

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.33099 OF 2017

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Transport (A.P.) appearing for the respondents.

2. According to the petitioner, it purchased a machine bearing Sl.No.1482.05.15 and Engine Sl.No.22141679 on 11.11.2014 Wirtgenindia and the said machinery is “Electronic Sensor Paver Wogele Machine Model Super 1800-3” and is exclusively used for laying bituminous pavement i.e., leveling of road and bitumen mixture on road surfaces and the said machinery is Germany made. Respondent No.4 had drawn a check report, pointing out two irregularities viz., (1) no proof of A.P.M.V. life tax and (2) the vehicle is plying without registration. Thereafter, the petitioner herein submitted a representation on 07.09.2017. In the said representation, apart from other things, the petitioner stated that the subject machinery is not a motor vehicle within the meaning of the Motor Vehicle as defined under the Motor Vehicles Act, 1988, as such, it needs no registration under Section 39 of the said Act. It is further stated that as a consequence of which no permit or certificate of fitness provisions will be applicable and no motor vehicle tax is leviable on the equipment. Subsequently, the Regional Transport Authority, respondent No.3 herein, passed the impugned order bearing SCN No.8668/A2/2017, dated 08.09.2017, asking the petitioner to pay the A.P. Life Tax with penalty as per Rules while threatening further action in the event

of non-compliance of the same. The present writ petition challenges the validity and legal sustainability of the said order.

3. According to the learned counsel for the petitioner, the order under challenge is highly illegal, arbitrary and is violative of Article 14 of the Constitution of India. It is further submitted that though the petitioner herein submitted an elaborate explanation/representation on 07.09.2017, respondent No.3 herein did not consider the same.

4. A perusal of the explanation/representation offered by the petitioner herein on 07.09.2017 clearly discloses that the petitioner herein in the said explanation raised a number of grounds. A reading of the order under challenge clearly discloses that respondent No.3 herein, having acknowledged the representation, dated 07.09.2017, did not refer to the contents of the explanation. The manner in which respondent No.3 considered the explanation is highly objectionable and cannot be approved. Therefore, this Court is of the opinion that the matter requires reconsideration by respondent No.3.

5. For the aforesaid reasons, the Writ Petition is allowed, setting aside the impugned order passed by respondent No.3 *vide* proceedings in SCN No.8668/A2/2017, dated 08.09.2017, and the matter is remanded to respondent No.3 for fresh consideration of the issue after taking into account the explanation offered by the petitioner herein and after giving an opportunity of hearing to the petitioner herein. Till the said exercise attains finality, no coercive

action against the said machinery shall be taken. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 11.10.2017
AMD



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