IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.8876 & 8877 of 2009 &
M.P.Nos.1 & 1 of 2009

Maurya Motors, rep. by its
Partner, S.Gyanchand,
29, Dr.Nair Road, Chennai-600 017. ... Petitioner
in both W.Ps.

Vs.

The Commercial Tax Officer (FAC),
T.Nagar (East) Assessment Circle,,
46, Greenways Road,
Chennai-600 028. ... Respondent
in both W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records on the files of the respondent herein in TNGST 1561547/2002-03 & 2003-04 respectively, dated 29.01.2008 and quash the same.

For Petitioner : Mr.K.Narayanan
for Mr.N.Inbarajan

For Respondent : Mr.S.Kanmani Annamalai,
Special Government Pleader

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O R D E R

Heard Mr.K.Narayanan, learned counsel representing the learned counsel on record, Mr.N.Inbarajan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent.

2.The petitioner has filed these writ petitions challenging the demand of interest under Section 24(3) of the Tamil Nadu General Sales Tax Act, 1959 (in short “TNGST Act”) for the assessment years 2002-03 & 2003-04. The question is whether such demand can be made when there was no additional sales tax due and payable by the petitioner as on the date when the assessment was completed on 30.11.2005.

3.This issue has been answered by the Hon'ble Division Bench of this Court in the case of Kone Elevator India Pvt. Ltd., vs. Commercial Tax Officer reported in (2010) 27 VST 577 (Mad). The Court, after taking into consideration the language of Section 2(aaa) of the Tamil Nadu Additional Sales Tax Act, 1970, held that the interest is payable if any additional tax or penalty imposed by the assessing officer remains unpaid. The word used is "imposed by the assessing officer" and therefore, as per the assessment order, nothing remained unpaid on that date, so no additional tax was imposed by the assessing officer and therefore, it was held that no interest can be demanded. The above decision applies with full force to the case on hand, wherein also as per the assessment order dated 30.11.2005, nothing remained unpaid.

4.Thus, following the above decision of the Hon'ble Division Bench of this Court, this writ petition is allowed and the impugned order is quashed. No costs. Consequently, connected miscellaneous petition is closed.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

abr

To

The Commercial Tax Officer (FAC),
T.Nagar (East) Assessment Circle,,
46, Greenways Road, Chennai-600 028.

+1 cc special Government pleader SR.NO. 78368

+1 cc MR.N.INBARAJAN Advocate SR.NO. 78145
RD 27/11/2017