

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.33123 of 2016

O R D E R:

Petitioner has assailed the demand notice dt.23.06.2016 issued by the 2nd respondent demanding a higher rate of tax from the petitioner than what the petitioner was paying under the provisions of the A.P. Motor Vehicle Taxation Act, 1963.

2. Prior to passing the impugned order, a show cause notice dt.17.05.2016 was given to the petitioner asking him to submit explanation within one week as to why action should not be initiated under the provisions of the Act for plying the vehicle without paying motor vehicle tax payable in the A.P. State. The Vehicle of the petitioner was also seized on 05.05.2016.

3. Though the petitioner claims to have given a response to the said show cause notice on 24.05.2016, the petitioner was not able to file acknowledgment from the 2nd respondent that he had submitted the said response. The impugned order also records that the petitioner failed to give any explanation to the show cause notice.

4. Along with the material papers, however, the petitioner has filed copy of the reply dt.24.05.2016, which is the

response of the petitioner to the show cause notice dt.17.05.2016 issued by the 2nd respondent.

5. Having regard to the fact that the petitioner claims to have given an explanation on 24.05.2016 itself, though proof of said submission is not filed by the petitioner, I am inclined to set aside the impugned order and remand the matter back to the 2nd respondent to consider the same afresh.

6. Accordingly, the Writ Petition is disposed of; the impugned order is set aside; the matter is remanded back to the 2nd respondent to consider the same afresh taking into account the explanation dt.24.05.2016 filed by the petitioner as Ex.P12 in the material papers. The petitioner shall submit a copy of the said explanation to the 2nd respondent within 10 days from today along with any further explanation which the petitioner seeks to offer. The 2nd respondent shall then consider the explanation dt.24.05.2016 as well as the further explanation, if the petitioner seeks to offer, and pass a reasoned order and communicate the same to the petitioner within a period of three (03) weeks from the date of submission by the petitioner of the above documents. If the petitioner does not submit copy of the explanation dt.24.05.2015 or any further explanation as directed above, the impugned demand notice shall be enforced by the 2nd respondent. There shall be no order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

14th October, 2016
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