

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

WRIT PETITION No.18025 of 2016

Date: 28.06.2016

Between:

Mr K.Lakshmi Narayana, S/o Koteswara Rao,
Aged about 38 years, Gopal Nagar, Ongole,
Prakasam District, A.P. and another.

.....Petitioners

and

The State of Andhra Pradesh, rep.by its
Secretary, Industries and Commerce Dept.,
A.P. Secretariat Buildings, Hyderabad and others.

.....Respondents

The Court made the following:

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
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PC: (*Per the Hon'ble Sri Justice P.Naveen Rao*)

Heard Smt.Lakshmi Priya, learned counsel for the petitioners, learned Government Pleader for Industries and Commerce (AP) and Sri P.Durga Prasad, learned standing counsel for APSRTC.

2. In this writ petition, grievance of the petitioners is that even though the tax due was paid in terms of the directions issued by this Court in W.P.No.2844 of 2016, the goods vehicles are not released, causing undue hardship and suffering to the petitioners without any justifiable cause or reason.

3. Petitioners are the owners of the goods carriage vehicles bearing registration Nos.AP 27 TX 5955 (1st petitioner) and MH 25 U 0959 (2nd petitioner). These two goods carriage vehicles are hired by M/s. Shreya Granites, Anantapur for transportation of polished granite stones to M/s Sudarshan Marbles, Dombivili, and to M/s Sree Marbles Centre, Kolhapur, both in Maharashtra State, respectively. While these vehicles are under transportation, vehicles were stopped by the Deputy Commercial Tax Officer-I, Chilakaluripet, Guntur District, detained the goods and vehicles, in exercise of power under the A.P. Value Added Tax Act, 2005 (VAT Act). On detention of the vehicles, they are kept in the custody of Depot Manager, APSRTC, Chilakalurpet. M/s.Sreya Granites, Ananthapur, who hired the vehicles of the petitioners, filed W.P.No.2844 of 2016 against the detention of the goods vehicles. The said writ petition was disposed of by order dated 03.02.2016. The operative portion of the order reads as under:

“On payment of the tax due, on the invoice value of the goods, the subject vehicles shall be forthwith released along with the goods therein. It is made clear that this order shall not preclude the respondents from initiating penalty proceedings, if need be, and to take such other action as is required, in accordance with law.

The Writ Petition is, accordingly, disposed of.”

4. Learned counsel for the petitioners submits that as a

consequence to the directions issued by this Court, the tax liable to be paid by M/s. Shreya Granites was paid.

5. Even though tax was paid, the goods and vehicles were not released. M/s. Shreya Granites filed WPMP No.5829 of 2016 in W.P.No.2844 of 2016 praying to modify the order dated 03.02.2016 made in the writ petition. WPMP was disposed of by order dated 16.02.2016 directing the Assistant Director of Mines and Geology, to grant permission to release the goods, on the petitioner furnishing satisfactory proof of the source from which they purchased the polished granite slabs which are being transported through the subject vehicles.

6. It is thus seen, in W.P.No.2844 of 2016 this Court directed release of the vehicles forthwith on payment of tax due. Further orders passed by this Court in WP No.5829 of 2016 concern only the release of goods. The letter of the Deputy Commercial Tax Officer-I, dated 06.12.2016 disclose that the requisite tax was already paid. Thus, in spite of payment of tax, action of the respondent not releasing the vehicles in the teeth of the orders in W.P.No.2844 of 2016 is *ex facie* illegal, is in arbitrary exercise of power and authority and amounts to committing contempt of orders of this Court.

7. Having regard to the undisputed facts, the writ petition is allowed. The respondents are directed to release the goods vehicles bearing registration Nos.AP 27 TX 5955 & MH 25 U 0959 within 48 hours from the date of receipt of copy of this order.

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

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date: 28.06.2016
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