HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.45 OF 2016

PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Mr.Ch.Ravinder, learned counsel for the petitioner and the learned Government Pleader for Transport for respondents.

The petitioner prays for the following relief:

> …..this Hon'ble Court may be pleased to issue writ order or direction especially one in the Nature of Writ of Certiorari calling for the records of the demand notice passed in proceedings in R.NO.3914/A9/2014 dt.05-10-2015 and quash the same as the same is illegal, arbitrary, violative of principles of natural justice and contrary to the provisions of A.P. Motor Vehicles Taxation Act, 1963 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of the justice

The 2nd respondent through impugned demand No.3914/A9/ 2014 dated 05.10.2015 called upon the petitioner to pay an amount of Rs.3,69,390/- towards motor vehicle tax and penalty, besides compounding fee of Rs.16,125/-. To appreciate the factual and legal objection of learned counsel for the petitioner, the relevant portion of the demand notice is excerpted and it reads thus:

> "Through the reference 1st cited the owner of the vehicle committed certain irregularities.
>
> Through the reference 2nd cited, applied for issue a show cause notice to the registered owner stating that Tax with penalty and compounding fee for the irregularities noticed by the Checking Officer in the Vehicle Check Report.
>
> Through the reference 3rd cited, show cause notice issued to the owner for payment of Tax and Penalty for Rs.3,69,390/- besides compounding fees Rs.16,125/- within the stipulated time and offered his explanation.
>
> Through the reference 4th cited, the owner of the vehicle submitted his explanation in writing within the stipulated time, the explanation of the owner is considered and it is not satisfactory, hence Demand confirmed by the Licencing Officer.

> Therefore the owner of the vehicle is directed to pay an amount of Rs.3,69,390/- (Rupees three lakhs sixty nine thousand three hundred and ninety only) in favour of SRTA Karimnagar in the shape of Demand Draft within 30 days form the date of receipt of the Demand Notice, otherwise action will be initiated to collect the arrears under RR Act without any further notice."

Briefly stated, the relevant circumstances necessary for disposal of the appeal are that the 2nd respondent issued show cause notice dated 14.08.2015 to the petitioner against alleged violation under the A.P.Motor Vehicles Taxation, 1963. On 04.09.2015, the petitioner has submitted explanation. Thereafter, the 2nd respondent raised the impugned demand notice.

Learned counsel for the petitioner contends that the 2nd respondent did not consider the explanation and mere noting of submission of explanation in the demand notice can, by no stretch of construction, be treated as due compliance of principles of natural justice or statutory requirements and prays for setting aside the impugned demand. The learned Government Pleader, while conceding that the impugned demand does not refer to explanation, tries to justify the demand notice by drawing the attention of this Court to the explanation dated 14.08.2015. The learned Government Pleader alternatively contends that instead of this Court undertaking whether the impugned demand is justifiable in law and fact requests this Court to remand the matter to the 2nd respondent for fresh consideration.

We have perused the material available on record and taken note of the submissions of learned counsel appearing for the parties.

For the order we are proposing to pass, we are not inclined to examine the merits of the writ prayer. We are satisfied that on the short ground of not complying with the requirements of principles of natural justice, either in considering the explanation submitted by the petitioner or recording reasons for rejecting the explanation, the impugned demand is set aside. The matter is remanded to

2nd respondent for fresh consideration. The petitioner is directed to deposit Rs.79,380/- (Rupees seventy nine thousand three hundred and eighty only) and on such deposit, the 2nd respondent is directed to release the vehicle bearing No.AP 15 Y 3812 within two days thereafter. The release of vehicle is subject to further condition that the petitioner shall not ply the vehicle either as a stage carriage permit or contract carriage permit, unless and until the petitioner complies with all the statutory requirements. If the condition is violated and the vehicle is plied, it shall be open to the

2nd respondent to take all steps as permissible in law, including effecting fresh seizure of the vehicle.

The writ petition is disposed of as indicated above.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date: 27.01.2016
Lrkm