NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (T) NO. 92 OF 2014

M/s Narendra Khad Bhandar Sarangarh, Registration Certificate No. (TIN) 22484901613, Proprietor Narendra Kumar Kesharwani, S/o Late Visambhar Prasad Kesharwani, aged 48 years, occupation Business, P.S. & P.O. Sarangarh, Tahsil Sarangarh, District Raigarh (C.G.)

… Petitioner

versus

1. State of Chhattisgarh, through Secretary, Commercial Tax Department, Mantralay, Mahanadi Khand, New Raipur (C.G.)
2. Additional Commercial Tax Officer, Raigarh, Circle-1, Raigarh, District Raigarh (C.G.)
3. Divisional Deputy Commissioner (Commercial Tax), Bilaspur, Division-2, Bilaspur (C.G.)

… Respondents

For Petitioner	:	Mr. B.N. Nande, Advocate.
For Respondents	:	Mr. Gary Mukhopadhyay, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/01/2018

1. Challenge through the present writ petition is to the order dated 20.5.2010 (Annexure P-1) passed by the Additional Commercial Tax Officer, Raigarh and order dated 20.6.2011 (Annexure P-2) passed by the Joint Commissioner, Commercial Tax, Bilaspur, Division-II, in Revision Case No. 341 R.C./1/11/Entry Tax.

2. Learned counsel for the petitioner submits that the petitioner in the instant case is carrying a business of chemical fertilizer, pesticide, cement and iron-steel road at Sarangarh, District Raigarh, in the name of M/s Narendra Khad Bhandar and that he has a registration certificate from the Commercial Tax Department and also a TIN number. According to the learned counsel for the petitioner, he has been regularly filing prescribed returns under Commercial Tax as is required. However, the Assessing Officer under Commercial Tax Department somehow has imposed entry tax upon the purchase of saria (steel roads) which otherwise is completely exempted vide notification no. F-10/29/2006/CG/V/(17), dated 30.3.2006.

He further submits that the Assessing Officer as well as the Revisional authority have not properly scrutinized the records of the petitioner-establishment and have passed an order in a mechanical manner. He next submits that the petitioner had provided all necessary information and all necessary invoices available with the petitioner which have also been enclosed along with the present writ petition. He also submits that at least the authorities should have verified these invoices and should have on the basis of notification dated 3.3.2006 granted exemption from payment of entry tax and having not done so both Annexure P-1 as well as revisional order Annexure P-2 are bad in law and thus prayed for the setting aside of the same.

3. Learned counsel for the State on perusal of record submits that it is a case where the petitioner has not produced relevant records before the authorities concerned and under the given circumstances, the revisional authority has rightly rejected the revision petition of the petitioner.

4. Given the facts and circumstances of the case, this Court is of the opinion that since the petitioner has produced certain invoices along with the present writ petition and the two orders being a non-speaking order to the extent as to why the petitioner would not be entitled for the exemption from the entry tax, ends of justice would meet if the matter is remitted back to the Assessing Officer, setting aside both order dated 20.5.2010 (Annexure P-1) and order dated 20.6.2011 (Annexure P-2).

5. Needless to mention that the petitioner shall produce before the Assessing Officer all relevant documents, registers and invoices in respect of sale and purchase made by them during the relevant period along with a copy of notification with which they are seeking an exemption and on receipt of the same the Assessing Officer shall pass a fresh order on merits as expeditiously as possible.

6. Learned counsel for the State is directed to intimate the Assessing Officer as well as the Revisional Authority in respect of the order passed by this Court.

7. With the aforesaid observation, the writ petition stands finally disposed of.

Sd/-
(P. Sam Koshy)
Judge

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