(1996) 07 AHC CK 0068

In the Allahabad High Court

Case No : Civil Miscellaneous W. P. No. 346 of 1996

Sanjeev Kumar Nigam APPELLANT

Vs

Additional District Magistrate,Finance,Banda and Others RESPONDENT

Date of Decision : 18-07-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 07 AHC CK 0068

Hon'ble Judges : A.P.Misra, J and S.N.Tiwari, J

Final Decision : Allowed

Judgement

A. P. Misra, J.—Heard learned counsel for the petitioner and the learned standing counsel. In vie of the facts and circumstances of the case present petition is being disposed of finally at this stage, even before exchange of affidavit.

2. The petitioner initially challenged the order/notice dated 1231996 (Annexure 8 to the writ petition) and further offered respondents to accept Rs. 12,000 from the petitioner towards the Entertainment Tax. The present petition pertains to Cable T. V. Entina. The main ground of Challenge is that the notice/order Aauexure8 to the writ petition, has been passed without any assessment order against the petitioner. So far as liability of the petitioner for being assessed to the Entertainment Tax is concerned, the petitioner could have no say now in view of the decision of this Court on similar matters decided in Civil Misc. Writ Petition No. 1353 of 1993 and others connected writ petition decided on 2651995, which is Atmexure7 to the writ petition.

3. So far as the petitioner''s contention that no assessment order was passed has substance. Merely because this Court has rejected the group of writ petitions challenging the Entertainment Tax on Cable T. V./Entina etc. that by itself could not be a ground to send to the petitioner to assessed amount for recovery. Under the law only after notice to the petitioner tax could be assessed in accordance with law, hence for that reason, the impugned notice (Annexure8 to the writ petition) dated 1231996 cannot be sustained, the same is accordingly quashed.

Now the assessing authority will assess the petitioner afresh in accordance with law after due notice. The petitioner will approach the assessing authority alongwith the certified copy of this order, who then shall fix any date convenient to it for the petitioner to appear and after considering his case, assess him according to law. Though we are quashing the Annexure8 to the writ petition, for the aforesaid reasons but since in the present case the petitioner had admitted his liability towards Entertainment Tax to the extent of Rs. 12,432. We direct the petitioner to deposit this amount within one month from today with respondents and show the receipt of the same to the assessing authority.

4. With the aforesaid observations the present writ petition is allowed. Costs on the parties.