IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-7608-2019

Date of Decision: 19.3.2019

The Ambala Bus Syndicate Pvt. Ltd., Ropar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

PRESENT: Mr. Rohit Kapoor, Advocate and
Mr. Karandeep Singh, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ of mandamus directing respondent No.2 to decide the legal notice dated 22.1.2019 (Annexure P-2) and to grant exemption from payment of motor vehicle tax for the period from 29.8.2016 to 31.8.2018 in respect of permit No. 379/R/2000 on Jalandhar to Mohali Route and to refund/adjust the charged tax to the petitioner.

2. The petitioner is engaged in the business of providing stage carriage services on various routes in the State of Punjab on the basis valid regular stage carriage permits. It was holding 84 stage carriage permits and was maintaining a fleet of 76 latest model buses with a daily operation of 22785 kms. The State Government in exercise of its powers conferred by Section 3 of the Punjab Motor Vehicles Taxation Act, 1924 (Amended vide

Ordinance No.7 dated 22.11.2007), specified the rates of Motor Vehicles Taxes w.e.f. 22.11.2007 on various categories of motor vehicles vide its notification dated 22.11.2007. Respondent No.1 had been determining the tax on per kilometer per day basis from time to time and the petitioner had been depositing the tax in lieu thereof. The State Government vide notification dated 15.6.2016 amended the rate of tax for the stage carriage buses registered in the State of Punjab. The petitioner is holding a regular stage carriage permit No. 379/R/2000 on Jalandhar to Mohali route which is valid upto 7.12.2019. As respondent No.1 had permitted the conversion of HVAC buses to ordinary buses, the petitioner sold its HVAC bus on 16.4.2016 after getting the 'No Objection Certificate' from the competent authority. Thereafter, the petitioner submitted an application dated 29.8.2016 to the Regional Transport Authority, Patiala for conversion of permit from HVAC to ordinary bus. The petitioner could not start the operation of the ordinary bus until the conversion was allowed by the competent authority. Despite the making of application for conversion, the authority did not make any decision thereon but continued levying and charging taxes from the petitioner. The State Transport Commissioner exercising the powers of all the Regional Authorities in the State granted permission to the petitioner for conversion of HVAC bus to ordinary bus w.e.f. 30.8.2018 with a direction to respondent No.2 to realize the motor vehicle tax from the petitioner for ordinary bus from 1.9.2018. The petitioner moved an application dated 3.9.2018 (Annexure P-1) to respondent No.2 for the refund of the charged tax for the period from 29.8.2016 to 31.8.2018, but to no effect. Thereafter, the petitioner served a legal notice dated 22.1.2019 (Annexure P-2) upon respondent No.2 for refund of the tax charged for the period from 29.8.2016 to 31.8.2018, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a legal notice dated 22.1.2019 (Annexure P-2) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the legal notice dated 22.1.2019 (Annexure P-2), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of one month from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

March 19, 2019 **(MANJARI NEHRU KAUL)**
gbs **JUDGE**

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**