HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT PETITION No.49 of 2004

ORDER : (Per Justice R. Subhash Reddy)

In this writ petition, the petitioner has questioned the order dated 27.08.2003, passed by the 3rd respondent-Entertainment Tax Officer, Srikakulam in Proceedings Rc.No.309/2003-B5.

2. Petitioner is exhibiter of motion pictures and under the scheme of the Entertainment Tax Act, the petitioner is liable to pay entertainment tax on such pictures screened. Rule 20-A of the Rules framed under the Act empowers the authorities to collect interest on belated tax payments. The impugned order is passed in exercise of powers under Rule 20-A, charging penal interest at the rate of Rs.1.50 ps for every Rs.100/- per month and part thereof.

3. The impugned order is mainly questioned on the ground that for certain periods, petitioner could not run the theatre either on account of repairs or in view of the suspension of B-Form licence granted under the Cinematograph Act, 1952. It is submitted that when exemption was refused, revisions were filed before the Government and the same are pending. It is further submitted that when the respondents were taking steps to

recover the tax by adopting coercive methods under Revenue Recoveries Act, he approached this Court and this Court permitted him to pay arrears of tax in instalments, and after payment of such tax, a certificate is issued, discharging him from the liability of tax, and in that view of the matter, respondents cannot collect interest at this stage.

4. With regard to exemption claimed, it is a matter to be considered by the revisional authority in the revisions pending before the Government. In the absence of any interim orders in those revisions, on the premise that petitioner is entitled for exemption, we cannot invalidate the impugned order passed under Rule 20-A of the Rules, which empowers the authorities to charge interest on delayed payments. Even with regard to earlier orders passed by this Court, it is to be noticed that when this Court given facility for payment of arrears of tax in instalments, there is no order with regard to interest. As the tax is not paid within the stipulated time, in the absence of any direction to that effect in the earlier order passed by this Court, respondent-authorities are empowered to collect interest as per Rule 20-A of the Rules. In that view of the matter, we do not find any merit in this writ petition to interfere with the impugned order.

5. As it is stated that the petitioner has already paid 50% of the amount demanded under the impugned order,

in view of the interim orders of this Court, petitioner is permitted to pay the balance amount in two instalments of three months each. It is also made clear that if the petitioner succeeds in the revisions pending before the Government, it is open for him to move appropriate application for adjustment of the amount.

6. Subject to the above directions, the writ petition stands disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

A.SHANKAR NARAYANA, J

2nd March 2015
ajr