NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP(T) No. 86 of 2020

1. M/s Raipur Rajnandgaon Warora Transmission Ltd. A Company Duly Incorporated Under The Provisions Of Companies Act, 1956 And Companies Act, 2013 Having Its Office At Anupam Nagar, Opposite Shiv Dham Kaurinbhata Road, Rajnandgaon- 491441 And Head Office At Adani House, New Mithakhali Road, Muslim Society, Navrangpur, Ahmedabad (Gujarat)- 380009 Through Its Authorized Signatory, Basavaraj, S/o Maheswarappa Aged About 52 Years, R/o J-2, Second Phase Riddhi Siddhi Colony, Rajnandgaon- 491441. **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Commercial Taxes, Mahanadi Bhawani, Mantralaya, New Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Commissioner Commercial Tax, Vanijyik Kar Bhawan, Civil Lines, Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Assistant Commissioner Commercial Tax, Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Neelabh Dubey, Adv.
For State	:	Mr. Mateen Siddiqui, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21/09/2020

1. The challenge in the present writ petition is to the order passed by the Assistant Commissioner Commercial Tax Rajnandgaon dated 16.07.2020 (Annexure P/2) whereby the Assistant Commissioner has assessed the tax liability of Rs. 31,50,698/- towards entry tax. The basic challenge raised by the petitioner in the present writ petition is to the assessment of entry tax made in respect of the work carried out before the commencement of the distribution business by the petitioner company.
2. At this juncture, the Counsel for the petitioner submits that the issue involved in the present writ petition is already seized for consideration

by the Division Bench of this Court in Tax Case No. 19/2019 and the outcome of the said judgment would decide the fate of this matter 'also'.

3. The Dy. Advocate General on the other hand opposing the petition submits that the petitioner has a remedy of two appeals against the said order first before the Additional Commissioner Appeals and the second before the Commercial Tax Appellate Tribunal. Bypassing the two forums, the present writ petition has been filed, therefore the writ petition may not be sustainable.

4. Given the said facts and circumstances of the case, this Court is of the opinion that since there are two forums of appeals available to the petitioner, it would be more appropriate that the petitioner is permitted to challenge Annexure P/2 dated 16.07.2020 by preferring an appeal under Section 48(1) of the VAT Act before the Additional Commissioner, after compliance of the requisite conditions for filing an appeal.

5. However, since the point of law involved in the case is already sub-juice before the Division Bench of this Court in Tax Case No. 19/2019 and this High Court had earlier set aside the order of the Commercial Tax Appellate Tribunal before ordering for a reference to be made on the same issue, it would be more appropriate, if the first Appellate forum i.e. the Additional Commissioner Appeals defers the proceedings till the outcome of the Tax Case No. 19/2019 pending before the Division Bench of this Court is finally pronounced.

6. With the aforesaid observation/direction, the writ petition accordingly stands disposed of

Sd/-

(P. Sam Koshy)
Judge

Jyotijha