NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 131 of 2015

- Akhilesh Kumar Agrawal S/o Ramnarayan Agrawal, Aged About 38 Years Proprietor Of M/s. Goyal Jute Udyog, 268, Samta Colony, Raipur, Police Station Saraswati Nagar, Civil And Revenue District Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary, Department Of Commercial Tax, Raipur (Chhattisgarh)
2. The Commissioner, Commercial Tax, Raipur (Chhattisgarh)
3. Commercial Tax Officer, Circle - 5, Raipur (Chhattisgarh)

---- Respondent

For Petitioner	Mr. Malay Kumar Bhaduri,, Advocate
For Respondent /State	Mr. Shashank Thakur, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

29/10/2015

The petitioner is aggrieved by the show cause notice issued by the Commercial Tax Officer, Raipur Circle-V, Raipur on 15.10.2015, by which, the petitioner has been directed to submit explanation about his failure to submit returns for the year 2009-10 to 2014-15. In the show cause notice, it is stated that the petitioner has sold taxable goods to other businessman of the value shown herein below against the particular year :

Sl.No.	Year	Amount
1.	2008-09	2,15,22,613.00
2.	2009-10	5,47,85,313.00
3.	2010-11	5,76,50,683.00
4.	2011-12	5,41,77,057.00
5.	2012-13	3,92,446.00

(2) Since the petitioner has not submitted return despite transacting business as afore-stated, he has been directed to submit explanation failing which the Sales Tax/VAT registration shall be cancelled.

(3) It is argued that pursuant to search and seizure carried out in his premises, the records have been seized, therefore, unless the records are not returned, he is not in a position to file return.

(4) It is to be seen that in his earlier petition being W.P.T No.6091/2011, similar prayer was made which was dismissed with the observation that the petitioner may make prayer about the return of documents. It further appears that the petitioner had also filed W.P.T. No.83/2013 against the Income Tax Department and in the said petition also, the petitioner has raised a plea of non-availability of the documents.

(5) It is manifest that the petitioner has entered into transaction involving crores of rupees but has not submitted return and on one pretext or other he is avoiding to file return.

(6) It is a well settled principle of law that ordinarily a writ petition would not lie against the show cause notice unless it is shown to the satisfaction of the Court that the authority issuing the notice has no jurisdiction over the matter (See Union of India and another vs. Kunisetty Satyanarayana[1] , Special Director and another vs. Mohd. Ghulam Ghouse and another[2], Executive Engineer, Bihar State Housing Board vs. Ramesh Kumar Singh and others [3], and State of Uttar Pradesh vs. Shri Brahm Datt Sharma and another[4]).

(7) In the case at hand, no such argument has been raised that the impugned show cause notice is without jurisdiction.

(8) Accordingly, the writ petition is dismissed at the motion stage itself.

Sd/-

Judge

(Prashant Kumar Mishra)

Gowri

1 AIR 2007 SC 906
2 2004 AIR SCW 416
3 1996 (1) SCC 327
4 AIR 1987 SC 943