

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 40024 of 2018

ORDER:

- 1) Heard learned counsel for the petitioner and Government Pleader for Transport (TG). With the consent of both the parties, the main writ petition is being taken up for disposal at the admission stage itself.
- 2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the second respondent in not releasing the vehicle Maxi Cab bearing No.AP 28 TD 1757 of the petitioner, purchased in open auction conducted by the Central Bank of India on 23.12.2015 on account of non-payment of tax as illegal, irregular and violative of principles of natural justice.
- 3) Though various grounds are raised, learned counsel for the petitioner would submit that though the vehicle was seized on 10.11.2016 the same is not released and no proceedings are also initiated till date.
- 4) The Government Pleader for Transport (TG) states that the petitioner has to pay a tax of Rs.68,250/- and penalty of Rupees one lakh, seeking release of the vehicle.
- 5) It is to be noted here that as against an order imposing penalty an appeal would lie before the appropriate authority, but filing of appeal before the appropriate authority would arise

provided a notice or any proceedings are issued by any competent authority. At this stage, the Government Pleader for Transport would submit that issuance of notice was informed to the petitioner, but copy of the notice is not placed on record.

6) Having regard to the above, the petitioner shall make an application before the second respondent seeking release of the vehicle, in which event the second respondent shall consider the same in accordance with the provisions of law by keeping in view the orders passed by this Court, while releasing the vehicle on payment of tax etc., within a week on fulfilling the requirements. The petitioner shall also give an undertaking that he will not alienate the vehicle, will not create any third party rights, will not remove major parts of the vehicle and that the vehicle will be produced as and when required during the course of proceedings. However, insofar as the penalty is concerned, the petitioner is at liberty to file an appeal.

7) With the above direction, the writ petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

13.11.2018
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