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

WRIT PETITION No.16524 of 2005

Date: 30.03.2016

Between:

P.Raja Gopal Prasad, S/o Kameswar Rao,
Aged about 39 years, Occu: Business,
R/o. Eedupugallu village, Kankipadu Mandal,
Krishna District.

…..Petitioner

and

The Assistant Secretary, O/o Deputy Transport
Commissioner, Regional Transport Authority,
Krishna at Vijayawada.

…..Respondent

The Court made the following:

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

WRIT PETITION No.16524 of 2005

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

Petitioner is the owner of Multi Axle Goods Vehicle (Trailer H.G.V.) bearing registration No.HR/47-7769. The vehicle was registered with the Registering Authority, Rewari, in the State of Haryana. Due to domestic problems, petitioner shifted to State of Andhra Pradesh. After unloading proclain machinery parts brought from New Delhi at Rajahmundry, vehicle was kept at Vijayawada. The Registering Authority, State of Haryana issued No Objection Certificate (NOC) on 24.07.2003. On 25.08.2003, petitioner applied to the concerned Registering Authority in State of Andhra Pradesh to effect change of address in Form No.33. The respondent authority addressed to the Registering Authority at Rewari in State of Haryana for confirmation of NOC. Accordingly, the Registering Authority, Rewari confirmed the genuineness of the NOC, issued by them, on 08.10.2003. The case of the petitioner is, even though the confirmation dated 08.10.2003 was received by the respondent authority, the change of address is not effected. However, by the impugned demand notice, the petitioner was directed to pay quarterly tax starting from 30.09.2003 till 30.09.2005 and penalty for delay in making the payment. Petitioner was required to pay Rs.55,170/- as arrears of tax and Rs.27,225/- as penalty. Aggrieved thereby, this writ petition was filed.

2. At the time of admission, this Court issued interim direction to the respondent to effect the change of address in respect of the subject vehicle, as per the petitioner's application, subject to the condition of payment of tax from 31.12.2003 till 30.09.2005 and directed not to collect the penalty levied and also tax for the quarter ending 30.09.2003.

3. Learned counsel for petitioner is unable to confirm whether the tax was paid as directed by the Court and whether change of address

is effected as requested by the petitioner. Counsel further submits that petitioner shall have to pay the tax and penalty as demanded if the tax was not paid as directed by this Court.

4. In the counter-affidavit filed by the respondent, the respondent admitted the fact that petitioner has applied for change of address and the respondent has received the confirmation from the registering authority in the State of Haryana about the issuance of NOC. Counter-affidavit is silent on the reasons why the change of address is not effected. However, it is averred that on 13.07.2005, when petitioner approached for effecting the change of address, the impugned demand notice was issued directing the petitioner to pay the tax as well as penalty.

5. Thus, it is not in dispute that though application submitted by the petitioner for change of address was received by the respondent authority, no decision was made till petitioner submitted fresh representation on 13.07.2005 to effect change of address. Thus, there is no justification for demanding penalty when respondent authority has not passed orders on the request of petitioner for change of address. However, if the petitioner has not paid the tax as per interim order, the conduct of petitioner disentitles him to seek exemption from levying penalty.

6. As the counsel for petitioner is unsure whether the tax was already paid as directed by the Court, we propose to dispose of the writ petition by following order:

i) If the petitioner has already paid the tax in pursuant to the interim orders, the respondent shall not demand payment of penalty as per the impugned demand notice.

ii) Petitioner shall pay the arrears of tax and penalty as demanded in the impugned notice, if the same was not paid as directed by this Court in the order dated 17.08.2005 within six (6) weeks from the date of receipt of copy of this order.

iii) If the amount as directed is not paid, it is open to the respondent authority to take appropriate further course of action as warranted by law.

Miscellaneous petitions if any pending shall stand closed. No costs.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date: 30.03.2016
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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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