(2020) 03 RAJ CK 0097

In the Rajasthan High Court

Case No : Civil Writ Petition No. 14548 Of 2018

Marvel Tour Services, Through Its Proprietor Shri Mukesh Rajpurohit — APPELLANT

Vs

Regional Transport Officer, Jodhpur and Others — RESPONDENT

Date of Decision : 19-03-2020

Acts Referred:
Motor Vehicles Act, 1988 — Section 90
Rajasthan Motor Vehicles Taxation Act, 1951 — Section 14

Citation : (2020) 03 RAJ CK 0097

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Mukesh Rajpurohit, Sunil Beniwal

Final Decision : Disposed Of

Judgement

@JUDGEMENTTAG-JUDGMENT

1. Though the matter comes up for consideration of second stay application filed by the petitioner in wake of auction notice dated 02.03.2020,

however, looking to the controversy involved and with a view to avoid probable complication, the writ petition itself is taken up for consideration with

the consent of both the parties.

2. By way of the present writ petition, petitioner has challenged the order dated 09.05.2018, passed by the respondent No.3, vide which petitioner's

revision has been rejected for want of pre-deposit.

3. Mr. Rajpurohit, learned counsel for the petitioner, argued that the revisional authority was not justified in rejecting petitioner's revision for want of

pre-deposit of 50% of the due amount, as the revision lies under Section 90 of the Motor Vehicles Act, 1988 (for short, â??the Act of 1988â??),

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which provision does not contain any stipulation of pre-deposit for maintaining the revision.

4. He, however, invited Court's attention towards Section 14 of the Rajasthan Motor Vehicles Taxation Act, 1951 (for short, â??the Act of 1951â??),

and submitted that the provision for pre-deposit to the tune of 50% of the amount due, is only given under Section 14 of the Act of 1951. He

maintained that since there is no corresponding provision requiring amount to be deposited for maintaining a revision, the revisional authority was not

justified in rejecting petitioner's revision petition. He prayed that order impugned be set aside and Revisional Authority may be directed to hear the

same on merit.

5. Mr. Sunil Beniwal, learned Addl. Advocate General, appearing for the respondents, on the other hand, submitted that the revision petition was

preferred by the petitioner in wake of the fact that Appellate Authority was not in office and as such, the petitioner is required to follow the mandate

of law, and procedure which is applicable to an appeal governed by Section 14 of the Act of 1951.

6. A perusal of the impugned order passed by the respondent No.3 shows that the revisional authority has rejected petitioner's revision petition solely

on the ground of non-payment of 50% of the due amount, as mandated by proviso to Section 14 of the Act of 1951, though he was not hearing an

appeal.

7. In considered opinion of this Court, since pre-deposit is not a precursor of maintainability of a revision, the revisional authority was not justified in

rejecting petitioner's revision petition for want of pre-deposit.

8. Be that as it may, according to this Court, even the remedy of revision under Section 90 of the Act of 1988 was not available to the petitioner, as

such provision clearly provides that the revision will lie only in case, no appeal has been provided.

9. Since against the order of assessment/demand notice dated 19.03.2015, a remedy by way of appeal has been provided under Section 14 of the Act

of 1951, the petitioner was required to pursue the appeal filed by him. It was in special circumstances, as noticed in the order dated 09.08.2017 (S.B.

Civil Review Petition No.181/2017), the petitioner has sought liberty to file the revision. That is how the matter went before the revisional authority.

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10. Mr. Beniwal, learned Addl. Advocate General, informs that Appellate Authority is duly functioning and the petitioner can thus, conveniently avail

remedy by way of appeal. He added that the Court should relegate the petitioner to avail remedy of appeal, instead of adjudicating upon merit of the

assessment order, in its supervisory jurisdiction.

11. Having regard to the facts noticed above and considering the fact that numerous disputed questions of facts are required to be gone into, present

writ petition is disposed of with a direction to the petitioner to prefer an appeal against the impugned demand notices, within a period of 15 days from

today. Petitioner may also file stay application with the appeal.

12. In case appeal and stay application are filed within the stipulated time, the Appellate Authority shall decide the appeal itself or stay application on

or before 30.04.2020.

13. Till 15.05.2020, the respondents shall not take any coercive measures, including putting petitioner's vehicle to auction.

14. The stay application, second stay application and all other interlocutory applications also stand disposed of.

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