

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7687 of 2022

Sujata Behera *Petitioner*
-versus-
State of Odisha and others *Opposite Parties*

CORAM: JUSTICE S.PUJAHARI

ORDER
08.04.2022

Order
No.

01. 1. This matter is taken up through hybrid mode.
2. This writ petition has been filed by the Petitioner with a prayer to quash the Form-2 Notice issued under Annexure-1 and the Form-1 Certificate under Annexure-2 in connection with TRC No.6834 of 2022 before the Opposite Party No.3-Tax Recovery Officer, Cuttack.
3. Heard.
4. Mr. Bigyan Kumar Sharma, learned counsel appearing for the Petitioner submits that without giving notice on show cause, a recovery proceeding has been initiated by the R.T.O. Cuttack in respect of vehicle No.OR-05-D-5275. As such, he has come to this Court challenging the same. He further submits that a show cause is sine qua non before initiation of a recovery proceeding, but having not been given the same, the recovery proceeding is liable to be quashed.
5. Learned Standing Counsel appearing for the Transport Department submits that the aforesaid recovery proceeding is in respect of the tax only, which the Petitioner is supposed to pay in advance and, for that, no show cause is essential. It is not disputed that the Petitioner

had not paid the tax. Therefore, he could not have challenged the same inasmuch as the aforesaid recovery proceeding is relates to tax only. So far penalty for non-payment of tax is concerned, the same has not been adjudicated. Therefore, this writ petition has been filed challenging the recovery proceeding of tax is without any substance.

6. Considering the aforesaid facts and submissions made, this Court dispose of this writ petition with a direction to the Opposite Party No.3-the Tax Recovery Officer to ascertain as to whether the aforesaid recovery proceeding is in respect of tax due only for the period mentioned. If that be so, to proceed with the realization of the same, but if at all it includes penalty, the Petitioner is ready and willing to pay the tax, the same be collected and the proceeding be dropped.

7. However, so far as penalty is concerned, it is open to the Petitioner to respond to show cause in this regard within a month hence and on filing of the show cause necessary order on the same be passed.

8. With the aforesaid order, this writ petition stands disposed of.

9. Urgent certified copy of this order be granted on proper application.

(S.Pujahari)
Judge