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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9553 OF 2019

East West Pipeline Limited
(Formerly known as Reliance Gas
Transport Infrastructure Ltd.) .. Petitioner
Vs
The Deputy Commissioner of SalesTax and others .. Respondents

Ms.Nikita Badheka, for the Petitioner.
Ms.Shruti D.Vyas, 'B' Panel counsel for Respondent Nos.1 to 4-State.

CORAM : M.S.SANKLECHA &
NITIN JAMDAR, JJ.
Date : 10 October 2019.

P.C. :

Heard both sides. At the request of the parties, Petition is being disposed of at admission stage.

2. This Petition under Article 226 of Constitution of India challenges order dated 18 March 2019 passed by the Deputy Commissioner of Sale Tax-Respondent No.1, under the Maharashtra Value Added Tax Act, 2002 (MVAT) and Central Sales Tax, 1956 (CST 1956). By the impugned order the Petitioner's registration under the CST Act, 1956 has been cancelled.

3. We note that after the amendment to section 16 of the MVAT Act by insertion of sub-section 6A thereto, the Respondent No.1 -Deputy Commissioner of Sales Tax issued a show cause notice dated 19 June 2018 to the Petitioner. The above notice dated 19 June 2018 called upon the Petitioner to show cause as to why the Petitioner's registration under section 7(2) of the CST Act 1956 should not be cancelled w.e.f. 1 July 2017.

4. The Petitioner responded to the show cause notice by a letter dated 20 August 2018 contending that it is entitled to receive 'C' form under the CST Act, 1956. This as the natural gas procured by it is used in generation of electricity. The Petitioner had particularly placed reliance upon the decision of Punjab and Haryana High Court in case of Capro Power Ltd. Vs. State of Haryana (CWP No.29437 of 2017 dt. 28-03-2019) to contend that the cancellation of registration under CST Act, 1956 was not justified as the Petitioner is continued to be entitled to the issue of 'C' form.

5. Thereafter without calling the Petitioner for any hearing, the Deputy Commissioner-Respondent No.1 passed the impugned order which reads as under :

> *'From : Dy. Commr LTU <dcltu123@gmail.com>*
> *Sent : Monday, March 18, 2019 12:09 PM*
> *To : Shivpal Yadav <Shivpal.Yadav@ril.com>*
> *Subject : [External] Cancellation of certificate of registration under the CST Act, 1956.*

> *The e-mail below is from an external source. Please do not open attachment or click links form an unknown or suspicious origin.*
>
> *Ref:- This office issued Show cause Notice for cancellation of CST registration vide B-100 Dt.19/06/2018.*
>
> *CST RC cancellation show cause was issued to you, you have replied on dt-08/08/2018 & Dt-20/11/2018. It is observed that till date from 01/07/2017 you have not made any sale of the goods covered in the amended definition in CST Act, 1956 w.e.f. 01/07/2017.*
>
> *Considering this fact as you are no longer liable to pay taxes under CST Act, 1956, Your RC is cancelled w.e.f. 01/07/2017'.*

However, none of the submissions made by the Petitioner in its reply was considered by the Assessing Officer – Respondent No.1 and is evident from the impugned order.

6. By a single sentence the registration under the CST Act, 1957 was cancelled with retrospective effect. This is not the manner in which the quasi judicial proceedings are to be handled / dealt with. Once a show cause notice has been issued and the party has responded to the same then the minimum that is expected of the adjudicating authority seeking to cancel the license is to consider the Petitioner's submissions in the light of the show cause notice and adjudicate upon the same. The impugned order is in clear breach of

principles of natural justice. As it is a nonspeaking order we are unable to find out what were the reasons which weighed with the Assessing Officer – Deputy Commissioner to not accept the Petitioner's submissions made in reply to the show cause notice.

7. In the above view we are left with no option but to set aside the order dated 18 March 2019 and restore the show cause notice dated 19 June 2018 to the Deputy Commissioner of Sales Tax-Respondent No.1 for fresh adjudication after following the principles of natural justice i.e. including the grant of hearing to the Petitioner. Needless to state that the order which would be passed by the Respondent No.1 consequent to the fresh consideration of the Petitioner's submissions to the show cause notice dated 19 June 2018 would be a speaking order.

8. It is clarified that other contentions raised in this Petition are not being examined at this stage. The disposal of this Petition on this limited issue of impugned order being a nonspeaking order would not in any manner mean that the Petitioner's have given up the other contentions raised in the Petition. All contentions left open.

9. Petition disposed of in the above terms.

(NITIN JAMDAR, J.) *(M.S.SANKLECHA, J.)*