NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (T) NO. 3 OF 2015

M/s Bilaspur Varites & Chemicals, through its Director Pradeep Kumar Kanoria, aged about 40 years, S/o Shri Radheshyam Kanoria, 690, Lake Town, Block A, Kolkata-89

… Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Commercial Tax Department, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.)
2. Additional Commissioner, Commercial Tax Department, Bilaspur (C.G.)

… Respondents

For Petitioner	:	Mr. Anoop Majumdar, Advocate.
For Respondents	:	Mr. S.P. Kale, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/07/2017

1. The present writ petition has been filed by the Petitioner being aggrieved by the order of the Additional Commissioner, Commercial Tax, Bilaspur, dated 7.2.2014 (Annexure P-1), whereby the revision preferred by the Petitioner against the order dated 29.11.2017 (Annexure P-2) passed by the Assistant Commissioner, Commercial Tax, Bilaspur, has been rejected.

2. Learned Counsel for the Petitioner submits that the notice could not be served upon the Petitioner effectively as the petitioner-company has already been closed and is under BIFR. It is also the contention of the learned Counsel for the Petitioner that since the industry at Bilaspur is lying closed, the officials taking care of the company are placed at Kolkata and therefore the notice by the Assessing Officer could not be effectively served.

3. Learned Counsel for the Petitioner makes a submission that let the Petitioner be given an opportunity for appearing before Assessing Officer, within a stipulated time and the case be heard on merits. He further submits that the entire assessment which has been done by the Assessing Officer is not proper, legal and justified and is not based upon any substantive proof.

4. Learned Deputy Advocate General appearing for the Respondents however submits that since the Petitioner after granting ample opportunity of hearing to them did not appear, the Assessing Officer had no option but to dismiss the case. He however submits that in the event if the case is to be remitted back, the Petitioner should be saddled with heavy cost.

5. In view of above, this Court is of the opinion that ends of justice would meet if the petition is disposed of, granting them one opportunity to appear before the Assessing Officer and contest the case on merits, subject to the Petitioner paying a cost of Rs.10,000/- to be deposited in the office of the Assessing Officer and it is ordered thus.

6. Accordingly, the impugned order dated 7.2.2014 and the ex parte order dated 29.11.2007 are set aside/quashed. The Petitioner is directed to enter appearance before Assessing Officer within a period of 30 days from today. The Petitioner would render all necessary cooperation and produce all the necessary documents in respect of the assessment proceeding of the relevant year and the Assessing Officer shall thereafter pass an order on merits, without being influenced by any of the observations made by this Court in the present order.

7. With the aforesaid observation/direction, the writ petition is finally disposed of.

Sd/-
(P. Sam Koshy)
Judge

/shard/