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HIGH COURT OF CHHATTISGARH, BILASPUR

TAXC No. 68 of 2019

(Arising out of order dated 05.03.2019 passed by the Chhattisgarh Commercial Tax Tribunal in Case No. A/229/45/2018)

- M/s Shivshankar Solvent Extraction Private Limited R-2 Vaishali Nagar, Green Paradize Private Limited Raipur, District- Raipur, Chhattisgarh, Through Its Director Sudhir Kumar Singhal, S/o Late Shri Ratan Lal Singhal, aged about 54 years, R/o Sundarganj Ward, In Front Of P.D.P. Company's Street, Dhamtari, District- Dhamtari, Chhattisgarh.

---- Petitioner

Versus

- Commissioner Commercial Tax, Civil Lines Raipur, District- Raipur, Chhattisgarh.

---- Respondent

For Appellant	:	Shri Palash Tiwari, Advocate
For Respondent-State	:	Shri Siddharth Dubey, Deputy Government Advocate

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Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

P. R. Ramachandra Menon, Chief Justice

04.09.2019

1. The Challenge raised by the Assessee in this case is with regard to course of action pursued by the Chhattisgarh Commercial Tax Tribunal in simply dismissing the appeal preferred against the verdict passed by the Commissioner, Commercial Tax without entertaining the merits, but for not satisfying the statutory mandate to deposit 20% of the liability fixed upon the Assessee in terms of Section 48(4)(ii) of the Chhattisgarh Value Added Tax Act, 2005, for admitting the appeal.

2. The learned counsel for the Appellant points out that there was an unfortunate fire mishap in the industry, which virtually swallowed the entire assets and dreams of the Assessee in all respects and the Petitioner was finding it extremely difficult to make both the ends meet. By that time, a

huge extent of liability of more than Rs. 35 lacs was cast upon the Petitioner for not producing the 'F-forms' to avail the benefit sought for; under which circumstance, the procurements made by the Appellant from those dealers who supplied the materials were treated as from 'unregistered dealers', in turn casting the liability upon the Assessee to the above extent. In the appeal preferred by the Assessee projecting the plight of the Assessee, a petition was also filed as to the inability to satisfy the minimum statutory deposit of 20%. Though the Tribunal referred to the said contention; observing that the matter cannot be finally adjudicated because of the statutory bar under Section 48(4)(ii), read with sub-section (5) of Section 48, the appeal itself was dismissed as per Annexure A/1, which hence is sought to be challenged in this appeal.

3. During the course of hearing, it is noted that the Petitioner has specifically stated in 'Ground 6' of the proceedings that the Tribunal ought to have granted an opportunity to the Appellant to effect the minimum deposit of 20%. It is stated that, the Appellant/Assessee, after striving hard, has made necessary arrangement to meet the requirement in this regard. But the question to be considered is whether this 'appeal' as such can be held as maintainable, as the proceedings have been filed in terms of Section 55 of the Act, which only provides for a 'reference' and the manner in which it is to be pursued.

4. The learned counsel, in the said circumstance, seeks for permission to withdraw the matter and to approach this Court by filing appropriate

proceedings in accordance with the relevant provisions of law, particularly, the Constitutional remedy.

5. Permission is granted. The appeal is permitted to be withdrawn without prejudice as aforesaid. The certified copy of the order under challenge shall be returned by the Registry to the Appellant after retaining an authenticated photocopy of the same for the purpose of records.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Hem