THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Petition No.790 of 2012

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

This writ petition is filed questioning the action of the respondents, in insisting vide memo dated 03.01.2012 that the petitioner pay life tax, as illegal and arbitrary. The impugned memo dated 03.01.2012 records that an application was submitted by the petitioner seeking release of the vehicle stating that the vehicle, which suffered an accident and was passing through the check post, was seized.

Sri C.L.N.Gandhi, learned counsel for the petitioner, would submit that the vehicle suffered an accident in the State of Maharashtra; the vehicle was checked by the Motor Vehicle Inspector who also certified that the vehicle had suffered an accident; any vehicle, brought into the State of Telangana, for subjecting it to repairs is not liable to pay life tax; even otherwise, G.O.Ms.No.601 dated 27.03.1963 exempts payment of tax for vehicles which have suffered tax in the Home State; and, viewed from any angle, the impugned order necessitates being set aside.

On the other hand, the learned Government Pleader for Transport would submit that the subject vehicle was brought into the State of Telangana for its being put to use; the authorities had verified, and had found that there was no such garage where the vehicle could be repaired; the petitioner's plea that the vehicle was brought into the State for the purpose of repairs is only to avoid payment of life tax; G.O.Ms.No.601 dated 27.03.1963 has no application for payment of life tax, as it only exempts tax for a quarter, half year or a year from being paid; and the impugned order does not necessitate interference.

On a perusal of the impugned order dated 03.01.2012, it is evident that the Deputy Transport Commissioner has taken notice of the submission of the petitioner that the vehicle had suffered an accident. It has not been disputed before us that, in case the vehicle is brought within the State for the purpose of subjecting it to repairs, no life tax is required to be paid. If that be so, it is only if the Deputy Transport Commissioner had recorded a finding that the vehicle was not brought into the State of Telangana for subjecting it to repairs, could the petitioner have been directed to pay life tax, that too only if G.O.Ms.No.601 dated 27.03.1963 has no application. The impugned order is bereft of reasons and must, therefore, be set aside.

The fact, however, remains that the petitioner's address, as furnished in the writ petition, is in the State of Maharashtra and it may well be difficult for the authorities to serve a notice afresh on him. While Sri C.L.N.Gandhi, learned counsel for the petitioner, would submit that the petitioner's local address at Adilabad has also been furnished in the application seeking release of the vehicle, we consider it appropriate to direct that the impugned order be treated as a show cause notice to which the petitioner may submit her reply, raising all such contentions as are available to her in law, within three weeks from today. The Deputy Transport Commissioner, Nizamabad, shall consider the objections submitted by the petitioner and pass a reasoned order at the earliest and, in any event, not later than two months from today. Needless to state that, in case the petitioner fails to furnish her reply as directed hereinabove, within three weeks from today, it is open to the respondents to proceed and pass a fresh order in accordance with law. After an order is passed afresh, it is open to the respondents to take necessary action in accordance with law.

The Writ Petition stands disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

20th January, 2017
Note: Issue C.C. tomorrow.
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Writ Petition No.790 of 2012

Date: 20.01.2017

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