2026:CGHC:3625

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 61 of 2016

1 - M/s. My Home Industries Ltd. Chitrakote Road, Jagdalpur Chhattisgarh, P.S. Jagdalpur, Distt. Bastar Chhattisgarh Pin 494001, Chhattisgarh

--- **Petitioner**

versus

1 - The State Of Chhattisgarh Through Secretary, Commercial Tax Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh, Chhattisgarh

2 - The Commissioner Of Commercial Tax, Chhattisgarh, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

--- **Respondent(s)**

WPT No. 62 of 2016

1 - M/s. My Home Industries Ltd. Chitrakote Road, Jagdalpur Chhattisgarh P.S. Jagdalpur Pin 494001, Chhattisgarh

---**Petitioner**

Versus

1 - The State Of Chhattisgarh Through Secretary, Commercial Tax Department, Mantralaya, Mahandi Bhawan, Naya Raipur Chhattisgarh, Chhattisgarh

2 - The Commissioner Of Commercial Tax, Chhattisgarh Mantralaya Mahandi Bhawan Naya Raipur Chhattisgarh , District : Raipur, Chhattisgarh ***...*** **Respondents**

For Petitioner	: Mr. S.R. Rao, Advocate along with Mr. M.K. Sinha, Advocate
For State	: Ms. Anuradha Jain, Dy. A.G.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

21.01.2026

1) Heard.

2) In these two petitions, the petitioner has challenged the orders passed by the Additional Commissioner Commercial Tax Chhattisgarh dated 11.01.2016 whereby, separate orders passed by the Assessment Officer dated 25.05.2015 were affirmed and separate revision petitions preferred by the petitioner were dismissed.

3) The facts in nutshell are that the petitioner is engaged in manufacture and sale of cement, having its manufacturing unit at Vishakhapatnam and a registered Branch at Jagdalpur in Chhattisgarh. In the financial year 2012 -13, cement was transferred from Vishakhapatnam to the Chhattisgarh Branch by way of stock transfer supported by F-Forms. The Chhattisgarh sale depot effected local sales of goods after payment of VAT and disclosed total sales of Rs.6,96,57,450/- in annual Return-Form-18, inclusive of VAT of Rs.85,54,424/-. In the Financial Year 2012-13, total quantity of Rs.13,747.50 MTs of cement was received and sold after admissible shortages. The details of stock transfer to State of Chhattisgarh Ware Houses during the year 2012-13 are given in part of Annexure P-3 annexed with writ petition at page No.33. The total quantity transferred between April, 2012 till March, 2013 was 13483.00 MTs and value was Rs.6,98,40,610/-. F-Forms were submitted on monthly basis by the petitioner between 23.06.2012 till 18.04.2013.

4) The Department noticed a difference between the value shown in F-Forms i.e. Rs.6,98,40,610/- and the value reflected in Entry Tax annual

Return Rs.6,12,96,993/- and assumed the difference as turnover evaded from tax.

5) The petitioner filed reply and explained that the difference in value arose due to malfunction of newly employed SAP Software, whereby MRP/RSP value meant for calculating Excise Duty was wrongly picked up by system and reflected in F-Forms instead of Stock Transfer Value excluding VAT, which resulted in difference between value of stock transfer and value of stock receipt.

6) The Assessing Authority rejected submission of the dealer and levied VAT @ 14% on an inflated turnover of Rs.7,05,01,004/- and raised a demand of Rs.98,07,141/- and at the same time, by separate order levied entry tax to the tune of Rs.85,436/-.

7) The orders passed by the Assessing Authority were challenged by filing two separate revision petitions before the Additional Commissioner and same were also dismissed vide order dated 11.01.2016 and against the said order, these petitions have been preferred.

8) Mr. Rao, Advocate appearing for the petitioner would vehemently submit that the Assessing Authority as well as the Revisional Authority failed to scrutinize the documents submitted by the petitioner. It is also contended that the grounds raised by the petitioner were not properly considered. He would submit that there was some malfunction in the system and it picked up MRP/RSP of goods instead of manufacturing cost and that

was the reason for the difference between the entry made in F-Forms and entry tax paid by the petitioner. Lastly, he would submit that the Revisional Authority passed order in a cryptic manner. He would pray to set aside the same.

9) On the other hand, Ms. Jain, learned Deputy Government Advocate appearing for the State would oppose the submissions made by Mr. Rao. She would submit that the orders were passed by the Assessing Authority strictly in accordance with the provisions of Section 6A(1) of the Central Sales Tax Act, 1956 (for short 'the Act of 1956'). She would further submit that the burden was on the petitioner to provide all necessary documents at the time of scrutiny. It is argued that there was difference of value in F-Form and entry tax paid by the petitioner and therefore, a show cause notice was issued and sufficient opportunity was afforded to the petitioner. It is contended that a plea with regard to incorrect entry in SAP Software was not raised before the Assessing Authority. It is also contended that before sale of goods, it was not possible for the petitioner to make payment of VAT. She would submit that the authorities concerned have considered the grounds raised by the petitioner and thereafter, orders impugned were passed. She would contend that both petitions deserve to be dismissed.

10) I have heard the learned counsel appearing for the parties and perused the documents with utmost circumspection.

11) Section 6A(1) (2) of the Act of 1956 reads as under :

> "[**6A. Burden of proof, etc., in case of transfer of goods claimed otherwise than by way of sale**] -(1) Where any dealer claims that he is not liable to pay tax under this Act, in respect of any goods, on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may furnish to the assessing authority, within the prescribed time or within such further time as that authority may, for sufficient cause, permit, a declaration, duly filled and signed by the principal officer of the other place of business, or his agent or principal, as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority, along with the evidence of despatch of such goods, and if the dealer fails to furnish such declaration, then, the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale
>
> (2)If the assessing authority is satisfied after making such inquiry as he may deem necessary that the particulars contained in the declaration furnished by a dealer under sub-section (1) are true he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration related shall be deemed for the purpose of this Act to have been occasioned otherwise than as a result of sale."

12) A bare reading of above-quoted provision would make it clear that a dealer must provide a declaration Form F to prove that the movement was a stock transfer rather than an inter-state sale. A dealer must submit a declaration Form along with evidence of despatch to the Assessing Authority. If the dealer fails to furnish the required Form-F, it allows the Assessing Authority to treat the movement as an inter-state sale, making

it liable for the Central Sale Tax. The Assessing Authority is under an obligation to examine the documents and after making necessary inquiries, he has to determine as to whether the moment of goods was stock transfer or sale.

13) In the present case, the petitioner submitted all necessary documents before the Assessing Authority but the concerned authority on the basis of difference of value between F-Form and entry tax paid by the petitioner passed two separate orders levying 14% VAT tax and entry tax Rs.85,436/-. In the revision, the petitioner took a plea that there was malfunction of newly employed SAP Software but same was not taken into consideration by the said authority. As the documents were provided by the petitioner to the Assessing Authority as well as the Revisional Authority, therefore, the authorities were under an obligation to examine those documents. According to the provisions contained in Section 6A of the Act of 1956, the Assessing Authority as well as the Revisional Authority are under an obligation to scrutinize all the documents before taking any decision. As in these petitions, the Assessing Authority as well as the Revisional Authority failed to scrutinize the documents provided by the petitioner and also failed to consider the grounds raised by the petitioner, therefore, orders passed by the Revisional Authority in both the petitions dated 11.01.2016 are hereby set aside. The matter is remitted back to the Assessing Authority to decide afresh after affording due opportunity of hearing to the petitioner strictly in accordance with the

provisions of law. As the orders impugned were passed way back in the year 2016, the Assessing Authority is directed to conclude the proceeding within a period of 6 months from the date of receipt of a copy of this order.

14) With the aforesaid observations/directions, both petitions are **disposed of.**

Sd/-
(Rakesh Mohan Pandey)
Judge

Rekha