
(2015) 01 JH CK 0110

Jharkhand High Court

Case No: Writ Petition(C) No. 4903 of 2014

Dashrath Vishwakarma

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Jan. 21, 2015

Acts Referred:

- Bihar Motor Vehicles Taxation Act, 1994 - Section 17, 17(1), 17(3), 19

Citation: (2015) 3 LJLR 81

Hon'ble Judges: S. Chandrashekhar, J.

Bench: Single Bench

Advocate: Praveen Kumar Rana, for the Appellant; Saket Upadhyay, J.C. to AAG and Syed Ramiz Zafar, Advocates for the Respondent

Final Decision: Dismissed

Judgement

S. Chandrashekhar, J.

Seeking a direction upon the respondents for exemption of road tax with respect to the vehicle being No. JH 10AA 4812, the present writ petition has been filed.

2. The petitioner claims himself the owner of a commercial truck which was hired by one Dinesh Singh on 22.05.2013. A First Information Report being Gonvindpur P.S. Case No. 213 of 2013 was lodged on 22.05.2013 on the allegation of illegal coal being transported on the said vehicle and in connection thereof, the said truck was seized with coal. The petitioner moved this Court in A.B.A. No. 3447 of 2013 and he was granted anticipatory bail vide order dated 09.03.2014. The petitioner also filed an application for release of the vehicle and the criminal court vide order dated 06.03.2014 directed release of the vehicle. Thereafter, the petitioner submitted application before the District Transport Officer-respondent No. 4 for exempting road tax between the period 22.05.2013 and 12.03.2014 however, no decision has been taken by the respondent No. 4 and therefore, the petitioner has approached this Court.

3. Heard the learned counsel appearing for the parties.

4. The learned counsel appearing for the petitioner submits that though the petitioner is not involved in illegal transportation of coal in any manner whatsoever, his truck was illegally seized by the police. The said truck was released on 12.03.2014 and thereafter, the petitioner submitted an application for exempting road tax during the said period. Referring to Section 19 of the Bihar Motor Vehicle Taxation Act, 1994, the learned counsel submits that since the petitioner has submitted a representation dated 28.05.2014, he is entitled for exemption of road tax in terms of Section 19 of the Act of 1994.

5. Per contra, Mr. Saket Upadhyay, the learned counsel appearing for the respondent-State of Jharkhand submits that since the petitioner did not give prior intimation of temporary discontinuation of the use of the vehicle, the provision under Section 19 is not applicable in the present case. It is further submitted that Section 17(3) provides that in the absence of an undertaking as contemplated under Section 17(1), every motor vehicle is liable to be taxed. He relied on the decisions in [Upendra Rai Vs. State of Bihar and Others](#), and "Mahendra Singh Rekhraj Vs. State of Jharkhand and Ors.", reported in 2009 (2) JCR 118(Jhr) .

6. I have carefully considered the submissions of the counsel for the parties and perused the documents on record.

7. Section 17 of the Bihar Motor Vehicle Taxation Act, 1994 deals with prior intimation of temporary discontinuance of use of a vehicle. It provides that whenever any motor vehicle becomes incapable of use due to disability, the owner shall on or before the date of expiry of the period on which the tax has been paid, furnish an undertaking duly signed and verified in the prescribed proforma before the taxing officer. Admittedly, a prior intimation in prescribed proforma has not been submitted by the petitioner. The petitioner approached the respondent No. 4 only after the release of truck on 12.03.2014. Section 19 of the said Act refers to an undertaking delivered under sub-section (1) of Section 17 and Section 17 would be applicable only in cases in which an undertaking as contemplated under Section 17(1) of the Act has been furnished. As pointed out by the learned counsel for the respondent-State of Jharkhand, Section 17(3) makes it mandatory for an owner of a motor vehicle to pay tax in which prior intimation under Section 17(1) has not been submitted before the taxing officer.

8. In view of the aforesaid, I do not find any merit and accordingly, the writ petition is dismissed.