

M/s. Royal Boot House and Others

Vs

State of J and K and Others

Civil Miscellaneous Petitions Nos. 32413-14 and 34326 of 1983

(P. N. Bhagwati, E. S. Venkatarmiah, A. Varadarjan JJ)

06.01.1984

ORDER

1. These special leave petitions arise in a case where the amount of tax due on the basis of the quarterly return furnished by the petitioner has not been paid before the expiry of the last date of filing such return required by sub-section (3) of Section 8 of the Jammu and Kashmir General Sales Tax Act, 1962. That sub-section provides that where tax due on the basis of quarterly return has not been paid before the expiry of the last date of filing such return, provision of sub-section (2) shall apply to the recovery of such demand for the amount of tax so 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, he shall be liable to interest on the tax or other amount which was payable at the rate specified in that sub-section. The argument advanced by Mr. Anil Dev Singh, advocate for the petitioner, was that it is only when a notice of demand is issued to the dealer who is required to pay tax due on the basis of quarterly return and that is not complied with that interest becomes payable by the dealer to the State Government. This argument is contrary to the language of provisions of sub-section (3) which provides that tax due on the basis of quarterly return shall be paid before the expiry of the last date of filing such return and the amount of tax thus becomes payable at the latest from the expiry of the last date of filing quarterly return. Hence under sub-section (2) the dealer would be liable to pay interest on the amount of such tax from the date when it was payable, that is, from the expiry of the last date of filing quarterly return of the Act. Of course, sub-section (2) refers to the notice of demand but that 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 tax assessed becomes due only after the issue of notice of demand as provided in sub-section (1) but there is no such 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 such return under the Act, it is not necessary to issue any notice of demand but on the default being committed the dealer 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 petitioner was, therefore, not (sic) 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 up to the date of payment. The High Court was, therefore, right on the facts of the present case in holding that the petitioner was liable to pay interest on the amount of tax in respect of which default was committed. Special leave petitions are accordingly rejected. Interim stay stands vacated. The petitioner, however, is given three months' time within which he can make payment of the amount of interest due and payable according to this

judgment.

2. Other matters will come up for hearing on January 12, 1984, as directed earlier.

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