



## GOVERNMENT OF KERALA

### Abstract

Taxes Department - Excise - Revision Petition submitted by Sri.M.V.Ganesh, Licensee FL-11 No.E-191, Hotel Kedaram, Muvattupuzha, Ernakulam against the order of the Excise Commissioner - Disposed of - Orders issued- Reg.

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### TAXES(A) DEPARTMENT

G.O.(Rt)No.307/2024/TAXES Dated,Thiruvananthapuram, 27-03-2024

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Read 1 Order No. EXC/1749/2023-XC6 dated 12/12/2023 of Excise Commissioner

2 Revision Petition dated 05/01/2024 submitted by Sri. M.V.Ganesh, Licencee FL-11 No.E-191, Hotel Kedaram, Muvattupuzha.

3 Letter No. EXC/1749/2023-XC6 dated 12/02/2024 of Excise Commissioner.

4 Letter dated 13/02/2024,13/03/2024 of Sri.M.V.Ganesh, Licencee FL-11 No.E-191, Hotel Kedaram, Muvattupuzha.

### ORDER

Sri.M.V.Ganesh, Licensee, FL-11 No.E-191, Hotel Kedaram, Muvattupuzha, Ernakulam has submitted revision petition read as 2<sup>nd</sup> paper above under Rule 40 of Foreign Liquor Rules before Government aggrieved by the order of the Excise Commissioner read as 1<sup>st</sup> paper above regarding the fee imposed to the firm. The petitioner has requested for a hearing and to set aside the order of the Excise Commissioner imposing fee of Rs. 1 lakh.

2) As requested by the petitioner, a hearing was fixed on 13/02/2024.

As the petitioner had not appeared for the hearing, one more chance of hearing was allowed on 14/03/2024. As per letter read as 4<sup>th</sup> paper above, the petitioner informed that he was not interested in personal hearing and requested to set aside order of the Excise Commissioner as per Rule 19 (iii) of the Foreign Liquor Rules.

3) The petitioner submitted that he had applied for transfer of FL-11 license No.E- 191 of proprietorship firm Hotel Kedaram, Muvattupuzha, Ernakulam, from his name to the name of a partnership firm represented by him. The application was allowed by the Excise Commissioner, as per order read as 1<sup>st</sup> paper above by imposing Rs.1 lakh as per Rule 19 (iii) of the Foreign Liquor Rules and imposing Rs.2 lakhs as per Rule 19 (iv) of the Foreign Liquor Rules. The petitioner was aggrieved by the imposition of Rs.1 lakh as per Rule 19(iii) of the FL Rules on the ground that there is no reconstitution of partnership and the sanction was given only to transfer the license from his name into the name of the partnership firm represented by the petitioner. Hence he argued that the imposition of Rs.1 lakh is illegal and liable to be set aside.

4) As per letter read as 3<sup>rd</sup> paper above, the Excise Commissioner has reported that Sri. M.V Ganesh, the licensee of FL-II No. E-191, Hotel Kedaram submitted an application seeking prior sanction from the authorities to transfer the license of the hotel from his proprietorship into a partnership firm namely M/s Hotel Kedaram having the partners namely S/Sri.M.V. Ganesh (Partner), Antony Jose (Managing Partner) and Varkey Jose (Partner). Upon verification of the application and connected documents, it was noted that the licensee had already transferred the ownership of the hotel building and premises to the name of S/Sri. Antony Jose, Varkey Jose, K.V Jose and Minu Jose, of

which Sri. Antony Jose and Varkey Jose were the proposed partners of the firm in which the license was proposed to be transferred. Subsequently as per order read as 1<sup>st</sup> paper above, sanction was accorded to transfer the license of FL.11 No. E-191, Hotel Kedaram to the ownership of the partnership firm M/s Hotel Kedaram by realizing fee as per Rules 19 (i), (ii), &(iii) of Foreign Liquor Rules. Sanction was also accorded to change the name of licensee of the hotel, in the name of Sri. M.V Ganesh from the capacity of proprietor, Hotel Kedaram to the capacity of partner, M/s Hotel Kedaram by realizing fee as per Rule 19 (iv) of Foreign Liquor Rules.

5) Government have examined the matter in detail. Rule 19 of the Foreign Liquor Rules, 1953 is as follows:

19.(i) under no circumstances shall any license obtained under this notification be sold, transferred or sub rented without the previous sanction of the Excise Commissioner.

19(ii) Reconstitution of partnership by addition or deletion of members or reconstitution of Directors in a Company resulting in change of ownership which owns/manages or operates any license issued under this rule shall be deemed to be transfer of license. Addition of partner/director or the change of name of the licensee due to death of a partner/director/licensee shall also be deemed to be transfer of license.

19(iii) Reconstitution of partnership/Directors of a company may be allowed on payment of Rs. 1,00,000/- (Rupees one lakh only).

6) The fee as per Rule 19(iii) was levied for the purpose of Rule 19(i) and 19(ii). In this case, the the ownership of the FL.11 license was changed from proprietorship to the partnership firm, M/s Hotel Kedaram, and hence fee under Rule 19(iii) was levied by the Excise Commissioner for transferring the ownership of the FL- 11 license.

7) Imposition of Rs. 1 lakh as per Rule 19 (iii) of the Foreign Liquor Rules to transfer the license of FL.11 No. E-191, Hotel Kedaram to the ownership of the partnership firm M/s Hotel Kedaram Muvattupuzha, Ernakulam is in order as per the existing rules. The revision petition submitted by Sri.M.V.Ganesh, read as 2<sup>nd</sup> paper above is devoid of merits and hence disposed of by rejecting the same.

(By order of the Governor)  
PRAMOD M V  
JOINT SECRETARY

To:

- 1.The Excise Commissioner, Thiruvananthapuram.
- 2.S ri.M.V.Ganesh,licencee FL.11 No.E-191,Hotel Kedaram,  
Muvattupuzha,Ernakulam.
- 3.Web & New media.
- 4.Stock File/ Office Copy (A1/12/2024/Taxes).

Forwarded /By order

Section Officer