

IN THE SUPREME COURT OF INDIA
CIVIL APPEAL NO. 4277 OF 2002
BHAI JASPAL SINGH AND ANR
Vs
ASSISTANT COMMISSIONER OF COMMERCIAL TAXES AND ORS

D K Jain And H L Dattu, JJ

Dated: October 22, 2010

JUDGEMENT

Per : H L Dattu, J. :

- 1) This appeal is directed against the Judgment and Order passed by the High Court of Calcutta in W.P.T.T. No. 102 of 2000 dated 14.09.2001.
- 2) The issues which require our consideration and decision in this appeal are: the meaning of the expression 'Investment' for the purpose of notification issued by the State of West Bengal under West Bengal Sales Tax Act and the corresponding Rules; the construction and interpretation of an exemption notification; and whether the interest is payable on tax only on quantification of tax by way of assessment under the Act or for any period prior to that.
- 3) The material facts are :-

The assessee is M/s Tulip Products Co., a partnership firm having a fruit processing unit at 37, Imjad Ali Lane, Calcutta. It is a small scale industrial unit. The Unit is engaged in manufacturing juice, jelly, jam etc. The unit was registered as a dealer under the Bengal Finance (Sales Tax) Act, 1941 (hereinafter to be referred as "the Act, 1941"), the West Bengal Sales Tax Act, 1954 (hereinafter to be referred as "the Act, 1954"), and was later registered under the West Bengal Sales Tax Act, 1994 (hereinafter to be referred as "the Act, 1994").

- 4) The relevant assessment periods are 01.04.1995 to 30.04.1995 and 01.05.1995 to 31.03.1996. In the returns filed for the aforesaid period, the assessee claimed exemption from payment of sales tax mainly relying on the exemption notification issued by the State Government bearing No. 1428-F.T. dated 26.05.1994 and Rule 41 of West Bengal Sales Tax Rules, 1995 (hereinafter to be referred as "the 1995 Rules"). According to the assessee, its investment in plant and machinery in its unit during the period from 01.04.1995 to 30.04.1995 and from 01.05.1995 to 31.03.1996 was less than Rs. 5 lakhs and accordingly, it was entitled to get the tax exemption under Rule 3(116) of the Bengal Sales Tax Rules, 1941 (hereinafter to be referred as "the 1941 Rules") for the first period and by virtue of the notification dated 26.05.1994 and Rule 41 of the 1995 Rules for the second period. The Asst. Commissioner of Commercial Taxes passed an order of assessment for both the periods disallowing the assessee's claim for exemption from payment of sales tax and also levied interest as provided under Section 10A of the Act,

1941 and Section 31 of the Act, 1994. In the view of the Tax Officer, the benefit of exemption from payment of sales tax cannot be granted since the assessee does not fulfill all the conditions prescribed in the notification granting exemption from payment of sales tax and also the conditions specified in Rule 41 of the 1995 Rules. The Assessing Officer took the book value of the plant and machinery as on 31st March, 1980 at Rs. 2,27,148.78/- and after the addition made from 1981 to 1986-1987, took the value of investment of plant and machinery for the assessment year 01.05.1995 to 31 st March, 1996 as Rs. 6,58,587/- for the purpose of assessment under the Act 1994 along with an assessment for the broken period between 01.04.1995 to 30.04.1995. In appeal, the assessment order passed by the Tax Officer was confirmed by the Deputy Commissioner, Commercial Taxes. The assessee filed Second Appeal before the West Bengal Sales Tax Tribunal. The Tribunal has confirmed the order passed by the First Appellate Authority. In the writ petition filed, the High Court of Calcutta confirmed the order passed by the Tribunal in exercise of its writ jurisdiction.

5) The learned senior counsel Sri A. K. Ganguli for the assessee submits that the term "investment" used in the Notification refers to the actual value of the machinery after allowing depreciation as distinct from the cost of acquisition of such machinery. Alternatively, it is submitted that though the initial value of the plant and machinery was more than Rs. 5 lakhs, on account of successive yearly depreciation in their value, the total value of plant and machinery was less than Rs. 5 lakhs during the relevant assessment periods and, therefore, appellant's Small Scale Industrial Unit is eligible for exemption from payment of tax in view of the notification issued by the State Govt. and also under the Rules. The learned senior counsel would further contend that the purport and intent of the Notification would be frustrated if such liberal construction is not taken, and if costs of repairing, overhauling and minor modification were included in investment on cost of plant and machinery, naturally the investment made in plant and machinery would go beyond the prescribed limit and that cannot be the intention of the State Government while issuing notification granting exemption to Small Scale Industrial Units. He also submitted that a liberal construction should be adopted while interpreting the exemption notification as the purpose is to encourage Small Scale Industrial Units. It is also contended by the learned counsel that the interest payable on tax due shall become payable only on quantification of amount of tax by way of assessment and service of demand notice and not for the period prior to that.

6) The learned senior counsel Sri. M. Chandrasekharan for the respondent ably justifies the impugned Judgment. The learned senior counsel submits that in considering the "investment" in plant and machinery of an industrial unit for the purpose of the notification and also the Rules, the depreciation in the value of such plant and machinery cannot be taken into account. It is also contended that the liability to pay interest under the Act automatically arises, if a dealer fails to pay any amount of tax due under the Act.

7) In order to appreciate the rival submissions made by the learned senior counsel, we need to notice the statutory provisions and the notification issued by the State Govt. Rule 3(116) of the 1941 Rules reads as under :-

"116) [Sales by a dealer of-

(a) (i) jam, (ii) jelly, (iii) marmalade (iv) pickle (v) amsatta (vi) chutney
(vii) Kasundi (viii)(ix) ketchup

(b) Vinegar made from fruits or vegetables.

(c) (i) fruit pulp and (ii) fruit peels

(d) Processed fruits, that is to say, candied, crystallized or glazed fruits,
but excluding the notified commodities covered by this department
notification No. 2252 dated the 9th June, 1969, as subsequently amended.

(e) (i) vegetable pulp (ii) vegetable peels (iii) juice and (iv) vegetable
sabat.

When the goods mentioned in (a) (b) (c) (d) or (e) are manufactured in his
small scale industrial unit in West Bengal]

Provided that the small scale industrial unit is registered with the
Directorate of Cottage and Small Scale Industries of Government of West
Bengal, and investment by the dealer in Plant and Machinery of such unit
is less than Rs. 5 lakhs."

8) In exercise of the power conferred by Section 4AA of the Act, 1954, the State
Government has issued Notification No.1428 - F.T. dated 26th May, 1994. The
Notification is as under:

"Registered No. WB/SC-247 No.WB (Part-I)/94/SAR-122

The Calcutta Gazette Extraordinary Published by Authority

*JAYISTHA 5] THURSDAY, MAY 26, 1994 [SAKA
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*PART-I - Orders and Notifications by the Governor of
West Bengal, the High Court, Government Treasury, etc.*

**GOVERNMENT OF WEST BENGAL
FINANCE DEPARTMENT
TAXATION
No.1428- F.T. Calcutta, the 26th May,
1994**

NOTIFICATION

Whereas the Governor is satisfied that it is necessary so to do in the public interest;

Now, THEREFORE, in exercise of the power conferred by section 4AA of the West Bengal Sales Tax Act, 1954 (West Bengal Act IV of 1954) (hereinafter referred to as the said Act), the Governor is pleased hereby to direct that no tax shall be payable under the said Act on sales by a dealer of -

a) (i) fruit juices,

(vii) fruit syrups,

(viii) fruit concentrates,

(ix) fruit squashes,

(x) fruit cordials, and

(xi) fruit sarbat, including in this department notification no.3945 - F.T., dated the 26th August, 1977, as subsequently amended;

b) canned, bottled or any other preserved fruits, included in this department notification No. 2252- F.T., dated the 9th June, 1969;

c) processed food, commonly known as instant food, that is to say, pre-cooked or curried vegetable, and vegetable soup, included in this department notification no.1036 F.T., dated the 31st March, 1988, when the notified commodities mentioned in (a), (b) or (c) are manufactured in his small scale industrial unit in West Bengal registered with the Directorate of Cottage and Small Scale Industries of the Government of West Bengal and the investment by the dealer in plant and machinery of such unit is less than five lakh rupees. This notification shall come into force on and from the 1st day of June, 1994.

By order of the Governor

S. MITRA

Jt. Secy. to the Govt. of West Bengal"

9) With a view to encourage Small Scale Industrial Units and to step up economic growth by promoting development of these industries in the State, the West Bengal State Govt. decided to grant exemption from payment of sales tax to certain Small Scale Industrial Units. To achieve that object, it issued notification No.1438-FT dated 26.05.1994 in

exercise of the powers conferred by Section 4AA of the Act, 1954, granting exemption from payment of sales tax on sales by a dealer of fruit juices, fruit concentrates, fruit cordials and fruit sarbat, canned, bottled or any preserved fruits (goods included in Notification No. 2252-F.T. dated 09.06.1969) and the goods included in Notification No. 1036-F.T. dated 31.03.1988. In the Notification, it is further specified that the goods mentioned in Column (a), (b) or (c), are manufactured in a Small Scale Industrial Unit in West Bengal registered with the Directorate of Cottage and Small Scale Industries of the Govt. of West Bengal and the investment by the dealer in plant and machinery of such unit is less than `5 lakhs.

10) Section 104 of the Act, 1994 grants power to the State Government to make rules, with prospective or retrospective effect, for carrying out the purposes of the Act. In exercise of the power so conferred, the State Government has framed Rule 41 of the 1995 Rules. The Rule provides for exemption from tax on sales of certain fruit and vegetable products etc. manufactured in Small Scale Industrial Units in West Bengal. The Rule is as under :-

"Exemption from tax on sales of certain fruit and vegetable products etc. manufactured in small-scale industrial units in West Bengal - Where a dealer makes sales of -

(i) fruit product, that is to say, fruit juice, fruit syrup, fruit concentrate, fruit squash, fruit cordial, fruit sarbat, fruit jam, fruit jelly, fruit marmalade, fruit pickle, amsatta, chutney, kasundi, fruit sauce, ketch up, fruit pulp, fruit peel,

(ii) processed fruit, that is to say, candied, crystallized or glazed fruit,

(iii) caned, bottled or any other preserved fruit,

(iv) processed food, commonly known as instant food, that is to say, pre-cooked or curried vegetable and vegetable soup,

(v) vegetable product, that is to say, vegetable pulp, vegetable peel, vegetable juice, [vegetable sauce, vegetable pickles] or vegetable sarbat, manufactured in his small-scale industrial unit in West Bengal, registered with the Directorate of Cottage and Small-Scale Industries, Government of West Bengal and where investment by such dealer in plant and machinery of such unit is less than five lakh rupees, such dealer may deduct such sales under sub-clause (xi) of clause (a) of sub-section (3) of section 17 from his gross turnover of sales."

11) Section 2 of the Act is the interpretation clause. Clause (b) of Section 2 defines 'dealer'. Section 4 is the charging Section. Section 4AA empowers the State Government to grant exemptions or reductions in rate of tax on the sale or purchase of goods by a dealer or category of dealers to be specified in any notification to be issued by the State

Government in the public interest. The scheme of the Rules and the notification issued by the State Government in exercise of the power under Section 4AA of the Act, 1954, is that the commodities specified in the Notification must be manufactured by a Small Scale Industrial Unit in West Bengal, it must be registered with the Directorate of Cottage and Small Scale Industries of the Government of West Bengal; and the investment by dealer in plant and machinery of such unit must be less than `5 lakhs. These exemptions are also provided in Rule 3(116) of the 1941 Rules and Rule 41 of the 1995 Rules. These Rules speak of exemption from payment of tax on sales of certain fruits and vegetable products etc. manufactured in small-scale industrial units in West Bengal and investment in plant and machinery should not exceed Rs. 5 Lakhs.

12) We will now consider the contentions raised by the learned senior counsel for the parties to the lis.

Contention (a):-

13) The expression "investment" in the notification is the main controversy in this appeal. The assessee claims that the word "investment" requires to be understood as the investment made by a Small Scale Industrial Unit after giving depreciation on plant and machinery. According to the Assessing Authority, even after allowing such a claim, which in our opinion, is not the correct way of understanding the expression, the investment is more than Rs. 5 lakhs and, therefore, the assessee is not eligible for exemption from payment of sales tax.

14) In common parlance, the term "investment" has been defined as "a thing worth buying because it may be profitable or useful in the future" (Oxford English Dictionary, 11th edition, 2004) or as the "placing of money to gain profit" (Bloomsbury English Dictionary, Reprint, 1985).

15) Speaking of investment in the context of the Income Tax Act, 1961, this Court observed in *Commissioner of Income Tax, Lucknow v. Uttar Pradesh Cooperative Federation Ltd*, AIR 1989 SC 915, quoting P. Ramanatha Aiyar's Law Lexicon (Reprint Edition 1987) that:

"The term invest is used in a sense broad enough to cover the loaning of the money but is not restricted to that mode of investment or loans made on commercial paper. The word invest has been judicially defined as follows:-

To place property in business; to place it so that it will be safe and yield a profit. It is also commonly understood as giving money, for some other property (as) investing funds on lands and houses. Investment means in common parlance, putting out money on interest, either by the way of loan, or by the purchase of income producing property..."

(emphasis supplied) (Para 9).

16) In *Inland Revenue Commissioners v. Desoutter Brothers Ltd*, (1946) 1 All ER 58 (CA), it is stated:

"The word 'investment' is not a word of art but has to be interpreted in a popular sense. It is not capable of legal definition but a word of current vernacular. The words 'invest' and 'investment' are to be taken in the business sense of laying out money for interest and profit."

17) In a slightly different context, following the *Desoutter Brothers* case, it was held in *Inland Revenue Commissioners v. Broadway Car Co. (Wimbledon) Ltd.*, [1946] 2 All E.R. 609, that the question whether a particular source of income was an investment or not must be decided as it would be by businessmen according to ordinary commonsense principles.

18) In our view, for the purpose of the Rules and the notification, "investment" must be understood according to its common business and commercial usage. While an exact definition to suit all requirements will not be appropriate, but it may be said that investment in general would be spending money for the purpose of acquiring property or commodities that in turn generate further income.

19) In the Notification issued by the State Government and the Rules framed, the requirement is that the investment made by the dealer in plant and machinery in the Small Scale Industrial Unit should be less than `5 lakhs. It is obvious that money spent on upgrading or replacing machinery is investment that would increase the productivity of the machinery and consequently generate further income. It would thus be equivalent to acquiring of commodities that generate further income. Furthermore, there is no question of reducing depreciation value, as the determination is of the total money spent or "invested" in plant or machinery, and the same cannot be said to include the value of the machinery after depreciation. A reading of the Rule or the notification would not even suggest that while calculating the value of plant and machinery, depreciation of those equipment will have to be taken into consideration in computing the valuation of the plant and machinery. In our view, in computing the valuation of plant and machinery, only the cost price/purchase price of the equipment invested by the assessee will have to be taken into account. The expression "investment" in plant and machinery is not subject to the impact of depreciation in the value of plant and machinery. Since the assessee's investment is more than ` 5 lakhs before the periods in question and since the investment continues to remain unchanged, the assessee is not entitled to exemption from payment of sales tax either under the Rules or under the notification.

Contention (b):-

20) The second contention of learned senior counsel for the assessee is that the Notification providing exemption should be liberally construed having regard to the purpose and object it seeks to achieve.

21) The conditions for availing exemptions are generally laid down in the notifications granting exemptions. Sometimes, exemptions are grafted in the Rules framed in this behalf. In Crawford's Statutory Construction, it is stated that "Provisions" providing for an exemption may be properly construed strictly against the person who makes the claim of an exemption. In other words, before an exemption can be recognized, the person or property claimed to be exempted must come clearly within the language apparently granting the exemption. In our opinion, the principle to be kept in view while interpreting exemption notification is that the meaning of the words given in the exemption notification is to be gathered from the language employed in the notification. Notification by which exemption or other benefits are provided by the Govt. in exercise of its statutory powers normally have some purpose. Such purpose is not to be defeated nor those who may be entitled for it are to be deprived by interpreting the notification which may give it some meaning other than what is clearly and plainly flowing from it.

22) This Court, in the case of *Novopan India Ltd., Hyderabad v. Collector of Central Excise and Customs, Hyderabad, 1994 Supp (3) SCC 606* has observed :-

"The principle that in case of ambiguity, a taxing statute should be construed in favour of the assessee - assuming that the said principle is good and sound - does not apply to the construction of an exception or an exempting provision; they have to be construed strictly. A person invoking an exception or an exemption provision to relieve him of the tax liability must establish clearly that he is covered by the said provision. In case of doubt or ambiguity, benefit of it must go to the State. This is for the reason explained in Mangalore Chemicals and other decisions, viz., each such exception/exemption increases the tax burden on other members of the community correspondingly. Once, of course, the provision is found applicable to him, full effect must be given to it."

(emphasis supplied) (Para 18).

23) The view expressed in Novopan India case (supra) finds further approval in *Tata Iron and Steel Co. Ltd. v. State of Jharkhand, (2005) 4 SCC 272*, where the Court observed that:

"Eligibility clause, it is well settled, in relation to exemption notification must be given a strict meaning." (emphasis supplied) (Para 45). And further, in the same case:

"The principle that in the event a provision of fiscal statute is obscure such construction which favours the assessee may be adopted, but it would have no application to construction of an exemption notification, as in such a case it is for the assessee to show that he comes within the purview of exemption."

(emphasis supplied) (Para 47).

24) In *A.P. Steel Re-Rolling Mills Ltd. v. State of Kerala*, (2007) 2 SCC 725, it is stated :-

"The general principles with regard to construction of exemption notification are not of much dispute. Generally, an exemption notification is to be construed strictly, but once it is found that the entrepreneur fulfils the conditions laid down therein, liberal construction would be made."

(emphasis supplied) (Para 22).

25) The aforesaid principle is summed up by this Court in *G.P. Ceramics Pvt. Ltd. v. Commissioner, Trade Tax, U.P.*, (2009) 2 SCC 90 as under :

"It is now a well established principle of law that whereas eligibility criteria laid down in an exemption notification are required to be construed strictly, once it is found that the applicant satisfies the same, the exemption notification should be construed liberally."

(emphasis supplied) (Para 32).

26) The preamble of the Notification in this case states that "whereas the Governor is of opinion that industrial unit is manufacturing certain goods in West Bengal which are in need of financial assistance and accordingly it is necessary to formulate a scheme of industrial promotion to assist such unit for the purposes mentioned hereinabove". Clearly, the purpose of this notification is to promote industrial activity and development in the State of West Bengal. However, as is clear from the discussed cases, it is a necessary pre-condition that first the assessee should fall within the clear wording of the notification. The assessee in this matter falls outside the parameters of this Notification, since his investment is over `5 lakhs, therefore, there is no question of the Notification applying to him. Thus, there is no requirement of liberal construction as the notification does not apply to the assessee in the first place.

Contention (c):-

27) The learned senior counsel Sri A.K. Ganguli contended that interest on tax can be charged only after quantification of tax liability by the Assessing Officer. Therefore, respondent was not justified in issuing the demand notice for payment of tax by including interest element.

28) There has been a legislative amendment incorporating statutory provision for payment of interest even before quantification of tax liability and service of demand notice pursuant to such quantification. For ready reference, we quote below the relevant Sections. Section 10-A of the Act, 1941 is as under :-

"S. 10A Interest payable by dealer.- (1) Where a registered or certified dealer furnishes a [return] referred to in section 10 in respect of any period by the prescribed date or thereafter, but fails to make full payment

of tax payable in respect of such period by such prescribed date, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of such tax or up to the month prior to the month of assessment under section 11 in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such [returns] remains unpaid at the [end of each of such month of default;]

Provided that where such dealer admits in writing that the amount of tax payable in respect of such period is an amount which is either more or less than, what has been originally shown as payable in the [return] and where the Commissioner is satisfied on the point of such admission, the interest shall be payable upon so much of the amount of tax payable according to such admission as remains unpaid at the [end of each such month of default.]

(2) Where a registered or certified dealer fails to furnish [a return] referred to in section 10 in respect of any period by the prescribed date or thereafter before the assessment under section 11 in respect of such period, and on such assessment full amount of tax payable for such period is found not to have been paid by him by such prescribed date, he shall pay a simple interest at the rate or two per centum of each English calendar month of default from the first day of the month next following the prescribed date up to the month preceding the month of full payment of tax for such period or up to the month prior to the month of assessment under section 11 in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such assessment as remains unpaid at the [end of each such month of default;]

Provided that where an assessment under section 11 is made for more than [one period] and such assessment does not show separately the tax payable for the period in respect of which interest is payable under this sub-section, the Commissioner shall estimate the tax payable for such period on the basis of such assessment after giving the dealer an opportunity of being heard. (3) Where a dealer fails to make payment of any tax payable after assessment by the date specified in the notice issued under sub-section (3) of section 11 for payment thereof, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of the month next following the date specified in such notice up to the month preceding the month of full payment of such tax or up to the month preceding the month of commencement of proceedings under sub-section (4) of section 11, whichever is earlier, upon so much of the amount of tax payable by him according to such notice as remains unpaid at the [end of each such month of default.]

29) Similarly, in Section 31 of the Act, 1994, it is provided that:

"31. Interest for non-payment or delayed payment of tax before assessment. - (1) Where a registered dealer, or a dealer required to furnish return under sub-section (3) of section 30, furnishes a return referred to in that section in respect of any period by the prescribed date or thereafter, but fails to make full payment of the tax payable under sub-section (4) of that section in respect of such period by such prescribed date, he shall pay a simple interest at the rate of two per centum for each British calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of such tax or up to the month prior to the month of assessment under section 45 or section 46, as the case may be, in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such return as remains unpaid at the end of each such month of default:

Provided that where such dealer admits in writing that the amount of tax payable in respect of such period is an amount which is either more or less than what has been originally shown as payable in the return and where the Commissioner is satisfied on the point of such admission, the interest shall be payable upon so much of the amount of tax payable according to such admission as remains unpaid at the end of each such month of default.

(2) Where a registered dealer, or a dealer required to furnish return under sub-section (3) of section 30, fails to furnish a return referred to in that section in respect of any period by the prescribed date or thereafter before the assessment under section 45 or section 46, as the case may be, in respect of such dealing, and on such assessment full amount of tax payable for such period is found not to have been paid by him by such prescribed date, he shall pay a simple interest at the rate of two per centum for each British calendar month of default for the first day of the month next following the prescribed date up to the month preceding the month of full payment of tax for such period or up to the month prior to the month of assessment under section 45 or section 46, as the case may be, in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such assessment as remains unpaid at the end of each such month of default:

Provided that where an assessment under section 45 or section 46 is made for more than one period and such assessment does not show separately the tax payable for the period in respect of which interest is payable under this sub-section, the Commissioner shall apportion the tax payable for such period on the basis of such assessment.

(3) A dealer liable to pay interest under sub-section (1) or sub-section (2) of this section or sub-section (8) of section 40, as the case may be, shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the amount of interest payable by, or due from, him by such date as may be prescribed.

(4) Interest under sub-section (1) or sub-section (2) of this section shall be payable in respect of the returns, the prescribed dates for the functioning of which under sub-section (2) or sub-section (3) of section 30 are the dates subsequent to the appointed day."

30) Interest is compensatory in character and is imposed on an assessee who has withheld payment of any tax as and when it is due and payable. The interest is levied on the actual amount of tax withheld and the extent of delay in paying the tax on the due date. Essentially, it is compensatory and different from penalty which is penal in character [See *Pratibha Processors and Ors. v. Union of India and Ors. - AIR 1997 SC 138*]. In the instant case, it is not in dispute that the amount of tax due on the basis of the return furnished by the assessee has not been paid before the expiry of the last date of filing of such return required by Section 10A of the Act, 1941 and Section 31 of the Act, 1994. These sections provide that where tax due on the basis of the return has not been paid before the expiry of the last date of filing of such return, provision of sub-section (2) shall apply to the recovery of such demand for the amount of tax due. Sub-section (2) states that if the tax or any other amount due under the Act is not paid by the dealer or any other person by whom it is payable within the period specified in the demand notice, it shall be liable to pay interest on the tax or other amount which was payable at the rate specified in that sub-section. The learned senior counsel Sri A.K. Ganguli would contend that it is only after quantification of tax liability and service of demand notice, as provided under the Act, and if that is not complied, then only interest becomes payable by the dealer. In our view, it is difficult to accept this submission of the learned senior counsel. This submission goes contrary to the statutory provision provided under Section 10A of the Act, 1941 and Section 31 of the Act, 1994. The Section provides that tax due on the basis of the returns shall be paid before the expiry of the last date of filing of such return. Therefore, under Sub-Section (1), the assessee would be liable to pay interest on the amount of such tax from the date when it was payable, i.e. from the expiry of the last date of filing of returns under the Act. This Section specifically refers to notice of demand but obviously relates to sub-section (1) where notice of demand is required to be issued after the assessment of tax is completed and the amount of the tax assessed becomes due only after the issue of notice of demand as provided in sub-section (1) but there is no requirement in the case of payment of tax due on the basis of quarterly return to be filed by the dealer. It is solely governed by sub-section (3): where the tax due on the basis of quarterly return is not paid before the expiry of the last date of filing of such return under the Act, it is not necessary to issue any notice of demand but on the default being committed by the dealer, he becomes liable to pay interest under sub-section (2) on the amount of such tax from the last date of filing quarterly returns prescribed under the Act. In the present case, it is the admitted position that tax due on the basis of quarterly return was not paid as required by sub-section (3) and the appellant was, therefore, liable to pay

interest on the amount of tax in respect of which default was committed at the rate prescribed in sub-section (2) from the last date prescribed for filing quarterly return under the Act upto the date of payment.

31) In view of the above, there is no merit in this appeal. It is hereby rejected. No costs.