(1999) 11 MAD CK 0066

In the Madras High Court

Case No : Writ Petition No''s. 20224 and 12640/94 and 228 of 1996 and W.M.P. No''s. 19175, 30814/94 and 348/96

Sri Kamalchi Theatre APPELLANT

Vs

The District Collector, Madurai
T. Muthian, Licensee, New Cinema Theatre, Cuddalore Vs The Collector, South Arcot Vallalar District, Cuddalore
Theatre Pavalam Vs The Appellate Authority cum-Asst. Commissioner, Chepauk, Madras - 5, The Collector, Madurai RESPONDENT

Date of Decision : 11-11-1999

Acts Referred:

Cinematograph Act, 1952 — Section 7
Constitution of India, 1950 — Article 12, 14
Criminal Procedure Code, 1973 (CrPC) — Section 14, 15, 320, 345, 345(1)
Probation of Offenders Act, 1958 — Section 3, 4(1), 9(3)
Tamil Nadu Cinemas (Regulation) Act, 1955 — Section 11, 3, 3A, 4, 5
Tamil Nadu Entertainments Tax Act, 1939 — Section 12A, 14, 14(1), 14A, 15

Citation : (1999) 11 MAD CK 0066

Hon'ble Judges : S. Jagadeesan, J;E. Padmanabhan, J

Bench : Division Bench

Advocate : S. Balasubramanian in W.P. 12640/94, Mr. Raja Elango in W.P. 20224/94, Mr. K.S. Lakshmikumaran in W.P. 228/96, for the Appellant; S. Mani Kumar, AGP, for the Respondent

Final Decision : Dismissed

Judgement

E. Padmanabhan, J.—N.V. Balasubramanian, Jon 25.3.1999 in W. P. Nos. 20224, 12640 of 1994 and 228 of 1996 pointed out (hat there is conflict of views and, therefore, referred the above writ petitions to be posted before a Division Bench to resolve the conflict and as the matter is of recurring nature involving/ important questions of law on the interpretation of Section9(1) of the Tamil Nadu Cinemas (Regulations) Act. The above batch of writ petitions came to be posted before this Bench as per the orders of the Hon''ble The Acting Chief Justice.

I-Order of Reference by N.V. Balasubramanian, J.

2. N.V. Balasubramanian, J., by order dated 25.3.1999 while noticing the conflict of views, passed an order for the matter being placed before a Division Bench for an authoritative pronouncement. The Order of Reference reads thus:-

"In all the writ petitions, the question that arises for consideration relates to the interpretation of Section 9 (1) of the Tamil Nadu Cinemas (Regulations) Act, 1955. I find that there is a conflict of views between two learned Judges of this Court.

2. The short and relevant facts for the purpose of reference are that in all cases, there has been a compounding of the offence under the provisions of Section 14(1) of the Tamil Nadu Entertainment Tax Act and the Licensing Authority under the provisions of the Tamil Nadu Cinemas (Regulations) Act, 1955 (hereinafter to be referred to as " the Cinemas Regulation Act") has imposed punishment of suspension of licence. The question that arises is as to the true scope of the enquiry to be held u/s 9(1) of the Cinemas Regulation Act On this aspect, there is a conflict of views between two learned Judges of this Court

3. In an unreported judgment rendered by this Court in W.P. No. 9285 of 1995 (between M.N. Annamalai and The Dist. Collector, North Arcot Ambedkar Dist., Vellore) dated 4.1.1999, S.S. Subramani, J. has held that where the petitioner himself has conceded the irregularities, and compounded the offence, nothing more is required to be done to hold that the petitioner has violated the licence conditions and the authority would be justified in initiating action against the petitioner for suspension of licence on the basis of compounding of the offence.

4. On the other hand, P.D. Dinakaran, J., in the case of The Licensee, Bhuvaneswari Talkies, Gudiyatham Vs. The Appellate Authority and Joint Commissioner-I, Land Administration Department Madras.5 and others, has held that the mere compounding of the offence by the prescribed authority u/s 15 of the Tamil Nadu Entertainments Tax Act, 1939 cannot, by itself, be a ground for the licensing authority to invoke his powers either to revoke or to suspend the licence while exercising the powers u/s 9(1) of the Cinemas Regulation Act, particularly when the licensee had offered his explanation. The conflict is apparent in the sense mat S.S. Subramani, J. has held that ho further enquiry need be held when the licensee has conceded the irregularities by compounding the offence. But, P.D. Dinakaran, J., on the other hand, has taken a view that the mere compounding of the offence is not a ground either to revoke or to suspend the licence. In view of the conflict of views expressed by the two learned Judges of this Court, I am of the view that the matter should be resolved by a Division Bench of this Court.

5. In this case, it is necessary to refer some earlier decisions of mis Court on mis aspect. In the case of P. Muthalagu v. The Collector of Tiruchirappalli & others (1972 II MLJ 42), T. Ramaprasada Rao, J. (as His Lordship then was) has held that the definition of "proprietor" under the Tamil Nadu Entertainments Tax Act is wide enough to take the delinquency of either the proprietor or the Manager or

both into consideration. S.S. Subramani, J. in W.P. No. 20634 of 1998 (between Jeevan Theatre rep. by its Licensee, Bodinayakanur, Teni Dist. and The State of Tamil Nadu Rep. by Secretary to Govt. Home (Cinemas) Dept., Fort St. George, Chennu -9 & others) by judgment dated 4.1.1999 has also held that where a Manager of a theatre has even admitted that higher rates were collected from the patrons, such statement of the Manager would constitute a material to suspend the licence. Ramaprasada Rao, J. (as His Lordship then was) in an unreported decision in W.P. No. 601 of 1971 (between M.D. Appaswamy and The Board of Revenue, Chepauk, Madras) by judgment dated 19.2.1971 has also held that the statutory authority under the Tamil Nadu General Sales - tax Act and the Tamil Nadu Cinemas (Regulations) Regulation Act cannot act independently and the learned Judge has specifically rejected the contention that the imposition of punishment under one of the Acts is not a ground to cancel the penalty under another Act. A Division Bench of this Court in the case of The Licensee, Sangeetha Theatre, Vaniyambadi etc. & others v. The Appellate Authority, etc. & 2 others (1992 - 2 - L.A. 630) has also held that the powers available u/s 9(1) and (2) of the Cinemas Regulation Act can be exercised by the Licensing Authority under two different circumstances to deal with distinct categories of cases. D. Raju, J. (as His Lordship then was) in an unreported decision in W.P. No. 3 of 1992 (between Krishna Theatre, by its Licensee, Vellore and The Appellate Authority and Joint Commissioner I of Land Administration, Chepauk, Madras -5& Another) by judgment dated 6.1.1992 has held that Section 9(1) deals with a distinct and separate category other than those covered by section 9(2) of the Act and there is a vital difference between the nature and clauses of cases that falls for being proceeded against u/s 9(1) on the one hand and Section 9(2) on the other. Since there is a conflict of views, I am of the view that the matter should be resolved by a Division Bench of this Court. Further, the matter is of recurring nature and important question of law are involved on the interpretation of Section 9(1) of the Cinemas Regulation Act. In some of the writ petitions, some other points are also raised and in my view, those points can be decided along with the main question.

6. The Registry is directed to place all the writ petitions before my Lord, the Honourable the Chief Justice for suitable orders.-

3. Before N.V. Balasubramanian, J; two conflicting judgments rendered in two separate writ petitions were cited. In W.P. No. 9285 of 1995 (M.N. Annamalai and The Dist. Collector North Arcot Ambedkar.'' District, Vellore) dated 4.1.1999, S.S. Subramani, J. held that where the petitioner himself is conceding the irregularities and compounded the offence, nothing more is required to be done to hold that the petitioner had violated the licence conditions and that the authority would be justified in initiating action against the petitioner''s licence based upon the compounding of licence under the Entertainment Act.

4. Per contra, P.D. Dinakaran, J in the case The The Licensee, Bhuvaneswari Talkies, Gudiyatham Vs. The Appellate Authority and Joint Commissioner-I, Land

Administration Department Madras.5 and others, held that the mere compounding of the offence by the prescribed authority u/s 15 of the Tamil Nadu Entertainments Tax Act 1939 will not by itself, be a ground for the licensing authority to invoke his powers either to revoke or to suspend the licence while exercising the powers u/s 9(1) of the Cinemas Regulation Act and the requirements thereunder. As according to P.D. Dinakaran, J. the licensee has offered his explanation mere compounding of the offence is not a ground either to revoke or suspend the licence and that there should be further enquiry and compliance with the principles of natural justice. ,

5. N.V. Balasubramanian, J., has also referred to the decision of Ramaprasada Rao, J, as he then was, in P. Muthalagu v. The Collector of Tiruchirappalli & others (1972 II MLJ 42) and the decision of D. Raju, J, as he then was in Krishna Theatre, by its Licensee Vellore v. The Appellate Authority and Joint Commissioner I of Land Administration, Chepauk, Madras-5 and another) in W.P. No. 3 of 1992 dated 6.1.1992. The Learned Judge also referred to the decision of the Division Bench in The Licensee, Sangeetha Theatre, Vaniyambadi etc. & others v. The Appellate Authority etc. and others (1992 (2) L.W. 630), where dealing with the powers available u/s 9(1) and (2) of the Cinemas Regulation Act, it was held, has to be exercised by the licensing authority under two different circumstances to deal with distinct categories of cases.

6. As counter has been filed in two of the writ petitions and there being not much of factual controversy, the counsel appearing for either side represented that it would be sufficient to refer to one of the writ petitions and that the reference could be answered by this Division Bench. However, we will be referring to the brief facts in each of the writ petitions before taking up the point for consideration.

7. The points that arise for consideration in this reference could be formulated as hereunder:-

(1) What is the scope and nature of enquiry to beheld u/s 9(1) of Tamil Nadu Cinemas (Regulations) Act?

(2) Whether even after confession verdict and compounding the offence under Sections 14 and 15 of the Tamil Nadu Entertainments Tax Act, 1939, any further opportunity is required to be afforded while exercising the powers u/s 9(1) of the Tamil Nadu Cinemas (Regulations) Act?

8. Heard Mr. S. Balasubramanian, Learned Counsel for the writ petitioner in W.P. No. 12640 of 1994, Mr. Raja Elango, Learned Counsel appearing for the writ petitioner in W.P. No. 20224 of 1994, Mr. K.S. Lakshmikumaran, Learned Counsel appearing for writ petitioner in W.P. No. 228 of 1996 and Mr. S. Manikumar, learned Additional Government Pleader, appearing for the respondents in all the three writ petitions.

II - Factual Matrix

9. It is fairly admitted by the counsel appearing for either side that there is not much of factual controversy and it would be sufficient to refer to the factual matrix in one of the writ petitions and if that reference could be answered by mis Special Division Bench.

10. In W.P. No. 20224of 1994, me writ petitioner had prayed for the issue of a writ of certiorari calling for the records relating to the proceedings of the respondent in Na.Ka. No. Cl/1857/94-7 dated 31.10.1994 and quash the same. The petitioner, licensee of a Cinema Theatre claimed that he had not committed any offence of violation and also claimed that he has got an unblemished record. All of a sudden the Officials from the Commercial Tax Department inspected the petitioner''s Theatre and found that Ticket Numbers 77340 to 77343 were sold without the seal of the Commercial Tax Department and also sold the ticket for higher rates. The Entertainment Tax Officer imposed a penalty of Rs. 500/- and the petitioner remitted the same.

11. Thereafter, the respondent, the District Collector viz., the Licensing Authority under the Cinemas Regulation Act issued a show cause notice dated 1.6.1994 calling upon the petitioner to explain as to why the licence should not pointing out that the failure to affix the departmental seal is not a deliberate act but the Booking Clbe cancelled for the commission of alleged offence for which a penalty of Rs. 500/- had been remitted. The petitioner submitted his explanation on 22.6.1994 erk, without the knowledge of the petitioner, had stolen the unsealed tickets and sold it in the counter. For such high-handed act of the Booking Clerk, action was taken against him and he was dismissed from service.

12. The petitioner further states that he has given an undertaking that such offence will not happen hereafter. Without giving due consideration to the explanation while declining to accept the same, the respondent by order dated 31.10.1994 suspended die C-Form Licence for a period of six months. Contending that the petitioner has no further right of appeal against the said order passed u/s 9(1) of the Act, the above writ petition has been filed.

13. It is contended that the impugned proceeding is liable to be quashed as it is arbitrary and it is in violation of principles of natural justice. Further, it is being contended that the impugned proceedings had been passed without considering the details of the explanation offered by the petitioner and without reference to the actual facts and surrounding circumstances, the impugned order has been passed by exercising the powers conferred u/s 9(1) of the Tamil Nadu Cinemas (Regulations) Act, 1955.

14. The Respondent has filed a counter. In the counter, it has been stated that the Commercial Tax Department Officials inspected the Theatre and found various irregularities committed by the Licensee and it is an offence of evasion of Entertainment Tax due to Government u/s 14 of the Tamil Nadu Entertainment Tax Act, 1939. After following the procedure, the Entertainment Tax Officer had imposed a fine of Rs. 500/- on the licensee on 22.2.1994 which was remitted on

30.3.1994. A show cause notice was issued by the licensing authority calling upon the licensee to explain as to why the C-Form licence of the Theatre should not be suspended in terms of Section 9(1) of the Tamil Nadu Cinemas (Regulations) Act, 1955 and the explanation was called for. An explanation had been submitted by the Licensee contending that the Tickets have been stolen by the Booking Clerk who had been proceeded for such misconduct.

15. After examining the explanation, the respondent not being satisfied with the explanation and finding that the explanation is totally false and baseless, suspended the licence for six months by the impugned proceedings. It is contended that the impugned proceeding is legal valid, and it is not in violation of principles of natural justice and that only after consideration of the explanation, the impugned order has been passed.

16. It is further pointed out, as the licensee had accepted the violation before the Entertainment Tax Officer and had remitted the compounding fee of Rs. 500/- levied against him, and by such compounding, the licensee had admitted the liability of evasion of tax due to Government. The very act of compounding the offence and remitting the compounding fee in terms of Section 14 of the Entertainment Tax Act, 1939, is the basis of the action u/s 9(1) of the Tamil Nadu Cinemas (Regulations) Act, 1955. It is contended that the impugned order is not liable to be interfered with.

17. In W.P. No: 12640 of 1994 also based upon the compounding of offence committed under the Tamil Nadu Entertainment Tax Act, 1939, a show cause notice was issued to the licensee and thereafter an order of suspension was passed suspending the C-Form licence for 15 days. The petitioner had merely claimed that he was not aware of the compounding of the offence under the Tamil Nadu Entertainment Tax Act, but only from the show cause notice, he came to know about the same as without knowledge and behind his back, the Manager and his assistants have compounded the offence while he was hospitalised for treatment.

18. In W.P. No. 228 of 1996, identical order passed by the Licensing Authority in ordering closure of the Theatre for a period of three months is being challenged. On the basis of an inspection by the sub-Collector of Periyakulam, the Entertainment Tax Officer issued a notice requiring the writ petitioner to compound the alleged irregularity which was denied by the petitioner. Subsequently on 18.10.1994 a show cause notice was issued to the writ petitioner by the District Collector based upon the compounding of the irregularities/offence and an explanation was offered by the petitioner. Not being satisfied with the explanation offered, the impugned order has been passed suspending the licence for a period of three months.

19. In all the three writ petitions, the writ petitioners attempted to plead ignorance of irregularity committed and compounding of the offence under the Tamil Nadu Entertainment Act, While contending that after issue of show cause

notice by the Licensing Authority under the Tamil Nadu Cinemas (Regulations) Act, it is incumbent on the part of the Licensing Authority to hold further enquiry before cancelling or revoking or suspending the licence u/s 9(1) of the Tamil Nadu Cinemas (Regulations) Act. Without holding an enquiry and merely because the offence under the Tamil Nadu Entertainment Tax Act had been compounded, the licence cannot be suspended u/s 9(1) of the Tamil Nadu Cinemas (Regulations) Rules.

20. In the writ petitions, counter affidavits have been filed contending that after compounding of the offence, irregularities committed under the Tamil Nadu Entertainment Tax Act and after remitting the Compounding fee, a show cause notice has been issued to the license, their explanation had been considered and there being nothing further to be enquired. An order u/s 9(1) of the Tamil Nadu Cinemas (Regulations) Act follows. Their act of compounding of the offence/ irregularities, according to the respondents, would attract an action under Rule 9(1) of the Rules and the compounding of an irregularity ipso facto will attract an action u/s 9(1) and there is nothing further to be enquired and explanation, if any, offered is an after thought or a lame excuse, which does not require an enquiry being conducted. As such, it is being contended that it is sufficient to issue a show cause notice before passing an order u/s 9(1) of the Cinemas Regulation Rules and it is not necessary to hold a detailed enquiry or trial as sought to be contended by the writ petitioners.

21. In all the three cases, the licensees have compounded the offence u/s 14(1) of the Tamil Nadu Entertainment. Tax Act and the Licensing Authorities under the provisions of the Tamil Nadu Cinemas (Regulations) Act had suspended the licence.

22. In W.P. No. 9285 of 1995, M.N. Annamalai v. The Dist. Collector, North Arcot Ambedkar Dist., Vellore, S.S. Subramani, J., by order dated 4.1.1999, held that where the petitioner himself has conceded the irregularities and compounded the offence, nothing more is required to be done to hold that the petitioner had violated the licence conditions and the Licensing Authority would be justified in initiating action against the Licensee for suspension of the Licence based upon the compounding of the offence.

23. Per contra, Dinakaran, J., in The The Licensee, Bhuvaneswari Talkies, Gudiyatham Vs. The Appellate Authority and Joint Commissioner-I, Land Administration Department Madras.5 and others, held that mere compounding of the offence by the prescribed authority u/s 15 of the Tamil Nadu Entertainment Tax Act, 1939 will not ipso facto or by itself be a ground for the licensing Authority to exercise the powers either to revoke or suspended the licence u/s 9(1) of the Tamil Nadu Cinemas (Regulations) Act and when particularly the licensee had offered his explanation. According to Dinakaran, J., an enquiry should be conducted by the Licensing Authority de hors the compounding of the offence or irregularities under the Tamil Nadu Entertainment Tax Act and order of revocation or suspension shall not be merely based on compounding of the

offence under the Tamil Nadu Entertainment Tax Act.

24. The different views taken by the two Learned Judges of this Court is the subject matter of Reference. Before taking up the issue for consideration, it is essential to refer to the statutory provisions of the Tamil Nadu Entertainment Tax Act as well as The Tamil Nadu Cinemas (Regulations) Act and Rules.

25. The Tamil Nadu Entertainment Tax Act, 1939, hereinafter, referred to as "the Entertainment Tax Act" provides for levying tax under the Act and for enforcement of the same. The expression "entertainment" as defined in 3(4) is an inclusive definition, which includes cinematography exhibition to which persons are admitted oh payment. Section 4 of the Act provides levy of tax for admission to entertainments. Section 5 provides for composition and consolidated payment of tax. Various method of assessments had been provided for, with reference to different category of Theatres depending upon their location with which provisions, we are not concerned.

26. Section 11 of the Act provides for inspection and entry in a place of entertainment while the entertainment is proceeding and any place ordinarily used as a place of entertainment at any reasonable time for the purpose of verifying or satisfying whether the provisions of the Act or any Rules made thereunder are being complied with. Section 12A provides for powers of entry, search and seizure. Section 14 provides for imposition of penalties against proprietor of any entertainment or any person employed by him in a place of entertainment who admits any person to any place of entertainment in contravention of the provisions of Section 6, or the proprietor of any entertainment who fraudulently evades the payment of any tax due under this Act, or contravenes any of the provisions of the Entertainment Tax Act, or the proprietor of any entertainment who, being liable to pay tax u/s 5A or Section 5B or any person employed him admits more persons in any class of accommodation man that authorised by the Licensing authority in the licence issued to such proprietor under the provisions of the Tamil Nadu Cinemas (Regulations) Act, 1955, shall on conviction by a magistrate, in respect of each such offence falling under clause (a) or sub clause (ii) of clause (b) (or clause (c)), be liable to a fine which may extend to one thousand rupees and in respect of an offence falling under sub clause (i) of clause (b), be punished with imprisonment of either description for a term with which may extend to one year and with fine.

27. Section 14A provides for penalty for being found without a ticket or pass. Section 15 of the Entertainment Tax Act confers the power to compound offences committed against the provisions of the Act or the Rules made thereunder by way of composition of such offence. Section 15 of the Act reads thus.

"15. Power to compound offences - The prescribed authority may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act or the rules made thereunder by way of composition of such offence?

(a) Where the offence consists of the evasion of any tax payable under this Act, in addition to the tax so payable, a sum of money not exceeding one thousand and five hundred rupees or thrice the amount of the tax payable, whichever is greater, and

(b) in other case, a sum of money not exceed one thousand rupees."

28. It is needless to point out that Section 15 is an enabling provision which enables an offender or who had violated the provisions of the Entertainment Tax Act or who has committed or who is reasonably suspected of having committed an offence against the provisions of the Act or the Rules made thereunder on his request could compound such offence and he could very well pay a compounding fee instead of facing the prosecution before a Judicial Magistrate. In other words, any person who has committed or who is reasonably suspected of having committed ah offence could on his admission or confession of the commission or violation could compound the offence.

29. It is to be pointed out that it is not the composition for payment of the tax, which is the subject matter of composition u/s 15 of the Act. It is a compounding of the offences committed or is reasonably suspected of having committed an offence against the provisions of the Act. It is a verdict by composition of offences punishable u/s 14 in terms of Section 15 of the Entertainment Tax Act

30. Rule 48-D of the Rules enables a proprietor/partner/permit-holder of any entertainment who appoints a person or a relative regularly as a manager or person in charge for the purpose of carrying on the work of the entertainment such as appearing before the prescribed authority under the Tamil Nadu Entertainments Tax Act, filing of Returns, signing of Form II, statements and requisition, etc., shall submit to the Entertainments tax officer concerned a declaration in form XX signed by the partners, proprietor or permit-holder as the case may be along with the form III or III-B. With the authorisation of the Manager or person in-charge of any place of entertainment, his relative, whatever the declaration or extension or statement or confession which such an agenda or manager performs is legally binding on the proprietor, partner or permit-holder. Rule S3 of the Rules provides for conviction by a Magistrate for violation of various rules set out therein.

31. The Tamil Nadu Cinemas (Regulations) Act provides for regulation of exhibition of means of Cinematograph in the Section. Section 3 provides for licensing of cinematograph exhibition. Section 4 prescribes the licensing authority Section 5 prescribes the restriction and the powers of the Licensing Authority. Section 8 provides for penalties. Section 8A provides for compounding of offence. Section 9 confers the powers to revoke or suspend the licence. Section 9 is the relevant provision for the purpose of the present case. Section 9(1), which is relevant as amended reads thus:-

"9. Power to revoke or suspend licence (I) where the holder of a licence or any person employed by him has been convicted of an offence under clause (a) or sub clause (i) of clause (b) or clause (c) of sub section (i) of Section 14 of the Tamil Nadu Entertainments Tax Act, 1939, or has been permitted to compound such offence u/s 15 of the said Act, or has been convicted of an offence u/s 7 of the Cinematograph Act, 1952, or Section 8 of this Act, the licence may be revoked or suspended by the licensing authority by an order in writing.

(1-A) where the holder of a licence has been convicted for three times in the aggregate, under any one or more of the following provisions, namely?

(a) Section 8 of this Act, for contravention of the condition and restriction of a licence

(b) sub clause (i) of clause (b) of sub section (1) of Section 14 of the Tamil Nadu Entertainments Tax Act, 1939.

the licensing authority shall, by an order in writing, revoke the licence."

32. Section 9(1) enables the licensing authority to suspend or revoke the licence by an order in writing, where the holder of licence or any person employed by him has been convicted of an offence under Clause (a) or sub-clause (i) of clause (b) or clause (c) of sub section (1) of Section.14 of the Tamil Nadu Entertainment Tax, 1939 or he has been permitted to compound such offence u/s 15 of the said Act or has been convicted of the offence u/s 7 of the Cinematograph Act, 1952 or Section 8 of the Tamil Nadu Cinemas (Regulations) Act,1955.

33. Section 9(1-A) provides where a licensee has been convicted three times in aggregate under any one or more of the provisions set out therein, action could'' be taken by the licensing authority. Section 9(2-A) provides that no licence shall be revoked or suspended under sub section (1) or sub section (2) unless the licensee has been given a reasonable opportunity of showing cause against such revocation or suspension. In other words according to the statutory provisions, it would be sufficient if a show cause notice precedes the order of suspension u/s 9(1) of the Act.

34. It is also a settled position that when a licence is suspended u/s 9(1) of the Act, no appeal will lie against such order made by the licensing authority, but an appeal will lie if an order of suspension or revocation has been passed u/s 9(2) of the Act.

35. While considering the scope of Section 9(1) vis-?-vis subsection (2) of section 9, a Division Bench of this Court, in the Licensee, Sangeetha Theatre, Vaniyambadi, etc., & ors v. The Appellate Authority, etc., & 2 others reported in 1992-2 L.W. 630, held thus:-

"A reading of Section 9 shows that sub-sections (1) and (2) of Section 9 deal with two different circumstances under which the licensing authority can revoke or suspend the licence. Section 9(1) of the Act empowers the licensing authority to revoke or suspend the licence when there has been a conviction under the relevant provisions of the Tamil Nadu Entertainment Tax Act, 1939 or when the licensee has been permitted to compound the offence u/s 15 of the said Act. Section 9(2) of the Act empowers the licensing authority to revoke or suspend the licence, where the licence has been obtained by misrepresentation or by playing fraud or when the licensee has, without reasonable cause, failed to comply with any of the provisions of the Act or of the Rules made thereunder or any of the conditions or restrictions upon which the licence has been granted. Thus, the powers available under sub-sections (1) and (2) of Section 9 of the Act are independent powers, which can be exercised by the licensing authority under two different circumstances to deal with two distinct categories of cases".

The same Division Bench also held that as against an order passed under sub section (1) of Section 9, suspending the licence consequent to the licensee being compounding the offence u/s 15 of the Act, no appeal is maintainable, while orders that may be passed under Sub-section (2) of Section 9 is appealable u/s 9A of the Act. In the said case factually after the licensee being permitted to compound the offence u/s 15 of the Entertainments Tax Act, the Entertainment Tax officer brought to the notice of the Licensing Authority the irregularities and the offences committed by the licensee. Thereafter, the licensing Authority initiated proceedings against the licensee, issued a show cause notice and suspended the licence which the Division Bench had declined to interfere.

36. If the licensee of a theatre who has a permit in form-IV, violates the permit conditions by selling duplicate, unauthorised, spurious tickets, in addition to those issued by the department, there by the licensee had violated Section 6 and 14 read with Rule 21 -A and conditions of Form-IV permit under the Tamil Nadu Entertainment Tax Act,-1939 and for which violation, a notice was issued to explain why action should not be taken to suspend the permit, after considering the objections, the Entertainment Tax Officer while over ruling the objections suspended form IV permit issued under the Entertainment Tax Act for a period of one week. The said action was the subject matter of challenge and a Division Bench of this Court in Deputy Commercial Tax Officer, Thudiyalur and others v. Saraswathi Theatre, Rathinapuri, Coimbatore reported in 1997 Writ LR 808 held that such an action is valid, as sufficient opportunity was given to the permit holder before ordering suspension of the permit/licence in Form-IV was made and Rule 21 -A of me Rules had also been declared valid. In that context, the Division Bench considered the question as to what is the reasonable opportunity of showing cause. The Division Bench also held that issue of show cause notice and considering the objections will be the reasonable opportunity

37. In Malaikani etc., v. The District Collector, Kamarajar District reported in 1993 Writ LR 920, M.S Janarthanam, J., as then he was white, holding mat sub sections (1) and (2) of Section 9 operate on different areas not having any sort of connection with the another and for revocation of suspension of the licence for the reason specified in Sub Section (1) no opportunity need be given before ever an order of suspension or revocation is passed. The learned Judge further held that if any order of suspension or revocation is passed under sub-section (2) the

licensee has to be given an opportunity of being heard and a person affected by an order passed under sub-section (1) has no right of appeal while a person against whom ah order has been passed under sub section (2) has a right of appeal.

38. That was the original position and an amendment was introduced by the Amending Act to include sub section (1) and (2) on par with respect to giving a reasonable opportunity of showing cause for any proposed revocation or suspension of licence by inserting sub section (2-A) of Section 9 of the Act. The learned Judge quashed the impugned proceedings as reasonable opportunity of showing cause against the proposed suspension of the licence of the Theatre in terms of Sub section (2-A) of Section 9 had not been afforded.

39. D. Raju, J., as he men was, in W.P. No. 3 of 1992 (Krishna Theatre, Vellore v. The Appellate Authority and Joint Commissioner-I of Land Administration, Chepauk, Madras) had occasion to consider the scope of sub section (1) of Section 9 vis-a-vis sub section (2) of Section 9 and the learned Judge held thus:-

"The power to revoke or suspend a licence is contemplated u/s 9 of the Act. Section 9(1) and Section 9(2) of the Act deal with two distinct and separate clauses and categories of cases and circumstances under which there could be revocation of suspension of a licence. Section 9(1) of the Act empowers the licensing authority, when there has been a conviction under the relevant provisions of the Tamil Nadu Entertainment lax Act 1939 or when the licensee has been permitted, to compound an offence u/s 15 of the said Act etc. to revoke or suspend the licence. The provisions of Section 9(2) provide for revocation and suspension in case where licence has been obtained on misrepresentation or by playing fraud as to essential fact or when the licensee has, without reasonable cause failed to comply with any of the provisions of the Act or Rules or any condition or restriction subject to which the licence has been granted. It is, therefore, obvious that whereas in a proceeding initiated u/s 9(2), the basic fact of which action is contemplated or taken is obliged to be found and adjudicated upon on a consideration of the relevant material and the respective claims made, in cases wherein the provisions of Section 9(1) of the Act are invoked, there is already a pre-existing conviction or order of composition. An order of composition, though legally speaking may not amount to a conviction as such, it is obvious that the basic facts forming the subject matter of violation is in substance and virtually conceded or admitted by the licensee and only to avoid the unpleasantness of conviction the licensee concerned opts to have the offence compounded. That is the very basis underlying an order of composition. Thus, in case of conviction, the facts are found on trial and in a case himself concedes the position and, opts for compounding, and therefore, the provision of law in Section 9(1) of the Act which equates the same for purpose of taking action, in my view cannot be said to be either arbitrary or unreasonable as contended before me".

40. Before proceeding further, it is but relevant to refer to the view taken by

Dinakaran, J., in the case, The Licensee, Bhuvaneswari Talkies, Gudiyatham, v. The Appellate Authority and Joint Commissioner-I, Land Administration Department, Madras-5,Kporti^ia\\999ii)CTC 266. According to Dinakaran, J., the mere compounding of the offence by the licensing authority u/s 15 of the Entertainment Tax Act, 1939 cannot by itself be made a ground for the licensing authority to revoke or suspend the licence while exercising power u/s 9(1) of the Tamil Nadu Cinemas (Regulations) Act, 19SS, particularly when the licensee had submitted his explanation. The learned Judge while noting Section 15 of the Tamil Nadu Entertainment Tax Act, 1939 and to compound the offence and in the context held thus:-

"Of course, the licensing authority has to give reasons in writing for such revocation or suspension of licence, as contemplated u/s 9(3) of the Tamil Nadu Cinemas (Regulations) Act, 1955. Therefore, it is clear that the prescribed authority is conferred with powers u/s 155 of the Tamil Nadu Entertainments Tax Act, 1939 to compound the offence, where the licensee had committed, or is reasonably suspected of having committed an offence under the Tamil Nadu Entertainments Tax Act, 1939, Whereas, the powers conferred on the licensing authority viz., the third respondent u/s 9 of the Tamil Nadu Cinemas (Regulation) Act, 1955, contemplates the licensing authority has to give reasonable opportunity of showing cause to the proposed revocation and suspension and to give reasons in writing for such revocation and suspension, which otherwise necessitates to consider the explanation offered by the licensee to hold an enquiry in that regard, and then pass final orders with reasons before revoking or cancelling the licence with definite findings on the explanation offered by the licensee to the show-cause notice. Hence, the powers conferred on the prescribed authority u/s 15 of the Tamil Nadu Entertainments Tax Act, 1939, is not similar to that of the powers conferred on the licensing authority u/s 9 of the Tamil Nadu Cinemas (Regulations) Act, 1955. Section 15 of the Tamil Nadu Entertainments Tax Act, 1939, authorises the prescribed authority to compound the offence even on the basis of reasonable suspicion. But, u/s 9(1) of the Tamil Nadu Cinemas (Regulations) Act, 1955, the licensing authority is not authorised to revoke or suspend the licence, merely on the basis of such reasonable suspicion; on the other hand, the licensing authority is under a statutory obligation to give a reasonable opportunity to the licensee to show cause against the. revocation and suspension hold an enquiry consider the explanation and pass orders, after giving a finding based on mere compounding of the offence by the prescribed authority u/s 15 of the Tamil Nadu Entertainments Tax Act, 1939, cannot by itself is a ground for the licensing authority to revoke or suspend the licence, while exercising the power u/s 9(1) of the Tamil Nadu Cinemas (Regulation) Act, 1955, particularly when the licensee had offered his explanation''''.

41. While, S.S. Subramani, J., in an identical situation in M.N. Annamalai v. The District Collector, Vellore, cited supra, held that when the petitioner himself conceded the irregularities by compounding the offences, nothing more is

required to hold that the petitioner has violated the licence conditions and the licensing authority is justified in initiating action against the petitioner. Identical contention which was addressed before the learned Judge had been rejected by S.S. Subramani, J. In that case, S.S. Subramani, J., has taken the view that when once the licensee is permitted to compound the offence, nothing more is required to hold that the petitioner has violated the licence conditions. However, P.D. Dinakaran, J., has proceeded as if, even after the licensee is permitted to compound the offence, it is incumbent on the licensing authority to consider the objections, hold an enquiry and decide the objections de hors the order passed by the Entertainment Tax officer while permitting the licensee to compound the offence/irregularities u/s 15 of the Entertainment Tax Act, 1955. In this respect, it is relevant to consider the scope or effect of compounding of offences by a statutory authority.

42. Venkatraman, J., as he then was, speaking for the Division Bench, while dismissing the writ Appeal in P.K.M. Jainuladeen v. The Commissioner of Land Revenue, Madras, reported in 1972 TLNJ 170, held thus:-

"There is nothing in Section 5(1 Kb) to suggest that by composition of the offence; the conduct of the applicant in relation to the matter compounded would automatically go out of the picture. There is no provision in the Entertainments Tax Act or in the Madras Cinemas (Regulations) Act, 1955 similar to Section 345(6) of the Cr.P.C. that composition means acquittal. It would be unduly restricting the scope of the explanation of S. 5(1)(b) to exclude from the operation of that explanation a case of composition. An existing operator is a party aggrieved and can prefer an appeal to the Board against the order of Collector granting no objection Certificate."

43. As held by the Division Bench in the aforesaid case, the composition of the offence does not mean acquittal or exoneration, nor the licensee by such composition is given a clean chit from all further proceedings by any authority. It is nothing but a confession verdict and such an individual is estopped by his compounding the offence.

44. In a later pronouncement, Ramaprasada Rao, J., as he then was in P. Muthalagan, v. The Collector of Tiruchirppalli and others, reported in 1972-2-MLJ 42=85 L.W.367 while considering the scope of expression "antecedents" in Sections 3A, 5(1)(b) of the Tamil Nadu Cinemas (Regulations) Act, 1955, held thus:-

"The argument of Mr. Chidambaram is that the word "antecedents" does not have any relation to the disqualification mentioned in Section 3A but it should be understood as something which is not covered by Section 3A as such. This is an extreme contention. As already stated by me, Section 3A imposes a ban on persons convicted for offences in the matter of original is not clear was indeed convicted for an offence u/s 14 Clause (a) or (c) of the Madras Entertainments Tax Act, it is certainly a circumstance or an incident which has happened and which cannot be screened from being comprehended or appreciated if it becomes necessary at any future point of time even beyond the period of two years stated in Section 3A. For instance, if A is convicted for an offence under clause (a) or (c) of Section 14 in the year 1970, he cannot apply for a licence till the expiry of 1972. Thereafter, if he applies for a licence under the Madras Cinemas (Regulations) Act, that does not mean that his previous history that he evaded tax or that he admitted a person for payment to any place of entertainment in contravention of section 6 can be ignored by the licensing authority while deciding whether to grant or to refuse a licence to him under the Act. The expression "antecedents" in Section 5(1) (b) enables the licensing authority to peep into the earlier circumstances connected with the conduct of the individual and have regard to that matter as well, to fine ultimately whether a grant should be made in his favour Or not. In this view of the matter, the word "antecedents" cannot be understood as being circumscribed or being governed by the principle or hypothesis mentioned in Section 3A Of the Act. Both sections are mutually exclusive and are operative in their respective fields without the one having an impact on the other."

45. D. Raju, J., as he then was, in Krishna Theatre v. The Appellate Authority and Joint Commissioner -1, Land Administration, Madras - 5 cited supra held that in cases where the provision of sub section (1) of Section 9 is invoked, there is already a pre-existing conviction or order of composition. The learned Judge further held mat an order of composition though legally speaking may not amount to a conviction as such, but in substance and virtually, the violation had been conceded or admitted by the licensee to avoid unpleasantness of conviction. In this context, the Learned Judge held thus:-

"In cases wherein the provisions of Section 9(1) of the Act are invoked, there is already a pre-existing conviction or order of composition. An order of composition though legally speaking may not amount to a conviction as such, it is obvious that the basic facts forming the subject matter of violation is in substance and virtually conceded or admitted by the licensee and only to avoid the unpleasantness of conviction, the licensee concerned opts to have the offence compounded. That is the very basis underlying an order of composition."

46. The expression, "compound" or "composition" has to be considered. In the Concise Oxford Dictionary in Law, the meaning for the word "compound" is given as: (a) condone a liability or offence in exchange for money etc., (b) forbear from prosecuting (a felony) from private motives, and Law come to terms with a person, for foregoing a claim etc., for an offence. For the expression "compounding" in Ramanathan Aiyar''s Law Lexicon, the following meaning is given: Arranging, coming to terms; condone for money; arranging with the creditor to his satisfaction. For the expression "compounding felony of offence", the meaning given is "Compounding an offence is defined to be" the offence of taking a reward for forbearing to prosecute a felony; as where the party robbed takes his goods again or other amends upon an agreement not to prosecute." In

other words, it means an agreement with the criminal not to prosecute him.

47. Section 320 of the Code of Criminal Procedure provides that the offences punishable under the Section of the Indian Penal Code specified in Section 320 of the Cr. P.C, may be compounded by the persons mentioned in the third Column of the Table. That Section provides what are the offences which are. compoundable. Composition is different from withdrawal. For a valid composition, it must appear that the parties were free from any kind of interference and were fully aware of their rights. The said section provides that the offence must be punishable. The composition has the effect of acquittal and hot discharge and it is not a bar to the prosecution of the accused for a distinct offence on the same facts.

48. It is also equally well settled that if a person is charged with an offence, then unless there is some provision for composition of it, the law must take its course, and the charge enquired into, resulting either in conviction or acquittal. A case may be compounded any time before the sentence is pronounced. The composition will have the effect of acquitting the accused. For a valid composition, the parties should be free from interference of every kind and was fully aware of his respective rights.

49. In Biswabahan Das Vs. Gopen Chandra Hazarika and Others, it has been held that if a person is charged with an offence however trivial it may be, then unless there is some provision for composition of it, the law must take its course and the charge enquired into resulting either in conviction or acquittal. The effect of such composition would depend on what the law provides for. If the effect of composition is to amount to an acquittal then it may be said that no stigma should attach to the character of the person, but unless that is expressly provided for, the mere rendering of compensation would not amount to the vindication of the character of person charged with the offence. In this case, the Apex Court while considering the composition of offence u/s 345 of the Code of Criminal Procedure, 1898, held thus:-

"We may now note the relevant provisions of the Code of Criminal Procedure Section 345(1) of the Code prescribes that the offences, thereunder, specified may be compounded by the persons mentioned in the third column of the appended Table. By sub-section (2), provision is made for the compounding of the offences specified in the first column of the Table appended to this sub-section by certain persons with the permission of court before which any prosecution for the offence is pending. Sub-section (6) lays down that-

The composition of an offence under this section shall have the effect of the acquittal of the accused with whom the offence has been compounded.

It is, therefore, clear that to have the effect of an acquittal, the offence compounded must be one specified either under sub-section (1) or sub-section (2). The principle behind the scheme seems to be that wrongs of certain classes which affect mainly a person in his individual capacity or character may be sufficiently redressed by composition with or without the leave of the court as the case may be but any such composition would have the effect of an acquittal. It was urged by Mr. Sarjoo Prasad that assuming the effect, of an acquittal to be the wiping out or negation of the wrongful conduct on the part of the accused, the scope of sub-section(6) was only limited to the offences specified in sub-sections (1) and (2) of Section 345 and the principle thereof could not be extended to offences under other Acts unless there was a provision similar to sub-section (6) in those Acts. It must be borne in mind that although the marginal note to Section 62 of the Assam Regulation is "power to compound offences", the word "compounding " is not used in sub-section (1) Clause (a) of that section. That provision only empowers a forest officer to accept compensation for a forest offence from a person suspected of having committed it. The person so suspected can avoid being proceeded with for the offence by tendering compensation. He may think that he was being unjustly suspected of an offence and he ought to defend himself or he may consider it prudent on his part to pay such compensation in order to avoid the harassment of a prosecution even when he is of the view that he had not committed the offence. By adopting the latter course he does not remove the suspicion of having committed the offence unless he is to have such benefit conferred on him by some provision of law. In effect, the payment of compensation amounts to his acceptance of the truth of the charge against him. Sub-section (2) of Section 62 only protects him with regard to further proceedings, but has not the effect of clearing his character or vindicating his conduct".

50. In the light of the above, the expression "composition" or ".compounding of offence or irregularity" means accepting the acquiescence or irregularity committed or the violation of the statutory provision, and by compounding the offence, the person who is permitted to compound, admits the irregularity or violation. It may be for ever so many reasons, or it may be to avoid embarrassment or the situation, to purchase peace. By mere compounding, such an individual is not exonerated, nor a blank shield or protection cover is thrown against him for the commission or omissions for which compounding is permissible under law. Therefore, it follows when once the licensee compounds the offence u/s 15 of the Act, it would mean that the licensee had committed or is reasonably suspected of having committed an offence and on his application, is permitted to compound the offence. In other words, it is a clear verdict by confession to avoid penal consequences.

51. Section 15 of the Entertainments Tax Act is an enabling provision which enables the authorities to compound such person who has committed an offence or reasonably suspected of having committed an offence against the provisions of the Act or the Rules made thereunder. By compounding the offence, by invoking Section 15 of the Act, the licensee or the person authorised by him admits the commission or omission of those offences or violations of statutory provisions for which a penalty or fine or imprisonment is provided for, as the case may be. In other words, it is an admission of the guilt and on payment of certain

compounding fee, the accused person is to be proceeded, which would not ipso facto mean that he has been cleared of the accusations or the offences committed by him.

52. In The Divisional Personnel Officer, Southern Railway and Another Vs. T.R. Chellappan and Others, the scope of Sections, 3, 4 (1) and 9(3) & (4) of the Probation of Offenders Act was considered, when the accused was released on probation after finding him guilty and it has been held that the order of release on probation is merely in substitution of the sentence to be the court. In the very same decision, the Apex Court had occasion to consider the requirement to hold an enquiry, if any, after conviction by a criminal court. In that context, it has been held thus:-

"In other words, the position is that the conviction of the delinquent employee would be taken as sufficient proof of misconduct and then the authority will have to embark upon a summary inquiry as to the nature and extent of the penalty to be imposed on the delinquent employee and in the course of the inquiry if the authority is of the opinion that the offence is too trivial or of a technical nature it may refuse to impose any penalty in spite of the conviction. This is a very salutary provision which has been enshrined in these Rules and one of the purposes for conferring this power is that in cases where the disciplinary authority is satisfied that the delinquent employee is a youthful offender who is not convicted of any serious offence and shows poignant penitence or real repentance he may be dealt with as lightly as possible. This appears to us to be the scope and ambit of this provision. We must, however, hasten to add that we should not be understood as laying down that the last part of Rule 14 of the Rules of 1968 contains a licence to employees convicted of serious offences to insist on reinstatement. The statutory provision referred to above merely imports a rule of natural justice in enjoining that before taking final action in the matter, the delinquent employee should be heard and the circumstances of the case may be objectively considered. This is in keeping with the sense of justice and fair-play."

53. This dicta applies on all fours and principles have to be followed. In other words, on the facts of the cases, it is clear that the licensees while admitting the statutory violation or offences under the Entertainment Tax Act had applied for compounding the offences and they have been permitted to compound the offences. Hence, there is no further requirement to hold an enquiry with respect to the misconduct or illegality or statutory contravention based on which, the licensee had been permitted to compound the offence. When once compounding is admitted, it follows that the licensee admits the violation and commission of offence which is punishable under the Entertainment Tax Act, which is the entire basis for an action u/s 9(1) of the Cinemas (Regulations) Act, 1955.

54. In all these three cases, as well as in all the cases where the licensee had been permitted to compound the offence, and had been permitted to pay the compounding fee, it pre-supposes that the individual licensees or the Manager, or

the authorised agent admits the violation of the provision of the Entertainment Tax Act or the Rules and confess guilty of an offence punishable under the said Act. Only on that basis, compounding is permitted by the authorities constituted under the Entertainment Tax Act. Compounding presupposes an admission of the misconduct which is either a technical or a statutory violation which is punishable under the statutory provision in respect of which compounding of the offence is permitted.

55. In other words, it is admission of the guilt which has led to the passing of an order of permission to compound, and there is nothing further to be tried or to be gone into after the licensee had been permitted to compound an offence u/s 15 of the Entertainment Tax Act. It is a verdict by confession and, therefore, the consequences follows.

56. The admission of facts on the part of the licensee and his application for compounding would amount to his admitting the offence or violation or commission of an offence under the Entertainments Tax Act which, by itself, is a ground for taking action u/s 9(1) of the Cinemas (Regulations) Act. As such, we are of the view that the approach of S. S. Subramani, J., has to be sustained and we are of the considered view and with respect we hold that the view taken by Dinakaran, J., directing an enquiry to be held even after compounding of offence is not warranted and such an approach would defeat the very statutory provision, as according to us, in our view compounding would mean confession of the incident or violation or offence. Dinakaran, J., has taken the view as if the principles of natural justice still warrant an enquiry to be held even for an action u/s 9(1) despite the licensee has committed an offence and he was permitted to compound the offence u/s 15 of the Entertainment Tax Act. Such a view cannot also be sustained.

57. In New Prakash Transport Co. Ltd. Vs. New Suwarna Transport Co. Ltd., it has been held that whether the rules of natural justice have been observed in a particular case must itself be judged in the light of the constitution of the statutory body which has to function in accordance with the rules laid down by the Legislature and in that sense, the rules themselves must vary. The Apex Court held thus:-

"But before we do that, it has got to be observed that the question whether the rules of natural justice have been observed in a particular case must itself be judged in the light of the constitution of the statutory body which has to function in accordance with the rules laid down by the legislature and in that sense the rules themselves must vary."

58. In Dr Dinesh Kumar and Others Vs. Motilal Nehru Medical College, it has been held thus:-

"95. The Principles of natural justice have thus come to be recognized as being a part of the guarantee contained in Article 14 because of the new and dynamic interpretation given by this Court to the concept of equality which is the subject matter of that Article. Shortly put, the syllogism runs thus: violation of a rule of natural justice results in arbitrariness which is the same as discrimination; where discrimination is the result of State actions, it is a violation of Article 14; therefore, a violation of a principle of natural justice by a State action is a violation of Article 14. Article 14, however, is not the sole repository of the-principles of natural justice. What it does is to guarantee that any law or State action violating them will be struck down. The principles of natural justice, however, apply not only to legislation and State act but also where any tribunal, authority or body of men, not coming within the definition of "State" in Article 12, is charged with the duty of deciding a matter. In such a case, the principles of natural justice require that it must decide such matter fairly and impartially.

98. In Suresh Koshy George Vs. University of Kerala and Others, this Court observed (at page 322Xof SCR) (at p.201 of AIR):

"The question whether the requirements of natural justice have been met by the procedure adopted in a given case must depend to a great extent on the facts and circumstances of the case in point, the constitution of the Tribunal and the rules under which it functions."

After referring to this case, in A.K. Kraipak and Others Vs. Union of India (UOI) and Others, Hegde, J., observed (at page 469) (of SCR): (at p. 157 of AIR):

"What particular rule of natural justice should apply to a given case must depend to a great extent on the facts and circumstances of that case, the framework of the law under which the enquiry is held

and the constitution of the Tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a court that some principle of natural justice had been contravened, the court has to decide whether the observance of that rule was necessary for a just decision of the facts of that case."

99. Again in Union of India (UOI) Vs. Col. J.N. Sinha and Another, it was said (at page 794-5) of SCR): (at p 42 of AIR):

"As observed by this Court in Kraipak v. Union of India, the aim of rules of natural justice is to secure justice to or to put it negatively to prevent miscarriage of justice. These rules can operate only in areas not covered by any law validly made. In other words, they do not supplant the law but supplement it. It is true that if a statutory provision can be read consistently with the principles of natural justice, the courts should do so because it must be presumed that the legislatures and the statutory authorities intend to act in accordance with the principles of natural justice. But if on the other hand a statutory prevision either specifically or by necessary implication excludes that application of any or all the principles of natural justice then the court cannot ignore the mandate of the legislature or the statutory authority and read into the concerned provision the principles of natural justice. Whether the exercise of a power conferred should be made in accordance with any of the principles of natural justice, or not depends upon the express words of the provision conferring the power, the nature of the power conferred, the purpose for which it is conferred and the effect of the exercise of that power".

59. In The Chairman, Board of Mining Examination and Chief Inspector of Mines and Another Vs. Ramjee, , the Apex Court held thus:-

"Natural Justice is no unruly horse, no lurking land mine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of Natural Justice, without reference to the administrative realities and other factors of a given case, can be exasperating. Where consequent on an accident in a Coal mine, the ''Regional Inspector after holding an enquiry recommends cancellation of certificate of concerned shot firer, and the shot firer sends his explanation in the form of an appeal to the Board, and the Board on consideration of the "Regional Inspector''s report and the explanation, cancels the certificate, the cancellation cannot be challenged on ground of violation of principles of Natural Justice. Requirements of Regulation 26 are complied with."

60. The situation in the present case is in no way different. As already pointed out, there has been compounding of the offences u/s IS of the Entertainment Tax Act and based upon that compounding, further action is taken u/s 9(1) and therefore, as provided in Section 9(2), a show cause notice alone is sufficient, and it is not necessary to hold a detailed enquiry as has been held by Dinakaran, J. We agree and approve the view taken by S.S. Subramani, J., as against the view taken by Dinakaran, J.

61. In other words, we hold that when once the licensee is permitted to compound the offence, which means that there exists a pre-existing conviction or order of composition which does not require any further enquiry and it would be sufficient to issue a show cause notice as provided in Sub Section (2) of Sec.9. We also make it clear that when the petitioners themselves had concedingly admitted the irregularities by compounding the offences, nothing more is required to hold that the petitioner or their managers or agents or attorneys have violated the licensing conditions, and no further enquiry is warranted for an action being taken u/s 9(1) of the Tamil Nadu Cinemas (Regulations) Act and the authority is well justified in passing an order after issuing the show cause notice.

62. In the circumstances, the matter under Reference is answered in the above terms and consequently, we dismiss the three writ petitions as nothing further survives for being posted before the learned Single Judge for passing consequential orders.

63. Consequently, connection Writ Miscellaneous Petitions are also dismissed. No costs.

W.P. No. 12640/96: S. Jagadeesan, J and E. Padmanabhan, J.

64. After delivering the order, the Learned Counsel for the petitioner in this writ petition made a special mention that the suspension for a period of fifteen days would work hardship and much prejudice and that this Court may reduce the period of suspension. Taking into consideration the fact, violations as well as the passage of time of nearly five years, we reduce the period of suspension from fifteen days to seven days in this writ petition alone.

