

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN**  
**AND**  
**THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

Writ Petition No.148 of 2009

**Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)**

The demand notice dated 20.12.2008, for payment of tax of Rs.1,08,900/- and penalty of Rs.2,17,800/- for the quarter ending 31.3.2007 to 31.3.2008, is questioned in this writ petition as being arbitrary and illegal.

By order in W.P.M.P. Nos.150 and 151 of 2009 dated 7.1.2009, this Court granted interim suspension of the demand notice subject to the condition that the petitioner deposits half of the demanded tax and penalty within four weeks from the date of the order; and that the vehicle should be released to the petitioner forthwith.

Learned Government Pleader for Transport would submit that the petitioner has failed to comply with the interim order passed by this Court, and has not paid even a single rupee though the interim order required him to pay half the demanded tax and penalty. As the petitioner has failed to comply with the interim order passed by this Court, we see no reason to now examine his contentions on merits, as the petitioner, having secured the protection of this Court by way of the interim order, cannot continue to claim such protection even though he has violated the conditions stipulated therein.

While Sri Rajanikanth Jwala, learned counsel for the petitioner, would express ignorance as to whether the 50% amount, as required to be paid in terms of the interim order, has been paid, learned counsel would fairly state that no application was filed before this Court seeking extension of time, to make such payment.

As exercise of jurisdiction by this Court, under Article 226 of the Constitution of India, is discretionary, and the petitioner has failed to comply with the conditions stipulated in the interim order passed by this Court earlier, we see no reason to examine the contentions, urged in the

writ petition, on its merits. The writ petition fails and is, accordingly, dismissed.

Needless to state that, in case the petitioner pays the tax and the penalty, as stipulated in the demand notice, within four weeks from today, the respondents shall release the detained vehicle. This order shall not also preclude the petitioner from availing his statutory remedies to the extent penalty was imposed on him.

Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

**(RAMESH RANGANATHAN, ACJ)**

**(A. SHANKAR NARAYANA, J)**

13<sup>th</sup> December, 2016

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