

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.8668 of 2006

& W.P.M.P.No.9627 of 2006

Tvl.Tirupur Sri Senthil Cotton Mills (P) Ltd.,
Rep. by its Managing Director
A.P.Velusami

.. Petitioner

Versus

1. The Commercial Tax Officer,
Tirupur Rural Assessment Circle,
Tirupur.

2. The Commercial Tax Officer,
UCO Bank, Tirupur.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the records on the files of the first respondent in TNGST No.2385068/2001-2002, dated 01.02.2006 and quash the same.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.S.Kanmani Annamalai, AGP

O R D E R

Heard Mr.R.Senniappan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents.

2. The petitioner who is a registered dealer on the file of the first respondent under the Tamil Nadu General Sales Tax Act, 1959, is aggrieved by the impugned order, insofar as it demands interest. Admittedly, the petitioner did not pay tax in time and therefore levy of interest is admittedly attracted.

3. Though in the impugned order, in more than two places, the term interest and penalty have been used, what is demanded from the petitioner is only interest in terms of Section 24

(3) of the TNGST Act. If there is any belated payment of tax, the interest under Section 24(3) of the Act is automatic. There is no discretion vested with the assessing officer to waive the levy of interest. The petitioner cannot rely upon the interim order granted by this Court at the time of entertaining Writ Petition granting permission for remitting the payment of tax in 12 instalments. It is only an interim order and the permission to remit the tax in installment cannot impact levy of interest under Section 24 (3). Therefore, the impugned demand is valid. Accordingly, the writ petition is dismissed. The Petitioner is granted three months time to remit the entire interest / penalty from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Commercial Tax Officer,
Tirupur Rural Assessment Circle,
Tirupur.
2. The Commercial Tax Officer,
UCO Bank, Tirupur.

+1cc to Mr.R.Senniyappan, Advocate, S.R.No.57658
+1cc to Special Government Pleader, S.R.No.57522

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GN(05/09/2017)