IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.12.2020
CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 11908 to 11912 of 2015
and
M.P. Nos. 1, 1, 1, 1 and 1 of 2015
and
M.P. Nos. 2, 2, 2, 2 and 2 of 2015

Guruvayurappan Textiles (P) Limited,
Represented by its Director R.Gurusamy,
Gandhi Nagar,
Udumalpet. ... Petitioner in all W.P.s

-vs-

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Commercial Taxes Department,
Fort St George,
Chennai - 600 009.

2.The Joint Commissioner (CT),
Coimbatore Division,
Coimbatore.

3.The Assistant Commissioner (CT),
Udumalpet North Assessment Circle,
Udumalpet. ... Respondents in all W.P.s

Prayer in W.P. No. 11908 of 2015:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in G.O. Ms. No. 28 (D) dated 10.02.2003, Commercial Taxes Department and the consequential Proceedings of the Second Respondent in R.P. Nos. 11/15 dated 25.03.2015, quash the same and consequently forbear the Respondents from in any manner insisting or recovering the demand of the interest on the deferred payment of the Sales Tax amounting to Rs. 7,94,258/-.

Prayer in W.P. No. 11909 of 2015:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in G.O. Ms. No. 28 (D) dated 10.02.2003, Commercial Taxes Department and the consequential Proceedings of the Second Respondent in R.P. Nos. 12/15 dated 25.03.2015 quash the same and consequently forbear the Respondents from in any manner insisting or recovering the demand of the interest on the deferred payment of the Sales Tax amounting to Rs. 7,85,382/-.

Prayer in W.P. No. 11910 of 2015:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in G.O. Ms. No. 28 (D) dated 10.02.2003, Commercial Taxes Department and the consequential Proceedings of the Second Respondent in R.P. Nos. 13/15 dated 25.03.2015 quash the same and consequently forbear the Respondents from in any manner insisting or recovering the demand of the interest on the deferred payment of the Sales Tax amounting to Rs. 7,55,316/-.

Prayer in W.P. No. 11911 of 2015:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in G.O. Ms. No. 28 (D) dated 10.02.2003, Commercial Taxes Department and the consequential Proceedings of the Second Respondent in R.P. Nos. 14/15 dated 25.03.2015 quash the same and consequently forbear the Respondents from in any manner insisting or recovering the demand of the interest on the deferred payment of the Sales Tax amounting to Rs. 7,58,713/-.

Prayer in W.P. No. 11912 of 2015:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in G.O. Ms. No. 28 (D) dated 10.02.2003, Commercial Taxes Department and the consequential Proceedings of the Second Respondent in R.P. Nos. 15/15 dated 25.03.2015 quash the same and consequently forbear the Respondents from in any manner insisting or recovering the demand of the interest on the deferred payment of the Sales Tax amounting to Rs. 7,59,375/-.

For Petitioner : Mr. P.Srinivas (in all WPs)

For Respondents: Mr. A.N.R.Jayaprathap
Government Advocate (Taxes) (in all WPs)

C O M M O N O R D E R
(through video conference)

Heard Mr. P.Srinivas, Learned Counsel for the Petitioner and Mr. A.N.R.Jayaprathap, Learned Government Advocate (Taxes) appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petitions challenge the Governmental Order in G.O. (D) No. 28, Commercial Taxes (F1) Department dated 10.02.2003 issued by the First Respondent and the consequential proceedings which culminated in the common order dated 25.03.2015 in R.P. Nos. 11 to 15 of 2015 passed by

the Second Respondent and to forbear the Respondents from insisting or recovering the interest on the deferred payment of the Sales Tax as per the particulars shown below:-

S. No.	Year	Amount
(i)	1998-1999	Rs. 7,94,258/-
(ii)	1999-2000	Rs. 7,85,382/-
(iii)	2000-2001	Rs. 7,55,316/-
(iv)	2001-2002	Rs. 7,58,713/-
(v)	2002-2003	Rs. 7,59,375/-

It is borne out from the materials placed on record that in furtherance to G.O. (D) No. 28, Commercial Taxes (F1) Department dated 10.02.2003 issued by the First Respondent, the Petitioner had agitated the claim for levy of interest for delayed payment under the deferral scheme in various legal proceedings as noticed from order dated 24.03.2007 in W.P. No. 37671 of 2005, order dated 13.12.2010 in W.P. No. 28274 of 2010 and common order dated 04.12.2014 in W.P. Nos. 31837 to 31841 of 2014 passed by this Court, which has ultimately culminated in the common order dated 25.03.2015 in R.P. Nos. 11 to 15 of 2015 passed by the Second Respondent rejecting the claim made for waiver of such interest. On a perusal of the said proceedings, it could be seen that the contention raised by the Petitioner for waiver of interest has been examined by various authorities, who have consistently arrived at the conclusion that in terms of Section 24(3) of the Tamil Nadu General Sales Tax Act, 1959, and it would not be possible to accept the claim of the Petitioner for waiver of interest for delayed payment under the deferral scheme. Having regard to the cogent reasons assigned for refusing such waiver of interest to the Petitioner by the Respondents in the various proceedings and in the absence of any infirmity shown in the decision-making process warranting interference by this Court in the exercise of discretionary powers under Article 226 of the Constitution, it is not possible to countenance the challenge made to the impugned proceedings in these Writ Petitions.

3. It is represented by the Learned Counsel for the Petitioner at this stage that in view of the COVID pandemic and resultant lockdown, the Petitioner is in financial difficulties and may be permitted to pay the aggregate amount now remaining due in six equal monthly installments and it is further represented that the title-deed of the property of the Petitioner registered as Document No. 1063 of 1994 on the file of the Sub-Registrar Office, Gomangalam, which had been handed over by the Petitioner as security for the said payment to the Third Respondent, may be returned. He has also filed a memo dated 01.12.2020 to that effect through e-mail, which is placed on record.

4. It is confirmed by the Learned Government Advocate appearing for the Respondents in the memo dated 01.12.2020 that the Petitioner has furnished the title-deed of its property registered as Document No. 1063 of 1994 on the file of the Sub-Registrar Office, Gomangalam as security for the amount remaining due to the Third Respondent, which would be returned to him as soon as the entire amount of arrears are fully remitted.

5. Having regard to the aforesaid submissions made by the Learned Counsel for both sides, the following orders are passed:-

(i) The impugned order in G.O. (D) No. 28, Commercial Taxes (F1) Department dated 10.02.2003 issued by the First Respondent and the consequential proceedings culminating in the common order dated 25.03.2015 in R.P. Nos. 11 to 15 of 2015 passed by the Second Respondent are confirmed;

(ii) The Petitioner is permitted to pay the aggregate amount due in terms of the common order dated 25.03.2015 in R.P. Nos. 11 to 15 of 2015 passed by the Second Respondent in six equal monthly installments commencing from January 2021;

(iii) As and when the Petitioner fully remits the entire amount due in terms of the common order dated 25.03.2015 in R.P. Nos. 11 to 15 of 2015 passed by the Second Respondent, the title-deed of the property of the Petitioner registered as Document No. 1063 of 1994 on the file of the Sub-Registrar Office, Gomangalam, which has been handed over by the Petitioner as security for the payment of amount remaining due to the Third Respondent, shall be returned to the Petitioner under written acknowledgment; and

(iv) In the event of failure of the Petitioner to pay any of the installments before the last day of the respective months for which it is due, the Respondents shall be entitled to recover the entire remaining amount due in the manner recognized by law.

In the result, the Writ Petitions are disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

vjt

To

1.The Secretary to the Government of Tamil Nadu,
Commercial Taxes Department,
Fort St George,
Chennai - 600 009.

2.The Joint Commissioner (CT),
Coimbatore Division,
Coimbatore.

3.The Assistant Commissioner (CT),
Udumalpet North Assessment Circle,
Udumalpet.

+1 cc to Government Pleader Sr.No. 41882

W.P. Nos. 11908 to 11912 of 2015

A.SK(28.12.2020)