NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No.52 of 2012

M/s. Abhay Logistics, through its Proprietor namely Abhay Jain, S/o Tarachand Jain, aged about 34 years, R/o Tatibandh, Raipur, District Raipur (C.G.).

---Petitioner

Versus

1. Deputy Commissioner, Sale Tax, Division No.1, Raipur, District Raipur (C.G.).
2. Commercial Tax Officer, Raipur, Circle-5, Raipur, District Raipur (C.G.).
3. State of Chhattisgarh, through : Secretary, Commercial Tax Department, D.K.S. Bhawan, Raipur, District Raipur (C.G.).

---Respondents

For Petitioner	:	Shri Anurag Singh on behalf of Shri Manoj Paranjpe, Advocate.
For State	:	Shri Anand Dadariya, Dy.Government Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15/01/2018

1. The challenge in the present Writ Petition is to the annexure-P/1 dated 22/03/2012, an order passed by the Divisional Deputy Commissioner (Sale Tax), Division No.1, Raipur. Vide the said impugned order, the revisional authority partly allowed the revision petition wherein the challenge was to the order dated 13/05/2010 passed by the Commercial Tax Officer, Raipur.

2. The contention of the counsel for the petitioner at the outset is that, the present impugned order in the instant case, annexure P/1 dated 22/03/2012, is a non-speaking order. According to the counsel for the petitioner, the revisional authority firstly ought to have given reasons and subsequently

dealt with the grounds which have been raised by the petitioner in their revision petition and should have passed a speaking order. According to him, the revisional authority has after narrating the entire facts of the case as is reflected in the revision petition has jumped to the conclusion while passing the impugned order.

3. The State counsel however opposing the petition submits that, plain reading of the operative part of the order itself would reveal that, the revisional authority has infact dealt with the objections raised by the petitioner and the grounds raised by the petitioner has been answered by a speaking order and therefore, the impugned order does not warrant any interference.

4. Having heard the contention put forth on either side and on perusal of record what clearly reflect is that, the original order dated 13/05/2010 passed by the Commercial Tax, Raipur is an order imposing penalty upon the petitioner in respect of the machineries and equipments purchased by the petitioner and which was not covered during the registration certificate-annexure-P/4.

5. The contention of the counsel for the petitioner is that, these items were subsequently deleted from the registration certificate and this deletion were to be made with effect from 14/11/2006, but the revisional authority has not dealt upon this issue at all.

6. Perusal of record would show that, the authority i.e. Divisional Deputy Commissioner, Raipur have not dealt with the said issue at all and has abruptly decided the revision petition by partly allowing it.

7. Given the facts and circumstances of the case it is necessary to say that, an order passed by any of the authorities, either by administrative authority or by judicial authority, reasons should be recorded while passing an order. The Hon'ble Supreme Court has held that, not only at judicial side but also on the administrative side, the orders that are passed must be supported by reasons recorded.

8. Thus, this Court is of the opinion that ends of justice would meet if, the present Writ Petition is disposed off by setting aside the impugned order, annexure-P/1 dated 22/03/2012 and remanding it back to the revisional authority with a direction that the revisional authority should pass a speaking order considering the grounds that have been raised by the petitioner in the revision petition.

9. Needless to mention that, since by virtue of the interim order granted by this Court dated 28/09/2015, the auction proceedings initiated were stayed till date. It is expected that, the authorities concerned would continue with the interim protection till the authorities decide the revision petition finally afresh.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit