AD. 195.
April 28, 2022.
MNS.

WPA No. 5768 of 2022

Ishika Packaging Private Limited
Vs.
The State of West Bengal and others

Mr. Subhasis Sengupta,
Mr. Balarko Sen,
Mr. Manish Shukla,
Ms. Sukanya Basu

…for the petitioner.

Mr. Pantu Deb Roy,
Mr. Pannalal Bandopadhyay

…for the State.

Learned counsel for the petitioner contends that the Motor Vehicle authorities acted *de hors* the law in claiming an amount of penalty equivalent to the amount of the one-time tax/ lifetime tax, despite the petitioner having applied for registration as long back as on January 21, 2020. Since the delay of two years took place in the authorities granting permanent registration to the petitioner, it is submitted that Section 10(2)(c)(v) of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 (the Act of 1989), is not attracted. The delay, it is submitted, should have been counted from the date when the permanent registration was granted since the petitioner was not liable to pay the entire tax prior to such permanent registration.

Learned counsel for the petitioner further contends, by placing reliance on Section 11 of the West Bengal Motor Vehicles Tax Act, 1979 (1979 Act), that sub-clause (iii) of clause (b) thereof provides that in case of vehicles other than transport vehicles, the penalty for delayed payment of tax would be equal to the amount of annual tax, if payment is made after sixty days.

It is contended that in view of such contradictory provisions, the more lenient Section, that is, Section 11 ought to be applied in the present case.

Learned counsel appearing for the respondent-authorities places reliance on a Division Bench judgement of this Court reported at *1996(1) CLJ 166 (Sarat Chandra Sharma and others Vs. State of West Bengal and others)* in support of the proposition that the legislature has amplitude and flexibility to adjust the system of taxation and for enacting another Act to impose further levy despite the subsistence of a prior Act in that regard.

Learned counsel for the respondent authorities further contends that in view of such power of the legislature, the additional tax / one-time tax, as levied within the purview of Section 10 of the Act of 1989, was fully legitimate. The date when the liability of the petitioner to pay first accrued was the date when the temporary registration was granted to the petitioner, it is submitted. As such, there is no illegality and/or irregularity perpetrated by the respondent authorities in charging an amount equal to the amount of one-time / lifetime tax since the delay in paying such tax was more than four years.

The proposition on which the Division Bench judgment has been cited by learned counsel for the respondent authorities is well-settled and there cannot be any issue on the said score.

However, the germane issue involved herein is the effect which has to be given to the apparently contradictory provisions of Section 11(b)(iii) of the 1979 Act and Section 10(2)(c)(v) of the Act of 1989. Apparently, both operate in the field of penalty for delayed payment of taxes.

However, two salient features have to be taken note of in such regard. First, the Act of 1989 was enacted and the further amendment in clause (5) of Section 10(2)(c)(v) introduced on September 3, 2012, were both subsequent to the enactment of the 1979 Act. As such, the legislature, in its wisdom, was well aware of the subsistence of the prior law before enacting the provision-in-question of Section 10 of the Act of 1989.

That apart, if we note carefully, the nomenclature of the 1979 Act is “West Bengal Motor Vehicles Tax Act”, whereas the nomenclature of the Act of 1989 is “West Bengal Additional Tax and One-time Tax of Motor Vehicles Act, 1989". As such, two separate fields of operation are contemplated inasmuch as the 1979 Act deals with the principal tax which can be levied and the Act of 1989 deals with additional / one-time or lifetime tax are concerned. The two are separate concepts and cannot be equated.

As a natural corollary thereof, it can very well be deduced that the delayed payment regarding the tax as contemplated under the 1979 Act and the delayed payment of the additional/one-time/lifetime tax envisaged under the Act of 1989 are different in their scopes of applicability. As such, the apparent contradiction pointed out by the learned Advocate for the petitioner does not hold water.

Following the principle laid down by the Division Bench in *Sarat Chandra Sharma* (supra), it is well within the authority of the legislature to impose additional taxes.

As such, this Court does not find any illegality and/or irregularity in imposition of additional taxes and penalties for delayed payment within the contemplation of Section 10(2)(c)(v) of the Act of 1989, even independent of Section 11(b)(iii) of the 1979 Act.

Hence, there is no scope of interference in the present writ petition.

Accordingly, WPA No. 5768 of 2022 is dismissed on contest, without any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)