

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.43594 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue a order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the respondents in seizing Mahendra Xylo Car(Small Motor Vehicle) Motor Vehicles bearing No AP09TB0959, seized on 15-07-2017 Vide Vehicle Check Report dated 15.07.2017, as illegal, arbitrary, improper and unconstitutional and violative of Article 14 & 21 of the Constitution of India and consequently direct the respondents to release the petitioner's vehicle Mahendra Xylo (small Motor Vehicle) bearing No. AP09TB0959, seized on 15-07-2017, and pass such other order or orders as may deem fit and proper in the circumstances of the case.”

[Reproduced verbatim]

2. I have heard the submissions of Sri *K.Ramakanth Reddy*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Transport appearing for the respondents 1 to 3. I have perused the material record.

3. Learned counsel for the petitioner would submit that in matters with identical facts, this Court is releasing vehicles by passing appropriate orders. He would also submit that the petitioner is prepared to make an application before the 2nd respondent authority for release of the vehicle and, therefore, a

direction may be given to the said authority to pass appropriate orders within a time frame.

4. Learned Government Pleader for Transport representing the respondents 1 to 3 would submit that the owner of the vehicle is liable for payment of tax as per the Telangana Motor Vehicles Taxation Rules, 1963, and that unless the said tax, due and the penalty payable, are paid, the petitioner is not entitled to seek release of the vehicle.

5. In reply, learned counsel for the petitioner would submit that the petitioner is prepared to pay the tax while seeking release of the vehicle. He would also submit that insofar as penalty, there is a right of appeal and the petitioner will take steps in that regard.

6. Recording the submissions, the Writ Petition is disposed of directing the petitioner to make an application before the 2nd respondent for release of the vehicle – Mahendra Xylo Car (Small Motor Vehicle) bearing No.AP 09 TB 0959; it is made clear that on such application being made, the 2nd respondent shall consider the same and pass appropriate orders, in accordance with law, as expeditiously as possible, and preferably within a period of three (03) days from the date of receipt of the application for release of the vehicle. The petitioner, as undertaken, shall pay the tax; and, any such payment made by the petitioner shall be taken into consideration by the 2nd respondent while considering the application that may be filed by the petitioner for release of the vehicle. Suffice if it is observed that the petitioner is at liberty to assail the proceedings insofar as the penalty, in accordance with procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed.

There shall be no order as to costs.

M.SEETHARAMA MURTI, J

Date: 4th January, 2018

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Note: Issue C.C. on 11.01.2018.

(B/o.)

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