

# **SUPREME COURT OF INDIA**

State of Kerala

Vs.

Joy Varghese, Kerala Rubber Products

(S.P.Bharucha and K.Venkataswami JJ.)

06.11.1996

## **ORDER**

1. We have read the principal judgment and order under appeal (which is reported in (Joy Varghese v. State of Kerala). The Division Bench of the Kerala High Court has set down in the judgment the various relevant statutory provisions and having analysed them has, in our view, come to the correct conclusion.

2. Having regard to the phraseology of Section 23(3) of the Kerala General Sales Tax Act, the liability of the dealer to pay penal interest on the tax assessed or any other amount due under that act arises only if such tax or amount is not paid "within the time specified therefore in the notice of demand". There being no notice of demand, it was held that the liability to pay penal interest did not arise. It is necessary to emphasise that this is not a case of payment of interest at the ordinary statutory rate but a case of penal interest and it is, therefore, that the act provides that the liability to pay the same arises only after there has been a failure to comply with the provisions of a notice in that behalf.

3. The judgment and order under appeal is affirmed. In the result, these appeals and S.L.P. are dismissed with no order as to costs.