

GAHC010017722017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1874/2017

M/S. PROGRESSIVE ENTERPRISE
A REGISTERED PARTNERSHIP FIRM BEING REP. BY ONE OF ITS PARTENR
SRI BIPLAB CHETIA S/O LT. DR BIPIN CHETIA R/O HOUSE NO. 15,
KATIRAM MIKIR PATH, NEAR JAPORIGOG, ASEB, GUWAHATI -5, DIST.
KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM and 3 ORS.
REP. BY THE COMMISSIONER AND SECRETARY and SECRETARY, GOVT. OF
ASSAM, EXCISE DEPARTMENT, DISPUR, GUWAHATI -06, KAMRUP M,
ASSAM

2:COMMISSIONER

EXCISE DEPARTMENT
HOUSEFED COMPLEX
DISPUR
GUWAHATI-06
KAMRUP M
ASSAM

3:THE DEPUTY COMMISSIONER

KAMRUP M
GUWAHATI-01
ASSAM

4:THE SUPERINTENDENT OF EXCISE

OFFICE OF THE DEPUTY COMMISSIONER
KAMRUP M
EXCISE BRANCH
GUWAHATI -01
ASSA

Advocate for the Petitioner : MR.H P NEOG, MR.A S DHILLON,MR.B K DAS,MR.H P GUWALA

Advocate for the Respondent : GA, ASSAM, MR P N GOSWAMI, SC, EXCISE

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

30.09.2024

1. Heard Mr. B.K. Das, learned counsel for the petitioner. Also heard Mr. R.R. Gogoi, learned counsel for the Excise Department.

2. The petitioner is aggrieved by the notice dated 16.01.2017, wherein it had been provided that as per the Judgment of the Hon'ble Supreme Court dated 15.12.2016 in Civil Appeal No.12164-12166 of 2016 regarding relocation of existing IMFL "ON/OFF" shops established near National Highway/State Highway, the petitioner was requested to take urgent steps to relocate his existing IMFL shop, which is stated to be located within 500 meters from the edge of National Highway/State Highway.

3. The petitioner by referring to the aforesaid order of the Hon'ble Supreme Court dated 15.12.2016, states that by the said order, it was provided that no shop for sale of liquor shall be (i) visible from a national or State highway (ii) directly accessible from a national or State highway; and (iii) situated within a distance of 500 meters of the outer edge of the national or State highway or of

a service lane along the highway. The learned counsel for the petitioner states that the shop in question of the petitioner is not located near a State or National highway. In fact, it is located within the area of the Guwahati Municipal Corporation (GMC) area.

4. The petitioner's counsel submits that the petitioner's shop is located within Narengi locality.

5. In the case of ***M/s Alankar Wines Private Limited Vs. Human Rights and Consumer Protection Society & Anr.,*** in ***Review Petition (Civil) No.1107/2023*** in ***Civil Appeal No.1788/2023***, the Supreme Court in its order dated 29.01.2024 held that the earlier order prohibiting establishments selling liquor along the national highways and state highways within 500 meters was modified and held that the order would not apply to the establishments within municipal areas.

6. The counsel for the Excise Department, Mr. R.R. Gogoi also submits that in view of the order dated 29.01.2024 passed in Review Petition (Civil) No.1107/2023 and Diary No. 21649/2023 the impugned order dated 16.01.2017 issued by the Superintendent of Excise, Kamrup, Guwahati would have to be set aside.

7. Accordingly, in view of there being no prohibition for selling of liquor in the establishments within a municipal area and as the petitioner's establishment is within the GMC area, the impugned order dated 16.01.2017 issued by the Superintendent of Excise, Kamrup, Guwahati is hereby set aside.

8. The writ petition is accordingly allowed and disposed of.

JUDGE

Comparing Assistant