NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 291 of 2017

M/s Tata Sky Limited A Company Duly Incorporated Under The Companies Act, 1956 (And 2013) Having Its Registered Office At 3rd Floor, C-1, Wadia International Centre (Bombay Dyeing), Pandurang Budhkar Marg, Worli, Mumbai 400025, India, And Its Offices At G.E.Road, Tatibandh, Raipur, Chhattisgarh, Through Its Chief Financial Officer And Authorized Signatory Shri Sambasivan Ganesan, S/o Shri Ganesan Tirunelveli Aged About 50 Years, R/o 1502 Palmgrove Housing Society, C D Barfiwala Street, Juhu Lane, New India Assurance Colony Mumbai 400058

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Commercial Taxes, Mahanadi Bhavan, Naya Raipur, Raipur, Chhattisgarh
2. Commissioner Of Commercial Tax, Vanijyik Kar Bhavan Civil Lines Raipur, Chhattisgarh
3. Assistant Commissioner, Commercial Tax, Division-I, Raipur, Chhattisgarh

–--Respondents

For Petitioner	:	Mr. Ghanshyam Patel, Advocate under instructions of Mr. Neelabh Dubey, Advocate
For State	:	Mr. B. Gopa Kumar, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/09/2017

1. The limited prayer which has been sought by the petitioner in this case is stay the effect and is to declare the order dated 13.04.2017, which is an order of penalty passed against the petitioner to be bad in law. The contentions of the counsel for the petitioner is that against the order of assessment he had preferred an appeal before the Deputy Commissioner (Appeals), which stood rejected on 17.01.2017 against which the petitioner had preferred a statutory appeal before the Chhattisgarh Commercial Tax Tribunal on 23.06.2017. That the Commercial Tax Tribunal has admitted the appeal and also granted an interim order to the effect of the staying the effect and operation of the order of assessment passed against the petitioner, meanwhile however the impugned order of penalty has been passed.

2. The contentions of the counsel for the petitioner is that in the event if the appeal is allowed then the imposition of the penalty order itself will loose its efficacy and in the event if the petition is decided against the petitioner, the State can still initiate the penalty proceedings, however pending the appeal while the petitioner was relegating the statutory rights available to him, which is conferred upon under the Act, the initiation of the penalty proceedings was not proper.

3. This Court recently in the case of the petitioner itself for a different assessment year i.e. in WPT No. 283/2017 has already vide its order dated 06.09.2017 allowed the petition of similar nature. In view of the same, this Court is of the opinion that the present petition also deserves to be governed by the decision taken in WPT No. 283 of 2017 decided on 06.09.2017 and the petition accordingly stands allowed in similar terms.

4. Thus, as a consequence the order of penalty dated 13.04.2017 deserves to be and is accordingly quashed, reserving the liberty to the State Government to initiate the penalty proceedings in case if needed subsequent to the disposal of the appeal preferred by the petitioner that which is pending before the Chhattisgarh Commercial Tax Tribunal.

Sd/-
(P. Sam Koshy)
Judge

Ved