BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.07.2020
CORAM:
THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P.(MD)No.336 of 2020
and
W.M.P.(MD)No.255 of 2020

Tvl.Solaimalai Automobiles (P)Ltd,
Rep. by its Director K.Karthikeyan. ... Petitioner

Vs

1.The Commercial Tax Officer,
Melur Assessment Circle,
Commercial Tax Building,
Madurai.

2.The Joint Commissioner (ST)
Madurai Division,
Commercial Tax Building, Madurai.

3.The Additional Commissioner (Policy and Planning)
Office of the Additional Chief Secretary /
Commissioner of Commercial Tax,
Chennai - 600 005. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records in No.J1/RP/112/2015, dated 05.12.2019 on the file of the third respondent, confirming the order of respondents 1 and 2 and quash the same as illegal against law.

For Petitioner : Mr.S.Karunakar

For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader.

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

2. The petitioner challenges the impugned order passed by the third respondent, whereby, the matter has been remanded to the Assessing Officer with certain directions. The petitioner questions the said remand order primarily on the ground that for belated payment of Entry Tax, interest cannot be levied. The petitioner draws my attention to paragraph No.15 of the order, dated 08.07.2019 in W.P.(MD).Nos.21044 and 21045 of 2016, which reads as under.

"15. Thus, though the aforesaid provisions enable the authorities to levy tax and penalty, there is no entitlement therein to levy interest on the belated payment of tax and penalty, which is essentially in the nature of penal interest. Reference to the provision of the Tamil Nadu General Sales Tax Act, 1956, is misconceived as the Entry Tax Act, as stated earlier, is a compact statute that does not draw upon any other law, including the General Sales Tax Law, in the matter of assessments thereunder"

3. A mere look at the order impugned in the writ petition shows that no direction has been issued for levy of interest on belated payment of Entry Tax. The revisional authority has only mandated the levy of penalty under Section 15(2) of the Tamil Nadu Tax on Entry of Motor Vehicles Act, 1990.

4. For belated payment of Entry Tax, though there is no provision for charging interest, there is the provision of levy of penalty if non-payment was without reasonable cause. Section 15(2) of the Tamil Nadu Tax on Entry of Motor Vehicles Act, 1990 reads as under:-

" 15-Penalty:

15(1) .....

15(2). If the person does not, without reasonable cause, pay the tax within the time he is required, by or under the provisions of this Act to pay the assessing authority may, after giving such person a reasonable opportunity of being heard, by order in writing,impose upon him by way of penalty, in addition to the amount of tax and penalty under sub-section (1) a sum equal to.—

(a) one and one half per cent, of the amount of tax for each month for the first three months, after the last date by which the person should have paid that tax, and

(b) two per cent, of the amount of tax for each month thereafter during the time the person continues to make default in the payment of tax"

5. The assessing authority would levy penalty under the aforesaid provision only if he can record a finding that there was no reasonable cause for non-payment of the Entry Tax within the prescribed time. The revisional authority has only called upon the assessing officer to invoke Section 15(2) of the Act. This cannot be faulted. I find no ground to interfere.

6. This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AS)

// True Copy //

/ /2020
Sub Assistant Registrar(CS)

msa/pmu

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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Madurai.

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Madurai Division,
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+1 CC to M/s.S. KARUNAKAR, Advocate (SR-13316[F] dated 29/07/2020)

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AP(25/08/2020) 3P 5C