IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-9390-2019

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-3) and to grant exemption from payment of motor vehicle tax w.e.f. 7.1.2016 till date in respect of permit No. CP.146-147/CP/2016 on Ludhiana to Nangal 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. Two composite permit Nos. 146-147/CP/2016 for plying 2 return trips on Ludhiana to Nangal via Samrala-Morinda-Ropar-Anandpur Sahib route on Jalandhar to Mohali route which are valid upto 11.3.2019 were issued in favour of the petitioner on 7.1.2016. The petitioner submitted a representation dated 22.6.2018 (Annexure P-1) to the office of the Regional Transport Authority, Patiala for including the services in the time table. 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. 7.1.2016 till date, but to no effect. Thereafter, the petitioner moved an application dated 22.7.2018 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 15.1.2019. The Secretary, Regional Transport Authority, Patiala vide letter dated 16.1.2019 (Annexure P-2) certified that the permits in question were not included in the joint time table on Ludhiana to Nangal via Samrala-Morinda-Ropar etc. However, no action was taken thereon. Accordingly, the petitioner served a legal notice dated 22.1.2019 (Annexure P-3) upon respondent No.2 for refund of the tax charged w.e.f. 7.1.2016 till date, 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-3) 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-3), 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 **(MANJARI NEHRU KAUL)**
gbs **JUDGE**

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**