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HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No.3029 of 2010

1. M/s Green Gold Irrigation, Private Limited a Company incinerated under the provisions of the Companies Act, 1956 Gol Bazar Dongargarh (CG) through Director Brij Ratan Bhaiya

2. Brij Ratan Bhaiya, S/o Late Radhakishan Bhaiya, aged about 55 years, R/o Gol Bazar Dongargarh (CG) **---- Petitioners**

Versus

1. Assistant Commissioner, Commercial Tax Rajnandgaon Chhattisgarh

2. State of Chhattisgarh, Through Secretary Department Of Commercial Tax D.K.S. Mantralaya Bhawan Raipur (CG) **--- Respondents**

For Petitioners	:	Mr. Neelabh Dubey, Advocate
For State/Respondents	:	Mr. Alok Bakshi, Additional A.G. with Mr. Aditya Bharadwaj, Panel Lawyer

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Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

12/12/2019

Heard.

1. By this petition under Article 226 of the Constitution of India, the petitioners call in question correctness, legality and validity of reassessment notice dated 11.03.2010, for the assessment year 2000-01 issued in purport exercise of powers under Section 28 of the Commercial Tax Act, 1994 read with Rule 10(a) of the Chhattisgarh Sales Tax (Central) Rules, 1957.

2. As the issue raised in this petition had been subject matter of consideration by the Division Bench, only necessary facts need to be mentioned. The petitioner firm carries on business of manufacture and sale of H.D.P.E. Pipes and fittings. The petitioner firm is registered as dealer with the Commercial Tax Department and is assessed to Commercial Tax on the rolls of the Assistant Commissioner Commercial Tax Rajnandgaon. In respect of the period from 2000-01, the petitioner Company was assessed to Central Cess Tax vide assessment order dated 11.02.2004.

3. While the matter stood thus, a notice dated 11.03.2010 was issued

purporting to initiate reassessment proceeding in respect of that period i.e. 2000-01. The same is placed on record Annexure P/2.

4. The petitioner challenges that notice before this Court mainly on the ground that by the time, reassessment proceedings were initiated, the New Act known as Chhattisgarh Value Added Tax Act, 2005, had come into force repealing earlier enactment Chhattisgarh Commercial Act, 1994, therefore, reassessment proceedings could be drawn only under the new Act upon arriving satisfaction in terms of provision contained in that Act.

5. While learned State counsel sought to resist this contention with reference to subject clause under the new Act, in view of the Division Bench judgment of this Court in Writ Appeal No.235 of 2014 and batch of matters decided on 13.08.2015, the issue is no longer *res integra*. In that case, the Division Bench of this Court has held that after coming into force of the new Act, the power of reassessment which is available under the New Act would be exercised only under the New Act and that any reassessment of the earlier assessment had to be made strictly in terms of provision contained in Section 22(1)(a) to (e) of the New Act.

6. In view of the aforesaid enunciation of law by this Court, the impugned notice cannot be sustained in law and is therefore set aside.

7. No further orders are required to be passed.

8. It has to be made clear that this Court has not expressed any opinion on the merits of reassessment.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Rekha