

Vikram Cement Vs. Additional Commissioner of Commercial Tax and anr.

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Court : Madhya Pradesh

Decided On : Nov-11-2002

Reported in : [2004]138STC580(MP)

Judge : A.M. Sapre, J.

Acts : Madhya Pradesh General Sales Tax Act, 1958 - Sections 19(1)

Appeal No. : W.P. No. 1574 of 2002

Appellant : Vikram Cement

Respondent : Additional Commissioner of Commercial Tax and anr.

Advocate for Pet/Ap. : G.M. Chafekar, Sr. Adv. assisted by ; C.R. Pancholia, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

A.M. Sapre, J.

1. The challenge in this petition is essentially to reassessment notices issued by the Assessing Authorities for various periods from 1991-92 to 1994-95 under the provisions of M.P. General Sales Tax Act, 1958. They were challenged in revision

before the Additional Commissioner of Commercial Tax but were dismissed by the impugned order giving rise to challenge in this petition.

2. Heard Shri G.M. Chafekar, Senior Advocate, assisted by Shri C.R. Pancholia.

3. The only point on which these reassessment notices issued under Section 19(1) of the M.P.G.S.T. Act, 1958 are assailed is that impugned notice does not contain reasons as to why and on what basis or/and cause the reassessment is considered necessary. Learned counsel for the petitioner relying upon Section 19 ibid, contended that Section contemplates issuance of notices only when there exists a ground and that too those ground which are specified in the section. Learned counsel contends that since in the impugned show cause (annexure D collectively) no such reasons are specified and only a printed form has been sent, the impugned notices become bad in law and contrary to requirement of Section 19. Learned counsel maintained that it is not known to petitioner as to what are the charges which he has to meet while replying to impugned notices and hence it is not necessary to submit to such notice and the same should be struck down at its threshold.

4. I do not agree. The submission is factually incorrect when one reads the impugned notices (annexure D) at pages 67, 69, 71, 72, 74, 75, 77, 78 and 80 of Petition). The notices which are issued for several years do contain in specific term, rather in detail, the grounds and factual reasons for its issuance. In other words, the notice does comply the requirement of Section 19 ibid, when it in so many words mention the reasons in the notice. Rather it indicates that the reasons are enclosed in detail separately along with the notice. This is what is specified in the notice (annexure D).

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5. Then again in another notice (annexure D/2) following is specified as the reasons for reassessment.

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6. Likewise in all notices referred supra the detail and specific reasons are assigned on facts.

7. In my opinion, no flaw can thus be found in any of the impugned notices which conform to the requirement of Section 19 ibid. The submission is good when there are no reasons but not otherwise. This Court cannot go into the adequacy or correctness of the reasons on which the impugned notices are founded. It is for the petitioner to file reply to impugned notice and satisfy the issuing authorities that the reasons stated in the impugned notices are not sustainable and hence no case for reassessment is made out on those reasons. It is then for the assessing authority to decide depending upon the reply so filed by the petitioner whether the impugned notices should be pursued and whether reassessment be made and if so to what extent.

8. The petition is thus absolutely found to be meritless and devoid of substance. It is dismissed in limine but with a direction to respondents to ensure completion of the proceedings within six months after granting opportunity to the petitioner.

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