

2. The brief facts of the case are that, the appellant-dealer carried on business in manufacturing of sponge iron and iron ingot for sale in course of intrastate and interstate trade and commerce. While scrutinizing the returns of the appellant-dealer the learned DCST found that the appellant-dealer failed to submit statutory declaration form 'C' and 'H' in support of its claim of sale at the concessional rate and export sale exemption u/s.5(3) of the CST Act. Therefore, the learned DCST initiated a proceeding u/r.12(1) of the CST(O) Rules and issued notice to the appellant-dealer to produce the books of account and declaration forms. But the appellant-dealer failed to produce declaration form 'C' for Rs.2,36,37,696.00 towards concessional sale. So, the learned DCST taxed the same @ 5% for a turnover of Rs.173,51,27,010.00. The appellant-dealer had also failed to furnish form 'H' along with other export documents for a turnover of Rs.45,32,802.00 against claim of exemption u/s.5(3) of the CST Act which was taxed and allowed tax exemption for an extent of Rs.56,71,84,467.00 as the said turnover was supported with valid declaration form 'H'. The learned DCST also found that the appellant-dealer had sold goods to outside the State dealers worth Rs.43,31,854.00 without statutory forms. Therefore, the learned DCST calculated the total tax payable at Rs.3,63,27,658.00. After allowing deduction of Rs.2,92,46,140.00 and Rs.61,45,746.00 towards adjustment on account of ITC and payment of tax along with returns respectively, the balance tax was computed to Rs.9,35,771.00. The dealer having paid Rs.2,93,278.00 due to non-submission of form 'C' and 'H', the learned DCST calculated the balance tax at Rs.6,42,493.00. A sum of Rs.1,22,074.00 was charged as interest, for which the total tax and interest together came to Rs.7,64,567.00.

3. Being aggrieved by the order of assessment, the appellant-dealer preferred an appeal before the learned JCST who reduced the

demand to Rs.2,71,752.00. Being further aggrieved by the order of the learned JCST, the appellant-dealer preferred this second appeal.

4. Cross objection has been filed by the respondent-Revenue supporting the order of the learned JCST.

5. Heard the learned Counsel for the appellant-dealer and the learned Standing Counsel for the Revenue. Perused the case record and the grounds of appeal. I also perused the materials available on record and the plea taken in the cross objection.

6. The appellant-dealer has prayed in the grounds of appeal to quash the impugned order confirming tax demand and interest. It is the settled principle of law that levy of interest is mandatory when there is default in payment of tax. Such levy of interest is compensatory and automatic. A dealer while filing the periodical returns has to fill up and submit the annexure with details of concessional sales effected u/s.8 of the CST Act and accordingly has to furnish the declaration form 'C' thereof for depositing less amount of tax i.e. at concessional rate of tax instead of full rate of tax. Due to delayed payment of tax for non-furnishing of declaration forms, the exchequer has to be compensated for belated payment of differential tax due through levy of interest. The CST Act prescribes levy of interest u/s.9 of the Act whereas CST(O) Rules provides levy of interest u/r.8. The learned JCST has not committed any error by levying interest in the present case.

7. The tax due disclosed by the dealer in its return was incorrect inasmuch as it was not supported by the required declarations in Form 'C'. Therefore, what was ultimately assessed became the tax due. The dealer having failed to support its claim of concessional tax, imposition of interest is automatic. This is by operation of law and not by decision of any authority. In the case of **Indian Commerce and Industries Co. Pvt. Ltd. v. The Commercial**

Tax Officer, reported in [2003] 129 STC 509 (Mad.), the Hon'ble Madras High Court have held as under:-

“...Liability to pay interest under Section 24(3) is automatic and arises by operation of law from the date on which tax was required to be paid. The petitioner opted to pay tax by self assessment and filed return including the taxable turnover in respect of works contract. The assessee paid tax on works contract turnover up to August and though filed return disclosing turnover of works contract after September failed to pay tax thereon. The petitioner assessee is bound to pay tax and in default have to pay interest. The department is entitled to recover interest under Section 24(3)...”

In the case of **Indodan Industries Ltd. vs. State of UP**, reported in **[2010] 27 VST 1 (SC)**, it was held that the interest is compensatory in nature in the sense that when the assessee pays tax after it becomes due, the presumption is that the department has lost the revenue during the interregnum period and that the assessee enjoys that amount during the said period and in order to recover the lost revenue, the levy of interest is contemplated.

8. It is well settled that the dealer is required to file return on the due date along with necessary documents claiming exemption if any. So when he failed to submit the declaration forms with return he is required to pay interest which must be calculated from the date of the return filed by the dealer. Thus the dealer is liable to pay interest calculated from the date of filing of return. This Tribunal has taken similar view in many cases relied upon by the appellant-Revenue. Similar view has also been taken by a Division Bench of this Tribunal vide S.A. Nos. 133(C) of 2017-18 & 2(C) of 2018, wherein the Tribunal directed the first appellate authority to impose interest to be

levied on the ultimate tax dues of the dealer-assessee in accordance with law.

9. In the result, the appeal is dismissed and the impugned order is hereby confirmed. The cross objection is disposed of accordingly.

Dictated & corrected by me,

Sd/-
(A.K. Dalbehera)
1st Judicial Member

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