IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 32238 of 2022

Tata Motors Finance Ltd., Bhubaneswar	....	***Petitioner***

Mr. Prakash Kumar Mishra, Advocate

-versus-

State of Odisha and others	....	***Opp. Parties***

Mr. Pravakar Behera,
Standing Counsel for Transport

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
02.12.2022

Order No.

2.

1. This matter is taken up through Hybrid mode.

2. This writ petition has been filed assailing letter Nos.5269 and 5270 dated 27th October, 2022 (Annexure-1 and 2) respectively issued by Regional Transport Officer-cum-Tax Recovery Officer, Jharsuguda in respect of vehicle at Sl. Nos. 3, 21, 23 and 25 of the auction sale notice under Annexure-2.

3. Mr. Mishra, learned counsel for the Petitioner-Financer submits due to non-payment of loan dues, Petitioner –Financer took over possession of aforesaid vehicles, which are kept in its stockyard. Without issuing any notice to the Petitioner, the Tax Recovery Officer, Jharsuguda has put the aforesaid vehicles to auction vide notice under Annexure-1, wherein it has been notified that failure to pay the outstanding certificate dues, the vehicles will be put to auction on 18th November, 2022 and on the same date notice for auction sale was issued vide Annexure-2. It is his submission that had the Petitioner been given an

opportunity it would have cleared the certificate dues. Instead of following the principles of natural justice, the Tax Recovery Officer has put the vehicles to auction sale. Hence, the impugned notices under Annexures-1 and 2 are liable to be set aside.

4. Mr. Behera, learned Standing Counsel for Transport Department objecting to the submission made by Mr. Mishra, learned counsel for the Petitioner-Financer contends that at every stage of tax recovery proceeding the registered owner(s) or possessor(s) thereof have been issued with notice. Proclamation of sale and the same was affixed at the stockyard of the Petitioner. Thus, the plea of the Petitioner to the effect that it was not provided with opportunity of hearing is not correct. He further submits that in view of Section 78 of Sechedule-2 of the Motor Vehicles Taxation Act, 1975 (for short, 'the Act') Petitioner has a remedy of appeal assailing any order passed by the Tax Recovery Officer. Hence, the writ petition should not be entertained at this stage. He further submits that pursuant to notice, auction in respect of three out of aforesaid four vehicles have already been finalized.

5. Taking into consideration the submissions made by learned counsel for the parties and that the contention of learned counsel for the parties requires factual adjudication by referring to the documents which are available with the Petitioner and concerned Officer, this court, without interfering in the writ petition, disposes of the same with an observation that the Petitioner-Financier, if so advised, may avail the statutory remedy under the Act. Needless to say that this Court has not

expressed any opinion on the merit of the case of either of the parties.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

s.s.satapathy