NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 6766 of 2007

1. M/s Shiv Roadways Transport Contractors in front of Bazar Samiti New Bus Stand Bokaro (Jharkhand)

2. Gurnam Singh S/o Roshan Singh, Driver, Vehicle No. CG-04-J-0933 C/o Kamal Rathi Near Hotel Midtown Behind Gujrati School, Jawahar Nagar, Raipur (C.G.)

---- Petitioners

Versus

1. State Of Chhattisgarh through – Secretary, Department of Commercial Tax DKS Mantralaya Bhavan, Raipur (C.G.)

2. Additional Commissioner, Commercial Tax Raipur (C.G.)

3. Appellate Deputy Commissioner of Commercial Tax, Bilaspur (C.G.)

4. Commercial Tax Officer, Check Post Lodam, Jashpur (C.G.)

---- Respondents

For Petitioners	:	Mr. Neelabh Dubey, Advocate.
For Respondents / State	:	Mr. Anand Dadariya, Dy. G. A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/04/18

1. This writ petition is directed against the impugned revisional order dated 31.01.2007 affirming the order passed by Appellate Authority which has upheld the order of Check Post Officer levying penalty under Section 45-A(12) of the Chhattisgarh Commercial Tax Act, 1994 (for brevity 'Act of 1994').

2. Learned counsel for the petitioners would submit that all the three lower authorities have clearly missed out the fact that there was no intent to evade tax and, therefore, erred in imposing penalty under Section 45-A(12) of the Act of 1994.

3. Per contra, learned State counsel would support the impugned order and submit that concurrent finding recorded by three authorities are based on material available on record and it is neither perverse nor contrary to record, therefore, writ petition is liable to be dismissed.

4. I have heard learned counsel for the parties and gone through the records with utmost circumspection.

5. The Supreme Court in the matter of **Commissioner of Trade Tax, U.P. vs. J.U. Pesticides And Chemical Pvt. Ltd.**[1] has held that if fact finding authority comes to certain conclusions honestly and bonafide, the mere fact that Court may have a different perspective of that question, cannot be a ground to interfere with the finding, even though another view may be possible.

6. Reverting to the facts of the present case in light of principle of law laid down by the Supreme Court in the matter of *J.U. Pesticides And Chemical Pvt. Ltd.* (supra), it is quite vivid that finding recorded by Check Post Officer imposing penalty under Section 45-A(12) of the Act of 1994 is a finding of fact based on material on record, which has rightly been affirmed by Appellate and Revisional authority respectively. I do not find any illegality or perversity in the impugned order.

7. As a fallout and consequence of above stated discussion, the writ petition deserves to and accordingly dismissed leaving the parties to bear their own cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

Priyanka

1 (2008) 7 SCC 100