NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 19 of 2021

- M/s NU Vista Ltd. Formerly Known As M/s Emami Cement Ltd. (Till 04-06-2020) A Company Duly Incorporated Under The Provisions Of The Companies Act. 1956 And The Companies Act, 2013 Having Its Office And Work At Village Risda, Suhela Road, Baloda Bazar, Chhattisgarh- 493332 Through Its Authorized Signatory And AVP, Commercial, Vikash Paharia, S/o Shri Shiv Kumar Paharia Aged About 43 Years Old, R/o Krishnayan Colony, Baloda Bazar, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through the Secretary, Department Of Commercial Taxes, Mahanadi Bhawan, Mantralaya, New Raipur, District- Raipur, Chhattisgarh
2. Commissioner Commercial Tax, Vanijyik Kar Bhawan, Civil Lines, Raipur, District- Raipur, Chhattisgarh
3. Assistant Commissioner Commercial Tax, Div-II, Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Gary Mukhopadhyay, Advocate
For Respondents/State	:	Shri Amrito Das, Addl. AG

Hon'ble Shri Justice Goutam Bhaduri

Order

15/02/2021

1. Heard.

2. The instant petition is against the order dated 17.12.2020 (Annexure P-5) wherein the reassessment order has been passed in exercise of power under Section 22 of the C.G. Value Added Tax, 2005 (for short 'the Act, 2005').

3. Learned counsel for the petitioner would submit that the petitioner was not served with the notice as required under Rule 30 of the C.G. Value Added Tax Rules, 2006 (for short 'the Rules, 2006') which contemplates that what are the grounds of reassessment has to be specifically projected in form 28, whereas the petitioner has not been served notice in the prescribed form, therefore, there has been a violation of Rule 30 which is mandatory. Reliance is placed on the judgment of the Division Bench of this Court passed in the case of ***M/s Sarda & Semec Electromech Pvt. Ltd. Versus State of Chhattisgarh & ors. {WPT No.129/15}*** on 09.02.2016, wherein the Division Bench has considered that such nature of notice as required for reassessment would be necessary. He would therefore submit that the order being against the law laid down by the Division Bench of this Court would be illegal.

4. Per contra, learned State counsel invites the attention of this Court to Section 48 of the Act, 2005 and would submit that alternative remedy of filing appeal is available to the petitioner.

5. Perused the Section 48 of the Act, 2005 which contemplates that any dealer or person aggrieved by an order of assessment under Section 21 & 22 of the Act, of 2005, it would be appealable before the Appellate Deputy Commissioner.

6. On query being made to the State counsel that whether the Appellate Deputy Commissioner is available or not? It is submitted that the Appellate Deputy Commissioner is available. In view of this, if the statutory alternative remedy is available under the Act, 2005, the petitioner may avail such statutory alternate appellate remedy and invocation of jurisdiction of Article 226 of the Constitution

of India in the facts of this case is uncalled for. The petitioner would be at liberty to raise the grounds there which have been raised here in the present petition.

7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu