

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
WA No.121 of 2022

1. The State of Tripura to be represented by the Secretary Transport Department, Government of Tripura, P.S. New Capital Complex, District-West Tripura.
2. District Transport Officer, Transport Department, North Tripura, Dharmanagar.
3. Motor Vehicle Inspector, Churaibari Check post, North Tripura.

..... Appellant(s)

V E R S U S

NE Equipment Solution Private Limited authorized dealer of TATA Hitachi Construction Machinery Company Limited having its head office at Kalimohan Road, Tarapur, Silchar, 788003 and also a Branch Office at Kashipur, P.O. Khayerpur, Agartala, 799008, West Tripura.

..... Respondent(s)

For Appellant(s) : Mr. Karnajit De, Addl. G.A.

For Respondent(s) : Mr. B.N. Majumder, Sr. Advocate,
Mr. Dhruba Jyoti Saha, Advocate,
Mr. Bikash Paul, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

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23/07/2025

Heard Mr. Karnajit De, counsel for the appellants-State and Mr.

B.N. Majumder, counsel for the respondent.

[2] This writ appeal is preferred against the judgment dated 28.06.2022 of the learned Single Judge in WP(C) No.179 of 2022.

[3] The sole respondent in the writ appeal had filed the said writ petition challenging the action of the third appellant in proposing to impose fine of Rs.10,000/- under the Motor Vehicles Act, 1988 on 27.01.2022 after detaining an excavator which was being transported at Churaibari check-post, North Tripura and also levying tax of Rs.42,800/- under Section 4(B) of the Tripura Motor Vehicles Tax Act, 1972.

[4] It was the contention of the sole respondent before the learned Single Judge that imposition of tax on the excavator by applying Section 4(B) of the Tripura Motor Vehicles Tax Act, 1972 is without jurisdiction, and that the excavator which was being transported was not a “motor vehicle” at all. It was also contended that the excavator transported by the sole respondent was not fit for movement on a public road as it was fitted with chain plates and no tire or tube was utilized for movement of the excavator. It was also contended that if it was plied on a public road, it would damage the entire surface it moved on and in fact it was not manufactured for such movement. It was also contended that the amount was paid under protest vide Annexure-4 dated 27.01.2022 reserving legal rights of the respondent.

[5] The learned Single Judge set aside the said action of the third appellant on the ground that principles of natural justice were violated and the amount collected by the appellant No.3 was contrary to law. He also directed to return of the amount of Rs.42,800 + Rs.10,000/- collected from the respondent in one month.

[6] He, however, granted liberty to the appellants to issue a demand notice or a show-cause notice, and after giving opportunity to the respondent, collect the requisite amount under the Motor Vehicles Act, 1988, if found that the respondent was liable to pay the amount. Liberty was also granted to the respondent, if he is aggrieved by any action of the appellants, to avail remedies in accordance with law.

[7] Challenging the same, this appeal is filed by the appellants.

[8] Learned Government counsel contended that the learned Single Judge had erred in granting relief to the respondents. He also contended that the excavator which was being transported by the respondent was a “motor vehicle”. He, however, did not dispute that before imposing the tax of Rs.42,800/- or fine of Rs.10,000/- on the respondent, no show-cause notice was issued and no explanation was called for from the respondent in that regard.

[9] Counsel for the respondent supported the judgment of the learned Single Judge and also contended that the payment was taken from the respondent in circumstances practically amounting to coercion and the payment was in fact made by the respondent reserving all their legal rights.

[10] We have noted the contentions of the parties.

[11] As regards the levy of fine of Rs.10,000/- on the respondent under sub-section (2) of Section 190 of the Motor Vehicles Act, 1988 is concerned, we are of the opinion that such fine can only be levied by a Court and the third appellant was not a “Judicial Officer” nor was he exercising “judicial powers” and he could not have imposed such a fine. This is because the said sub-section also authorizes imposition of a sentence of imprisonment on a person who drives in any public place a motor vehicle, in violation of standards prescribed in relation to road safety, control of noise and air pollution. It cannot be disputed that the power to impose a sentence of imprisonment can only be exercised by a Court and by a Judicial Officer empowered to impose such sentence of imprisonment. Therefore, for the

very same reason even the fine cannot be imposed by the third appellant and could have only been imposed by a Court of competent jurisdiction.

[12] Coming to the levy of tax under the Motor Vehicles Tax Act, 1972 by the third appellant is concerned, there is no exclusion of principles of natural justice in the said statute. In *Institute of Chartered Accountants of India versus L.K. Ratna and Others, reported in AIR (1987) SC 71*, the Supreme Court has held that principles of natural justice have to be read into the interstices of a statute even if the statute is silent when adverse civil consequences are visited on any citizen unless they are expressly or impliedly excluded by the statute.

[13] We are of the opinion that there is no such exclusion of principles of natural justice in the statute i.e., the Tripura Motor Vehicles Tax Act, 1972. The learned Single Judge was perfectly correct in not only asking the appellants to refund the amount collected from the respondent but also in granting liberty to the appellants to comply with the principles of natural justice.

[14] We, therefore, do not find any merit in this writ appeal. It is accordingly dismissed. No costs.

(S. DATTA PURKAYASTHA, J)

(M.S. RAMACHANDRA RAO, CJ)

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