IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.07.2026

PRONOUNCED ON : 10.08.2026

CORAM

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MRS. JUSTICE N.MALA

WA.Nos.824, 825, 846, 849, 850, 853, 854, 935, 979, 981, 987, 1042, 1043, 1055, 1270, 1304, 1314, 1329 and 1544 of 2026
and
CMP.Nos.8645, 8650, 8843, 8887, 8889, 8897, 8901, 9767, 10116, 10124, 10175, 10563, 10568, 10626, 12171, 12258, 12272, 12348 and 14426 of 2026

WA.No.824 of 2026

1.The State of Tamil Nadu,
Represented 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.

....Appellant(s)

Vs.

The Suguna Vilasa Sabha
Represented by its Hony. Secretary,
R.Kumar, 57, 57A,

Anna Salai,
Chennai 600 002.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 9868 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar, GA
For Respondent(s) : No appearance

WA.No.825 of 2026

1.The State of Tamil Nadu,
Represented 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.

....Appellant(s)

Vs.

RSM Recreation Club,
Represented by its Secretary M. Sathish,
No.3300/1A4, Yagappa Nagar Main Road,
Thanjavur District, Tamil Nadu.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 9873 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar, GA
For Respondent(s) : No appearance

WA.No.846 of 2026

1.The State of Tamil Nadu,
Represented 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.

....Appellant(s)

Vs.

M/s.Hotel Dee Cee Manor,
Represented by its Partner D. Chenchiah,
No. 90, G. N. Chetty Road,
T. Nagar, Chennai - 600 017.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No.9181 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar, GA
For Respondent(s) : Mr.N.C.Thirumalai Balaji

WA.No.849 of 2026

1.The State of Tamil Nadu,
Represented 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

....Appellant(s)

Vs.

Tvl. Ceebros Hotels Pvt. Limited,
Represented by its Managing Director,
Thiru. C. Subba Reddy,
19/1, Third Cross Street,
R.A.Puram, Chennai- 600 028.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No.9685 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surender, GA
For Respondent(s) : Mr.A.Suresh

WA.No.850 of 2026

1.The State of Tamil Nadu,
Represented 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

....Appellant(s)

Vs.

M/s.Hotel Poigai,
Represented by its Proprietor,
Mr. P. R. Muthuram, PC-14,
Razack Garden Main Road,
Arumbakkam, Chennai - 600 106.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No.9182 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surender, GA
For Respondent(s) : Mr.V.Sudhan

WA.No.853 of 2026

1.The State of Tamil Nadu,
Represented 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

....Appellant(s)

Vs.

Madras Race Club,
Represented by its Chief Executive Officer,
T.Raman, Race Course Road,
Guindy, Chennai-600 032.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 9834 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar, GA

For Respondent(s) : Mr.A.Suresh

WA.No.854 of 2026

1.The State of Tamil Nadu,
Represented 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

....Appellant(s)

Vs.

Hotel Manhattan
Represented by its Proprietor,
T. L. Ramachandran,
No. 1, Dr. Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 9177 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar,
Government Advocate

For Respondent(s) : No Appearance

WA.No.935 of 2026

The Commissioner of Prohibition and Excise,
Prohibition and Excise Department,
Ezhilagam, Chepauk,
Chennai- 600 005.

....Appellant(s)

Vs.

Royal Health and Social Welfare Club,
Represented by its Secretary N. Selvam,
S/o. Narayanan,
No. 35/16, Bunglow Street Main Road,
Thottipalayam, Avinashi Road,
Tiruppur - 641 602.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 10122 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar,
Government Advocate

For Respondent(s) : Ms.D.Kalaiselvi

WA.No.979 of 2026

The Commissioner of Prohibition and Excise,
Prohibition and Excise Department,
Government of Tamil Nadu,

Ezhilagam, Kamarajar Salai,
Chepauk, Chennai- 600 005.

....Appellant(s)

Vs.

Sakthi Hotels,
Represented by its Proprietor,
C. M. Kamaraj, S/o. Subramania Gounder,
No. 144, Coimbatore Road,
Pollachi - 642 002,
Coimbatore District.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 10105 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar,
Government Advocate

For Respondent(s) : Service awaited

WA.No.981 of 2026

1.The State of Tamil Nadu,
Represented 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

....Appellant(s)

Vs.

Kannan Srinivasan,
Chairman,
M/s.Hudson Hotels and Resorts,
Pondur Byepass, Oragadam,
Sriperumbudur High Road,
Sriperumbudur – 602105,
Kanchipuram District.

…..Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 9468 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surender,
Government Advocate

For Respondent(s) : No appearance

WA.No.987 of 2026

The Commissioner of Prohibition and Excise,
Prohibition and Excise Department,
Ezhilagam, Chepauk,
Chennai- 600 005.

….Appellant(s)

Vs.

Sri Ramanuja Hotels (P) Ltd.,
Represented by its Managing Director,
K.Natarajan, S/o.Kuppusamy,
No.115, Palakkad Road,

Pollachi - 642 001.
Coimbatore District.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No.10119 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar,
Government Advocate

For Respondent(s) : No appearance

WA.No.1042 of 2026

The Commissioner of Prohibition and Excise,
Prohibition and Excise Department,
Ezhilagam, Chepauk,
Chennai- 600 005.

....Appellant(s)

Vs.

Relax Health and Recreation Club,
Represented by its Secretary A. Jeyaprakash,
S/o. Anthonymuthu,
No.59/2, Ward No.10,
Coimbatore Road, Annur 641 653,
Coimbatore District.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 10121 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar, GA
For Respondent(s) : No appearance

WA.No.1043 of 2026

1.The State of Tamil Nadu,
Represented 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.

....Appellant(s)

Vs.

Tvl.Ceebros Hotels Pvt. Limited
Represented by its Managing Director C.Subba Reddy,
19/1, Third Cross Street, R.A.Puram,
Chennai- 600 028.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 9688 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar,
Government Advocate

For Respondent(s) : Mr.A.Suresh

WA.No.1055 of 2026

The Commissioner of Prohibition and Excise,
Prohibition and Excise Department,
Ezhilagam, Chepauk,
Chennai- 600 005.

….Appellant(s)

Vs.

Sri Krishnan Residency
Represented by its Partner C.Vishnuraj,
S/o. Chandrasekar,
No. 120, Raja Mill Road,
Pollachi - 642 001,
Coimbatore District.

…..Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 10110 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar,
Government Advocate

For Respondent(s) : M/s.A.B.Jeeva

WA.No.1270 of 2026

The Commissioner of Prohibition and Excise,
Prohibition and Excise Department,
Ezhilagam, Chepauk,
Chennai- 600 005.

....Appellant(s)

Vs.

Hotel Indrapuri,
Represented by its Authorized Signatory Selvin,
S/o.John,
K.V.K.Complex,
No.91, Bazar Street,
Pollachi- 642 001.
Coimbatore District.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 10109 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar,
Government Advocate

For Respondent(s) : Service awaited

WA.No.1304 of 2026

1.The State of Tamil Nadu,
Represented 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.

....Appellant(s)

Vs.

Hotel Aruna International
Represented by its Partner,
R.Kalidass,
No.22, Rajabather Street,
T.Nagar, Chennai 600 017.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 9811 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surender,
Government Advocate

For Respondent(s) : Mr.K.Ganesan
assisted by M/s.Abinu Monisha

WA.No.1314 of 2026

The Commissioner of Prohibition and Excise,
Prohibition and Excise Department,
Ezhilagam, Kamarajar Salai,
Chepauk, Chennai- 600 005.

....Appellant(s)

Vs.

KDK Hotels,
Represented by its Authorized Signatory,
K.Dhadha Khan, S/o. Khadar Batcha
No. 201 and 203, Market Road,
Pollachi 642 001,
Coimbatore District.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 10112 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surendar,
Government Advocate
For Respondent(s) : Service awaited

WA.No.1329 of 2026

1.The State of Tamil Nadu,
Represented 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

....Appellant(s)

Vs.

Ceebros Hotels Pvt. Limited,
Represented by its Managing Director,
C. Subba Reddy,
19/1, Third Cross Street,
R.A.Puram, Chennai- 600 028.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No.9686 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surender,
Government Advocate

For Respondent(s) : Mr.A.Suresh

WA.No.1544 of 2026

1.The State of Tamil Nadu,
Represented 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

....Appellant(s)

Vs.

Deccan's Park Limited,
Represented by its General Manager,
R.Gowri Shankar,
36, Royapettah High Road, Royapettah,
Chennai- 600 014.

.....Respondent(s)

Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.07.2023 made in W.P.No. 10353 of 2021 and allow the above Writ Appeal.

For Appellant(s) : Mr.T.Gowthaman,
Additional Advocate General
assisted by Mr.K.Surender,
Government Advocate

COMMON JUDGMENT

N.MALA,J.

(1) The state disquieted by the common order of the learned Single Judge of this Court in allowing the writ petitions of the respondents, seeking refund of the license and privilege fees paid in respect of F.L.III licenses, on account of closure

of their bar/hotel, on account of the lock-down declared during the Covid-19 pandemic, has filed the above bunch of writ appeals.

(2) Since the issues raised in all the writ appeals are one and the same, they are disposed of by this common judgment. For the sake of brevity, the parties will be referred to as per their rank in the writ appeals.

Facts and Submissions:

(3) The facts need not detain us for long since they remain undisputed, suffice it to state that the respondents all F.L.III licensees running bars/hotels filed the writ petitions seeking refund of the license and privilege fees for the period they were forced to close business on account of lock-down, declared throughout the country due to Covid-19 Pandemic.

(4) The issue is primarily anchored on whether the refund of license and privilege fee claimed by the respondents is sustainable under the provisions of Rule 24-A read with the proviso to the Tamil Nadu Liquor (License and Permit) Rules, 1981, (Hereinafter called as Rules).

(5) The learned Additional Advocate General, for the appellants submitted that the interpretation placed by the learned Judge on the proviso to Rule 24-A of the Rules is erroneous, since the learned Judge failed to note that under Rule 24-A, for

refund of license and privilege fee, the licensee is bound to surrender the license and should not have transacted any business on the strength of the license. The learned Additional Advocate General, submitted that Rule 24-A was premised on providing relief to those licensees who genuinely ceased operations and surrendered the licenses. The learned Additional Advocate General, submitted that the refund/adjustment ordered by the learned Judge, overlooking the mandatory condition relating to surrender of license in Rule 24-A is erroneous and unsustainable. The learned Additional Advocate General, further submitted that the learned Judge erred in reading the proviso as a substantive provision, for directing refund of the license and privilege fee to the respondents. The learned Additional Advocate General, based on the Covid-19 lock-down notifications issued by the Central Government from time to time submitted that in fact, the respondents were prevented from transacting the business for a period of 90 days only, and therefore the claim for the entire period of the Covid Pandemic was mischievous. The learned Additional Advocate General, finally contended that the learned Judge failed to appreciate the financial implications of the refund order on the State Exchequer.

(6) The learned counsels for the respondents submitted that the learned Judge

taking into account the exceptional circumstances, arising out of Covid-19 pandemic and on appreciation of Rule 24-A and the proviso rightly allowed the refund. The learned counsels for the respondents further submitted that the failure to transact business was not due to fault of the respondents, but due to the Government's lock-down notifications which prevented them from exploiting the licenses granted to them and therefore they are entitled to refund of the license and privilege fee.

(7) We have heard the learned counsels and perused the materials placed on record.

Discussions:

(8) As correctly pointed out by the learned Judge, though there are slight variations in the prayer in the writ petitions, the reliefs claimed are one and the same, namely refund of license and privilege fee under Rule 24-A read with proviso of the Tamil Nadu Liquor (License and Permit) Rules 1981.

(9) Rule 24-A was framed and inserted in the statute by G.O.Ms.No.788, Prohibition and Excise (VIII) Department, dated 10.11.1982, by exercising the powers conferred by Sections 17-C, 17-D, 17-E, 18-C, 20, 21 and 54 of the Tamil Nadu Prohibition Act, 1937. Section 17C, deals with the grant of exclusive

privilege for manufacture etc, Section 17D relates to payment of consideration for grant of any exclusive or other privilege or fee on license for manufacture or sale, Section 17E deals with issuance of license for import and export of any liquor or article containing liquor, Section 18C deals with the imposition of duty, Section 20 deals with permits and licenses, Section 21 deals with form and conditions of licenses and Section 54 deals with power to make rules. It is pertinent to note that till the insertion of Rule 24-A, there was no provision for refund of license fees, to the licensees who could not transact any business by utilising their license. Rule 20 only provided for refund of license fee where application for grant of license was refused.

(10) Under G.O.Ms.No.788, Prohibition and Excise (VIII) Department, dated 10.11.1982, Rule 24-A alone was introduced. The G.O clearly narrates the background to the introduction of the Rule. It was stated that immediately after liberising the rules relating to issue of licenses, a large number of applications were received which could not be disposed of immediately and the licenses in some cases were granted even during January and February 1982. Therefore, an exceptional situation arose, where the licensees could not commence their business for various reasons beyond their control. Hence, it was felt that it would be

improper and unfair to the licensees to let them forego the huge licensee fee of Rs.10,000/- when no business was conducted even for a day. The Commissioner of Prohibition and Excise in anticipation of the Government's approval, sanctioned the refund of the license fee of Rs.10,000/- to the grantees on surrender of their licenses and by ascertaining from the Collectors concerned that they had not commenced any business by utilising the licenses. The Commissioner thereafter requested the Government to grant *ex post facto* approval for the refund of the license fee and also proposed to the Government to amend the Tamil Nadu Liquor (License and Permit) Rules, 1981 to provide for refund of license fee in such cases. The Government approved the Commissioner's action and also ratified the proposal for amendment of the Rules by inserting the Rule 24A, in the statute, by the aforesaid G.O.

(11) Rule 24-A of the rules introduced vide G.O.Ms.No.788, Prohibition and Excise (VIII) Department, dated 10.11.1982, reads as follows:

> *"A licensee who has not transacted any business under the license shall apply to the licensing authority for refund of the license fee along with the licence granted to him. On receipt of the application the licensing authority may refund the license fee, if he is satisfied that the licensee has not transacted any business under license*

granted to him."

Though the rule was introduced in 1982, the proviso to the rule was inserted vide G.O.Ms.No.1107, Home, Prohibition & Excise (VIII) Department, dated 5th October, 1989. The proviso to Rule 24-A reads as follows:

> *"Provided that if any licensee has not transacted any business for any part of the year, the proportionate license fee and privilege fee shall be refunded"*

(12) The short but interesting question that arises for consideration is whether the proviso to Section 24-A of the Tamil Nadu Liquor (License and Permit) Rules, 1981, should be construed as a standalone provision or as excepting or qualifying provision.

(13) The learned Judge interpreted Section 24-A as a standalone provision and on such interpretation, held that the respondents were entitled to the refund of the license and privilege fee, even without surrendering their licenses. The interpretation given to the proviso by the learned Judge is questioned by the State in these Writ Appeals. The State contends that the proviso to Section 24-A, is not a substantive provision or standalone provision, but is only a simple proviso qualifying/excepting the main enactment. It is submitted that the proviso should therefore be limited to the subject matter of the enacting clause. It is submitted

that Section 24-A was introduced with a view to permit complete refund of the license fee subject, however, to surrender of license, and not transacting any business. According to the learned Additional Advocate General, the proviso is only qualifying/ exception provision and therefore, even for claiming the refund of a part of the license and privilege fee, the licenses should be surrendered.

(14) The learned counsel for the respondents in reply submitted that the interpretation placed by the learned Judge to the proviso to Section 24-A was proper and based on the construction of the text and context of the proviso and therefore the same cannot be faulted.

(15) There is no dearth of case laws and literature on the rules of interpretation of a proviso. However, we are being selective, having regard to the text and context of the statute in question before us.

> *Craies in his book Statute Law (Seventh Edn.) while explaining the purpose and import of a proviso states at page 218 thus:*
>
> *"The effect of an exception or qualifying proviso, according to the ordinary rules of construction, is to except out of the preceding portion of the enactment, or to qualify something enacted therein, which but for the*

proviso would be within it.... The natural presumption is that, but for the proviso, the enacting part of the section would have included the subject-matter of the proviso."

<u>Odgers in Construction of Deeds and Statutes (Fifth Edn.) while referring to the scope of a proviso mentioned the following ingredients</u>:

"p. 317. Provisos —These are clauses of exception or qualification in an Act, excepting something out of, or qualifying something in, the enactment which, but for the proviso, would be within it.

p. 318. Though framed as a proviso, such a clause may exceptionally have the effect of a substantive enactment."

Sarathi in Interpretation of Statutes at pages 294-295 has collected the following principles in regard to a proviso:

(a)When one finds a proviso to a section the natural presumption is that, but for the proviso, the enacting part of the section would have included the subject-matter of the proviso.

(b)A proviso must be construed with reference to the preceding parts of the clause to which it is appended.

(c)Where the proviso is directly repugnant to a section, the proviso shall stand and be held a repeal of the section as the proviso speaks the latter intention of the makers.

(d)Where the section is doubtful, a proviso may be used as a guide to its interpretation: but when it is clear, a proviso cannot imply the existence of words of which there is no trace in the section.

(e)The proviso is subordinate to the main section.

(f)A proviso does not enlarge an enactment except for compelling reasons.

(g)Sometimes an unnecessary proviso is inserted by way of abundant caution.

(h)A construction placed upon a proviso which brings it into general harmony with the terms of section should prevail.

(i)When a proviso is repugnant to the enacting part, the proviso will not prevail over the absolute terms of a later Act directed to be read as supplemental to the earlier one.

(j)A proviso may sometimes contain a substantive provision."

(16) The Hon'ble Supreme Court in the case of ***S.Sundaram Pillai and others versus V.R.Pattabiraman and others,*** reported in ***(1985) 1 SCC 591,*** while interpreting the proviso and explanation to Section 10(2) of the Tamil Nadu Rent Control Act, held as follows:

> *"**27.** The next question that arises for consideration is as to what is the scope of a proviso and what is the ambit of an Explanation either to a proviso or to any other statutory provision. We shall first take up the question of the nature, scope and extent of a proviso. The well established rule of interpretation of a proviso is that a proviso may have three separate functions. Normally, a proviso is meant to be an exception to something within the main enactment or to qualify something enacted therein which but for the proviso would be within the purview of the enactment. In other words, a proviso cannot be torn apart from the main enactment nor can it be used to nullify or set at naught the real object of the main enactment."*

(17) In the judgment ***Dwarka Prasad versus Dwarka Das Saraf,*** reported in ***(1976) 1 SCC 128,*** the Hon'ble Supreme Court in para '18', held as follows:

> *"**18.** We may mention in fairness to Counsel that the*

following, among other decisions, were cited at the Bar bearing on the uses of provisos in statutes: C.I.T v. Indo-Mercantile Bank Ltd, M/s. Ram Narain Sons Ltd. v. Asstt. C.S.T.;Thompson v. Dibdin; Rex v. Dibdin and Tahsildar Singh v. State of U.P. The law is trite. A proviso must be limited to the subject-matter of the enacting clause. It is a settled rule of construction that a proviso must prima facie be read and considered in relation to the principal matter to which it is a proviso. It is not a separate or independent enactment. "Words are dependent on the principal enacting words, to which they are tacked as a proviso. They cannot be read as divorced from their context" (1912 AC 544). If the rule of construction is that prima facie a proviso should be limited in its operation to the subject-matter of the enacting clause, the stand we have taken is sound. To expand the enacting clause, inflated by the proviso, sins against the fundamental rule of construction that a proviso must be considered in relation to the principal matter to which it stands as a proviso. A proviso ordinarily is but a proviso, although the golden rule is to read the whole section, inclusive of the proviso, in such manner that they mutually throw light on each other and result in a harmonious construction."

(18) From, the literature and the precedents on the rules interpretation of a proviso, it is clear that a proviso may act either as a excepting or qualifying proviso. In excepting proviso, it creates a exception to something within the main enactment and in qualifying proviso, it qualifies something enacted therein, which but for the proviso would be within the purview of main enactment.

(19) The background relating to the insertion of Rule 24-A, in the statute has been narrated above. To recapitulate, the intention of the Legislature in introducing rule 24-A was to cater to an exceptional situation whereunder the licensees were granted the license months before expiry of the license period, resulting in the licensees not commencing their business. As the State felt that it would be unfair and improper for the licensees to forgo the huge license fee of Rs.10,000/-, the provision was enacted by the amending Act. The amendment was carried out in 1982, and thereafter the proviso was added seven years later, providing for refund of proportionate license fee and privilege fee to a licensee who had not transacted any business for any part of the year. The object of the legislature in introducing Rule 24-A in the statute book was to refund the license fee and privilege fee to the licensees, who did not intend to conduct business and who were willing to surrender the license. The proviso has to be interpreted

keeping in view the said object of the legislature. Further, as per the rules of interpretation of a proviso, it is to be read in harmony with the main enactment. The respondents want this Court to treat the proviso, as a standalone provision, in order that the surrender of license may not be insisted for claiming the proportionate license fee and privilege fee.

(20) We find, upon a reading of the main provision in Rule 24-A, that the application for refund of the license fee/privilege fee is to be accompanied by the license granted to the licensee. Therefore, from the main enactment, it is clear that the refund is subject to the surrender of license and the proof of non-transaction of business under the license.

(21) It is well settled legal principle that a proviso must be limited to the subject matter of the enacting clause and that proviso must *prima facie* be read and construed in relation to the principle matter to which it is a proviso. In other words, the proviso normally is not an independent or separate enactment. The proviso cannot be dissected or torn out from the provision to which it is appended and the golden rule of interpretation mandates that the main provision be read along with the proviso, so that they mutually throw light on each other and result in a harmonious construction. The clear and unambiguous intention of the legislature

under the main provision is to permit the refund of the full license fee on surrender of the license and proof of non-transaction of any business on the strength of the license.

(22) The main provision in effect amounts to an "all-or-nothing" rule. In our view, the proviso was added out of equity with the intent to enable those who transacted some business, and wanted to surrender the license permanently, to avail partial/proportionate refund. The mischief sought to be remedied by the proviso was to permit only a partial/proportionate refund on surrender of license after the licensee had transacted some business. The proviso merely engrafts an exception to the quantum of refund otherwise admissible under the main provision, by reducing it from full refund to partial/proportionate on surrender of license. It, by no stretch of imagination, neither distracts from nor dilutes the substantive requirement of surrender of license for claiming partial/proportionate refund.

(23) It is to be noted here that the license fee and privilege fee are collected for not only trading in liquor, but also for possession of the same. The Hon'ble Supreme Court in a catena of judgments ***[Har Shankar's case (1975) 1 SCC 737, Khoday Distilleries case (1995) 1 SCC 574 & Issac Peter's case 1994 SCC (4) 104]*** categorically declared that the State holds exclusive privilege over trade in

intoxicating liquor and fee paid by the licensees is neither a tax or simple service fee, but is a consideration paid to acquire the States exclusive privilege, in not only transacting the business of sale of liquor, but also to hold and possess the same. Once the privilege is parted by paying the license and privilege fee, if the license is operationalised even for a single day, the State cannot be made responsible for interruption in business or profitability.

(24) Keeping in view, the nature of the license and privilege fee, the interpretation sought to be placed by the learned counsel for the respondents, if accepted, would not merely qualify/except the main provision, but would virtually supplant it. Such a construction, in our considered view, would do violence to the scheme of the provision, for the principal provision is concerned with the surrender of license and the consequent refund of the license fee, while the proviso merely regulates the quantum of refund under the circumstances mentioned therein. From the principles of interpretation of statute relating to the interpretation of the proviso, as laid down by the authors referred to above and the relevant judgments of the Hon'ble Supreme Court, it is clear that any construction that nullifies the principal provision or renders the proviso into an instrument for defeating the very object of the enactment must be discarded/eschewed. In our considered view the

interpretation placed by the learned counsel for the respondents, creates irreconcilable conflict between the main provision and the proviso, thereby subverting the legislative intent and thus, rendering the main provision nugatory. Therefore, keeping in view the text and the context of the main provision and the proviso, the interpretation sought to be placed by the respondents cannot be accepted.

(25) Further, the interpretation placed by the learned counsel for the respondents may lead to preposterous consequences. As already stated the amendment was introduced to resolve a very narrow and a specific issue of refund of license fee and privilege fee either total or partial/proportionate on surrender of license and definitely not introduced with an intention to compensate the licensees for temporary closures, where the licensees subsequently resume and utilise the license. For example, if a licensee was permitted to seek for refund of license and privilege fee without surrendering the license, it may pave way for licensees to claim refund for loss of business, despite having conducted the business for some time and even if no actual loss was incurred. By merely quoting non-transaction of business, the licensee may claim refund despite having made reasonable profit during the transacted period. The interpretation to the proviso should therefore

logically be one commensurate with the main provision, otherwise, it may lead to spurious claims. Therefore, we are in complete agreement with the learned Additional Advocate General, that the proviso cannot be read as a standalone or substantive provision, enabling the licensees to claim refund of the proportional license fee and privilege fee, for business not transacted for any part of the year without surrender of the license. We are therefore of the view that the interpretation placed by the learned Judge on the proviso is misconceived, erroneous and unsustainable.

(26) Even though we find that the respondents are not entitled to claim refund of license and privilege fee under the proviso to Rule 24-A, in view of the peculiar facts and circumstances of the cases, we are inclined to allow the petitioners claim for refund on equity and for limited period.

(27) To determine the extent of relief permissible to the respondents, we examine the Covid lock-down notifications. The 1st notification imposing lock-down by the Ministry of Home Affairs was issued on 24.03.2020. The Ministry of Home Affairs issued guidelines on the measures to be taken by the Ministries/Departments of Government of India, State/Union Territory Governments and State/Union Territory Authorities for containment of Covid-19

pandemic in the country. Clause '7' of the said notification deals with hospitality services and it reads as follows:

> *"7.Hospitality Services to remain suspended*
> *Exceptions:*
> *a. Hotels, homestays, lodges and motels, which are accommodating tourists and persons stranded due to lockdown, medical and emergency staff, air and sea crew.*
> *b. Establishments used/earmarked for quarantine facilities."*

(28) The lock-down under the said notification was for a period of 21 days with effect from 25.03.2020. Thereafter, the lock-down was periodically extended until it was partially lifted vide notification dated 29.07.2020. In the said notification, under Clause 1(ii) the following activities were permitted:

> ***"1. Activities permitted during Unlock 3 period outside the Containment Zones***
> *(ii) Cinema halls, swimming pools, entertainment parks, theatres, bars, auditoriums, assembly halls and similar places.*
> *Yoga institutes and gymnasiums will be allowed to function from 5th August 2020 for which, Standard Operating Procedure (SOP) will be issued by the Ministry of Health & Family Welfare (MoHFW)."*

(29) From the aforesaid notifications, it is clear that there was either total prohibition or partial prohibition of activities relating to bars, alone. Hospitality

services continued to operate with restrictions. The learned Additional Advocate General has filed the relevant dates and notifications of Covid lock-down restrictions vis-a-vis F.L.III licensees. The same is as follows:

S.No.	Date	Effect on Hospitality Services	Effect on Bars
1.	**17.03.2020** *[Letter dated 16.03.2020 issued by the Commissioner, Prohibition & Excise]*	**None**	**Shut Down**
2.	**25.03.2020** *[MHA Notification dated 24.03.2020]*	**Partial Suspension.** Permitted operations: 1. Accommodation of (i) tourists; (ii) stranded persons; (iii) medical and emergency staff; (iv) air and sea crew 2. Quarantine facilities	**Shut down** [All commercial establishments unless exempted were to be closed]
3.	**08.06.2020** *[MHA Notification dated 30.05.2020]*	**Permitted to operate**	**Remained shut**
4.	**29.08.2020** *[MHA Notification dated 29.08.2020]*	**Continued to operate**	**Permitted to operate**
5.	**03.09.2020** *[Letter dated 03.09.2020 issued by the Commissioner, Prohibition & Excise]*	**Continued to operate**	**Permitted to operate**
Business remained shut for		**0 days**	**171 days**

(30) Covid-19 pandemic was an exceptional global phenomenon resulting in prohibition of all activities across the country, save those specifically exempted. The failure of the respondents to transact business during the Covid period, is not because of any fault on their part, but was a result of the force majeure situation created by the pandemic which affected humans across the globe. The relevant dates submitted by the appellants and referred to above, clearly shows that Bars remained closed for 171 days. Under such circumstances, we are of the view that the respondents would be entitled for partial/proportionate refund for a period of 171 days, however subject to proof of non-transaction of any business during that period.

(31) In the light of the above discussions, we are of the view that in equity and not in law, the respondents are entitled for refund/adjustment of the license fee and the privilege fee for the limited period of 171 days, without surrendering the licenses, since they were prevented from transacting business due to the Covid pandemic and for reasons beyond their control.

(32) We find that since the respondents were not able to transact business due to the lock-down, and not because of any default on their part, the respondents shall be entitled to refund/adjustment of license and privilege fee only for 171 days,

subject to proof of non-transaction of business during the relevant period.

(33) Accordingly, the Writ Appeals are ***allowed*** and the orders of the learned Single Judge dated 25.07.2023 made in W.P.Nos.9868, 9873, 9181, 9685, 9182, 9834, 9177, 10122, 10105, 9468, 10119, 10121, 9688, 10110, 10109, 9811, 10112, 9686 and 10353 of 2021 **are set aside**, however, with liberty to the respective respondent in the above writ appeals to approach the Commissioner of Prohibition and Excise, for refund of license and privilege fee for the period of 171 days only. The respondents shall submit their claim petitions within two weeks from today. On receipt of the claim petition along with supporting evidence, the Commissioner of Prohibition and Excise shall, if satisfied that the claim is genuine, pass appropriate orders on merit and in accordance with law, preferably within 12 weeks thereafter. No costs. Consequently, the connected miscellaneous petitions are closed.

(G.J.J.) (N.M.J)
10.08.2026

Index:Yes/No
Speaking Order:Yes/No
Neutral Citation:Yes/No
Internet:Yes
dsn

To

1.The Secretary to Government,
State of Tamil Nadu,
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.

DR.G.JAYACHANDRAN,J.
and
N.MALA,J.

dsn

Common-Judgment in WA.Nos.824, 825,

846, 849, 850, 853, 854, 935, 979, 981, 987,

1042, 1043, 1055, 1270, 1304, 1314, 1329 and 1544 of 2026

10.08.2026