BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.20363 of 2016
and
W.M.P(MD)Nos.14562 of 2016

M/s.A.Rangasamy Engineers (Pvt.)Ltd.,
Represented by its Director,
R.Padmavathy,
No.616, K.K.Nagar,
Madurai-625 020. ... Petitioner

vs.

The Comercial Tax Officer (CT),
Now upgraded as
The Assistant Commissioner (CT),
Thallakulam Assessment Circle,
CT Buildings,
Dr. Thangaraj Salai,
Madurai-625 020. ... Respondent

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari, to call for the records of the Respondent in TNGST No.4882067/2004-2005 & 2005 – 2006 dated 31.08.2016 and quash the same as illegal, arbitrary and against the provisions of the Act.

For Petitioner	: Mr.K.Soundararajan
For Respondent	: Mr.R.Karthikeyan Additional Government Pleader

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorari, to call for the records of the respondent in TNGST No.4882067/2004-2005 & 2005 – 2006 dated 31.08.2016 and quash the same as illegal, arbitrary and against the provisions of the Act.

2.The petitioner was assessed to pay excess tax for the assessment years TNGST 2004-2005 & 2005-2006, which was challenged by the petitioner by way of appeal and the appeal was allowed and thereafter, revised orders have been passed in which excess payment of tax was shown as refund. But, however, excess payment of tax so far, has not been refunded to the petitioner. Hence, the petitioner seeks to refund the excess amount with interest.

3.Even though the learned Additional Government Pleader appearing for the respondent would contend that the petitioner has sought only refund of the excess amount lying with the respondent and not interest, this Court is of the view that the petitioner is entitled to interest in view of Section 24-(4) of the Tamil Nadu General Sales Tax Act, 1959, which reads as follows:-

> "Where the tax paid under this Act is found to be in excess on final assessment or revision of assessment, or as a result of an order passed in appeal, revision or review, the excess amount shall be refunded to the dealer after adjustment of arrears of tax, if any, due from him. Where the excess amount is not refunded to the dealer within a period of ninety days (from the date of the order of assessment or revision of assessment and in the case of order passed in appeal, revision or review, within a period of ninety days from the date of receipt of the order), the Government shall pay by way of interest, where the amount refundable is not less than one hundred rupees, a sum equal to a sum calculated at the rate of one per cent or part thereof such amount for each month or part thereof after the expiry of the said period of ninety days."

S.VAIDYANATHAN, J.
nbi

4.In the light of Section 24-(4) of the Tamil Nadu General Sales Tax Act, 1959, the impugned order is set aside and the respondent is directed to refund the excess amount payable to the petitioner with interest as stated in Section 24-(4), on or before 31.01.2017.

With the above direction, this Writ Petition stands disposed of. No costs. Consequently, W.M.P(MD)Nos.14562 of 2016 is closed.

nbi 05.01.2017

To

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Dr. Thangaraj Salai,
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W.P.(MD)No.20363 of 2016