**NAFR**

# HIGH COURT OF CHHATTISGARH, BILASPUR

## WPT No. 134 of 2016

Arihant Agencies Proprietorship Firm, Through The Proprietor Amit Jain, S/o C. L. Jain , Aged About 32 Years, Shop No. C-26 Shyam Market, Pandri, Raipur, Distt. Raipur, (Chhattisgarh)

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Commercial Tax, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur, (Chhattisgarh)

2. Commissioner, Department Of Commercial Tax, Civil Lines, Raipur, (Chhattisgarh)

3. Commercial Tax Officer, Raipur, Circle-8, Raipur- Cum- Additional Tahsildar, District Raipur, (Chhattisgarh)

4. Additional Commercial Tax Officer, Raipur, Circle- 8, Raipur, District Raipur, (Chhattisgarh)

5. Assistant Commissioner, Commercial Tax Civil Lines, Raipur, (Chhattisgarh)

6. Deputy Commissioner, Commercial Tax Civil Lines, Raipur, (Chhattisgarh)

**---- Respondents**

**And**

## WPT No. 135 Of 2016

Aashi Agencies, Proprietorship Firm Through The Proprietor Amit Jain, S/o C. L. Jain, Shop No. C-26 / C-27, First Floor, Shyam Market, Pandri, Raipur, Distt. Raipur, (Chhattisgarh)

**---- Petitioner**

**Vs**

1. State Of Chhattisgarh Through The Secretary, Department Of Commercial Tax, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur, (Chhattisgarh)

2. Commissioner, Department Of Commercial Tax, Civil Lines, Raipur, (Chhattisgarh)

3. Commercial Tax Officer, Raipur, Circle-8, Raipur- Cum- Additional Tahsildar, District Raipur, (Chhattisgarh)

4. Additional Commercial Tax Officer, Raipur, Circle- 8, Raipur, District Raipur, (Chhattisgarh)

5. Assistant Commissioner, Commercial Tax Civil Lines, Raipur, (Chhattisgarh)

6. Deputy Commissioner, Commercial Tax Civil Lines, Raipur, (Chhattisgarh)

**---- Respondents**

**And**

**WPT No. 136 Of 2016**

Anant Agencies Proprietorship Firm, Through The Proprietor Namit Jain, S/o Champa Lal Jain, Aged About 31 Years, Shop No C 27 Shyam Market, Saheed Hemu Kalyani Ward, Raipur, District Raipur Chhattisgarh

**---- Petitioner**

**Vs**

1. State Of Chhattisgarh Through The Secretary, Department Of Commercial Tax Mahanadi Mantralaya, Naya Raipur, Post Office & Police Staiton Naya Raipur District Raipur Chhattisgarh

2. The Commissioner, Department Of commercial Tax, Civil Lines, Raipur Chhattisgarh

3. Commercial Tax Officer, Raipur, Circle 8, Raipur, Cum Additional Tahsildar, Distirct Raipur Chhattisgarh

4. Additional Commercial Tax Officer, Raipur, Circle 8, Raipur, Distirct Raipur Chhattisgarh

5. Assistant Commissioner, Commercial Tax Civil Lines, Raipur Chhattisgarh

6. Deputy Commissioner, Commercial Tax Civil Lines, Raipur Chhattisgarh

**---- Respondents**

**And**

**WPT No. 137 Of 2016**

Arnab Enterprises Proprietorship Firm, Through The Proprietor Namit Jain, S/o Champa Lal Jain, Aged About 31 Years, Lal Ganga Midas, Raipur, Dist. Raipur (Chhattisgarh)

**---- Petitioner**

**Vs**

1. State Of Chhattisgarh Through The Secretary, Department Of Commercial Tax, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur,

District Raipur (Chhattisgarh)

2. Commissioner, Department Of Commercial Tax, Civil Lines, Raipur (Chhattisgarh)

3. Commercial Tax Officer, Raipur, Circle 8, Raipur-Cum- Additional Tahsildar, District Raipur (Chhattisgarh)

4. Additional Commercial Tax Officer, Raipur, Circle- 8, Raipur, District Raipur (Chhattisgarh)

5. Assistant Commissioner, Commercial Tax Civil Lines, Raipur (Chhattisgarh)

6. Deputy Commissioner, Commercial Tax Civil Lines, Raipur (Chhattisgarh)

**---- Respondents**

**And**

**WPT No. 140 Of 2016**

M/s Aanya Trading Proprietorship Firm, Through The Proprietor Smt. Bimla Jain, W/o Champa Lal Jain, Aged About 56 Years, Shop No. C- 26, First Floor, Shyam Market, Pandri, Raipur, Distt. Raipur, (Chhattisgarh)

**---- Petitioner**

**Vs**

1. State Of Chhattisgarh Through The Secretary, Department Of Commercial Tax, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur, (Chhattisgarh)

2. Commissioner, Department Of Commercial Tax, Civil Lines, Raipur, (Chhattisgarh)

3. Commercial Tax Officer, Raipur, Circle-8, Raipur- Cum- Additional Tahsildar, District Raipur, (Chhattisgarh)

4. Additional Commercial Tax Officer, Raipur, Circle-8, Raipur, District Raipur, (Chhattisgarh)

5. Assistant Commissioner, Commercial Tax Civil Lines, Raipur, (Chhattisgarh)

6. Deputy Commissioner, Commercial Tax, Civil Lines, Raipur, (Chhattisgarh)

**---- Respondents**

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Shri B.D.Guru, counsel for the petitioner/s.
Shri R.K.Gupta, Dy.A.G. for the State.

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**Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**25/01/2017**

The petitioners in this petition have challenged legality and validity of notice (Annexure P/1) purporting to be notice issued for recovery of the tax due as arrears of revenue.

2. The sole ground of challenge to issuance of notice initiating proceedings of recovery of tax due as arrears of revenue under the provisions contained in Rule 40 of the VAT Rules of 2006 is that without having first issued a demand notice under Rule 39-A of the VAT Rules raising demand of tax, proceedings of recovery under Rule 39 A could not have been taken recourse to.

3. This Court directed respondents to file their reply and submit affidavit placing on record notice and acknowledgment, if any, or receipt of any notice under Rule 39 of the VAT Rules, 2006. Interim protection was also granted to the petitioners.

4. A return has been filed by the respondents in which respondents have placed on record notice under Rule 39 of the VAT Rules. However, as far as the issue with regard to service of this notice are concerned, learned State counsel could not place before this Court any acknowledgment of service of notice on the petitioners in these cases. He sought to justify this situation by submitting that due to inadvertent omission of the server who had gone to serve notices, acknowledgment could not be obtained. Learned State counsel submits that now taking into consideration the dispute with regard to service of notice on the petitioners under Rule 39 of the VAT Rules, fresh demand notices have been issued under Rule 39 of the VAT Rules and he submits that the earlier proceedings for recovery as arrears of revenue would not be given effect to and the respondent will proceed further under the new notice issued under Rule 39 of the VAT Rules, 2006.

5. In view of the aforesaid stand taken by the State that fresh notices have been issued to the petitioners, the petitioners should not have any apprehension of they being subjected to recovery proceedings as arrears of revenue under impugned notice challenged in these petitions.

6. Placing on record the aforesaid stand and observations made by this Court, all these petitions are finally disposed off.

Sd/-
**(Manindra Mohan Shrivastava)**
**Judge**

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