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HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 92 of 2013

- Wipro Limited Ring Road No.1, Raipur. A duly Registered Company under the Indian Companies Act, 1956, Registered Office at No.134, Doddakannelli, Sarajpur Road, Next to Wipro Corporation Office, Banglore (India) Through: Its Authorized Signatory and Representative - Prashant Kumar Rathor, S/o Shri Omprakash Rathor, aged about 37 years, R/o O/O Ring Road No.1, P.S. Urla, Raipur, Civil and Revenue District Raipur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through: the Secretary, Department of Commercial Tax, Raipur (CG)
2. The Commissioner Commercial Tax Department, Raipur (C.G.)
3. Assistant Commissioner, Commercial Tax, Raipur, (C.G.)
4. The State Bank of India, Main Branch, Raipur, Through: Its Chief Manager, Raipur (C.G.)
5. Additional Tahsildar, Commercial Tax Officer, Circle No.1, Raipur, (C.G.)

---- Respondents

For Petitioner : Shri Malay Kumar Bhaduri, Advocate.
For Respondents 1 to 3 & 5 : Ms. Smiti Sharma, Deputy Govt. Advocate.
For Respondent No.4 : Shri Abhishek Sinha with Shri Ghanshyam Patel, Advocates.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

09/03/2015

1. This petition is directed against the order passed by the Additional Commissioner, Commercial Tax, Raipur on 27.8.2013 dismissing the petitioner's revision application under Section 49 of the Value Added Tax Act, 2005, which in turn was preferred against the assessment order

whereby the petitioner was held liable to pay additional tax of Rs.12,52,328/-. The Assessing Officer passed an order on 11.5.2012 whereby the Assessing Officer i.e. the Assistant Commissioner, Commercial Tax, Raipur enhanced taxable turn over from Rs.7,99,40,434/- to Rs.9,00,16,939/- and held that since the petitioner has failed to submit form-F for stock transferred to their Calcutta Branch for Rs.1,00,76,505/-, the same is treated as State sales and additional Sales Tax of Rs.12,59,563/- @ 12.5% was levied against the petitioner.

2. While deciding the revision petition, the revisional authority has observed that the petitioner failed to submit form-F even at the time of hearing of the revision application, therefore, revision application deserves to be dismissed.

3. Learned counsel for the petitioner would submit that after dismissal of the revision application, the Sales Tax Authorities of West Bengal Government have issued form-F under the Central Sales Tax Act to the petitioner on 22.11.2013 which has been filed before this Court along with application for taking additional documents on record. Therefore, the default of the petitioner for which additional sales tax was levied having been made good, the matter deserves to be remitted back to the revisional authority for taking decision afresh in the matter.

4. It appears, the additional levy of sales tax was imposed on the petitioner only for its failure to submit form-F by which the petitioner could have sought exemption. However, since after dismissal of the revision application, the petitioner has been issued form-F by the West Bengal Government, the matter deserves to be considered afresh by the revisional authority.

5. Accordingly, the writ petition is disposed of and the matter is remitted back

to the revisional authority for taking decision afresh in the matter on submission of form-F by the petitioner before the revisional authority.

6. Copy of form-F submitted by the petitioner along with application dated 1.1.2014 be returned to the petitioner on supplying xerox copy thereof.

J U D G E

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