IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

**W.P.No.32304 of 2002**

Tvl. Arasu Autos
rep. by its Partner
Bajaj Auto Dealer
1, Trichy Main Road,
V.O.C. Nagar, Thanjavur. .. Petitioner

Vs

1. The Joint Commissioner (CT)
Revision Petition, O/o the Special Commissioner & Commissioner of Commercial Taxes,
Chepauk, Chennai – 600 005.

2. The Deputy Commercial Tax Officer,
Nannilam, Tiruvarur District. .. Respondents

**PRAYER :**PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the 1st respondent in R.P.No.JJ2/MV/46/2001 dated 26.3.2002 and quash the same as illegal, arbitrary against the provisions of the Act.

For Petitioner : Mr.A.Chandrasekaran

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

**ORDER**

(Order of the Court was made by Dr.ANITA SUMANTH.,J)

This Writ Petition is filed challenging the proceedings of the Joint Commissioner of Commercial Taxes rejecting the refund petition filed by the petitioner under the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 (in short 'Entry Tax Act').

2. The petitioner claims to have remitted tax at the rate of 8% despite liability under the Entry Tax Act, being 9%. Hence, admittedly, there is differential of 1% that has been demanded in the original assessment order. Therefore penalty under Section 15(1) and 15(2) of the Entry Tax Act have been imposed.

3. As regards penalty under Section 15(2), we find that the same is more in the nature of interest for non-compliance with the provisions of the Act and the rates in respect of the same have also been stipulated thereunder, extracted below:

> ***15. Penalty*** *(1) Where any person liable to pay tax under this Act falls to comply with any of the provisions of this Act, then the assessing authority may, after giving such person a reasonable opportunity of being heard, by order in writing impose on him in addition to any tax payable, a sum by way of penalty not exceeding twice the amount of tax.*
> *(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.*

4. Hence, we are not inclined to set aside the interest/penalty under Section 15(2) as it is compensatory for the shortfall in tax and akin to interest.

5. As regards penalty under Section 15(1), we are of the considered view that having regard to the facts and circumstances of the case, the same is liable to be deleted and we hence do so. Refund will be issued forthwith and in any event within a period of two (2) weeks from date of receipt of a copy of this order.

6. This Writ Petition is partly allowed. No costs.

**[A.S.M., J]** **[G.A.M., J]**
**07.11.2024**

sl
Index:Yes/No
Speaking order
Neutral Citation:Yes

To

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2. The Deputy Commercial Tax Officer,
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**Dr.ANITA SUMANTH,J.**
**AND**
**G.ARUL MURUGAN,J.**

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