

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) NO. 1924 OF 2014

Jeewan Bus Service, through Manager Tuleshwar Vaishnav, S/o Magmohan Vaishnav, aged about 45 years, R/o New Bus Stand, Pandri, Raipur, Tahsil and District Raipur (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Transport, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (C.G.)
2. State Transport Authority, Raipur, District Raipur (C.G.)
3. District Transport Officer/Taxation Authority, Dhamtari, District Dhamtari (C.G.)

... Respondents

For Petitioner	:	Mr. Ajay Shrivastava, Advocate.
For Respondents	:	Mr. A.S. Kachhawaha, Addl. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/12/2016

1. Heard on I.A. No.8 of 2016, which is an application for disposal of the writ petition after quashing the impugned order dated 12.9.2014 (Annexure P-1) in the light of the subsequent decision on identical facts that the Appellate authority has taken particularly the order passed as on 31.8.2016.

2. The challenge in the present writ petition is to the order dated 12.9.2014 (Annexure P-1) whereby the respondent authorities in the instant case have asked the petitioner establishment for paying the tax on the basis of the width of the wheels of the vehicle with effect from March, 2013. Whereas the rules were amended with effect from 31.12.2014 and it could not have been given retrospective effect and it should have been only made prospective.

3. Learned Counsel for the Petitioner has moved the application (I.A. No.8) drawing the attention of this Court that the same authority has now

vide order dated 31.8.2016 while deciding a bunch of similar appeals, taken a stand that the effect and operation of the amended rules would only be prospective and not retrospective. Thus there is a conflicting stand so far as the Petitioner's case is concerned with that of the several appeals decided by the Transport authority vide order dated 31.8.2016, copy of which is also enclosed along with I.A. No.8.

4. At this juncture, learned Additional Advocate General submits that in the light of the discrepancy that has crept up by way of the two decisions passed by the same authority it would be more appropriate if the present dispute is also remitted back to the Transport authority for a fresh adjudication of the matter.

5. The said submission of learned Additional Advocate General is not opposed by the Counsel for the Petitioner.

6. Accordingly and on the submission made by the Counsel for the parties, the impugned order dated 12.9.2014 (Annexure P-1) is set aside and the matter is remitted back to the Transport Commissioner for passing a fresh order in the case in accordance with the provisions of law and rules governing the field.

7. In view of the fact that, since order dated 12.9.2014 (Annexure P-1) has been quashed by this Court, let the Petitioner within 15 days from today approach the concerned Transport Commissioner by moving a fresh appeal/representation. The said authority thereafter is supposed to take a decision objectively considering the contentions put forth by the Petitioner within a further period of 45 days thereafter.

8. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge