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HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 186 of 2014

1. M/S Piramal Petroleum Pvt. Ltd. Through Its Director Vaibhav Agarwal, S/o Nand Kishore Agarwal, Aged about 28 Years, R/O House No. 7, Sector 1, Gitanjali Nagar, Police Station, Civil Lines, Raipur, (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Finance And Planning Department (Commercial Tax Department) Mantralaya, Mahanadi Bhawan,Naya Raipur, (Chhattisgarh)

2. The Commissioner, Commercial Tax Department, Government Of Chhattisgarh (Vanijya Kar Bhawan), South Civil Lines, Raipur (Chhattisgarh)

3. Commercial Tax Officer, Circle-II, Commercial Tax Department, Government Of Chhattisgarh (Vanijya Kar Bhawan), Sout Civil Lines, Raipur (Chhattisgarh)

4. Deputy Commissioner, Division-II, Commercial Tax Department, Government Of Chhattisgarh, (Vanijya Kar Bhawan), South Civil Lines, Raipur (Chhattisgarh)

---- Respondents

For Petitioner Shri Saurabh Suman Sinha & Shri Ashok Patil, Advocates
For Respondent/State Ms. Smiti Sharma, Dy. Government Advocate

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Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

09/03/2015

Heard learned counsel for the parties.

1. The petitioner has assailed the legality and validity of the impugned order dated 17.11.2014 passed by the Divisional Deputy Commissioner,

Commercial Tax, Division-I, Raipur dismissing the petitioner's revision application under Section 49 (1) of the Chhattisgarh Value Added Tax Act, 2005 (for short, the Act 2005'), which, in turn, was preferred against the order dated 12.08.2014 (Annexure-P-14/A) passed by the Commercial Tax Officer, Circle-II, Raipur under Section 16 (10) (e) of the Act, 2005 read with Section 7 (4) (b) of the Central Sales Tax Act, 1956 (for short 'the Act, 1956) canceling the petitioner's registration as a dealer under the Act, 2005.

2. Petitioner is a registered dealer under the Act, 2005 and is engaged in the business of manufacture, sale and trading of lubricants and different kinds of oils in the State of Chhattisgarh with effect from the year 2005. A show cause notice was issued to the petitioner on 25.07.2014 stating therein that although the petitioner has produced the bills, vouchers, bank statements and ledger for verification, but, has failed to produce the proof of transportation of articles by submitting builty and payment of freight charges for purchase of articles valued at Rs.2,80,67,356/- and Rs.1,96,29,100/-. It is also mentioned that the seller-dealer has also not paid the sales tax on the above stated quantity of articles purchased by the petitioner, whereas the petitioner has claimed input tax rebate, which is not admissible to him, therefore, in the absence of submission of proof, the transactions shall be treated suspicious and his registration shall be canceled.

3. The above notice was served on the petitioner on 31.07.2014. Another notice dated 28.07.2014 addressed to the petitioner was served on 30.07.2014. Petitioner served copy of an application dated 31.07.2014 on the authority on 05.08.2014 seeking one month time to submit the reply.

4. Learned counsel for the petitioner would submit that when the petitioner was waiting for an intimation from the concerned authority, granting him time to submit reply and to argue the matter, he received the impugned order dated 12.08.2014, whereby the registration was canceled. The revision preferred by the petitioner under Section 49 has also been dismissed by the Revisional Authority. Shri Sinha, learned counsel for the petitioner would raise a short ground of violation of principles of natural justice inasmuch as, *firstly;* the authority did not grant sufficient time to the petitioner to respond to the notice and submit his case before the Registering Authority and *secondly;* the impugned order passed by the Registering Authority is a cryptic order without assigning/elaborating the reasons based on which the order of cancellation of registration has been passed. He would submit that one of the basic principles of natural justice is that the Quasi Judicial Authority is required to pass a reasoned order so that the appellate and revisional authority is in a position to assess the correctness of the order based on the reasons assigned in it. He would rely on the decision of the Supreme Court rendered in **Asstt. Commr., Commercial Tax Department v. Shukla & Brothers**[1].

5. Per contra, learned counsel for the State, would submit that the petitioner was served two notices, however, he failed to respond and was seeking adjournment before the Registering Authority, therefore, the impugned order has been passed. She would also submit that the show cause notice was couched in such a language that the reason for proposed cancellation of registration was clearly mentioned, therefore, the reasons assigned in the impugned order dated 12.08.2014 has to be read in conjunction with the

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1 2010 (254) E.L.T. 6 (S.C.)

contents of the show cause notice.

6. Having heard learned counsel for the parties, in the considered opinion of this Court, the Registering Authority ought to have granted at least one opportunity to the petitioner to have presented his case because, the application served on the authority on 05.08.2014 was the first prayer by the petitioner. Even if it is found true that the petitioner, infact, did not appear before the authority, but only served a copy of application, the Registering Authority should have granted a reasonable opportunity to the petitioner to submit its case because, in the first show cause notice, petitioner was granted only 3 days time and in the second show cause notice, the petitioner was allowed only 7 days time to respond. Moreover, the impugned order only mentions that "A*s per spot verification report business was found closed. According to the business activity by dealer is going to harm the government revenue."*

7. In the registration certificate issued in favour of the petitioner at least three locations have been mentioned as the place of business. Neither the show cause notice nor the impugned order has referred to the specific location, wherein the spot inspection was carried. It is difficult to cull out on a reading of the impugned order as to what was the report, which was used against the petitioner and at which particular location of the petitioner's business such spot inspection was carried. The impugned order appears to be a cryptic order. The Commercial Tax Officer should have passed a detailed and reasoned order when it affects the business of an individual.

8. In **Shukla & Brothers** (supra) it has been held by the Supreme Court that a litigant is entitled to know the reasons of the order passed against him.

> 20. We are not venturing to comment upon the correctness or otherwise of the contentions of law raised before the High Court in the present petition, but it was certainly expected of the High Court to record some kind of reasons for rejecting the revision petition filed by the Department at the very threshold. A litigant has a legitimate expectation of knowing reasons for rejection of his claim/prayer. It is then alone, that a party would be in a position to challenge the order on appropriate grounds. Besides, this would be for the benefit of the higher or the appellate court. As arguments bring things hidden and obscure to the light of reasons, reasoned judgment where the law and factual matrix of the case is discussed, provides lucidity and foundation for conclusions or exercise of judicial discretion by the courts. Reason is the very life of law. When the reason of a law once ceases, the law itself generally ceases (Wharton's Law Lexicon). Such is the significance of reasoning in any rule of law. Giving reasons furthers the cause of justice as well as avoids uncertainty. As a matter of fact it helps in the observance of law of precedent. Absence of reasons on the contrary essentially introduces an element of uncertainty, dis-satisfaction and give entirely different dimensions to the questions of law raised before the higher/appellate courts. In our view, the court should provide its own grounds and reasons for rejecting claim/prayer of a party whether at the very threshold i.e. at admission stage or after regular hearing, howsoever precise they may be.
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> 21. We would reiterate the principle that when reasons are announced and can be weighed, the public can have assurance that process of correction is in place and working. It is the requirement of law that correction process of judgments should not only appear to be implemented but also seem to have been properly implemented. Reasons for an order would ensure and enhance public confidence and would provide due satisfaction to the consumer of justice under our justice dispensation system. It may not be very correct in law to say, that there is a qualified duty imposed upon the Courts to record reasons. Our procedural law and the established practice, in fact, imposes unqualified obligation upon

> the Courts to record reasons. There is hardly any statutory provision under the Income Tax Act or under the Constitution itself requiring recording of reasons in the judgments but it is no more res integra and stands unequivocally settled by different judgments of this Court holding that, the courts and tribunals are required to pass reasoned judgments/orders. In fact, Order XIV Rule 2 read with Order XX Rule 1 of the Code of Civil Procedure requires that, the Court should record findings on each issue and such findings which obviously should be reasoned would form part of the judgment, which in turn would be the basis for writing a decree of the Court.

9. Since in the present case also the impugned order has not elaborately mentioned the reasons, based on which the same is passed as it only refers that the dealer is going to harm the government revenue but the material based on which such conclusion has been drawn has not been discussed, the impugned order deserves to be and is hereby quashed. The matter is remitted back to the Commercial Tax Officer, Raipur, Circle-II for taking fresh decision in the matter after giving reasonable opportunity of hearing to the petitioner.

10. The Commercial Tax Officer is directed to complete the proceedings at the earliest and preferably within a period of six weeks from the date of presentation of certified copy of this order. Since the impugned order has been quashed, the petitioner's registration certificate stands revived.

11. In the result, the writ petition is allowed to the extent indicated above, leaving the parties to bear their own costs.

JUDGE

Gowri

HEAD LINES

Notice and order for deregistration of a dealer under the VAT Act without assigning reasons in detail, is violative of principles of natural justice.