IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15631 OF 2022

Subrat Kumar Mohanty ***Petitioner***

Mr. Biswaranjan Dalai, Advocate

-versus-

R.T.O., Bhadrak and another .... ***Opp. Parties***

Mr. Pravakar Behera,
Additional Standing Counsel
(For Transport Department)

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER

15.07.2022

Order No.

01.

1. This matter is taken up through hybrid mode.

2. Mr. Dalai, learned counsel for the Petitioner makes an oral prayer to correct the description of Opposite Parties in the cause title of the brief.

3. Prayer is allowed.

4. The Petitioner in this writ petition seeks for a direction to the Opposite Parties to accept the tax amount in respect of vehicle bearing Registration No.OR-11-D-4455 (Bus) and not to execute the certificate case against him.

5. It is submitted by Mr. Dalai, learned counsel for the Petitioner that earlier the Petitioner had approached this Court in W.P.(C) No.6546 of 2022 assailing the action of the Taxing Officer in imposing tax and penalty in respect of the aforesaid vehicle. This Court, vide order dated 25th March, 2022, refused to interfere with the matter on the finding that certificate proceeding has already been initiated. Subsequently, the Regional Transport Officer, Bhadrak-

Opposite Party No.1 issued notice to the Petitioner to pay Rs.2,03,908/- towards MV Tax/additional tax for the period from 1st September, 2019 to 31st May, 2022 and penalty of Rs.3,84,309/- (in total Rs.5,88,217/-) immediately, to bring to an end the multiple increase of tax and penalty, failing which proceeding under Sections 46 to 54 of the Odisha Motor Vehicles Taxation Act, 1975 (for short, 'the Act') has been proposed to be initiated for recovery of the arrear tax and penalty amount.

6. Mr. Dalai, learned counsel for the Petitioner further submits that it is apparent from Annexure-1 that certificate proceeding has not yet been initiated for recovery of the aforesaid amount. The Petitioner is ready and willing to pay the tax amount. He also undertakes to file an appeal assailing the imposition of penalty.

7. Mr. Behera, learned Standing Counsel for the Transport Department submits that since earlier writ petition has already been dismissed on the self-same prayer and the Petitioner has neither paid any tax nor responded to the notice under Section 13(2) of the Act, the present writ petition is not maintainable. He further submits that certificate proceeding has already been initiated, but the Petitioner has failed to submit his objection to the same denying the certificate dues. Thus, the writ petition is liable to be dismissed.

8. Taking into consideration the submissions made by learned counsel for the parties and the fact that the Petitioner is ready and willing to pay the entire tax amount with an undertaking to file an appeal against the amount of penalty,

this Court disposes of the writ petition with a direction that on payment of tax amount of Rs.2,03,908/- (rupees two lakh three thousand nine hundred eight only) within a period of one month hence with an undertaking to file an appeal assailing the penalty amount of Rs.3,84,309/-, no coercive action shall be taken against the Petitioner in respect of the vehicle bearing Registration No. OR-11-D-4455 (Bus) till filing of the appeal.

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

(K.R. Mohapatra)
Judge

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