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HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 62 of 2014

- Akhilesh Kumar Agrawal S/o Ramnarayan Agrawal, Aged About 37 Years Proprietor Of M/s Goyal Jute Udyog 268 Samta Colony Raipur PS Saraswati Nagar, Civil and Revenue District Raipur (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Deptt. Of Commercial Tax Raipur (CG)
2. Deputy Commissioner Commercial Tax Officer Division No.1, Raipur (C.G.)
3. Commercial Tax Officer, Cirlce-5 Raipur (CG)

---- Respondent

For Petitioner	Mr. M.K. Bhaduri, Advocate
For Respondent /State	Mr. R.K Gupta, Dy. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

14/1/2016

Heard finally with the consent of learned counsel for the parties.

(2) By order dated 30.09.2011, the petitioner's registration as a dealer under C.G. Value Added Tax, 2005 (in short "the Act, 2005") has been cancelled/deleted by the Commercial Tax Officer, Circle 5, Raipur in exercise of powers under Section 16(10)e of the Act, 2005. Challenging the said order, the petitioner preferred WP(T) No.6091/2011, which was dismissed on 02.05.2012, however, liberty was reserved in favour of the petitioner to make prayer for return of the

documents, which according to the petitioner, the officers of the Department have taken away from his premises at the time of inspection.

(3) The petitioner thereafter moved Revision Application before the Divisional Commissioner, Commercial Tax, Division-I, Raipur, which stands allowed vide order dated 21.10.2013. However, the petitioner still feels aggrieved, because, his prayer for return of the documents has been turned down by the revisional authority.

(4) Having heard learned counsel for the parties and on perusal of the papers annexed to the petition, it would appear that the revisional authority has recorded a categorical finding that when the officers of the Commercial Tax Department visited the business premises of the petitioner for verification, the documents were not made available by the petitioner. Subsequently, his father also made statement that the documents are not available. The revisional authority thus concluded that the documents have not at all been recovered/seized by the officers of the Department.

(5) Although in writ petitions, challenging the orders passed in revisional jurisdiction, this Court has limited jurisdiction to reassess the entire issue, but yet this Court proceeded to examine the matter on the request of learned counsel for the petitioner, who vehemently argued that the finding is perverse.

(6) Perusal of the documents in form of notice issued to the petitioner on 26.09.2011 and his reply dated 29.09.2011 coupled with the statement of the petitioner's father recorded on 01.10.2011, does

not leave any doubt that from the very beginning, the petitioner was taking stand before the officers of the Department that he is not possessed of the documents. Letter written by the petitioner to the Commissioner on 04.10.2011 complaining about taking away the documents appears to be an afterthought in the teeth of his reply dated 29.09.2011 and his father's statement dated 01.10.2011.

(7) If no search or seizure operation has been carried out by the officers of the Department at any point of time and the record has not been seized or recovered, there is no occasion for issuing any direction to the respondents to return the documents. It appears to avoid the liability of payment of commercial tax or income tax, as the case may be, the petitioner is raising false plea of taking away of the documents by the officers of the Commercial Tax Department.

(8) The writ petition has no substance, it fails and is hereby dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

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