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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2025

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THE HONOURABLE MR. JUSTICE **S.M.SUBRAMANIAM**
AND
THE HONOURABLE MR. JUSTICE **MOHAMMED SHAFFIQ**

W.A. Nos.2781 and 2939 of 2025
and
C.M.P. Nos.22343 and 23783 of 2025

1.The State of Tamil Nadu rep. 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. ... Appellants in both W.As

Vs.

N.Devendra Gupta,
Managing Partner,
Tvl.Hotel Picnic Plaza,
Old No.2, New No.3, R.K.Mutt Road,
Mylapore, Chennai – 600 004. ... Respondent in W.A.No.2781 of 2025

Vadipatti Raja Hockey Academy
rep. By its President Mr.P.R.Muthuram,
32/117, C-10, W Block,
3rd Avenue, Anna Nagar,
Chennai – 600 040. ... Respondent in W.A.No.2939 of 2025

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Writ Appeals filed under Clause 15 of Letters Patent against the order dated 25.07.2023 made in W.P. Nos.10355 and 13591 of 2021.

For Appellant	:	Mr.P.Kumaresan, Additional Advocate General assisted by Mr.S.Ravichandran, Additional Government Pleader in both W.As
For Respondent	:	Mr.A.Suresh in both W.As

COMMON JUDGMENT

(Judgment of the Court was delivered by *S.M.SUBRAMANIAM, J.*)

Under assail is the writ order dated 25.07.2023 passed in W.P. Nos.10355 and 13591 of 2021(common order in W.P.Nos.10355, 13590 and 13591 of 2021).

2. State preferred the present intra-court appeals under Clause 15 of Letters Patent challenging the writ order impugned mainly relying on Rule 24-A of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981 (hereinafter referred to as Rules). Respondents/writ petitioners filed applications under Rule 24-A of the Rules seeking refund of licence fee on the ground that Government of Tamil Nadu announced lock down during Covid-19 pandemic in the year 2020 from 17.03.2020 till 03.09.2020. During the said period, the respondents had not transacted any business under the licence. Thus,

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respondents claimed refund of licence fee.

3. Learned Additional Advocate General appearing on behalf of the State would mainly contend that refund of licence fee is permissible only if the licensee has not transacted any business under the licence and submit an application along with licence for grant of refund. In the present case, lock down announcement was made in general to all the traders except for sale of essential commodities and Covid-19 pandemic being extraordinary situation and the whole country faced lock down, refund of licence fee would not arise.

4. Learned counsel for the respondents would oppose by stating that question of surrendering licence may not arise in the present case, since Government announced lock down and fact regarding non-transaction cannot be denied. Therefore, the writ order is in consonance with Rule 24-A of the Rules. Thus the appeals are to be rejected.

5. This Court has considered the rival submissions made between the parties to the *lis*. Rule 24-A of the Rules is extracted hereunder:

> *'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*

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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 the licence granted to him.'

6. The above rule in unequivocal terms reiterates that licensee, not transacted any business under licence, shall apply to the licensing authority for refund of licence fee along with licence granted to him. Therefore, surrender of licence along with application is a pre-condition contemplated under the Rules.

7. In the present case, respondents, during ban period, were admittedly holding licence and possessing stocks. When a licensee is in possession of stocks and holding a valid licence, then non-transaction would not attract Rule 24-A of said Rules for refund of licence fee. That apart, application received is to be considered by the licensing authority and such authority may refund licence fee, if he is subjectively satisfied that the licensee has not transacted any business. Therefore, along with application, licence granted must be surrendered and secondly, the licensee has to establish that he had not transacted any business during the relevant period. Non-transaction is to be established to the subjective satisfaction of the authority concerned. These two ingredients contemplated under Rule 24-A of the Rules are mandatory for grant of refund of licence fee under Rule 24-A. Since in the present case, the licence had not been surrendered nor there is any proof to establish that

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licensees had not transacted any business except by stating that there was a ban period, which is applicable to all the traders, this Court is of the considered view that the writ order impugned is running counter to the spirit of Rule 24-A of the Rules. Thus the writ order dated 25.07.2023 made in W.P. Nos.10355 and 13591 of 2021 is set aside and the writ appeals are allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

[S.M.S, J.] [M.S.Q, J.]
29.10.2025

Index:Yes/No
Neutral Citation:Yes/No
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