THE HON'BLE SRI JUSTICE A. RAJASHEKHER REDDY

WRIT PETITION No.6242 of 2015

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Between:

M. Ramachandraiah

PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary, Transport Department,Roads & Buildings Department, Secretariat Buildings, Hyderabad, and others.

RESPONDENTS

ORDER:

This writ petition is filed to declare the proceedings issued in R.No.692/A4/2015, dated 05.03.2015 by the 2nd respondent, as illegal and arbitrary and consequently to direct the 2nd respondent to release the petitioner's goods carriage (Tipper) bearing No.AP 12 V 1082.

The grievance of the petitioner is that he is the owner of the vehicle bearing No.AP 12 V 1082 and the said vehicle is not in operation for the past few months as it developed major repairs. The vehicle was sent to mechanic shed and after completion of repairs on 21.02.2015, when the vehicle was on trial run, the same was seized by the 3rd respondent vide vehicle check report No.198927 alleging that the documents of the vehicle are not produced and there is no proof of tax payment. The petitioner submitted representation dated 03.03.2015 before the 2nd respondent under Rule 448 (b) of the Motor Vehicles Rules along with all the relevant documents requesting him to release the vehicle, but in vain. On the other hand, the 2nd respondent passed the impugned proceedings R.No.692/A4/2015, dated 05.03.2015 returning the said application directing the petitioner to pay the tax and penalty along with compounding fees. Hence the present writ petition.

Learned counsel for the petitioner submits that the 2nd respondent returned the application submitted by the petitioner directing to pay tax of Rs.36,630/- with penalty of Rs.69,940/- total amount of Rs.1,06,570/- along with compounding fee Rs.13,025/-. He also submits that since the vehicle is seized not only under Section 8 of the A.P. Motor Vehicles Taxation Act, but also under Section 207 of Motor Vehicles Act, returning of application is untenable. He also submits that as far as payment of tax is concerned the petitioner will pay the same, but penalty is concerned, since the 2nd respondent without conducting any enquiry straight away issued the impugned proceedings imposing the penalty is against the provisions of the Motor Vehicles Act and the Rules made thereunder.

Heard learned Government Pleader, who submitted that petitioner has to pay tax, penalty and also produce documents as asked by officials.

This Court in similar circumstances, in W.P.No.5497 of 2015 dated 6.03.2015 while directing the petitioner to pay the tax held that the penalty cannot be imposed on the petitioner without conducting enquiry after issuance of notice. In the case on hand the petitioner is willing to pay the tax and the compounding fees as determined in the impugned proceedings.

In view of the same, the writ petition is disposed of directing the 2nd respondent to release the vehicle of the petitioner on payment of tax and the compounding fees as determined in the impugned proceedings, but he shall not insist the petitioner for payment of penalty. However, the penalty can be recovered after issuing show cause notice and completion of enquiry by following due process of law petitioner is also to produce ownership documents. No costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

A. RAJASHEKHER REDDY, J.

12th March, 2015
Js.

Note: Issue C.C. tomorrow