

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 28136 OF 2022

Onkar Singh

.... Petitioner

Mr. Soumya Dev Ray, Advocate

-versus-

State of Odisha and others

.... Opp. Parties

Mr. Pravakar Behera,

Standing Counsel

(For Transport Department)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

10.11.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the demand notice of Rs.2,50,390/- (Annexure-1) in respect of his vehicle bearing Registration No.OR-05-S-6567 (Truck) and also prays for a direction to the concerned authority to cancel the Registration Certification of the said vehicle.
3. Mr. Ray, learned counsel for the Petitioner submits that the aforesaid vehicle of the Petitioner was stolen on 13th January, 2014 and a report was lodged on the same day before the Tangi Police Station. Pursuant to the report lodged, Tangi P.S. Case No.6 of 2014 was initiated and corresponding G.R. Case No.74 of 2014 has already been adjudicated by learned J.M.F.C., Cuttack holding the accused person guilty. But the vehicle of the Petitioner could not be traced out, as it was already sold by cutting into pieces. Although, the Petitioner has intimated the same to the R.T.O., Cuttack vide letter dated 13th March, 2014

and 15th September, 2015, but ignoring the same, a demand notice under Annexure-1 has been communicated to the Petitioner. Hence, this writ petition has been filed seeking for the aforesaid relief.

4. Mr. Behera, learned Standing Counsel for the Transport Department submits that the notice of demand under Annexure-1 is appealable under Section 18 of the Motor Vehicles Taxation Act, 1957 (for short 'the Act'). Hence, the prayer for waiver of the demand is not maintainable. So far as the cancellation of Registration Certificate of the vehicle of the Petitioner is concerned, he should make an application enclosing all the documents for consideration of the same by the R.T.O., Cuttack.

5. It is, however, submitted by Mr. Ray, learned counsel that the Petitioner has already submitted the application for cancellation of registration on 5th August, 2022 under Annexure-5. But, the same has not yet been considered.

6. Upon hearing learned counsel for the parties, this Court feels that the Petitioner should file an appeal under Section 18 of the Act assailing the demand notice issued under Annexure-1. So far as the prayer for cancellation of Registration Certificate is concerned, the Petitioner should make a fresh application before the R.T.O., Cuttack for consideration.

7. Accordingly, this writ petition is disposed of with a direction that in the event, the Petitioner files an appeal assailing the demand notice issued under Annexure-1 before the R.T.O., Cuttack within a period of two weeks hence along with certified

copy of this order, the same shall be considered without insisting upon the delay in filing the appeal as expeditiously as possible preferably within a period of three weeks therefrom and communicate the same to the Petitioner.

8. On filing of a fresh application for cancellation of Registration Certification of the vehicle bearing Registration No. OR-05-S-6567 (Truck) before the R.T.O., Cuttack-Opposite Party No.2 enclosing relevant documents thereto within a period of two weeks hence, the same shall be considered within a period of three weeks therefrom in terms of the letter No.11010/TC dated 11th December, 2020 issued by the Commissioner-cum-Chairman, STA, Odisha, Cuttack and result thereof shall be communicated to the Petitioner forthwith.

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

(K.R. Mohapatra)
Judge

ms