



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

918 WRIT PETITION NO. 3174 OF 2016

**NISHIKANT UTTAMRAO DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.S.S.Rathi, Advocate for the petitioner.
Ms.M.L.Sangit, AGP for respondent Nos. 1 to 4.

CORAM : PRAFULLA S.KHUBALKAR, J.

DATE : 23.04.2025

PER COURT :-

1. Heard the learned Advocate for the petitioner and the learned AGP for respondent Nos. 1 to 4.

2. The petitioner has challenged the order dated 03.02.2016 passed by the Tahsildar-respondent No.4, directing recovery of interest amount of Rs.3,42,480/- from the petitioner alleged to be the interest on difference of license fees for the period from 31.03.2003 onwards @ 2% p.m. The respondents have not filed any reply to the petition.

3. The petitioner's basic contention is that he was running a CL-II license, which was issued by the competent authority for the

period from 11.10.2002 to 31.03.2003. He submits that the license fee for this period amounting to Rs.1,57,300/- was duly paid. He submits that there was hike in license fee by the policy of the Government and the same was challenged before this Court vide separate group of writ petitions, which were ultimately dismissed and the hike in license fee was upheld. Accordingly, the petitioner became liable to pay difference of a licensee fee, which was calculated at Rs. 1,42,700/-. The petitioner submits that this amount was paid by him by paying Rs.35,000/- initially and Rs.1,07,700/- lateron. However, by letter dated 01.06.2009 (Annexure B), interest on the amount of difference for the period from 31.05.2003 onwards @ 2% p.m. was claimed against the petitioner.

4. Petitioner raised grievance against the demand of interest for the period from 31.05.2003 onwards by way of representation dated 19.12.2015 to the Supdt. of State Excise, Parbhani on the ground that firstly the petitioner has stopped business based on license from 31.03.2003 onwards and secondly on the ground that the demand to claim interest was unsustainable in view of the judgment of this Court in WP No.199/2006. However, ignoring the contentions of the petitioner, the impugned notice demanding interest was issued, which is under challenge.

5. Heard the learned Advocate for the petitioner. In support of his submissions in tune with the points raised by the representation, the learned Advocate for the petitioner relies on judgment dated 07.01.2011 passed by this Court in WP No.199/2006. The learned AGP opposes the petition. She submits that the demand of interest is justified since the petitioner ought to have, on his own, deposited the entire amount of enhanced license fees. She submits that in view of the entitlement of the Government to recover interest, the procedure under the Maharashtra Land Revenue Code for recovery as land revenue is rightly initiated.

6. On consideration of rival contentions, the crucial issue is about entitlement for recovery of the amount of interest from the petitioner. It is undisputed that the petitioner has already deposited the amount of difference in license fees and that the business is not continued from 31.03.2003 onwards. As such, the demand for payment of interest from 31.03.2003 onwards, appears to be unjustified. The contention of the petitioner that there is no provision of law or any circular or notification based on which the interest can be claimed, is acceptable. In this regard, on query to the learned AGP about operation of any other provision or circular entitling the authorities to claim

interest, it is submitted that there is no circular or notification in force. In any case, no other circular or provision or notification is mentioned in the impugned order. The reliance placed by the counsel for petitioner on the judgment in WP No.199/2006 appears to be proper in which after considering Section 49 of the Maharashtra Prohibition Act, it is specifically held that there is no provision to recover interest over the license fees and the demand for interest was held unsustainable. The controversy involved in this matter is covered by the said judgment in WP No.199/2006.

7. In the light of the above mentioned factual and legal aspects, the petition succeeds. The impugned issued notice to the extent of recovery of interest of Rs.3,42,480/- against the petitioner, is quashed and set aside.

8. Writ petition is disposed of. No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)