HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

PRESENT

**THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA**
**AND**
**THE HON'BLE SRI JUSTICE SANJAY KUMAR**

**WRIT PETITION Nos.21957 & 27948 OF 2014**

DATED:24.03.2015

W.P.No.21957 of 2014

Between:
Sri Mohd. Moinuddin.

…Petitioner.

And
The Transport Commissioner, Transport Bhavan, Hyderabad and others.

… Respondents.

**THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA**
**AND**
**THE HON'BLE SRI JUSTICE SANJAY KUMAR**

**<u>WRIT PETITION Nos.21957 & 27948 OF 2014</u>**

**<u>COMMON ORDER:</u>** (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

These two matters are disposed of by a common order, as the issue involved and the grievance of the parties are common.

These writ petitions are filed with the grievance that the concerned Regional Transport Authority is illegally and orally demanding payment of taxes and penalty for the period for which the petitioner in each of the cases was not at all liable. Further grievance is that the Transport Authority is not effecting the transfer as the petitioner and other persons are not acceding to the aforesaid illegal demand.

The facts in these two cases are common. The writ petitioners purchased the used vehicles, which are in working condition, in a public auction held by the third respondent. The admitted fact is that the third respondent is the financier and the fourth respondents are the hirers of the vehicles in these matters. Registration of the vehicles was made in the name of the fourth respondent-hirer, and since there has been default of payment under the hire purchase agreement, possession of the vehicles was taken by the financier. After taking possession, the vehicles were put to auction and sold to the purchasers, being the writ petitioner in each of cases.

The Regional Transport Authority found that as the legitimate tax which was supposed to be paid in advance for all the vehicles was not paid in advance of currency of quarters, demands for payment of taxes along with penalty were made.

We are invited to the pleadings to examine the case made out therein and we have heard the learned counsel for the parties.

It appears to us that the writ petitioner in each of the cases being the purchaser is not liable to pay the tax and the penalty for the period demanded. We find from the pleadings, namely, the writ petitions and counter-affidavits, that during the period for which the taxes were demanded, the vehicles were not under the control and possession of any of the writ petitioner. They were under the control of the persons other than the writ petitioners. The petitioners purchased the vehicles and got possession and control of the vehicles subsequently. We think that the demands made to the writ petitioners would not be equitable. We notice that under Section 3 of the A.P. Motor Vehicles Taxation Act, 1963 taxes are charged to the vehicles. It is trite fiscal law is to be construed strictly and not equitably. When we have got all the material before us, then there is no difficulty to pass any order without deviating from the legal provisions. We therefore pass the following orders.

Upon payment of the current dues, which are fallen from the date of purchase of the vehicles by each of the writ petitioner, the Motor Vehicles Authority would register the same and effect transfer of the same in the name of the petitioner, as we think legal provision is clear for effecting transfer and nothing more is required. Till such transfer is effected, the vehicles should not be plied. The third respondent, who is the financier and seller of the vehicles, will make a representation to the Regional Transport Authority within a period of fifteen days from the date of receipt of a copy of this order making a suitable prayer. On receipt of the same, the Regional Transport Authority would consider the same in accordance with law after serving a notice to the fourth respondent-hirer, hear them and pass a speaking order. In the event no such representation is made by the financier, the third respondent, then it would be open for the Regional Transport Authority to recover the same from the third respondent. To secure the Regional Transport Authority pending adjudication of this representation, we restrain the third respondent-financier from transferring, alienating or disposing of his/its fixed assets and properties till disposal of such representation, and if no representation is made, till such recovery is made. We restrain the writ petitioner in each of the matters from transferring, alienating or parting with possession of the vehicles or any of their accessories, save except in the usual course of business, till disposal of the representation so to be made in terms of this order.

The writ petitions are accordingly disposed of. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

**K.J. SENGUPTA, CJ**

**SANJAY KUMAR, J**

24.03.2015

*GJ*