

आदेश की क्रम सं०
और तारीख
1

आदेश और पदाधिकारी का हस्ताक्षर
2

आदेश पर की गई
कार्रवाई के बारे में
टिप्पणी तारीख सहित
3

Board of Revenue, Bihar, Patna

Excise (Revision) No.-36 of 2015

Dist.:- Siwan

**PRESENT :- Sunil Kumar Singh, I.A.S.,
Chairman-Cum-Member.**

Jitendra Yadav

- Petitioner/ Appellant

Versus

The Excise Commissioner, Bihar & Ors

- Respondent/ Opp. Party

Appearance :

For the Petitioner : Sri Satyabir Bharti, Advocate

For the OP : Sri Shambhu Prasad, G.P.

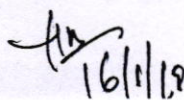
ORDER

16.01.2019

The instant revision application has been preferred under section 39 of the Bihar Excise Act, 1915 for remission of license fees and consequential refund of the same for the period from 2012-13 and 2014-15, amounting to Rs.24,00,000.00 on account of delay in grant of license to the petitioner for the aforesaid periods.

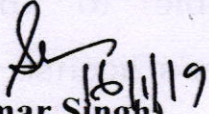
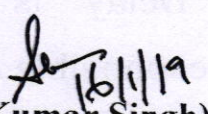
The petitioner was granted license in Form No. 9 & 10 of the Bihar Excise Act for operating a Restaurant and Bar in the District of Siwan. The initial grant of license is in pursuance to compliance of all the requisite criteria as prescribed under the Act, rules framed thereunder and the notification issued by the

आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की ग. कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>Government. The license upon being granted is renewed annually on payment of Annual License fee for the year 2010-11 and 2011-12.</p> <p>For renewal of license for the year 2012-13, the petitioner deposited the renewal fee of Rs.12,00,000.00 and requested for renewal of the license. However, the authorities sat over the matter and on frivolous grounds, kept the matter relating to renewal of license pending almost till the expiry of financial year and was renewed only on 14.3.2013 i.e. 15 days before the expiry of the license.</p> <p>The license was cancelled by the Collector, Siwan which was set aside and quashed by the Board of Revenue by order dated 20.2.2015, passed in Board Revision Case No.43 of 2014.</p> <p>The license for the year 2014-15 was renewed just before six days of the expiry of the license for which the annual license fee of Rs.12,00,000.00 was recovered from the petitioner.</p> <p>On the direction of this Court, the Excise Commissioner, Bihar was directed to enquire into the reasons for the delay in grant of license for the year 2012-13 and 2014-15, who submitted an affidavit before this Court admitting that the delay has been caused due to procedural formality.</p>	



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	<p>Ld. G.P. has placed before this court notification dated 07.12.2012 issued by Deputy Secretary, Revenue Board where in it has been prescribed that the license fee shall be realised for whole of the year even if the license is given on any time during the license period.</p> <p>The Ld. G.P. has submitted that since the petitioner did business for a number of days and therefore the total license fee has to be realised and accordingly the petitioner has paid the total license fee. The petitioner did not objected to, during the license period. So, far delay is concerned the delay was caused in procedural actions by the authorities.</p> <p>Heard both parties.</p> <p>Delay is solely attributable to the authorities responsible to renew petitioner's license, the petitioner cannot be saddled with payment of the license fee for the entire year though having operated the license only for 15 (fifteen) days in the year 2012-13 and 6 (six) days in the year 2014-15. Hence, the petitioner is entitled for refund of the license fee.</p> <p>The contention of the learned G.P. that under the provisions as contained under Rule 107 (1) Note (ii), license fee is payable in full even if license is granted in mid of the financial year, is against the law of natural justice.</p>	

[Signature]
16/1/12

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	<p>Since the petitioner has not been able to run his business because of actions of the Authorities, the petitioner cannot be penalised and his claim for remission for license fee is permissible. Therefore, petitioner can be liable to pay proportionate license fee for the period during which he carried business.</p> <p>I direct the Divisional Commissioner, Saran to inquire into the matter and fix the responsibility against the concerned authorities who is responsible for delay in granting license and after doing so he will take appropriate action which he would deem fit and proper.</p> <p>With this observation this case is disposed off.</p> <p>Dictated & Corrected</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  (Sunil Kumar Singh) Chairman-cum-Member Board of Revenue, Bihar. </div> <div style="text-align: center;">  (Sunil Kumar Singh) Chairman-cum-Member Board of Revenue, Bihar. </div> </div>	