

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

OWP No.1608/2016

Date of Order:-31.01.2019

Jagdish Raj Gupta

Vs.

State and ors.

Coram:

Hon'ble The Chief Justice
Hon'ble Mr. Justice Tashi Rabstan, Judge

Appearance:

For the Petitioner/Appellant(s) : None.

For the Respondent(s) : Mr. D.C Raina, Advocate General with
Mr. K.D.S Kotwal, GA.

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|-----|---|---|----------|
| i) | Whether to be reported in
Digest/Journal/Media | : | Yes / No |
| ii) | Whether to be reported in
Press/Media | : | Yes / No |

1. It is pointed out by Mr. D.C Raina, learned Advocate General that in the present petition, the petitioner has assailed issuance of warrants of arrest in terms of Section 16 of *The Jammu and Kashmir General Sales Tax Act, 1962*. It appears that upon the failure of the petitioner to deposit arrears of sales tax despite repeated notices, the warrants of arrest were issued against him and before these warrants could be executed, the petitioner has sought cancellation thereof by way of filing a statutory appeal which came to be decided on 25th of October, 2015 by respondent No.2 and the warrants were also cancelled on the same date by the concerned authority. Thereafter, this writ petition has been filed seeking award of monetary compensation of Rs. 10 lakhs to the petitioner for the act of issuance of warrants.
2. Mr. D.C Raina, learned Advocate General has drawn our attention towards the provisions of Section 20 of *The Jammu and Kashmir General*

Sales Tax Act, 1962. For facility of reference, Section 20 of the aforesaid Act is reproduced hereunder:-

“20. Indemnity

No suit, prosecution or other legal proceedings shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.”

3. It would appear that the respondents would stand indemnified against the act of issuance of warrants in the present case for non-compliance of the demands for arrears of sales tax.
4. The record shows that there was no appearance on behalf of the petitioner on 25th of July, 2017, 2nd of December, 2017 and 6th of April, 2018. Today also, none appears for the petitioner when the matter is called out.
5. We may note that on 6th of April, 2018, the adverse orders were deferred in the interest of justice to enable the petitioner to remain present in the Court on the next date of hearing.
6. It would appear that the petitioner is not interest in prosecution of the matter.
7. The writ petition is, accordingly, dismissed for non-prosecution.

(Tashi Rabstan)
Judge

(Gita Mittal)
Chief Justice

Jammu
31.01.2019
Surinder