NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

Writ Petition (T) No.379 of 2017

SAIL, Bhilai Steel Plant Bhilai, Through its D. G. M. Finance B. N. Agrawal, Ispat Bhavan Bhilai Chhattisgarh District Durg Chhattisgarh.

----Petitioner

Versus

1. State of Chhattisgarh Through its Principal Secretary, Finance and Planning Department, Commercial Tax Department Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisgarh.
2. The Commissioner, Commercial Tax Department, Government of Chhattisgarh, Vanijya Kar Bhawan, South Civil Lines, Raipur Chhattisgarh.
3. The Deputy Commissioner Of Commercial Taxes, Durg Division, Malviya Nagar Chowk, Durg Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Ashok Patil, Advocate.
For State	:	Shri Prafull Bharat, Addl. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12.02.2018

1. The challenge in the present writ petition is the order dated 23.05.2017 passed by the Commissioner for Commercial Tax, Raipur, in Revision Case No.82/R/2016 (Central), maintaining the order passed by the Assessing Authority, Commercial Tax for the assessment period 2009-10 under the Central Sales Tax Act, 1956.
2. A perusal of record would show that the petitioner's establishment had taken the benefit of payment of tax at a concessional rate in respect of sale that he had made outside the State. The requirement of law is that under such circumstances, he was supposed to submit C-Form in respect of the sale made out of State from the concerned purchase-dealer.

3. Admittedly, from the proceedings it reflects that the petitioner's establishment has not submitted any C-Form in respect of the sale made to the purchaser-dealer beyond the territories of the State both before the Assessing Officer as well as also till the Revisional Authority had decided the Revision petition. Under the said circumstances, the petitioner's establishment are duty bound to pay the tax at a normal rate fixed, without the benefit of the concession for want of furnishing C-Form.
4. In view of the aforesaid factual matrix of the case, this court does not find any strong case made out by the petitioner calling for an interference with the order under challenge.
5. At this juncture, the counsel for the petitioner submits that out of the total amount assessed, except for an amount of Rs.6,25,240/-, the entire amount has already been adjusted in the subsequent assessment which has been made by the department. He further prays that the department may consider adjustment of the remaining balance amount also from the subsequent assessments to be made.
6. Since this court has already held that neither there is any merit nor any strong case made out by the petitioner, as regards the adjustment of the balance amount of Rs.6,25,240/- as has been sought by the petitioner, the only relief which can be provided to the petitioner is to grant a liberty to approach the respondent No.3 in this regard, who may, in the given facts and circumstances of the case consider the said relief in accordance with law.
7. It is made clear that this court has not expressed any opinion so far

as the entitlement of the petitioner seeking adjustment of the balance amount is concerned. The respondent No.3 shall be free to decide the matter in accordance with law on its own merit.

8. With the aforesaid observations, the writ petition stands disposed of.

Sd/-

(P.Sam Koshy)
Judge

inder