IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.17214 of 2015

M/s Imperial Spirits and Wine Private Ltd.,
No.15, Sundaram Brothers Layout
Trichy Road, Ramanathapuram
Coimbatore 641 045
rep.by its Director, T.K.Dhanashekar .. Petitioner

-vs-

1. The Commissioner of Commercial Taxes
Government of Tamil Nadu
Chepauk, Chennai 600 009

2. The Joint Commissioner of Commercial Taxes (CT)
Government of Tamil Nadu
Coimbatore

3. The Deputy Commissioner of Commercial Taxes (CT)
Government of Tamil Nadu
Trichy Road Circle
Balasundaram Road
Coimbatore 640 018

4. The Assistant Commissioner of Commercial Taxes (CT)
Government of Tamil Nadu
Trichy Road Circle
Balasundaram Road
Coimbatore 640 018 .. Respondents



Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned demand notice dated 12.06.2015 of the fourth respondent herein and quash the same and direct the fourth respondent to grant 10 installments to the petitioner for payment of the interest arrears.



For Petitioner :: Mr.AR.L.Sundaresan
Senior Counsel for
Mrs.AL.Ganthimathi

For Respondents :: Mr.Manoharan Sundaram
Addl.Government Pleader (Taxes)

ORDER

This writ petition has been filed by M/s Imperial Spirits and Wine Private Limited, Coimbatore seeking issuance of a writ of certiorarified mandamus, to call for the records relating to the impugned demand notice dated 12.06.2015 of the Assistant Commissioner of Commercial Taxes (CT), Trichy Road Circle, Coimbatore, the fourth respondent herein, quash the same with a direction to the fourth respondent to grant 10 installments to the petitioner for payment of the interest arrears.

2. The petitioner has been carrying on business in the manufacture and sale of Indian Made Foreign Liquor (IMFL). It is also duly licensed by the Government of Tamil Nadu for the manufacture and supply of IMFL products to the Tamil Nadu State Marketing Corporation Limited (TASMAC). While so, during the course of sale of the IMFL products to TASMAC, the petitioner has suffered a tax liability of Rs.590.05 crores. As against the said tax liability of Rs.590.05 crores, the petitioner had paid a sum of Rs.560.85 crores. However, the petitioner was unable to pay the remaining tax amount on account of the financial crunch that went beyond their control. Therefore, on a demand of Rs.25,77,03,167/- from the petitioner vide notice dated 2.5.2014 issued by the fourth respondent, after giving credit to various payments, a sum of Rs.25,25,40,568/- became due and payable to the Government towards tax liability. Hence the petitioner filed a representation seeking time for making payment of tax. However, when there was no useful response, the petitioner filed Writ Petition No.14030 of 2014 challenging the demand notice and also the notice of attachment issued by the fourth respondent, this Court, by order dated 28.5.2014, disposed of the same with a direction to the petitioner to pay a sum of Rs.5 crores within a period of six weeks and to pay the remaining arrears with interest in eight equal monthly installments, thereafter. Thereafter, the petitioner filed M.P.No.5 of 2014 in W.P.No.14030 of 2014 seeking a direction to the third respondent to permit the petitioner to pay the fourth installment and the remaining installment amounts as per the order dated 28.5.2014 by the end of the respective months commencing from 30.11.2014. This Court, by order dated 20.11.2014, making a slight modification in paragraph-6 of the order dated 28.5.2014, directed the petitioner to pay the remaining arrears amount with the applicable interest in equal installments on or before the 30th day of each month and the payment for November, 2014 was directed to be made on or before 30.11.2014 and for the subsequent months on or before 30th of the respective month till all the eight installments were paid. Subsequently, the petitioner sought for extension of time for payment of the last installment of Rs.2,53,17,571/- together with applicable interest thereon, which was payable on 31.3.2015 as per the order dated 20.11.2014, this Court, finding no serious objection, granted three weeks time and accordingly, the petitioner also paid the entire tax liability within the time. Thereafter, by the impugned notice

dated 12.6.2015, the fourth respondent has demanded a sum of Rs.68,00,000/- as the interest payable for the delayed payment within three days. Hence, the petitioner has filed the present writ petition seeking time to pay the said amount in ten installments.

3. Mr.AR.L.Sundaresan, learned senior counsel for the petitioner submitted that when the petitioner had paid the entire tax liability of Rs.590.05 crores as of now, only due to the financial crunch that went beyond their control due to various reasons, the petitioner is unable to clear the sum of Rs.68,00,000/- towards interest arrears as per the impugned notice. He has further submitted that if ten more equal installments is granted, the petitioner would be in a position to clear the said liability also. He has also submitted that whatever the products manufactured by the petitioner are being sold only to TASMAC, therefore, the respondents cannot have any grievance for paying the amount in installments.

4. The learned Additional Government Pleader for the respondents, heavily objecting to the said request, submitted that when the petitioner was given more than reasonable time, further extension of time cannot be considered.

5. This Court, finding that the petitioner has been manufacturing the Indian Made Foreign Liquor (IMFL) and selling the same only to the Tamil Nadu State Marketing Corporation Limited (TASMAC) and also further taking note of the fact that the petitioner had cleared the entire tax liability, except a sum of Rs.68,00,000/- as demanded in the impugned notice, instead of granting ten equal installments as prayed for by the petitioner, is inclined to grant four equated monthly installments to the petitioner to clear the above said liability. Accordingly, by setting aside the impugned notice, the petitioner is directed to pay the sum of Rs.68,00,000/- in four equal monthly installments, the first installment commencing from 17$^{th}$ of July, 2015 and the remaining three installments to be paid on or before the 17$^{th}$ of the succeeding calendar months. The writ petition stands disposed of accordingly. Consequently, M.P.No.1 of 2015 is closed. No costs.



Sd/-
Assistant Registrar



//True Copy//

Sub Assistant Registrar

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To

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   Chennai 600 009

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   Coimbatore

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   Balasundaram Road
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+1cc to M/s.A.L.Ganthimathi, Advocate, S.R.No.29711
+1cc to the Government Pleader, S.R.No.29698

RSI(CO)
EU(22/06/2015)

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