

(2013) 08 AP CK 0015

Andhra Pradesh High Court

Case No: Writ Petition No. 25174 of 2013

Pallapu Srinu and Another

APPELLANT

Vs

The Secretary, Regional
Transport Authority and Another

RESPONDENT

Date of Decision: Aug. 30, 2013

Acts Referred:

- Andhra Pradesh Motor Vehicles Taxation Act, 1963 - Section 12, 12(c), 6, 8
- Motor Vehicles Act, 1988 - Section 207

Citation: (2013) 6 ALD 400 : (2013) 5 ALT 677

Hon'ble Judges: G. Rohini, J; Challa Kodanda Ram, J

Bench: Division Bench

Advocate: P. Phalguna Rao, for the Appellant;

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

Challa Kodanda Ram, J.

This writ petition is filed challenging the seizure of the petitioners' vehicles, Tractor bearing T.R. No. AP15UETR 6484 and Trailor bearing No. AP-15-U-5755. First petitioner is the owner of Tractor bearing T.R. No. AP15UETR 6484 which he has purchased on 7.3.2013 for using in agricultural operations. 2nd petitioner is the owner of the LMV-Trailor bearing Registration No. A.P. No. 15-U-5755 and the same was purchased by her in the year 1999 and is permitted to carry weight of 1500 kgs. It is also permitted to transport goods. While the Tractor along with Trailor was proceeding from Keshavapur to Warangal with wood for domestic purpose, the same was intercepted by the 2nd respondent and a vehicle check report bearing No. 1317282 dated 8.4.2013 was issued. As per the check memo on demand the driver Pallapu Srinu, S/o. Ramulu of Keshavapur failed to produce the documents showing 1) Registration, 2) R.C. Book, 3) Proof of insurance of the vehicle, 4) Pollution

clearance certificate, 5) Driving licence and 6) Permit. Further, there was no proof of tax having been paid up to quarter dated 31.6.2013. The vehicle was seized in exercise of powers u/s 8 of A.P. Motor Vehicles and Taxation Act, 1963 (for short "the Act") and Section 207 of Motor Vehicles Act.

2. On behalf of the petitioners, the learned counsel would submit that the petitioners approached the first respondent's office and was informed that for the Tractor tax is due for the period 21.12.2002 to 30.4.2013 and on account of the same, petitioners had to pay a sum of Rs. 95,760/-, which is inclusive of alleged tax due and penalty. Petitioners submit that the respondents had not given any show-cause notice setting out the details of the amount that is being demanded orally except stating the tax and penalty is due and payable and unless the said amount is paid the vehicles would not be released. Petitioners are poor agriculturists and on account of the fact that the vehicle is seized and kept with the respondents since April, 2013, they are facing undue hardship and they are unable to eke out their livelihood. They are unable to raise an astronomical sum of Rs. 95,000/- and are unable to get the vehicle released and as such they approached this Court.

3. When the matter came up for admission, we had put on notice to the learned Government Pleader appearing on behalf of the respondents and on instructions, learned Government Pleader would submit that the amount demanded is towards tax, fees and penalty. However, he was unable to give the details. Learned Government Pleader would further submit that the tax amount would work out to about Rs. 33,560/-. We may notice that the petitioners' averments which have not been denied that the Tractor was purchased on 7.3.2013 and in fact there was a 30 days time for getting the same registered and paying the tax. So far as the Tractor is concerned, the same has already been registered in the year 1999 and as such the only aspect that is required to ascertain that whether the tax applicable has been paid or not. We find on perusal of Act and Rules, unfortunately there is no provision dealing with putting on the owners of the vehicles on notice which are seized, the necessary procedure to be followed to get their vehicles released. In the present case, the seizure of the vehicle has been effected u/s 8 of the Act. As against the seizure of the vehicle, an appeal is provided to the aggrieved party u/s 12(c) of the Act within 30 days from the date of communication to him of the order of levy or the date of seizure as the case may be and the authority to whom appeals can be preferred and the procedure is prescribed by the Rules. Rule 15 of the Andhra Pradesh Motor Vehicles Taxation Rules, 1963 (for short, "the Rules") the only rule dealing with this aspect, is in following terms:

15. Procedure for appeal: - (1) An appeal u/s 12 of the Act against an order of levy made u/s 6 or of the seizure made u/s 8 shall lie to the Deputy Transport Commissioner concerned within a period of thirty days from the date of communication of the order of levy or the date of seizure as the case may be:

Provided that an appeal against the order of levy made u/s 6 or of the seizure made u/s 8, by the Deputy Transport Commissioner [or the Joint Transport Commissioner] who functions as the Secretary, Regional Transport Authority, Hyderabad shall lie to the Transport Commissioner.

Provided further that an appeal against an order of levy made u/s 6 or of the seizure made u/s 8, by the Assistant Secretary, State Transport Authority, Hyderabad shall lie to the Secretary, State Transport Authority, Hyderabad.

Provided also that, where an appeal is presented within the stipulated time, but is returned for representation in such manner and within such period as may be specified by the Appellate Authority and if such appeal is represented within the period specified, it shall be deemed to have been presented in time for purposes of this rule.

(2). Every appeal referred to under Sub-rule (1) shall be in the form of memorandum specifying the name and address of the appellant, the registration number of the motor vehicle, the date of receipt by the appellant of the order appealed against and shall contain a clear statement of facts, the nature of relief prayed for and shall be verified and signed by the appellant or his authorized agent, as the case may be. Every such memorandum of appeal be presented in duplicate and shall be accompanied by a treasury challan for Rupees twenty towards fee. The appeal shall also be accompanied by the original or a certified copy of the order appealed against.

(3). The Deputy Transport Commissioner or the Joint Transport Commissioner concerned or the Transport Commissioner as the case may be, shall, after making such inquiry and perusing such records, if any, as he may deem necessary, pass such order on the appeal as he thinks fit.

4. In the present case, the Assistant Motor Vehicles Inspector is the one who had seized the vehicle. Prima facie reading of the Rule 15 of the Rules would indicate that the Assistant Motor Vehicles Inspector is not one of the authorized officer to seize the vehicle. There is also no seizure communication made to the owner of the vehicle as required under the Act. Under the circumstances, we consider it appropriate to dispose of the Writ Petition with the following directions:

(i) The respondents shall communicate the factum of seizure specifying the alleged irregularities to the owners of the vehicles forthwith. Such communication shall also mention the remedies available to them under the Motor Vehicles Act, 1988 and the A.P. Motor Vehicles Taxation Act, 1963.

(ii) Pending finalization of the proceedings by the competent authority, the seized Tractor-cum-Trailor should be released subject to the condition of the petitioners depositing a sum of Rs. 33,560/- and furnishing an undertaking that the vehicles in question will not be sold nor any third party interest will be created.

(iii) The amount deposited in pursuance of this order shall be subject to the final order to be passed by the competent authority.

Writ Petition is accordingly disposed of. No costs. Miscellaneous Petitions, if any pending in this writ petition, shall stand closed.