

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPT No. 117 of 2020**

- M/s Jabalpur Transmission Company Ltd. A Company Duly Incorporated Under The Provisions Of Companies Act, 1956 And Companies Act, 2013, Having Its Registered Office At F-1, MIRA Corporate Suites, Ishwar Nagar, Mathura Road, New Delhi -110065 And Also Works At Bilaspur, Through Its Authorized Signatory, And Asst. Vice President Rajani Kumar Chinnari, S/o Shri Janardhana Rao Chinnari, Aged About 47 Years R/o At-Joua Street, Brahamapur Sadar, Ganjam, Odisha

**---- 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, Division-1, Bilaspur Chhattisgarh

**---- Respondents**

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| For Petitioner | : | Shri Neelabh Dubey,, Advocate |
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| For Respondents/ State | : | Shri Amrito Das, Addl A.G. |
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**Hon'ble Shri Justice Goutam Bhaduri**

**Order On Board**

**12.01.2021**

Heard

1. The challenge in the present writ petition is to the order passed by the Assistant Commissioner Commercial Tax, Bilaspur dated 29.02.2020 (Annexure P/2) whereby the Assistant Commissioner has assessed the tax liability of Rs. 2,13,54,878/- 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 out come of the said judgment would decide the fate of this matter 'also'.

3. Learned State counsel 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 29.02.2020 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-judice 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/-  
(Goutam Bhaduri)  
Judge