HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No. 23302 OF 2008

19.11.2015

Between:

Sri Akber Khan,

Hyderabad.

… Petitioner

And

The Regional Transport Officer (Licencing Officer),

Regional Transport Authority (South Zone),

Bahadurpura, Hyderabad.

… Respondent

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<u>HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE</u>

<u>AND</u>

<u>HON'BLE SRI JUSTICE S.V. BHATT</u>

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<u>WRIT PETITION No. 23302 OF 2008</u>

ORDER: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Petitioner in this writ petition under Article 226 of the Constitution of India seeks a writ of mandamus declaring the action of the respondent in not accepting stoppage application dated 30.09.2008 in respect of contract carriage vehicle bearing No. AP/12U 9961. The petitioner has also challenged the action of the respondent asking him to pay the tax *vide* memo dated 04.10.2008.

Section 3 of the Andhra Pradesh Motor Vehicles Taxation Act, 1963 (for short 'the Act') is the charging section providing for levy of tax on Motor Vehicles by the Government by issuing a notification from time to time directing the payment of tax on every motor vehicle used or kept for use in a public place in the State. As per this Section, tax is liable to be levied on every motor vehicle used or kept for use in a public place and the tax has to be paid as per Section 4 of the Act.

Rule 12 of the Andhra Pradesh Motor Vehicles Taxation Rules, 1963 (for short 'the Rules') provides that for the purpose of Section 3 of the Act, a motor vehicle shall be deemed to be kept for use and is liable to pay tax unless the registered owner or the person having possession or control of the motor vehicle intimates in writing to the licensing officer before commencement of the quarter for which tax is due that the motor vehicle shall not be used after expiry of the period for which tax has already been paid. The Licensing Officer, under this provision, on receipt of the intimation, is expected to acknowledge its receipt.

In this backdrop, according to the petitioner, the vehicle was in use only till 30.09.2008 and he had, as contemplated by Rule 12A of the Rules, given stoppage intimation before 30.09.2008.

It is not in dispute that on 30.09.2008, the petitioner had sent the stoppage intimation by registered post which was received by the concerned authority on 03.10.2008 and on 04.10.2008, a memo was issued asking the petitioner to pay the tax for next quarter. According to the petitioner, on account of the death of one of prominent leaders of the muslim community, the Government had declared holiday on 30.09.2008 and therefore, he had no option but to send stoppage intimation by registered post.

This contention, in our opinion, cannot be accepted. It was open to the petitioner, even if it is assumed that what he submits regarding the holiday is correct, to submit stoppage intimation to the concerned authority on the next date. Instead of doing so, he sent intimation by registered post, which in our opinion, was improper on the part of the petitioner. In any case, the intimation was not received by the concerned authority either on 30.09.2008 or 01.10.2008. That apart, admittedly, 30.09.2008 was not a public holiday and the petitioner has not placed any authenticate material on record to show that holiday was declared on 30.09.2008 by the Government.

In the circumstances, we do not find any substance in the writ petition.

Writ Petition is dismissed.

Miscellaneous petitions, if any, also stand disposed of. No order as to costs.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

19.11.2015

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