

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.12930 of 2004

and

W.P.M.P.No.15059 of 2004

M/s. Pon Palani Industries,
a registered Partnership
Firm, rep.by its Managing Partner
A.P.Selvaraj, at No.67.
Thukkapalaya Street,
Kumbakonam - 612 001.

...Petitioner

Vs.

The Commercial Tax Officer,
O/o. Commercial Tax Office,
Assessment Circle,
Kumbakonam.1.

...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records, pertaining to the impugned notice issued by the respondent, in his proceedings No.Roc/A3/5113/95. dated 06.04.2004 and quash the same.

For Petitioner : Mr.G.Sankaran

For Respondent : Mrs.S.Kanmani Annamalai,
Additional Government Pleader

ORDER

Heard Mr.G. Sankaran, the learned counsel appearing for the petitioner, and Mr.S. Kanmani Annamalai, the learned Additional Government Pleader for the respondent.

2. The petitioner has filed this Writ Petition, challenging the levy of penalty, under Section 24 (3) of the Tamil Nadu General Sales Tax Act, 1959 (TNGST Act).

3. It is admitted that the petitioner was in arrears of sales tax to the tune of Rs.4,12,000/-, and the amounts were remitted belatedly. The respondent raised a demand for penalty under Section 24 (3) of the TNGST Act. Though in the impugned order, the terminology 'penalty' has been used, what is levied

under sub-section 3 of Section 24 of the Act, is interest at the rate of 1.4% for the first three months and 2% per month thereafter, on the amount of tax remaining unpaid. Therefore, there is no discretion vested with the Assessing Officer to waive this interest, as it is the statutory requirement.

4. For the reasons stated hereinabove, the Writ Petition is dismissed. However, the petitioner is granted eight weeks time to remit the penalty demanded either in one lumpsum or in installments. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer,
O/o. Commercial Tax Office,
Assessment Circle,
Kumbakonam.1.

+1 CC to Mr.G. Sankaran, advocate sr 48294.

+1 CC to Spl.Govt. Pleader sr 48314.

Writ Petition No.12930 of 2004

SVI (CO)
sp(10/08/2017)

सत्यमेव जयते

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