HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPT No. 187 of 2021

M/s Vimla Infrastructure (India) Pvt. Ltd. **Versus** Principal Commissioner Of Income Tax (Central) & ors.

17/09/2021	Shri Neelabh Dubey, counsel for the petitioner. Smt. Naushina Afrin Ali, counsel for the respondents. Heard. Learned counsel for the petitioner would submit that pursuant to a search conducted at Swami Fuels Private Limited at Nagpur with whom the petitioner had a dealing of small turn over and notice was issued to the petitioner to centralise the investigation, reply was filed and further an order was passed on 10/08/2021 (Annexure P-6) whereby under Section 127 (2) of the Income Tax Act, 1961 the centralised assessment has been ordered at Nagpur as Swami Fuels is at Nagpur. He would submit that the order dated 10/08/2021 would show that it is non speaking order and only it reflects that the objection filed by the petitioner were not found acceptable. Subsequently, a notice under Section 142 (1) of the Income Tax Act, 1961 is served which purports that the order would be passed under Section 153 (A)/153(C) of the Income Tax Act, 1961 meaning thereby 7 years back assessment is to be reopened for which the petitioner has already been assessed. Learned counsel submits that the petitioner had a business transaction with Swami Fuels of around 77 lakhs and turn over of the petitioner is nearing about 130 crores, therefore only on the premises that certain Swami Fuels has escaped certain income tax the petitioner cannot be penalised by a non speaking order

10/08/2021 and is a matter of right the 7 years back assessment cannot be gone into in such garb.

Learned counsel for the respondents on instructions would submit that the petitioner were given opportunity and thereafter the orders have been passed.

After going through the order dated 10/08/2021 wherein centralised order have been made wherein it only speaks that the objection filed by the petitioner were not acceptable as such rejected. Prima facie it appears it has to be better worded and why the satisfaction has not been arrived at is required to be reflected alongwith the reasons. The order when cuts to the right of the party prima facie the reasons has to be assigned properly.

Let the reply be filed giving an opportunity of hearing to show that proper opportunity was given and also to explain the order dated 10/08/2021 (Annexure P-6).

In the meanwhile, it is directed that no further precipitation pursuant to the notice dated 10/08/2021 (Annexure P-6) shall be made by the respondents till the next date of hearing.

List the case in the week commencing 27/09/2021.

Sd/-

(Goutam Bhaduri)
JUDGE

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