

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD  
(Special Original Jurisdiction)**

THURSDAY ,THE TWENTY NINTH DAY OF AUGUST  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

**WRIT PETITION NO: 24800 OF 2009**

**Between:**

R. Prabhakar Reddy, S/o. R. Yadi Reddy, BUSINESS, R/o. H.No. 15-5-814,  
Afzalgunj, Hyderabad.

**...PETITIONER**

**AND**

1. The Licensing Officer, RTA , Regional Transport Authority, (Central Zone)  
Khairtabad, Hyderabad.
2. The Motor Vehicle Inspector, (Vig. and Enf) S.T.A., A.P., Hyderabad.

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ order or direction particularly one in the nature of a Writ of Mandamus, declaring the Demand Notice No. 8527/D4/HC/2009, Dt. 24-9-2009 asking to pay difference of tax of Rs. 1,27,970/- for Q.E. 30-9-2009 for the vehicle bearing No. AP/16W-6519, as illegal, arbitrary and contrary to law and set-aside the same

**I.A. NO: 1 OF 2009(WPMP. NO: 32268 OF 2009)**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Demand Notice No. 8527/D4/HC/2009, Dt. 24-9-2009 asking to pay difference of tax of Rs. 1,27,970/- for Q.E. 30-9-2009 for the vehicle bearing No. AP/16W-6519, pending disposal of the Writ Petition

**Counsel for the Petitioner : SRI. B. SIVARAMAKRISHNAIAH  
Counsel for the Respondents: SRI M. VIGNESHWAR REDDY,  
GP FOR TRANSPORT**

**The Court made the following: ORDER**

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SRI JUSTICE J. SREENIVAS RAO**

**WRIT PETITION No.24800 of 2009**

**ORDER:** *(Per the Hon'ble Sri Justice J.Sreenivas Rao)*

This writ petition is filed for the following relief:

“.. issue a Writ, order or direction particularly one in the nature of a Writ of Mandamus declaring the Demand Notice No.8527/D4/HC/2009, Dt 24.9.2009 asking to pay difference of tax of Rs.1,27,970/- for Q.E. 30.9.2009 for the vehicle bearing No.AP/16W-6519 as illegal, arbitrary and contrary to law and set aside the same...”

2. Heard Sri B.Siva Rama Krishnaiah, learned counsel for the petitioner and M.Vigneshwar Reddy, learned Government Pleader for Transport appearing for respondents.
3. The grievance of the petitioner is that he is the owner of Contract Carriage Vehicle bearing No.AP/16W-6519 and the vehicle is covered by Contract Carriage Permit valid upto 24.08.2014 and is having all valid documents.
4. On 10.08.2009, respondent No.2 seized the vehicle under vehicle check report No.3214595 on the ground

that the petitioner's vehicle was plying from Lingampalli to Patancheru carrying 16 passengers without any valid documents and further stated that the vehicle is plying as ordinary stage carriage without tax for Q.E. 30.09.2018. Questioning the above said seizure, the petitioner had approached this Court and filed W.P.No.17145 of 2009 and the said writ petition was disposed of directing respondents to release the vehicle on deposit of Rs.20,000/- and also on giving an undertaking for not creating any third party rights by its order dated 19.08.2009.

5. Thereafter, respondent No.1 issued show cause notice on 21.08.2009, directing the petitioner to submit explanation as to why the difference of tax of Rs.1,27,970/- should not be collected from him. Even before submission of the explanation respondent No.1 issued impugned demand notice dated 24.09.2009 directing the petitioner to pay the difference of tax of Rs.1,27,970/-. Aggrieved by the same, the petitioner filed the present writ petition.

6. Learned counsel for the petitioner contended that respondent No.1 issued show cause notice on 21.08.2009 as to why the difference of tax of Rs.1,271970/- at the rate of Rs.3,675/- per seat per quarter should not be collected and asked to submit explanation. However, even before submission of the explanation respondent No.1 issued impugned demand notice dated 24.09.2009 directing to pay difference of tax of Rs.1,27,970/- for Q.E. 30.09.2009 and the same is gross violation of principles of natural justice. He further contended that the provisions of Section 3-A of Motor Vehicles Taxation Act, 1963,('Act' for brevity) are questioned in ***K.Srinivas Vs. Government of Andhra Pradesh and others***<sup>1</sup> (W.P.Nos.21008 of 2006 and batch) before the erstwhile High Court of Andhra Pradesh, Hyderabad. The Division Bench of erstwhile High Court of Andhra Pradesh, Hyderabad disposed of the said writ petitions holding that the State Government and its officials shall forbear from taking action to levy and collect additional tax under Section 3-A of the Act till a notification is issued in accordance therewith and a

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<sup>1</sup> 2008 (3) ALD 241

machinery is provided by law not only for its adjudication but also for its collection. The respondent without issuing any notification issued the impugned demand notice on 24.09.2009 and the same is contrary to law and also the principle laid down by Division Bench of this Court in **K.Srinivas** (supra).

7. Learned Government Pleader contended that pursuant to the show cause notice dated 21.08.2009, the petitioner has not submitted explanation and respondent No.1 has rightly issued the impugned demand notice dated 24.09.2009 and the same is valid under law. However, he has not disputed the fact that the State Government has not issued the notification before issuing the demand notice.

8. Having considered the rival submissions made by respective parties and after perusal of the material available on record, it reveals that respondent No.1 issued show cause notice on 21.08.2009 as to why the difference of tax of Rs.1,27,970/- should not be collected and asked to submit explanation. It further reveals that the

petitioner has not submitted the explanation within the time stipulated and thereafter, respondent No.1 issued impugned demand notice dated 24.09.2009 directing the petitioner to pay the difference of tax of Rs.1,27,970/- for Q.E. 30.09.2009.

9. It is pertinent to mention here that respondent No.1 issued impugned demand notice dated 24.09.2009 levying the tax of Rs.1,27,970/- for Q.E. 30.09.2009 without issuing any notification and the same is contrary to the principle laid down by the Division Bench of erstwhile High Court of Andhra Pradesh, Hyderabad in **K.Srinivas** (supra) which reads as follows:

“...The State Government and its officials shall forbear from taking action to levy and collect additional tax under Section 3-A of the Act till a notification is issued in accordance therewith and a machinery is provided by law not only for its adjudication but also for its collection. The amounts, if any paid by the petitioners pursuant to the interim orders of this Court shall be refunded to them.”

10. For the foregoing reasons as well as the principle laid in the above judgment, the impugned demand notice dated 24.09.2009 issued by respondent No.1 is liable to be set aside. Accordingly set aside.

11. Accordingly, the writ petition is allowed. No costs.

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

SD/- K. VENKAI AH  
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Licensing Officer, RTA , Regional Transport Authority, (Central Zone)  
Khairtabad, Hyderabad.
2. The Motor Vehicle Inspector, (Vig. and Enf) S.T.A., A.P., Hyderabad.
3. One CC to SRI. B. SIVARAMAKRISHNAIAH, Advocate [OPUC]
4. Two CCs to GP FOR TRANSPORT ,High Court for the State of Telangana at  
Hyderabad [OUT]
5. Two CD Copies

BM

GJP K.P.

CV  
10/9/14

HIGH COURT

DATED:29/08/2024

ORDER

WP.No.24800 of 2009



ALLOWING THE WRITPETITION  
WITHOUT COSTS

8 Copies  
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25/11/24