HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.42109 OF 2015

PC: *(Per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)*

Heard learned counsel for the parties.

The petitioner, in the instant writ petition, seeks the following relief:

> "For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a Writ, Order or Direction particularly one in the nature of a Writ of Mandamus declaring the action of the 3rd respondent in not releasing the petitioner's Tandem Roller Model HD99 (Construction Equipment Vehicle) bearing the Chassis No. H218.0258.1014 in spite of his willingness to pay the tax as per GO MS No. 43 Tr R&B (TR.I) Department dated 17-07-2015 which is applicable and which is admitted by the 3rd respondent in this case as illegal, arbitrary, against the Principles of Natural Justice, in violation of Fundamental Rights guaranteed under the Constitution of India and against the settled law and consequently direct the 3rd respondent to accept the tax as per the GO MS No 43 dated 17-07-2015 and to release the Tandem Roller HD99 bearing the Chassis No. H218.0258.1014 seized by the 4th respondent and to pass such other order or orders as this Hon'ble Court may deem fit, just and proper in the circumstances of the case."

Mr.C.L.N.Gandhi, learned counsel for the petitioner, at the outset invited our attention to G.O.Ms.No.43 dated 17.07.2015, which is a notification, and based on the notification, he submitted that the petitioner is prepared to pay tax as indicated in the notification. He prayed for directions to the 3rd respondent to release the vehicle on payment of the tax as per the notification.

The notification dated 17.07.2015 reads thus:

> "In exercise of the powers conferred by sub-section (1) of section 9 of the Andhra Pradesh Motor Vehicles Taxation Act, 1963 (Andhra Pradesh Act 5 of 1963), the Government of Andhra Pradesh hereby

notify that in respect of Construction Equipment Vehicles registered in other States for which tax is paid in Home State and intend to ply in Andhra Pradesh State for shorter durations, the annual tax shall be paid at the rates specified below with effect from 17.07.2015."

Sl.No.	Unladen weight of the vehicle	Rate of Tax
1.	Upto 10,000 kgs	Rs.25,000
2.	from 10,001 to 20,000 kgs	Rs.35,000
3.	Exceeding 20,000 kgs	Rs.50,000

Note: The period of one year shall be reckoned from the date of payment of annual tax".

After having perused the notification, we made a query to learned counsel for the petitioner as to whether the vehicle in question has been registered in the State of Telangana and his reply was in the negative. He submitted that the petitioner has paid the life time tax in the State of Telangana. The petitioner and the vehicle are from the State of Telangana. The petitioner purchased vehicle in question in November, 2014 and since then till the vehicle came to be seized, he plied the same without its registration. This has not been disputed by the learned counsel for the petitioner. Keeping that in view and having considered the language of notification dated 17.07.2015, in our opinion the notification has no application to the facts of the present case and the vehicle cannot be directed to be released on payment of the tax mentioned therein.

In the circumstances, we have no option but to dismiss the writ petition. Order accordingly.

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

DILIP B. BHOSALE,

ACJ

S.V.BHATT,

J

Date: 29.12.2015

Stp/Lrkm