IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-9452-2019

Date of Decision: 8.4.2019

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 for the petitioner.

**AJAY KUMAR MITTAL, J.**

1. In this 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-5) and to grant exemption from payment of motor vehicle tax w.e.f. 1.6.2018 till 7.3.2019 as the provisional time table has been approved valid upto 7.4.2019 w.e.f. 8.3.2019 in respect of permit Nos. 762/ST/54, 182/ST/70-71, 157/347-356/ST/54, 157/357-58/ST/64, 1256/ST/66 and 158/359, 362, 363, 364/ST/54 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 was holding regular stage carriage permit Nos. 762/ST/54 on Ropar to Dera Bassi via Chandigarh, 182/ST/70-71 on Chandigarh to Nangal, 157/247-356/ST/54 on Ropar to Ambala City via Chandigarh, 157/357-58/ST/64 and 1256/ST/66 on Ropar to Ambala City via Chandigarh and 158/359, 362, 363, 364/ST/54 on Ropar to Kalka via Chandigarh routes. When Chandigarh Administration was not permitting the entry of the buses of the petitioner in the Union Territory, Chandigarh, the petitioner filed CWP which was allowed by this Court and thereafter in the Letters Patent Appeal filed by the Chandigarh Administration, the order of the learned Single Judge was set aside against which the petitioner filed SLP (C) No.19092 of 2011. The Supreme Court vide order dated 26.9.2018, allowed the said SLP. In pursuance thereto, the Chandigarh Administration approved a provisional time table valid upto 7.4.2019 w.e.f. 8.3.2019. Since the stage carriage services of the petitioner were not being permitted to be operated from and to Chandigarh nor any slots were allotted to it in the joint time table from SAS Nagar, the petitioner moved an application dated 8.12.2015 before the Regional Transport Authority, Patiala for inclusion of its stage carriage services in the joint time table on Mohali to Ropar route and back. Although the petitioner was not plying its buses on the said routes on the basis of valid permits, but it was forced to pay the taxes for the entire mileage in respect of all the permits. The petitioner submitted a representation dated 8.12.2015 (Annexure P-1) to the office of the Regional Transport Authority, Patiala for adjustment of various times in time table framed for Mohali to Ropar and back. State of Punjab vide notification dated 4.8.2017 abolished the post of District Transport Officer and instead the Regional Transport Authority, SAS Nagar, Mohali-respondent No.2 was authorized to exercise the powers of competent authority under the Punjab Motor Vehicle taxation Act for the areas of SAS Nagar and Ropar. The petitioner approached respondent No.2 for refund of the taxes charged from it w.e.f. 1.6.2008, but to no effect. Thereafter, the petitioner moved an application dated 20.9.2017 (Annexure P-2) in the office of respondent No.2. However, respondent No.2 directed the petitioner to get verification from the office of Secretary, Regional Transport Authority, Patiala regarding non-issuance of the time table for the permits in question as well as verification report from the office of General Manager, Punjab Roadways regarding non-plying of the buses on the said route. In pursuance thereto, the petitioner applied for verification reports vide letter dated 2.1.2019. The Secretary, Regional Transport Authority, Patiala vide letter dated 2.1.2019 sought the verification regarding non-operation of buses from the year 2008 from the General Manager, Punjab Roadways, Ropar who vide letter dated 11.1.2019 (Annexure P-3) certified that the buses were not operated on the permits in question. The Secretary, Regional Transport Authority, Patiala vide letter dated 15.1.2019 (Annexure P-4) had also verified that the permits in question were not included in the joint time table. However, no action was taken thereon. Accordingly, the petitioner served a legal notice dated

22.1.2019 (Annexure P-5) upon respondent No.2 for refund of the tax, 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-5) 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-5), 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**

**April 8, 2019**
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**(MANJARI NEHRU KAUL)**
**JUDGE**

**Whether Speaking/Reasoned** **Yes/No**

**Whether Reportable** **Yes/No**