THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.21601 of 2018

ORDER: (*Per* Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioner in this case is as under:

> " For the reasons stated in the accompanying affidavit, the petitioner prays that the Hon'ble Court may be pleased to issue an appropriate writ order or direction particularly in the nature of Writ of mandamus declaring the action on the part of the 3rd respondent holding the Petitioner as liable for interest @ 21.5% per annum from 01-06-2005 upto the date of repayment of Government loan installments made in terms of G.O.Ms.No.108 (I&C) Dept., dated 20-05-1996 in the impugned proceedings dated 19-05-2018 as illegal, arbitrary, improper, without authority of law and without jurisdiction as also issue of the second notice dated 25-01-2018 issued in defiance of the directions of the Honble Supreme Court in C.A. No.4756/2007 on 13-05-2015 and restrain the 3rd respondent from seeking to recover any amount of interest that may be calculated and demanded from the Petitioner in pursuance of the impugned order dated 19-05-2018 in RC No. GNT/07/2/1935 and grant such other relief or reliefs as are deemed fit and proper under the circumstances of the case."

2. Perusal of the impugned order dated 19.05.2018 reflects that the Commercial Tax Officer, Lalapet Circle, Guntur, concluded as under:

> "...Though they have paid the total amount of deferred sales tax availed as of now, they have not paid the deferred sales tax amount at a lumpsum, as required in the notice, dated 15.05.2007 for violation of agreement entered with the Government. They have not appeared for personal hearing even an adequate opportunity has been given and stated that the hearing would be only a repetition as they have already indicated their stance in detail through their communication.
>
> As the dealers have violated the terms of agreement entered with the Deputy Commissioner of Commercial Taxes, Guntur Division, Guntur, dated 05.07.2000, the deferred sales tax of amount of Rs.3,58,46,739-00 availed by them is hereby withdrawn from the date of stoppage of production ie. 01.06.2005.

Therefore,

Deferred tax due:	Rs.3,58,46,739-00
Deferred tax repaid:	Rs.3,58,46,739-00
Balance:	Rs. –Nil-

The dealers are liable for interest @21.5% per annum from 01.06.2005 up to the dates of payment made in terms of G.O.Ms.No.108 Industries & Commerce (IP) Department, Dated : 20.05.1996 and a demand notice for interest will be issued separately."

3. Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, State of A.P., was asked to ascertain as to how the Commercial Tax Officer had determined the liability of the petitioner company for payment of interest without due process.

4. Today, having received instructions, Sri Shaik Jeelani Basha, learned Special Standing Counsel, would inform this Court that though the aforesaid order dated 19.05.2018 reads to the contrary, the Commercial Tax Officer now proposes to issue a fresh show-cause notice to the petitioner company in relation to the interest that they propose to levy upon the deferred sales tax amount which was repaid.

5. In that view of the matter, as the liability of the petitioner company to pay interest is yet to be decided after following the due procedure, we see no ground to enter into the merits of the matter.

6. The writ petition is accordingly dismissed leaving it open to the authorities to follow the due procedure in the event they wish to levy interest upon the petitioner company in relation to the deferred

sales tax amount repaid by it. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

T.AMARNATH GOUD, J

Date: 28.06.2018
TJMR