HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.24782 of 2007

Date: 15.03.2016

Between:
P.Venkat Rami Reddy S/o P.C. Obula Reddy
R/o D No. 4-595,
Opp: D No. 4-595
Kotireddy Street, Kadapa

…..Petitioner

And

The Deputy Transport Commissioner and Secretary
Regional Transport Authority, Kadapa

…..Respondents

The Court made the following:

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO

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ORDER: (Per the Hon'ble Sri Justice P.Naveen Rao)

Petitioner is owner of Idle Contract Carriage Vehicle bearing No.AP- 04T-9499 obtained special permit valid from 20.11.2005 to 22.11.2005 by claiming that the vehicle was engaged to carry a party from Kadapa to Tadipatri and back via places mentioned in the permit. When the vehicle was subjected to checking on 20.11.2005, it was noticed that vehicle was not traveling on the route as mentioned in the special permit and list of passengers is not tallying with the passengers actually traveling in the vehicle. By the demand notice dated 10.01.2007, petitioner was directed to pay difference of tax of Rs.77,550/-. Earlier petitioner instituted W.P.No.6742 of 2007 against the demand notice dated 10.1.2007. Having found that the amount demanded in the demand notice dated 10.1.2007 is higher than the amount mentioned in the show cause notice, same was set aside, granting liberty to the competent authority to issue fresh show cause notice and to decide the matter in accordance with law. As a consequence to the said order of this Court, further proceedings were taken up and demand notice dated 15.10.2007 was issued demanding payment of difference of tax of Rs.77,550/-, which is impugned in this writ petition.

2. Learned counsel for petitioner contends that demand notice is issued without application of mind; that the objections filed by the petitioner were not considered in proper perspective. Though, several orders are issued by the Government from time to time, no provision is made for levy of difference of tax on the allegations as mentioned in the demand notice and there is no justification to levy such tax.

3. In W.P.No.6742 of 2007, this Court only considered the issue of incorporating higher demand in the final demand notice as compared to show cause notice and on that ground, the demand notice was set aside. Having invited such an order, it is no more open to the petitioner to contend that there is no basis for making such demand. In

terms of order of this Court, the competent authority is only required to justify its action of demanding tax at the rate of Rs.2625/- per seat per quarter as against Rs.2500/- mentioned in the original notice. There is no merit in the contention urged by the learned counsel for petitioner that order is not a speaking order. The competent authority has given detailed reasons in support of its decision to demand the higher difference of tax payable.

4. Petitioner admits that vehicle was traveling in a different route from the route on which special permit was granted. The only reason assigned for such deviation is that there was no time to obtain the change of permit as the decision of the hirer was at the last minute and 20.11.2005 happened to be Sunday.

5. In view of the admitted fact that the petitioner violated the special permit granted in his favour in accordance with the relevant orders of the Government, petitioner is liable to pay the difference of tax demanded.

6. We see no error in the decision of the Deputy Transport Commissioner, in demanding higher tax. Writ Petition merits no consideration. Accordingly, the writ petition is dismissed. There shall be no order as to costs. Miscellaneous petitions if any pending shall stand closed.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date:15.03.2016
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HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO

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