(2012) 07 JH CK 0105

Jharkhand High Court

Case No: Writ Petition (T) No. 3801 of 2012

Steel Authority of India United		APPELLANT
	Vs	
The State of Jharkhand and Another		RESPONDENT

Date of Decision: July 13, 2012

Acts Referred:

- Motor Vehicles Act, 1988 - Section 2, 2(28), 28

Citation: (2012) 4 JCR 10 : (2012) 4 JLJR 37

Hon'ble Judges: Prakash Tatia, J; Jaya Roy, J

Bench: Division Bench

Advocate: Indrajit Sinha, for the Appellant; A.K. Sinha, Advocate General, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. Heard learned counsel for the parties. Very short point involved in this writ petition is that whether the vehicles in question, which, according to the writ petitioner are the "Off Highway Vehicles and Equipments" and are used by the petitioner exclusively inside his mines, require registration as motor vehicles under the provisions of the Motor Vehicles Act, 1988 and the Rules applicable in the State of Jharkhand being Bihar Motor Vehicles Rules, 1992.

2. According to learned counsel for the petitioner, petitioner''s these vehicles are exclusively used in the mine premises of the petitioner and they do not ply on the public roads and not only this, but according to learned counsel for the petitioner, these equipments are not suitable for plying on the road. It is submitted that such type of vehicles are not motor vehicles as per the definition given under Sub Section 28 of Section 2 of the Motor Vehicles Act, 1988. In spite of this, the registering authority i.e., District Transport Officer is intending to seize such equipments for which the petitioner gave letter to the said authority on 28.06.2012. It is also

submitted that even in one of the mines, equipments were seized and the petitioner had to pay the claimed amount of tax and penalty to the tune of Rs. 1 crore. Learned counsel for the petitioner further submitted that since the petitioner cannot get adjudication upon the issue whether the equipments which the petitioner is claiming not the motor vehicle, are motor vehicles or not and, therefore, petitioner approached this Court.

3. Learned Advocate General vehemently submitted that this is a pure question of fact which is initially required to be determined by the authority who is empowered to issue certificate of registration. It is further submitted that Rule 40 of the Bihar Motor Vehicles Rules, 1992 clearly provides that District Transport Officer shall be the registering authority.

4. Since the nature of the article in question is in dispute and petitioner is claiming that these articles are equipments and not the motor vehicles falling in the definition of Section 2(28) of the Act of 1988 and it is the duty of the District Transport Officer to accept the application for registration of any vehicle, obviously then he has a right to examine that whether the vehicle sought to be registered or which he intends to register is a motor vehicle or not. In view of the above matter, it will be appropriate that the petitioner should approach the District Transport Officer concerned by submitting a petition stating the facts of the case clearly and the reasons for alleged equipments not to be the motor vehicles. If the petitioner submits his petition before the concerned District Transport Officer within a period of one week from today, then the petition of the petitioner be decided by the concerned District Transport Officer within a period of three weeks and till the District Transport Officer decides the matter, no coercive method be adopted for recovery of tax amount from the petitioner in view of the fact that the petitioner is already using these vehicles since years and further, since the petitioner is a public sector undertaking, it can pay the amount immediately after the decision of the District Transport Officer, therefore, till the matter is decided by the District Transport Officer, no coercive step be taken.
With these observations, this writ petition is disposed of.