HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.24375 OF 2003

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

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

The petitioner challenges demand notice in proceedings R.No.7236/A2/2003 dated 29.09.2003 issued by the 3rd respondent.

The relevant circumstances for the disposal are that on 06.09.2003, show cause notice was issued calling upon the petitioner to pay the difference tax pursuant to the check report dated 21.08.2003 by the 2nd respondent. The show cause notice refers to contravention of G.O.Ms.No.220, Transport, Roads and Buildings (Tr.II) dated 07.11.1996. The petitioner claims to have submitted explanation to the instant show cause notice referring to G.O.Ms.No.220 dated 07.11.1996 as erroneous and illegal, inasmuch as through G.O.Ms.152 Transport, Roads and Buildings (Tr.II) dated 01.12.2001, G.O.Ms.No.220 dated 07.11.1996 was superseded.
We are not examining the merits of the obligation to pay difference of tax, if any. In our considered view, there is a patent illegality in taking up action against the violations noticed by the department at the time of inspection of vehicle. On this short ground, the impugned demand is set aside.

Writ petition is ordered. It is made clear that the respondents are free to issue show cause notice, receive explanation from the petitioner and pass orders in accordance with law. The said exercise shall be completed within three months from the date of receipt of a copy of this order. There shall be no order as to costs.

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

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date: 03.11.2015

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