

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|               |            |
|---------------|------------|
| Reserved On   | 04.02.2020 |
| Pronounced On | 06.02.2020 |

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.34208 of 2014

and

M.P.No.1 of 2014 & W.M.P.No.23492 of 2019

Metafilms India Limited,  
rep. by its Director,  
G.N.T. Road, Thatchur-kottur Road,  
Chinnambedu Post, Kavaraipet,  
Tiruvallur District. .... Petitioner

vs

1.The Assistant Commissioner (CT) (Addl.),  
Amaindakarai Assessment Circle,  
Kuralagam Annexe,  
Chennai - 600 108.

2.The Assistant Commissioner (CT),  
Ponneri Assessment Circle,  
Ponneri.

3.The State of Tamil Nadu,  
Represented by its Secretary,  
CT & R Department,  
Fort St. George,  
Chennai - 600 009.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the third respondent herein in Letter No.10074/F1/2014-1 dated 03.11.2014 and quash the same and direct the third respondent herein to consider the request for waiver of interest on the Interest Free Sales Tax Deferral Amount availed by the petitioner under the TNGST Act, 1959 as provided under Section 17-A(2) of the TNGST Act, 1959 afresh for the waiver of interest.

For Petitioner : M/s.G.Thilagavathi, Senior Counsel  
for Mr.R.Gopinath

For Respondents: Mr.A.N.R.Jayaprathap  
Standing Counsel.

## O R D E R

This case was reserved for passing orders on 24.01.2020. After hearing Mrs.Thilavathy, learned counsel for the petitioner and Mr.R.Swarnavel, learned Government Advocate (Tax) for respondents. However, a request was made on behalf of the petitioner on 03.02.2020 to make further submissions in this case. Therefore, this case was again listed on 04.04.2020.

2. The case heard once again in presence of Mrs. Thilagavathy, the learned Senior Counsel for the petitioner and Mr.A.N.R.Jayaprathap, the learned Standing Counsel for the respondents. The case was thereafter reserved for passing orders on 04.02.2020.

3. In this writ petition the petitioner has challenged the impugned letter dated 03.11.2004 bearing reference Letter No.10074/F1/2014-1 of the 3<sup>rd</sup> respondent and for consequential direction to consider the request of the petitioner for waiver of interest on the Interest Free Sales Tax Deferral Amount as provided under Section 17-A (2) of the Tamil Nadu General Sales Tax Act, 1959.

4. The short point that arises for consideration in the present Writ Petition is whether in the facts and circumstances of the case the petitioner is entitled for waiver from payment of interest over and above the waiver of interest already availed and allowed statutorily under an agreement signed under Section 17-A (2) of the Tamil Nadu General Sales Tax Act, 1959 on the ground that the petitioner became a sick industrial unit within the meaning of the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 by the time when it was required to discharge the tax liability under the agreement?

5. The petitioner was sanctioned an Interest Free Sales Tax (IFST) Deferral amount by the Government of Tamil Nadu for a sum of Rs.517.5 lakhs. The petitioner signed an IFST Deferral Agreement dated 08.09.2000 with SIPCOT the competent authority designated for the aforesaid purpose. Copy of the Interest Free Sale Tax (IFST) Deferral Agreement is not before this Court.

6. It is submitted that as per the agreement, the deferral period was effective from 01.06.1998 and was to end on 20.05.2003. The petitioner availed Interest Free Sales Tax (IFST) for a sum of Rs.74,63,827/-. The petitioner was required to start the repayment of the aforesaid tax Rs.74,63,827/- from the year 2003-04 and pay upto 2007-08.

7. However, before the petitioner did not repay the amount under the aforesaid IFST Deferral Agreement dated 08.09.2000 as it the petitioner became a "Sick Company" on 31.03.2002 within the meaning of Sick Industrial Companies (Special Provisions)

Act, 1985 and its affairs were referred to the Board for Industrial and Financial Reconstruction (BIFR) vide Case No.358 of 2003

8. It is submitted that after the petitioner company registered a positive growth, the Board for Industrial and Financial Reconstruction (BIFR) de-registered the petitioner on 05.12.2013 giving liberties to the creditors to recover the dues from the petitioner.

9. Under these circumstances, revenue recovery proceedings were also initiated against the petitioner under Section 25 of the Tamil Nadu General Sales Tax Act, 1959 and Form 4 was issued by the respondent on 20.03.2013.

10. Under these circumstances, the petitioner sent a representation dated 05.08.2014 to the 3<sup>rd</sup> respondent Principal Secretary to Government of Tamil Nadu and requested for waiver of interest for the period in default.

11. By the impugned communication dated 03.11.2014, the 3<sup>rd</sup> respondent represented by its Principal Secretary to Department of Industries informed the petitioner that the recovery proceedings were being initiated pursuant to the de-registration of the petitioner from the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 by the Board for Industrial and Financial Reconstruction and therefore, the request of the petitioner for further extension of time to settle the tax due and interest was not feasible for compliance.

12. Pursuant to the aforesaid communication a Distraint Order dated 20.11.2014 in RC No.137/14/A3 was issued to attach the land and property of the petitioner company demanding an amount of Rs.74,51,160/- and interest thereon at 24% amounting to Rs.70,98,256/- totaling to a sum of Rs. 1,45,49,116/- as on 20.11.2014. It is under these circumstances, the present Writ Petition was filed by the petitioner.

13. At the time of admission of the writ petition, by an order dated 22.12.2014, this court had directed the petitioner to pay the principal tax amount of Rs.74,51,160/- either in one lumpsum or in installment on or before 30.4.2015 and subject to such compliance further recovery proceedings were stayed.

14. However, it appears the petitioner failed to comply with the order in time, though the petitioner claims to have remitted an amount of Rs.74,51,160/- on **\*27.04.2015 as admitted in the paragraph 10 of the Counter affidavit filed by the 1<sup>st</sup> Respondent.**

15. Thereafter, by an order dated 07.01.2016 and 16.02.2016, the petitioner was directed to deposit the balance amount as well. It appears, an undertaking was also given by the petitioner that it was willing to deposit entire amount of Rs.2,21,95,701/- by way of fixed deposit in the name of the 1<sup>st</sup> respondent till the disposal of the petition. This undertaking was recorded in the order passed on 16.02.2016.

16. However, neither the said undertaking was complied by the petitioner nor the respondents have taken further recovery proceedings perhaps due to the pendency of the present writ petition.

17. Be that as it may, I shall now deal with the merits and demerits of case for final disposal of the present writ petition.

18. In the present writ petition, it is the contention of the petitioner that there has been no assessment of the tax liability and therefore the petitioner was not liable to pay tax on the deferred amount. In this connection it is submitted that liability to pay tax and interest thereon would arise only if there was regular assessment for the respective assessment years between 1998-99 and 2002-2003.

19. It is further submitted that by the time the liability arose to repay the tax under the IFST Deferral Agreement, the petitioner became a sick company on 31.3.2002 and therefore petitioner could not repay the deferral tax.

20. It is submitted that the petitioner cannot be saddled with interest liability for it was a sick company within the meaning of Sick Industrial Companies (Special Provisions) Act, 1985 during the said period till 05.03.2013. It is submitted that when the petitioner was a sick company, the respondents could neither demand tax nor charge interest from the Petitioner.

21. It is further submitted that the petitioner was de-registered by the Board for Financial Industrial Reconstruction (BIFR) only on 05.12.2013 and therefore in terms of G.O.M.S.No.99, dated 04.04.1994 the petitioner was entitled for an additional relaxation for a period of three years period for repayment of the tax and in this case the petitioner has in any event deposited the principal amount on 27.04.2015 and therefore it cannot be held liable to interest.

22. It is submitted that as per Section 17-A (2) of the Tamil Nadu General Sales Tax Act, 1959, during the deferral period no interest is payable under Section 24(3) of the said Act by the petitioner. It is further submitted that if benefit of G.O.Ms.No.99 dated 04.04.1994 is extended, no interest can be demanded from the petitioner.

23. It is further submitted that since there was no assessment of tax liability, neither a liability to pay deferral

tax nor interest would arise pending assessment order being passed. It is therefore submitted that the petitioner cannot be saddled with interest liability under the provisions of the Tamil Nadu General Sales Tax Act, 1959.

24. It is submitted that there was a protection available to the petitioner under provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 and the provisions of the said Act prevailed over the tax liability and the interest liability under the provisions of the Tamil Nadu General Sales Tax Act, 1959.

25. In this connection, reference was made to the decision of the Hon'ble Supreme Court in TATA Davy Ltd Vs. State of Orissa, (1997) SCC 669.

26. The learned Senior Counsel for the petitioner also referred to the decision of the Hon'ble Supreme Court rendered in Gram Panchayat and Another Vs. Shree Vallabh Glass works Ltd, (1990) 2 SCC 440, wherein it was held that during the pending of the proceedings under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985, recovery of dues stands suspended and for computation of the period of limitation for recovering the dues also stood excluded during the BIFR proceeding.

27. A reference was also made to the decision of the Hon'ble Supreme Court in K.S.L and Industries Ltd. Vs. Arihand Threads and Others, (2015) 15 SCC 166, to the effect that the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 will prevail over the provision of the Tamil Nadu General Sales Tax Act, 1959.

28. The learned Senior Counsel for the petitioner also referred to the decision of the Hon'ble Supreme Court in E.I.D. Parry (India) Ltd. Vs. Asst. Commissioner of Commercial Taxes, Chennai, (2005) 4 SCC 779 and the decision of this Court in Sri Krishna Smelters Ltd. Vs. The Joint Commissioner (CT) and Another, in W.P.Nos.23956 to 23958 of 2017, passed on 06.09.2017.

29. The learned Senior Counsel for the petitioner further submits that penal interest can be charged only from the date repayment became due and after cancellation of the deferral agreement and in this case till date the deferral agreement had not been cancelled.

30. Countering the arguments it is submitted that the submission of the petitioner that no interest can be demanded as no assessment order was passed was incorrect. It is submitted that during the pendency of the proceedings under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 only coercive measures were suspended and limitation for initiating proceedings were suspended.

31. However, the liability to pay interest continued. It is submitted that the principal tax liability of Rs.74,51,160/-is based on the monthly sales tax returns filed by the petitioner under Section 12 of the Tamil Nadu General Sales Tax Act, 1959 read with the provisions of the Tamil Nadu General Sales Tax Rules, 1959. It is submitted that the provisions of the Tamil Nadu General Sales Tax Act, 1959 contemplates self-assessment and the amount of Rs.74,51,160 was based on the returns filed by the petitioner.

32. It was submitted that in addition to tax assessed under sub section (1) or (2) to Section 12, an assessing officer may by separate order direct an assessee to pay penalty also. It is further submitted that under Section 17-A of the Tamil Nadu General Sales Tax Act, 1959, there is a special dispensation for deferral of tax liability in the form of an Interest Free Sales Tax Deferral Loan to an assessee and if the registered dealer fails to comply or breaches with the requirements of the interest Free Sales Tax Deferral Loan Agreement, the respondents were entitled to recover the due as if there was no Interest Free Sales Tax Deferral Loan given to the petitioner.

33. It is submitted that the respondents could not initiate proceedings after the deferral period got over since the petitioner became a sick company in terms of the Sick Industrial Companies (Special Provisions) Act, 1985. After the petitioner was deregistered, respondents have legitimately initiated recovery proceedings.

34. Since the petitioner failed to discharge tax liability from the due date, the respondents have demanded tax and interest for the entire periods as if there was no IFST Deferral given to the petitioner.

35. I have considered the arguments advanced by the learned Senior Counsel for the petitioner and the learned Government Advocate for the respondents. I have also perused the records of the case.

36. Interest Free Sale TCA Deferral Scheme is a special scheme prescribed under Section 17-A of the Tamil Nadu General Sales Tax Act, 1959. Under the said provision, the Government may, by a notification defer the payment of the whole or any part of the tax payable in respect of any period of any new industrial unit or sick unit or sick textile mill. Interest Free Deferral of Sales Tax may be given prospectively or retrospectively. It is however to subject to such conditions as may prescribed which are incorporated in the Deferral Agreement.

37. As per sub-section 2 to Section 17-A of the Tamil Nadu General Sales Tax Act, 1959, no interest is attracted under Section 24(3) of the Act during the deferral period, provided the condition laid down for payment of tax deferred are satisfied. Section 17A (2) of the Act is reproduced below:-

Sec.17-A(2)

Notwithstanding anything contained in this Act, the deferred payment of tax under sub-section (1) or sub-section (1-A) shall not attract interest under sub-section (3) of section 24 provided the conditions laid down for payment of the tax deferred are satisfied.

38. A plain reading of Section 17A(2) of Tamil Nadu General Sales Tax Act, 1959 would indicate that petitioner is not entitled to waiver of interest even for the period during the deferral period as the petitioner breached the condition of the deferral agreement by not paying the tax in time as agreed.

39. In this case, admittedly, the petitioner has not satisfied the condition for payment for deferred payment of tax and therefore interest is payable by the petitioner after the specified date. Section 24(3) of the Tamil Nadu General Sales Tax Act, 1959 reads as under:-

Section 24-(3):

On any amount remaining unpaid after the date specified for its payment as referred to in sub-section (1) or in the order permitting payment in instalments, the dealer or person shall pay, in addition to the amount due, \* [interest at one and half per cent per month of such amount for the first three months of default and two per cent per month of such amount for the subsequent period of default]:

Provided that if the amount remaining unpaid is less than one hundred rupees and the period of default is not more than a month, no interest shall be paid:

Provided further that where a dealer or person has preferred an appeal or revision against 1 [any order of assessment or revision of assessment under this Act], the interest payable under this sub-section, in respect of the amount in dispute in the appeal or revision, shall be postponed till the disposal

of the appeal or revision, as the case may be, and shall be calculated on the amount that becomes due in accordance with the final order passed on the appeal or revision 2 [as if such amount had been specified in the order of assessment or revision of assessment, as the case maybe].

40. Under Section 24(3) of the Tamil Nadu General Sales Tax Act, 1959, a dealer is required to pay interest at one and half percent per month of each month for 3 months of default and 2% per month of such among for the subsequent period of default. Even where a dealer who files to pay tax is liable to pay interest at 2% of the tax payable for every month or part thereof after the expiry of the period specified for its payment.

41. Under Section 24(3) of the Tamil Nadu General Sales Tax Act, 1959 interest is attracted if the amount remains unpaid after the specified date for its payment under sub-section (1) or any order permitting payment in installment remains unpaid.

42. To allow any other interpretation would amount to rewriting the mandate of Section 17 (2) of the Tamil Nadu General Sales Tax Act, 1959 and the express terms of the deferral agreement which is not intended. In my view, no other interpretation is permissible.

43. The submission of the petitioner that the petitioner should be entitled for further waiver of interest because it became a sick company within the meaning of the Sick Industrial Companies (Special Provisions) Act, 1985 is without any basis.

44. Any concession or modification of the terms of the deferral agreement if any, should have been worked out by the petitioner before the Board for Industrial and Financial Reconstruction (BIFR) where the respondents were also a party.

45. As per the scheme under section 17-A, if there is a failure on the part of a dealer to observe the conditions of the deferral, interest is payable.

46. If a registered dealer fails to observe the conditions of payment of deferred tax, such registered dealer would be liable to pay tax from the date of the default as if there was no deferral agreement signed by the petitioner under Section 17-A of the Tamil Nadu Gen Sales Tax Act, 1959. Therefore, consequences that arising out of such failure, would be attracted. Since the petitioner had breached with the terms and conditions of the deferral agreement, the respondents were justified in demanding deferral amount of tax and interest thereon under section 24 (3) of the Tamil Nadu Gen Sales Tax

Act, 1959. However, copy of the Agreement is available for my perusal. Therefore, I am refraining to make any observation in this regard and leave it open to the respondent to determine the liability. The petitioner is bound by the terms of agreement.

47. Therefore, the argument of the petitioner that because there was no assessment of the returns filed by the petitioner and therefore the petitioner was not liable to pay tax cannot be countenanced.

48. The contention of the petitioner that in absence of assessment order the petitioner was not liable to pay tax even after the deferral period cannot be accepted.

49. There is no basis on which the interest liability can be waived. The interest liability which could be waived by the respondent would have been only in terms of 17-A (2) of the Tamil Nadu General Sales Tax Act, 1959 read with the Agreement. Thus at best the tax liability can be deferred. There is no power vested with the respondent to waive interest payable under Section 24(3) of the Tamil Nadu General Sales Tax Act, 1959.

50. As per section 13 (1) of the Act, a registered dealer was required to pay tax for each year in advance during the year in monthly or other prescribed instalment and for this purpose a dealer may be required to furnish within the such period as may be prescribed.

51. Under sub-section (2) to section 13, a dealer may at his option pay tax in advance during the year on the basis of his actual turnover for each month or for such period as may be prescribed. For this purpose, such dealers required to furnish a return showing actual turnover for each month or other as may be prescribed and pay tax on the basis of such returns. Thus, tax under this Section due without any notice of demand to the dealer on the date of receipt of the return or on the last date as may be prescribed whichever is later.

52. Advance tax to be paid under section 13(2) is on the basis of actual turnover for each month and shall be paid without a notice of demand and in default of such payment the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay tax or interest under the Act. In default, the property of the person or persons liable to pay tax or interest will be a charge in the name of the commercial tax department.

53. Only when the assessing officer comes to a conclusion that the tax determined and payable by a dealer was less or the return was incomplete or where no returns were filed, a notice under section 13(2) of the Tamil Nadu Gen Sales Tax Act, 1959 is required to be issued to a registered dealer. Thus liability to pay is tax mandatory as long as same is reflected in the returns.

54. If no returns was filed by a dealer, or if the returns submitted by the dealer appears to be incomplete or incorrect, the assessing officer may, after making such enquiry determine the tax payable by such dealer based on his best judgment. If there is failure, a dealer is not only liable to pay tax but also interest under Section 24 of the Tamil Nadu General Sales Tax Act, 1959.

55. Assessment is thus based on the returns filed by a dealer which is required to be submitted in the prescribed manner with the prescribed. As per Rule 18(2) of the Tamil Nadu Gen Sales Tax Rules, 1959, a register dealer required to submit a return in Form A-1 showing the taxable turnover for each month of the amounts actually collected by way of tax or taxes during that month.

56. Return for each month in respect of the dealer whose taxable turnover in the preceding year was Rs.200 crore and above was to be submitted so as to reach the assessing officer on or before the 12<sup>th</sup> of the succeeding month and in respect of other dealers, the return for each month was to reach the assessing officer on a before the 20<sup>th</sup> of the succeeding month.

57. Under normal circumstances, along with the return, the dealer was required to submit proof of payment as specified in sub- rule (1) of rule 55 for the full amount of tax or taxes payable under any of the section's specified in rule 18 of the aforesaid rules.

58. An assessing officer may provisionally determine the amount of tax payable in advance during any year or in respect of any period and on such determination and intimation to the dealer, the dealer has to pay such tax in such installment and within such period as may be prescribed.

59. Thus, for payment of tax, no assessment order is required and only in case of short payment of tax assessment is required after due notice.

60. Thus, but for the deferral in payment of the tax under Section 17A of the Act, the petitioner would have been liable to pay tax irrespective of the assessment of tax liability as per Section 13 of the Act. Liability to pay tax is not dependent on the assessment order. Only in case of short payment such notice and assessment is required. Further, an assessment order merely completes the assessment and nothing more. If there is a deficit in payment of tax, a dealer can be asked to pay tax. If not assessment order will accept the tax paid and shown the sales tax return.

61. The decision of the Hon'ble Supreme Court in E.I.D. Parry (India) Ltd. Vs. Asst. Commissioner of Commercial Taxes, Chennai, (2005) 4 SCC 779, in my view is not applicable to the facts and circumstances of the present case.

62. There, the Supreme Court held that default arising on non-payment of tax on an admitted liability in the case of self-assessment falls under Section 24(3) read with Rule 18(3) which attracts automatic levy of interest whereas the default in filing incomplete and incorrect return falls under Rule 18(4) which attracts best-judgment assessment in which the levy of interest is based on the adjudication by the assessing officer. The Honourable Supreme Court further held that, Rule 18(3) and Rule 18(4) operate in different spheres.

63. In Krishna Smelters Ltd. V. Joint Commissioner (2017) SCC Online Mad 24310, this Court referred to the decision of the Division Bench of this Court in Amutha Mills Private Limited Vs. Assistant Commissioner (CT), and two others, in W.A.No.1482 of 2006, dated 06.12.2006 wherein it has been held as follows:-

".....2. The learned counsel appearing for the appellant/petitioner submitted that as per the terms of the deferral agreement, in the event of default in the repayment of the IFST deferral loan, the loan can be recoverable along with the interest at 24% per annum calculated from the due date for repayment of loan. Therefore, the penal interest, if any,

should be calculated only from the due date for repayment of the loan and not from the date on which the IFST deferral loan was availed. He submitted that the issue has already been settled by the Tamil Nadu Taxation Special Tribunal in O.P.Nos.65 to 68 of 1998. The decision of the Special Tribunal has been accepted by the Commercial Taxes Department. However, a This position is not disputed by the learned Special Government Pleader but he submitted that since the appellant/petitioner stopped the production in 2002, they are liable to pay the penal interest from November, 2002 in terms of circular of the Commercial Taxes and Religious Endowments Department dated 18.03.1994. perusal of the said circular shows that this was only in the form of recommendation and this terms has not been specifically incorporated in the agreement. In the circumstances, we are of the view that the appellant/petitioner shall be liable to pay penal interest only with effect from June, 2003. This writ petition is disposed of accordingly..."

7.The order made in W.A.No.1482 of 2006 dated 06.12.2006 still governs the field. Following the said order, subsequently, W.P.No.19060 of 2009 came to be allowed on 01.12.2010. Therefore, the order impugned in these writ petitions stand set aside and the Department is directed to collect the penal interest only from the date on which the agreement was cancelled and not from the date of returns filed by the petitioner firm.

In the result, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed. "

64. Having agreed to be bound by the deferral agreement signed with SIPCOT therefore, the petitioner is governed by the consequences prescribed therein for breaching of the conditions of the deferral agreement.

65. The fact that the petitioner was within the purview of Board for Industrial and Financial Reconstruction and was

declared as sick unit by the on 31.5.2006 and was de-registered on 05.12.2013 is of no avail.

66. G.O.Ms.No.1076 Industries (MIGI) dated 04.10.1988, deferred the payment of Sales Tax for three years from the date of actual revival of the unit or the date from which Board for Industrial and Financial Reconstruction declared the unit as sick, whichever is later.

67. As per G.O.Ms.No191 Industries (MIGI) dated 20.05.1992, the Government extended deferment in deserving cases of the payment of sales tax upto a period of five years from the date of commencement of rehabilitation of the unit or the date from which the Board for Industrial and Financial Reconstruction declares the unit as sick, whichever is later, after examining each case on merits and also after taking into consideration the factors like power consumption employment, etc.

68. In respect of defunct industrial units which were not under the purview of Board for Industrial and Financial Reconstruction, the SIPCOT Vide letter dated 13.4.1993 of the Chairman & Managing Director, SIPCOT LtLtr.No.ID/ST/BVVPIPL/93 has extended rehabilitation measures under RSR Scheme of Industrial Development Bank of India or initiate action under S.F.C Act and to bring about a change in the management or to dispose the assets when the existing promoters are not in a position to run the unit effectively and will pay the dues to the financial institution.

69. G.O.Ms.No.99 dated 04.04.1994 was earlier issued to take care of those units which were outside the purview of BIFR proceedings.

70. These government orders merely permit the postponement of tax liability in the case of sick units. The petitioner claims to have purportedly paid the tax on 27.4.2015.

71. In my view, though the petitioner had breached the terms of the agreement, considering the peculiar facts and circumstances of the case that it became a sick company while it was coming out of the deferral period, at best it may have entitled for further deferment of tax liability as per G.O.Ms. No. 1076 (MIGI) dated 4.10.1988. However, there is no legal basis for the petitioner to claim a complete or partial waiver

from payment of interest as a matter of right based on the materials which were presented for consideration of this Court.

72. Both the petitioner and the respondents have also not filed a copy of the IFST deferral agreement. I am therefore inclined to refer the case back for re-consideration. If there are any other Government Orders/guidelines, which allow partial or waiver of interest liability, same may be extended to the petitioner.

73. Further, the interest of the revenue and industry is also involved. Therefore a Special Committee may be constituted consisting of Senior Officers from the Commercial Tax Department and from Department of Industries to take a policy decision and decide the case afresh after considering the decision in Amutha Mills Private Limited Vs. Assistant Commissioner (CT), and two others.

74. The respondents may consider the ground reality and the hardship faced by industries and in case there is a genuine case for grant of waiver of interest whether complete or partial, appropriate decision may be taken and informed to the petitioner within a period of 3 months from date of communication of this order. Petitioner may also be heard by such committee before such order passed.

75. Pending such decision, the Distraint Order shall be kept in abeyance and will be subject to the outcome of the decision to be taken by the Committee.

76. Writ petition stands disposed with the above observation. No cost. Consequently, connected miscellaneous petition is closed.

06.02.2020 Jen/kkd

For Clarification

The matter having been posted on Thursday, the Twenty Seventh day of February 2020 (27/02/2020) for clarification in pursuance to the order of this Court dated 06.02.2020 and made herein in the presence of aforesaid advocate on either side the Court made the following order:

Today, this case is listed under the caption "for clarification"

2. Heard the learned counsel for the petitioner and the Standing counsel for the respondents.

3. The above Writ Petition was disposed on 06.02.2020. There are few typographical errors in the order. In the order, following corrections shall be incorporated:-

i. In paragraph No.46, the sentence "However, copy of the Agreement is available for my perusal" shall read as "However, copy of the Agreement is not available for my perusal

ii. Paragraph No.14 in the order, shall be read as follows:-

" 14. However, it appears that the petitioner failed to comply with the order in time, though the petitioner claims to have remitted an amount of Rs.74,51,160/- on 27.04.2015 as admitted in the paragraph 10 of the counter affidavit filed by the 1<sup>st</sup> respondent."

4. Registry is directed to carry out the above corrections before issuing copy to the parties.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Assistant Commissioner (CT) (Addl.),  
Amaidakarai Assessment Circle,  
Kuralagam Annexe,  
Chennai - 600 108.

2. The Assistant Commissioner (CT),  
Ponneri Assessment Circle,  
Ponneri.

3. The Secretary,  
The State of Tamil Nadu,  
CT & R Department,  
Fort St. George, Chennai - 600 009.

+1 CC to The Special Government Pleader(T) sr 9858.

W.P.No.34208 of 2014  
and

M.P.No.1 of 2014  
& W.M.P.No.23492 of 2019

VBA (CO)  
SP(28/05/2020)