
(2003) 03 AP CK 0086

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13635 of 2002

Shirdi Sai Wines

APPELLANT

Vs

Commissioner of Prohibition and Excise and Another

RESPONDENT

Date of Decision : 20-03-2003

Acts Referred:

Andhra Pradesh (Indian Liquor and Foreign Liquor) Rules, 1970 — Rule 25

Citation : (2003) 3 ALD 1 : (2003) 2 ALT 660

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : B. Sairam Goud, for the Appellant; Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

V.V.S. Rao, J.—The petitioner applied for a licence in Form IL-24 to establish a shop in Hyderabad for the year 2002-03 pursuant to a notification issued by the second respondent on 8-4-2002, Whatever be the reason, by proceedings dated 10-7-2002, the first respondent accorded permission to establish a shop of IL-24 by the petitioner at Mulgi No.13-1-9/1/2, New Bhoiguda Kaman, Hyderabad. Consequent thereto, the second respondent issued a licence by proceedings dated 11-7-2002. The petitioner paid first instalment of licence fee at Rs. 4,10,000/- in accordance with Rule 25(9) of the A.P. Indian Liquor and Foreign Liquor Rules, 1970 ("the Rules"). In the month of August 2002, he also paid second instalment of Rs. 4,10,000/- Contending that as he was granted licence in July 2002, he is liable to pay the proportionate licence fee from July, 2002 onwards and not from April 2002 onwards, he filed the writ petition seeking a direction to the respondents to collect proportionate licence fee. In support of his contention, the petitioner also relies on the first proviso to Sub-rule (9) of Rule 25 as amended by G.O. Ms. No. 283, Revenue (Excise-11) Department, dated 28-5-2002.

2. A counter affidavit is filed opposing the writ petition. It is stated that though

the petitioner was selected for grant of a licence, he submitted proposals for establishment of a shop at New Bhoiguda Kaman on 3-5-2002 and, therefore, the delay, if any, is only due to the petitioner not choosing proper place and hence he is liable to pay the licence fee for the entire excise year.

3. By G.O. Ms. No.283, dated 28-5-2002, first proviso to sub-rule (9) of Rule 25 was substituted by the following two provisos:

Provided that in respect of the licences granted other than occasional or special licences during the month in a lease year, the licence fee shall be proportionately collected from first of the month in which the licence is granted. For example, if the licence is granted in the month of May, that licence fee payable shall be for eleven months of the annual licence fee of that year.

Provided further that if the licences are granted in June, July, August and September of the lease year, the applicants for licences have to pay 50% of the licence fee before the issue of licences together with a Bank Guarantee; Fixed Deposit Receipt National Savings Certificate for a like amount valid for a period of seven months and the remaining 50% of that licence fee has to be remitted into Government Treasury on or before first October of that lease year and if the licences are granted in October, November, December, January, February and March of the lease year, the applicants for licences have to pay the licence fee in one lump sum before the issue of licence.

4. A plain reading of the above two provisos would show that when a licence is granted in June, July or August, a licensee has to pay 50% of the licence fee before the issue of licence and the remaining 50% fee has to be remitted to the Government Treasury on or before First October of the excise year. Along with the licence fee, the licensee has to execute a bank guarantee valid for a period of seven months. Reading the second proviso together with the first proviso makes it very clear that whatever be the reason, if the licence is granted in June, July, August, the licence fee can be collected only proportionately and not for the entire excise year of twelve months.

5. Learned Counsel for the petitioner has placed before me a notice issued by the Prohibition and Excise Inspector, Dhoolpet, dated 17-3-2003 calling upon the licensees to submit their applications for renewal of licence duly complying with the requirements. It is the apprehension of the learned Counsel for the petitioner that if the petitioner is asked to pay the third instalment, without applying the first and second provisos of Sub-rule (9) of Rule 25 of the Rules, he would not be able to make an application for renewal. Therefore, as and when the petitioner applies for renewal of licence, the same may be accepted subject to paying the balance of proportionate licence fee.

6. In the result, the writ petition is allowed accordingly. There shall be no order as to costs.