NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

WP(T) No. 40 of 2017

Deepak Nanjiyani S/o Shri Ishwardas Nanjiyani Aged About 47 Years R/o Ganga Vihar Colony, Mahaveer Nagar, Amlidih, Raipur, Chhattisgarh.

----Petitioner

Versus

1. State of Chhattisgarh Through Principal Secretary, Department of Finance & Commercial Taxes, Government Of Chhattisgarh, Mantrlaya, Mahanandi Bhawan, New Raipur, Chhattisgarh.
2. Commissioner, (Commercial Taxes), Department Of Commercial Taxes Office Of Commissioner, Commercial Tax, Behind Raj Bhawan, Civil Lines, Raipur, Chhattisgarh.
3. Rakesh Trivedi, Commercial Tax Officer, Department Of Commercial Taxes, Office Of Commissioner, Commercial Tax, Behind Raj Bhawan, Civil Lines, Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Prasoon Agrawal, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

26/09/2017

1. The challenge in the present writ petition is to the search and seizure proceedings conducted on 04.05.2016 at the office premises of the petitioner by the Commercial Tax Department of the State of Chhattisgarh.

2. The ground of challenge is primarily that the respondent authorities have not followed the mandatory requirement as is otherwise required under Section 57 of the Chhattisgarh Value Added Tax Act, 2005 (in short, the VAT Act) inasmuch as no notice of raid and seizure was issued. After seizure also the necessary and mandatory informations were not passed on to the petitioner. Further, no reasons have also been recorded in writing by the authorities concerned while conducting the search and seizure proceeding. In addition, there was no proper constitution of committee as is required under Section 57 (1) of the VAT Act.

3. A perusal of provisions of the Act would reveal that requirement under the Act also is that immediately upon search and seizure being conducted under Section 57 of the VAT Act as held by the respondent authorities, the petitioner had a statutory right of filing of objection to the concerned authorities under Section 57(6-H) of the VAT Tax. In the instant case the raid was conducted on 04.05.2016 till date though 1 and ½ years have lapsed, the petitioner has not filed any objection to the authorities concerned and have now filed the writ petition that too after a lapse of more than 10 months from the date of raid. Thus, the petition suffers from delay and laches.

4. The non submission of objection by the petitioner and also not approaching the court promptly, immediately after the raid was conducted is also a serious lapse on the part of the petitioner.

5. For the aforesaid lapse and delay on the part of the petitioner, this court is of the opinion that no strong case has been made out by the petitioner to interfere with the proceedings drawn by the respondents.

6. Needless to mention that our reluctance to entertain the writ petition on the ground of delay and laches by itself would not preclude the petitioner from availing the remedies that are otherwise available to him under the Act in approaching the concerned authorities.

7. The writ petition is accordingly disposed of.

Sd/-
(P.Sam Koshy)
Judge

inder