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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 136 of 2019

1. M/s G.C. Jain, T.P. Nagar, Korba, Chhattisgarh, Through Trihil Jain, S/o Late Shri Vinod Jain, Aged About 34 Years, R/o Parshva Apartment, Choubey Colony, Raipur, District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Principal Secretary, Commercial Tax And GST Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District : Raipur, Chhattisgarh
2. Commercial Tax And GST Department, Through Its Commissioner, Head Office, Commercial Tax And GST Department, North Block, Sector-19, Atal Nagar, Raipur, District : Raipur, Chhattisgarh
3. The Joint Commissioner, Commercial Tax And GST Department, Division -2, District : Bilaspur, Chhattisgarh
4. The Deputy Commissioner, Commercial Tax And GST Department, Division -2, District : Bilaspur, Chhattisgarh
5. The Assistant Commissioner, Commercial Tax And GST Department, Korba Circle, Korba, District : Korba, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Shishir Dixit, Advocate
For State	:	Mr. Jitendra Pali, Dy. Adv. General

Hon'ble Shri Justice P. Sam Koshy
Order on Board

22.11.2019

1. The challenge in the present Writ Petition is to the order of re-assessment of the order dated 16.08.2018 (Annexure P-4). The petitioner has also made a prayer for an appropriate direction to the respondents not to carry-out any assessment or re-assessment

under the Chhattisgarh Value Added Sales Tax Act, 2005 for calculating tax liability for the sale of goods unless there is a rule or mechanism provided in-respect-of the formula to be applied for excluding the cost incurred in the labour and service charge provided by the contractor.

2. This Court at the outset is of the opinion that the order of re-assessment was made as early as on 16.08.2008. The present Writ Petition has been filed after more-than 15 months. The order of re-assessment was challengeable under the provisions of Section 48 of the Chhattisgarh Value Added Sales Tax Act, 2005. The fact that the petitioner at the relevant point of time did not thought/find it fit to challenge the re-assessment order dated 16.08.2018, the petitioner now cannot be permitted to challenge the same before this Court by way of a writ petition.

3. That even if the prayer 10.1 of the petition is to be considered nothing prevented the petitioner to avail the said remedy at the time when the re-assessment order was passed either before the higher authorities in the department by way of appeal or before this High Court promptly or within a reasonable period.

4. For the given reasons, this Court is of the view that the writ petition suffers from delay and laches. Accordingly, the present Writ Petition stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Rahul