HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.5497 of 2015

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Transport.

The petitioner's vehicle bearing No.AP-11-W-7322 is said to have been seized by the 3rd respondent on 20-02-2015 on the ground of non-payment of quarterly tax. The petitioner filed an application under Rule 448 (b) of the A.P. Motor Vehicles Rules (for short 'the Rules') before the 2nd respondent on 23-02-2015 seeking release of the said vehicle. The petitioner's application for release was however returned by the impugned proceedings of the 2nd respondent, dated 25-02-2015 on the ground that such an application cannot be considered, as the vehicle is seized under Sub-Section (1) of Section 207 of the A.P. Motor Vehicles Act (for short 'the Act') and called upon the petitioner to pay quarterly tax arrears of Rs.11,250/- and penalty of Rs.21,750/- to enable release of the vehicle. The said order is questioned in this writ petition.

It is evident that as per Rule 448-B of the Rules, the application for release of the vehicle can be made under Section 448 (b) of the Rules, where a vehicle is seized and detained under Sub-Section (1) of Section 207 of the Act. Since the detention of the vehicle is under Sub-Section (1) of Section 207 of the Act, even as per the impugned proceedings, there is no reason why the release cannot be considered under Rule 448 (b) of the Rules. Moreover, to the extent of arrears of quarterly tax is concerned, the petitioner is willing to pay the said quarterly tax and so far as penalty is concerned, the petitioner states that if the penalty is determined, it will have a right of appeal to the extent of penalty.

In those circumstances, therefore, following the decision of this Court passed in W.P.No.3368 of 2015, dated 18-02-2015, the writ petition is disposed of directing the 2nd respondent to assess the quarterly tax arrears payable by the petitioner and permit release of the vehicle, subject to the condition of the petitioner paying quarterly tax arrears, within three days from the date of receipt of a copy of this order. However, the assessment proceedings may go on, but however, the penalty imposed on the petitioner shall not be recovered for a period of 30 days, as the petitioner has an opportunity to prefer an appeal against imposition of penalty. No order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 06-03-2015
Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.5497 of 2015

Dated 06-03-2015