(2010) 07 KL CK 0089

In the High Court Of Kerala

Case No : W.A. No. 1230 of 2010

Suresh Kumar APPELLANT

Vs

The Regional Transport Officer RESPONDENT

Date of Decision : 23-07-2010

Acts Referred:

Citation : (2010) 07 KL CK 0089

Hon'ble Judges : Jasti Chelameswar, C.J;P.N.Ravindran, J

Bench : Division Bench

Advocate : Prasad Chandran, for the Appellant; No Appearance, for the Respondent

Judgement

J. Chelameswar, C.J.—Aggrieved by a judgment in so far as it did not permit the appellant to ply the vehicle (stage carriage), the partially successful writ petitioner filed this writ appeal.

2. The appellant is a defaulter in payment of the motor vehicles tax for the period between 1.7.2009 and 30.6.2010. The case of the appellant is that as the vehicle broke down during the relevant period he could not generate any revenue out of it and therefore he had defaulted in the payment. In view of the default in payment of tax the respondent authority initiated proceedings for recovery of the amount of tax due. Hence the writ petition.

3. By the judgment under appeal dated 21st May, 2010, a learned Judge of this Court partially allowed the writ petition interdicting the tax recovery proceedings on condition that the appellant herein clears all the arrears of tax demanded in five equal monthly instalments, first of which was directed to fall due on 10th of June 2010 and the other instalments on 10th of every succeeding month. However, by the judgment under appeal the appellant was not permitted to ply the vehicle until the entire arrears of tax was cleared. Aggrieved thereby, the instant writ appeal is filed.

4. Learned Counsel for the appellant relied upon a Division Bench judgment of

this Court in W.A. No. 1028 of 2010. In the said judgment in a similar facts situation as the one occurring in the instant case, a Division Bench of this Court while granting instalments for payment of the arrears of the motor vehicles tax permitted the appellant therein to ply the vehicle in connection which the tax fell due on payment of the first instalment indicated in the said judgment with a further stipulation that default in payment of any subsequent instalment would enable the State to proceed with the recovery of the arrears of tax.

5. Heard Sri. Prasad Chandran, learned Counsel for the appellant and Sri. K.P. Pradeep, learned Government Pleader appearing for the respondent.

6. In the facts and circumstances, we are of the opinion that the judgment dated 22nd June, 2010 in W.A. No. 1028 of 2010 relied upon by the learned Counsel for the appellant and referred to above sufficiently takes care of the interests of both the tax payer as well as the revenue. We, therefore, modify the judgment under appeal to the effect that the appellant would be at liberty to ply the vehicle on payment of the first instalment with a condition that on failure of payment of any subsequent instalment the State would be at liberty to take appropriate steps to recover the balance tax due from the appellant.

7. We are informed that pursuant to the judgment under appeal the appellant has admittedly paid the first instalment, but in view of the condition appealed against the appellant could not ply the vehicle. We, therefore, deem it appropriate that the further instalments of recovery be rescheduled. The second instalment shall fall due on or before 10th of August, 2010 and the subsequent instalments on or before 10th of every succeeding month. It is also stipulated that the appellant shall not alienate the vehicle until the entire tax arrears are cleared.

The writ appeal is accordingly disposed of.

