NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 248 of 2021

M/s Shree Radhemani Steels (A Partnership Firm) Having Its Office At 82/17, Radhemani Tower, Opposite Deshbandhu Press Complex, Nagar Nigam Colony, Agrasen Chowk, Raipur- 492001 Through Its Partner Namely Ankush Agrawal, Son Of Ashwani Kumar Agrawal, Aged Around 38 Years, R/o A-25, North Avenue Road, Choubey Colony, Raipur, Chhattisgarh Pin- 492001, **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Chhattisgarh State Tax (Gst), North Block, Sector-19, Mahanadi Bhawan, Atal Nagar, Naya Raipur, Chhattisgarh,
2. Commissioner Of Chhattisgarh, State Tax (Gst), North Block, Sector-19, Atal Nagar, Naya Raipur, Raipur, Commercial Tax, Raipur, Chhattisgarh,
3. The Assistant Commissioner, Chhattisgarh State Tax, Circle-2, Raipur, Behind Raj Bhawan, Civil Line, Raipur, Chhattisgarh, **---- Respondents**

For Petitioner: Shri Hari Agrawal, Advocate.
For Respondents/State: Shri Udhaw Sharma, G.A., on advance copy

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Single Bench: Hon'ble Shri Sanjay S. Agrawal, J

Order On Board

16/12/2021

1. Challenge to this petition is the order dated 26.06.2020 and consequent upon the entire subsequent proceedings as done by the respondent authorities.

2. Learned counsel appearing for the petitioner submits that while passing the order dated 26.06.2020, the respondent authorities have neither supplied the copy of it nor the show-cause notice as required under Section 74 of the Chhattisgarh Goods and Services Tax Act, 2017 (hereinafter referred to as the “Act, 2017') was issued, and therefore, the entire subsequent proceedings, as initiated, are required to be quashed.

3. Perusal of the papers annexed with this petition would, however, show that a notice dated 13.02.2020 (Annexure P/2) was issued by respondent No.3

- Assistant Commissioner, Chhattisgarh State Tax, Circle-2, Raipur, to the petitioner intimating discrepancies in his return filed for the financial years 2017-2018, 2018-2019 and 2019-2020 wherein, while using the name of bogus dealer, namely Anantabhuja Construction Private Limited, the petitioner has claimed input tax credit. In response to the said notice, the petitioner has submitted its reply on 16.03.2020 (Annexure P/3) and, it appears that another notice (Annexure P/4) was again issued by the said authority on 14.05.2020 intimating the alleged discrepancies as pointed out in earlier notice dated 13.02.2020 as the petitioner has claimed Rs.16,61,318.50 towards input tax credit against the assessable amount of Rs.92,29,547.00, for which, no reply was, however, filed by the petitioner. Therefore, a summary show-cause notice (Annexure P/5) was issued on 26.06.2020 in the prescribed Form GST DRC – 01 under section 74 of the Act, 2017 read with Rule 142 of the Chhattisgarh Goods & Service Tax Rules, 2017 (henceforth, the Rules, 2017) and thereafter the tax assessment order (part of Annexure P/8) was passed on 01.09.2020 by the Assessment Commissioner, State Tax, Raipur, Circle-2 imposing total tax of Rs.37,93,343/-.

4. Admittedly, the aforesaid order is an appealable order, as provided under Section 107 of the Act, 2017 before the appellate authority and the instant appeal, which has been filed without invoking the said statutory remedy, therefore, appears to be rather prematured in nature and in view thereof, I am not inclined to entertain this petition at this stage.

5. The petition is accordingly dismissed. No order as to costs.

Sd/-
(Sanjay S. Agrawal)
JUDGE

Anjani