HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.17829 of 2004

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ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

This writ petition is filed by the petitioner questioning the Notice R.C.No.A3/30/2003, dated 20.09.2004, issued by the 3rd respondent-Commercial Tax Officer, Mandapeta, East Godavari District, demanding to pay an amount of Rs.49,22,622/- and penal interest @ 21.5% per annum amounting to Rs.22,17,120/-, as arbitrary and illegal.

2. The petitioner-Company has availed the benefits notified by the Government vide G.O.Ms.No.498, dated 16.10.1989, for promotion of Industries. The 1st respondent-Commissioner of Industries, Andhra Pradesh, Hyderabad, has granted sales tax exemption to the petitioner-Company in pursuance of the letter No.1001/04/0643/0279, dated 20.2.1995 and the petitioner was given Eligibility Certificate of sales tax deferment for an amount of Rs.70,51,540/-. On the ground that the petitioner-Company was closed for some time contrary to the conditions in the Eligibility Certificate and the policy, the 3rd respondent has issued the impugned Notice dated 20.09.2004, demanding to pay the entire deferment amount of Rs.49,22,622/- along with penal interest at 21.5% per annum amounting to Rs.22,17,120/-. Hence, the present writ petition.

3. When the matter came up for admission, this Court granted interim order dated 4.10.2004, staying the impugned proceedings

dated 20.9.2004.

4. Today, when the matter is called for hearing, it is submitted by the learned counsel for petitioner-Company that as per the Eligibility Certificate, the petitioner has repaid the entire deferred tax.

5. On instructions, the learned Standing Counsel for Commercial Taxes submits that the petitioner has paid the entire amount as per the demand, however, he claims that in view of the delay in making payment of deferred tax, the respondents are entitled for interest on such amount.

6. Whether the respondents are entitled for interest on deferred amount of tax or not is a matter to be considered independently. But, having regard to the fact that the entire amount of deferred tax as per the Eligibility Certificate has already been paid by the petitioner, we allow this writ petition setting aside the impugned notice dated 20.9.2004. However, it is left open to the respondents to recover interest on deferred tax after giving an opportunity of hearing to the petitioner-Company.

7. This writ petition is allowed as indicated above. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

21.04.2015.

Msr

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