THE HON'BLE SMT JUSTICE V. SUJATHA

WRIT PETITION No. 3952 of 2023

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:-

> "to issue writ order or direction especially one in the Nature of Writ of Mandamus declaring the action of the respondents in not accepting the payment of tax for the petitioner's goods carriage HMV vehicles bearing Nos. AP16TE5970, AP16TE5964, AP16TE5962, AP16TE5961 AP16TE6910 and AP16TE5960 for the present quarter i.e., 31.3.2023 on the ground of non-payment of tax and penalty for the previous quarters as illegal, arbitrary and violative of Article 19 (1) (g) of the Constitution of India and contrary to Section 3 of Andhra Pradesh Motor Vehicles Taxation Act and consequently to direct the 3rd respondent to accept the payment of tax for the present quarter i.e., 31.3.2023 in respect of petitioner's goods carriage HMV vehicles bearing Nos. AP16TE5970, AP16TE5964, AP16TE5962, AP16TE5961 AP16TE6910 and AP16TE5960 without insisting payment of Tax and Penalty for previous quarters"

2. The petitioner is the owner of goods carriage (HMV) bearing Nos. AP16TE5970, AP16TE5964, AP16TE5962, AP16TE5961 AP16TE6910 and AP16TE5960. On account of Covid-19 pandemic he has decided not to ply the vehicles and did not pay the motor vehicle tax for the quarter ending 30.03.2021. The petitioner had now decided to ply the vehicle from 01.09.2021 and had approached the authorities for payment of the proportionate amount of motor vehicle tax for the month of September, 2021.

The said request of the petitioner was rejected by the respondents on the ground that the petitioner had not paid the tax for the previous quarters i.e., from 31.06.2020 to 31.12.2022.

3. Section 3 of the A.P. Motor Vehicle Tax Act, 1988 reads as follows :

> "... every vehicle, in the nature of the vehicles owned by the petitioner, would attract motor vehicle tax, wherever such vehicles are used or kept in use in the State of Andhra Pradesh. This would mean that the owners of such vehicles would either pay the motor vehicle tax payable periodically or demonstrate to the authorities that the vehicle were not being used or kept for use in the State of Andhra Pradesh, and claim exemption from payment of such motor vehicle tax."

4. Rule 2 of the A.P. Motor Vehicle Taxation Rules, 1963 was introduced to provide a method of performing such an act. This Rule requires the owners of the vehicles, who seek exemption from payment of motor vehicle tax, to intimate to the authorities before the tax period commenced, that the said person, who owns the vehicle, is not going to use or keep the vehicle for use in the State of Andhra Pradesh for a certain period of time, for which he would not claim motor vehicle tax.

5. This Court by order dated 01.09.2021 in W.P.No.13780 of 2020 and batch, had held that the method set out in Rule-12A of the A.P. Motor Vehicles Taxation Rules, 1963 is only to demonstrate that the owner of the vehicle has not used or kept his vehicle for use in the State of Andhra Pradesh, for the period, for which exemption is sought. This Court had also held that it was open to the owner of the said vehicle to demonstrate this fact by any other method that the owner of the vehicle chooses.

6. In these circumstances, this writ petition is disposed of leaving it open to the petitioner to file a representation before the 2nd respondent authority, within a period of 10 days from today, setting out the facts and material to demonstrate that his vehicle has not been used or kept for use in the State of Andhra Pradesh for the period 31.06.2020 to 31.12.2022. The 2nd respondent, upon receipt of such representation, within a period of three weeks, shall take a decision as to whether the vehicle of the petitioner has been used or kept for use in the State of Andhra Pradesh, for the aforesaid period. Depending upon the decision taken by the 2nd respondent, the petitioner shall be liable to pay the motor vehicle tax along with other penalties and charges as may be determined by the 2nd respondent. Needless to say, it

would always be open to the petitioner to exercise his remedies against the order passed by the 2nd respondent.

7. Pending disposal of the representation of the petitioner, the 3rd respondent shall permit the petitioner to ply his vehicle on payment of present quarter i.e., Rs. 31,393/- motor vehicle tax as well as previous 5 quarters i.e., from 31.06.2020 to 31.12.2022.

8. However, if no representation is filed by the petitioner within stipulated time of ten days, for this purpose, the respondents can take steps for recovery of the dues. There shall be no order as to costs.

As a sequel, miscellaneous application, pending, if any, shall also stand closed.

SMT JUSTICE V. SUJATHA

20.02.2023
Issue cc tomorrow
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THE HON'BLE SMT JUSTICE V. SUJATHA

(Disposed of)

<u>Writ Petition No. 3952 of 2023</u>

Date: 20.02.2023

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