THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI

WRIT APPEAL No. 1587 of 2017
AND
Writ Petition No.24095 of 2017

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

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 24095 of 2017 dated 21.07.2017, whereby the appellant-writ petitioner was directed to pay the admitted tax and compounding fee for release of the subject vehicle, and penalty was directed not to be recovered for a period of 30 days to enable an appeal to be preferred there against.

Sri M. Murali Lincoln, learned Counsel for the appellant, would submit that the learned Single Judge had erroneously passed an order similar to that in W.P.M.P.No.26189 of 2017 in W.P.No.21301 of 2017 dated 3.7.2017, though the facts in the present case were different from the aforesaid writ petition.

The relief sought for in the present writ petition is to declare the action of the Motor Vehicle Inspector in seizing and detaining the petitioner's Bolero ZLX 2 WD, (a Light Motor Vehicle bearing No.KA 34 N 4841 registered in Karnataka State), vide vehicle check report dated 6.6.2017, and in demanding payment of A.P. State Life Tax, alleging that the vehicle was plying in the State of Andhra Pradesh since two months, without conducting any enquiry, as being arbitrary and illegal. A consequential direction is sought to release the vehicle.

In the affidavit filed in support of the writ petition, the appellant-writ petitioner states that he had purchased the subject vehicle in January, 2015, which was registered with the registering authority at Bellary, Karnataka State, on 14.1.2015; at the time of registration of the vehicle, he paid life tax of Rs.1,15,532/- vide challan No.CL2933260, dated 14.1.2015 to the Transport Department, Government of Karnataka; due to personal work, he had come to Kurnool from Bellary, Karnataka in the month of June, 2017; while he was going back in the vehicle on 6.6.2017, the 4th respondent had checked the vehicle, and had asked him to show all the documents; though he showed all the documents, including the documents pertaining to payment of life tax, the Boleru vehicle was seized alleging that the vehicle was plying in the State of Andhra Pradesh for the past two months; and the petitioner's vehicle was kept in an open place without proper care and maintenance, which could result in damage to the vehicle.

Section 47 (1) of the Motor Vehicles Act stipulates that, when a motor vehicle registered in one State has been kept in another State for a period exceeding twelve months, the owner of the vehicle shall, within such period and in such form containing such particulars as may be prescribed by the Central Government, apply to the registering authority, within whose jurisdiction the vehicle then is, for assignment of a new registration mark, and shall present the certificate of registration to that registering authority. Section 47(4) enables the State Government to make rules requiring the owner of a motor vehicle not registered within the State, which is brought into or is for the time being in the State, to furnish to the prescribed authority in the State such information, with respect to the motor vehicle and its registration, as may be prescribed. Section 47(5) stipulates that, if the owner fails to make an application under sub-section (1) within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under Section 177, such amount not exceeding one hundred rupees as may be prescribed under sub-section (7).

Rule 96 of the Motor Vehicles Rules, 1989, which relates to intimation in respect of the vehicles not registered within the State, stipulates that, further to the provisions of sub-section(4) of Section 47, when any motor vehicle which is not registered in this State has been kept within the State for a period exceeding thirty days, the owner or other person incharge of the vehicle shall send intimation to the registering authority of the area in which the motor vehicle is at the time of making the report, and shall intimate the particulars that are mentioned in Clauses (i) to (iv) thereunder.

While certain obligations are placed on the owner of a vehicle, which is kept within the State of Andhra Pradesh beyond a period of 12 months under Section 47(1) of the Act, and Rule 96 of the Rules requires certain particulars to be furnished by the owner if the vehicle has been kept within the state for a period exceeding 30 days, the impugned vehicle check report seeks to levy life tax on the subject vehicle on the ground that the vehicle has been plying in the State of Andhra Pradesh since two months. Neither Section 47(1) of the Act nor Rule 96 of the Rules require life tax to be paid with respect to a vehicle that was kept within the State of Andhra Pradesh for a period exceeding two months. The action of the 4th respondent, in seeking to levy life tax on the petitioner's vehicle and in detaining the vehicle for non-payment of life tax, is ex-facie arbitrary and illegal.

When we asked him whether there was any other statutory provision which authorized the Motor Vehicles Inspector to call upon the petitioner to pay life tax, despite the fact that life tax had been paid in the

State of Karnataka, the learned Government Pleader fairly stated that there was no such provision.

As detention of the petitioner's vehicle for the past more five months is without authority of law, the 1st respondent shall call upon the 4th respondent to show cause why disciplinary action should not be initiated against him for detaining the vehicle, and in demanding payment of life tax, though no such power is conferred on him to do so. On receipt of the explanation, if any furnished by the 4th respondent, the 1st respondent shall thereafter take necessary action in accordance with law. The subject vehicle shall be released forthwith to the petitioner under due acknowledgement.

Both Sri M. Murali Lincoln, learned Counsel for the appellant and the learned Government Pleader for Transport fairly state that, in the light of the order now passed by us, the cause in the writ petition does not survive and the writ petition itself be closed.

Both the Writ Appeal and Writ Petition No.24095 of 2017 are, accordingly, disposed of. All the applications, in both the appeal and the writ petition, are also disposed of. No costs.

(RAMESH RANGANATHAN, ACJ)

(ABHINAND KUMAR SHAVILI,J)

14th November, 2017
Note:
Issue C.C. tomorrow
B/O
Nn

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AND

THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI

WRIT APPEAL No. 1587 of 2017
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(Delivered by the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

14.11.2017

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