NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 72 of 2018

Pooja Nagdev, W/o Shri Vinod Nagdev, aged about 38 years, R/o B-20, Block – B, Vrindavan Gardens, Daldal Seoni, Saddu, Raipur, District Raipur (C.G.) **---- Petitioner**

Versus

1. State of Chhattisgarh Through The Secretary, Department of Road Transport, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (C.G.)

2. Regional Transport Officer (RTO), Regional Transport Office, Raipur, District Raipur (C.G.)

3. Transport Commissioner, C- Block, 3rd Floor, Indirawati Bhawan, New Raipur, District Raipur (C.G.) **---- Respondents**

For Petitioner : Mr. Sangeet K. Kushwaha, Advocate.
For Respondents/State : Mr. Prasoon Bhaduri, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

23/04/18

1. Learned counsel appearing for the parties would submit that the issue involved in this writ petition is squarely covered by the decision rendered by this Court in **Yashwant Kumar Jain & Others v. State of Chhattisgarh & Others**[1], decided on 20.04.2018, in which this Court has held as under :-

> **"31.** In the considered opinion of this Court, the said proviso is not attracted in the present case and particularly to the levy impugned as it was applicable to a case where the tax was paid prior to the commencement of the Act of 1991 w.e.f.

1 WP(T) No.69 of 2017

21.09.1991 and life time tax paid as specified in the Second Schedule was liable to be deducted. In the instant case, provision for levy of life time tax came into force w.e.f. 15.02.2016, but the legislature has deliberately and consciously omitted to insert any provision like proviso (i) to sub-section 5(2) of the Act of 1991 directing deduction of quarterly tax paid by the petitioners from the date of purchase till 15.02.2016 *i.e.* date of coming into force of the Act of 2016 imposing life time tax on the crane and mechanical excavator vehicles, therefore, to hold the life time tax payable by the petitioners would be contrary to law.

32. As a fallout and consequence of the above-stated discussion, it is held that amendment to the Second Schedule to the Act of 1991 *w.e.f.* 15.02.2016 inserting entry No. 8 in Part-I of Second Schedule imposing life time tax on crane and mechanical excavator vehicles is intended to operate prospectively. Consequently, the respondents are directed to accept quarterly tax from the petitioners in accordance with law and act of the respondents directing recovery of life time tax is unauthorized in law and they are restrained from recovering life time tax from the JCB owned by the petitioners.**”**

2. Accordingly, this writ petition is also disposed of in terms of the aforesaid decision of this Court. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

Priyanka