HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.Nos.8705 & 8706 OF 2000

ORDER: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Sri Challa Gunaranjan, learned counsel for the petitioners, learned Government Pleader for 1st respondent and learned Standing Counsel for the 2nd respondent in both the writ petitions.

The petitioners pray for Mandamus declaring the action of respondents in issuing demand notices No.MCQ/G/1074/1999-2000 dated 20.04.2000 and G.O.Rt.No.52, Municipal Administration and Urban Development (TC.I) Department dated 24.01.2000, as illegal, arbitrary and contrary to the A.P. Municipalities Act, 1965 (for short 'the Act').

The 2nd respondent through the impugned notices dated 20.04.2000 called upon the petitioners to pay advertisement tax of Rs.2,30,375/- and Rs.3,22,800/- respectively. The impugned demand notices read as follows:

In W.P.No.No.8705 of 2000

> I am to inform you that the Municipal Council, Quthbullapur has levied the collection of advertisement tax w.e.f. 01.04.1999 within the jurisdiction of its limit under the provision of Section 114 of the A.P. Municipalities Act, 1965 and the permission accorded by the Government vide G.O under reference cited.
>
> In respect of the advertisements being carried out through your Advertisement eliminated boards, wall paintings and autos, it is found that there are (   ) Nos. of A.P.S.R.T.C Buses, and (34) Autos and wall paintings of your company are playing within the jurisdiction of this Municipality limit carrying the advertisements and as per the schedule of advertisement the advertisement tax is recoverable from your department on the below noted category of advertisement w.e.f. 01.04.1999.

1.	Autos 34 Nos.	Rs.95,200-00
2.	Wall painting	Rs.42,350-00
3.	Glosen boards (12) Nos.	Rs.17,760-00

4.	Raasi hoardings	Rs.75,065-00
	Total advertisement tax payable	Rs.2,30,375-00

In W.P.No.No.8706 of 2000

I am to inform you that the Municipal Council, Quthbullapur has levied the collection of advertisement tax w.e.f. 01.04.1999 within the jurisdiction of its limit under the provision of Section 114 of the A.P. Municipalities Act, 1965 and the permission accorded by the Government vide G.O under reference cited.

In respect of the advertisements being carried out through your Advertisement eliminated boards, wall paintings and autos, it is found that there are (12) Nos. of A.P.S.R.T.C Buses, and (6) Autos and wall paintings of your company are playing within the jurisdiction of this Municipality limit carrying the advertisements and as per the schedule of advertisement the advertisement tax is recoverable from your department on the below noted category of advertisement w.e.f. 01.04.1999.

1.	Exhibition/elimination APSRTC Buses Mobile advertisement fee Carried out through busses of 12 Nos.		Rs. 60,000-00
2.	Autos	“	Rs. 16,800-00
3.	Wall painting	“	Rs.1,72,000-00
4.	Glosen boards (50) Nos.		Rs. 74,000-00
	Total advertisement tax payable		Rs.3,22,800-00

The principal challenge laid against either the impugned demand notices or G.O.Rt.No.52 dated 24.01.2000 is in a narrow compass.

The averments relevant for answering the challenge alone are adverted to.

According to petitioners, the levy or demand of advertisement tax basing upon G.O.Rt.No.52 dated 24.01.2000 is illegal, erroneous and contrary to the procedure stipulated under the Act, for G.O.Rt.No.52 dated 24.01.2000 does not conform to the statutory requirements of Section 326 of the Act. According to the petitioners, the advertisement tax now demanded is based upon G.O.Rt.No.52 dated 24.01.2000 and the rates now enforced, in fact, change or revise the Advertisement Tax

Rules, 1967. The Government Order has no legal sanctity unless the Government Order, as it is amending a rule is gazetted in terms of Section 326 of the Act.

G.O.Rt.No.52 dated 24.01.2000 as follows:

> "Government hereby accord permission to the Municipal Council, Quthbullapur, Ranga Reddy District, to levy and collect Advertisement Tax under Section 81 read with Section 114 of the Andhra Pradesh Municipalities Act, 1965, with effect from 01.04.1999 in the municipal area as approved by the Municipal Council, at the rates specified in the annexure to this order."

Section 326 of the Act reads thus:

> **Power of Government to make rules**:- (1) The Government may by notification in A.P.Gazette make rules for carrying out all or any of the purposes of this Act.

The challenge in our view is misconceived and untenable, for Section 114 of the Act provides for levy of tax on advertisements. Advertisement Tax Rules provide for scope, procedure and the objects on which advertisement tax can be levied. Section 114 stipulates that the advertisement tax can be levied with the approval of the Government. So, before implementing advertisement tax under Section 114, the concerned municipality is required to take prior approval from the Government. Section 326 gives power to Government to make rules and if a rule is made by the Government, before it is implemented the rule is required to be gazetted to conform to the statutory requirements of Section 326 of the Act. As already noticed, through G.O.Rt.No.52 dated 24.01.2000, the Government has granted approval to the rates proposed by the 2nd respondent municipality. It is not the case of the petitioners that the impugned notices are contrary to the rates approved by the 1st respondent. Once the 2nd respondent levies and demands advertisement tax in accordance with the approved rates, in our considered view, no exception can be taken and the legal objection taken under Section 326 of the Act is completely untenable and accordingly rejected.

Except the above, no other point is urged by the learned counsel appearing for the petitioners.

We see no merits in the writ petitions. The writ petitions dismissed. No costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date: 25.08.2015
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