

AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

DATE: 12.02.2015

Between:
Mtandt Rentals Limited,
Hyderabad.

And

The State of Telangana,
Rep. by the Principal Secretary,
Transport R&B Department,
Transport wing, Secretariat,
Hyderabad and others

... Respondents

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

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WRIT PETITION Nos.3024, 3033, 3038, 3039, 3046 and 3050 of 2015

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Common Order: (per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

This batch of Writ Petitions have been filed challenging the action of the respondents – Motor Vehicles Authorities with regard to seizure of the equipments as claimed by the petitioners, whereas it is alleged by the respondents that they are motor vehicles and are exigible to tax.

From the record, we could not find any decision has been taken to levy tax. Only equipments, as claimed by the petitioner, have been seized. We are of the view without such decision of levying tax, seizure thereof unjustified under law.

Both the learned counsel agreed that whether the subject matter of writ petition can be held to be motor vehicles consequently, tax is leviable, may be decided by the Transport Commissioner at the first instance.

Learned Government Pleader for Transport submits that the matter will be decided within seven days from the date of communication of this order.

We find from the record that the equipments as claimed by the petitioners, are lying seized for a period of two weeks in some cases and three weeks in some cases. Therefore there is no harm for the petitioner to wait for one more week.

Accordingly, we direct the Transport Commissioner – second respondent to give a hearing to the petitions filed by the petitioners and

consider the factual and legal contentions to come to a decision whether the equipments as alleged by the petitioners can be brought under the purview of the Motor Vehicles Taxation Act or not. Obviously, he shall pass a speaking order. Thereafter, it would be open for the parties to take steps in accordance with law, as may be advised. In the event, for any reason, the matter could not be decided within seven days as above, then the equipments as claimed by the petitioners, shall be released on furnishing an indemnity bond securing the alleged future claim by the respondents. In that case, the petitioners shall not transfer, alienate or dispose of the equipments wholly or any accessory thereof and shall not ply on the road except movement of the equipments thereunder in usual course of business. We have not decided at the moment anything on the merit of the case.

The Writ Petitions are accordingly disposed of. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed. No costs.

K.J. SENGUPTA, CJ

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SANJAY KUMAR, J

Date: 12.02.2015

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