee and licence fee for the non—transactional period of 5 months and 18 days i.e. from 17.03.2020 to 03.09.2020 based on the representation of the petitioner club dated 08.07.2021.

2. It is submitted by the learned counsel for both sides that the issue is squarely covered by the decision of this Court rendered in W.P.Nos.9177 of 2021 etc., batch dated 25.07.2023 in the case of Hotel Manhattan, rep.by its Proprietor vs. The State of Tamil nadu, Rep/ by the Secretary to Government, Prohibition and Excise Department, Fort St.George, Chennai 600 009 and other. Operative portion of the said order reads as under:-

“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



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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 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



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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 9177 of 2021 etc., batch proportionate amount to the respective petitioners.
20. These writ petitions stands allowed with the above observation. No costs. Consequently, connected writ miscellaneous petition is closed.”



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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 out break of Covid – 19 pandemic.”.

3. Consequently, this writ petition stands allowed. No costs.

09.08.2024

Index : Yes / No
Internet : Yes/ No
kkd

To

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



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C.SARAVANAN,J.

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