NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on 11.01.2017

Judgment delivered on 13.04.2017

WPT No. 1 of 2017

1. M/s Prakash Industries Limited, a company duly incorporated under the Companies Act, 1956 having its registered Office At 15 KM Stone, Delhi Road, Hissar-125044 (Haryana), Head Office Near IOCL Depot, Najafgarh, Bijwasan Road, New Delhi-110061, and Works At Champa Through Its Authorized Signatory And Senior General Manager (Corporate Affairs), Shri Arun Kumar Singh, S/o Late Shri S.D. Singh, Aged About 50 Years, R/o 15 VIP City, Rajiv Vihar Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Commercial Taxes, Mahanadi Bhavan, Naya Raipur, District-Raipur, Chhattisgarh
2. Commissioner Of Commercial Tax, Vanijyik Kar Bhavan, Civil Lines, Raipur, (Chhattisgarh).
3. Divisional Deputy Commissioner, Commercial Tax, (C.G.) Bilaspur, Circle-II, Chhattisgarh

---- Respondents

For Petitioner	Shri Neelabh Dubey, Advocate
For Respondent-State	Shri A. S. Kachhawaha, Addl. Adv. General

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Hon'ble Shri Justice Prashant Kumar Mishra

CAV Order

1. Petitioner has prayed for quashment of the order dated 31-5-2016 (Annexure–P/11) passed by the Commissioner,

Commercial Tax, Chhattisgarh, Raipur, as also for directing the respondents to compound the offence under Section 64-A of the Chhattisgarh Value Added Tax Act, 2005 (for short 'the VAT Act').

2. It is argued that the petitioner having already deposited the tax under the VAT Act, under protest, the Commissioner should have allowed the application.

3. It appears the petitioner has purchased taxable goods from the bogus dealers and has claimed input tax rebate to the tune of Rs.16,47,201/-. By notice dated 1-7-2014 the petitioner was directed to deposit the said amount whereas by subsequent notice dated 22-8-2014 the petitioner was directed to show cause as to why its registration may not be cancelled.

4. The petitioner was served another notice for the assessment year 2010-11 directing it to deposit Rs.1,21,65,520/-. By separate notice for the assessment year 2011-12 the petitioner was directed to deposit Rs.36,79,485/-. In yet another notice the petitioner was directed to deposit Rs.1,67,94,087/- and thereafter for Rs.79,18,881/-. By another notice for assessment 2012-13 the petitioner was directed to deposit Rs.47,46,412/- and, thereafter, Rs.13,90,527/- for the assessment year 2013-14.

5. The petitioner claims to have deposited the amount and thereafter moved the application under Section 64-A of the VAT Act for compounding the offence. Copy of the application filed by the petitioner is not on record.

6. The Commissioner has rejected the application of the petitioner for the reason that the petitioner has not stated as

to the offence in respect of which the application for compounding is moved. The Commissioner was of the opinion that the application is not duly constituted, as it lacks in material terms, therefore, it is not worth consideration.

7. In a case where the Department has proceeded to initiate any criminal liability against a dealer an application for compounding the offence may be moved, however, the documents filed along with the petition would not demonstrate that any such proceeding is initiated against the petitioner, therefore, the Commissioner is fully justified in rejecting the application on the ground that it fails to disclose as to which offence petitioner is compounding.

8. Even otherwise, prayer for compounding of offence has to be considered by the Department and a mandamus cannot be issued for compounding the offence.

9. In the result, the writ petition, being bereft of merit, is liable to be and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Gowri