IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2020

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Writ Petition Nos.23862 & 23863 of 2012
& M.P.Nos.1 and 1 of 2012

Sri Senthil Andavar Cotton Mills,
Dharapuram Road, Udumalpet,
Represented by its Managing Director,
V.Ramakrishnan,
36 Dharapuram Road, Udumalpet 642 126
Tiruppur District ... Petitioner in both W.Ps.

..vs..

The Assistant Commissioner, Commercial Taxes,
Udumalpet (North),
Tiruppur District ... Respondent in both W.Ps.

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in TNGST-2481082/2001-02; and 2002-03 (both) dated 31.03.2011 and to quash the same.

For Petitioner (in both W.Ps.): Mr. P.Srinivas
For Respondent (in both W.Ps.): Mr. A.N.R.Prathap,
Govt. Advocate (Taxes)

C O M M O N O R D E R

The levy of interest under Section 24 (3) of the erstwhile TNGST Act (now TNVAT Act) at Rs.1,70,950/- and 4,56,296/- for the incorrect availment of deferral for the assessment years 2001-02 and 2002-03, by separate orders of the respondent, dated 31.03.2011 are challenged in these writ petitions.

2. According to the petitioner, they are the dealer registered originally under the Tamil Nadu General Sales Tax Act as well as Central Sales Tax Act and subsequently under the Tamil Nadu Value Added Tax Act. As per the scheme of the State Government, the sales tax payable by industries that are

undertaking expansion were to be given the benefit of an interstate free deferral scheme for a period of five years. Accordingly, an agreement was executed for the purpose of implementation of the said deferral scheme. While so, a notice was issued to the petitioner inviting objections stating that the petitioner is not eligible to avail deferral for the period from April 2002 to June 2002. The petitioner vide letter dated 22.12.2006 stated that there is no specific condition as alleged by the respondent and the only stipulation to claim the benefit of deferral of sales tax is that the base volume and base sale value have to be reached in that year and they have crossed the base production volume and sale value and requested to drop the proposal of levying interest under Section 24 (3) of the TNGST Act. The reply was examined and found to be not acceptable, since as per Eligibility Certificate, the petitioner has reached the base production and base sale value during July 2002 only, but has availed deferral from April 2002 onwards. Hence the impugned orders came to be passed. Challenging the same, these writ petitions have been filed by the petitioner.

3. The learned counsel appearing for the petitioner, in both the writ petitions, is not in a position to point out the actual production value for the respective assessment years, so as to claim that the levy of interest on the petitioner is against the deferral scheme.

4. On the other hand, the learned Government Advocate (Taxes) for the sole respondent vehemently opposed the claim made in the writ petitions pointing out that the Assessing Authority / respondent had given adequate reasons for levying such interest.

5. This Court has considered the said submissions made by the learned counsel for both sides and perused the materials available on record.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel for both sides, this Court, in order to give an opportunity, by treating the impugned orders as show cause notices, directs the petitioner to submit the required documents to correlate the production figure before the authority / respondent, within a period of four weeks from the date of receipt of a copy of this order. The respondent shall consider the same and pass appropriate orders afresh, within a period of four weeks from the date of submission of the required documents by the petitioner.

7. With the above directions, these writ petitions are disposed of. No costs. Consequently the connected MPs are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srk

To

1. The Assistant Commissioner, Commercial Taxes,
   Udumalpet (North), Tiruppur District

+1cc to Special Government Pleader (Taxes), Sr.No.21790

W.P.Nos.23862 & 23863 of 2012
& M.P.Nos.1 & 1 of 2012

AK(CO)
Jas/29/05/2020