

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.12119 OF 2022

***Sarat Kumar Nayak @ Sarat Chandra
Nayak***

Petitioner

Mr. A. Kejriwal, Advocate

-versus-

***Chairman, State Transport Authority, Opp. Parties
Odisha, Cuttack and another***

Mr. Pravakar Behera, Standing Counsel
for Transport Department

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

08.07.2022

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. The Petitioner in this writ petition seeks to assail the certificate issued for recovery of the amount due towards motor vehicle tax under Annexure-1 as well as show cause notice (Annexure-2) under Section 13(2) of the Odisha Motor Vehicles Taxation Act, 1975 (for short 'the Act').
 3. Mr. Kejriwal, learned counsel for the Petitioner submits that the certificate issued is beyond the period of limitation and thus, the same is not sustainable. He also assailed issuance of certificate on the ground of non-compliance of Section 13 of the Act. He, therefore, submits that the certificate issued under Annexure-1 is liable to be set aside and also the show cause notice under Annexure-2.
 4. Mr. Behera, learned Standing Counsel for the Transport Department submits that the certificate is drawn for the tax amount only due from 1st September, 1994 to 31st December, 2021 in respect of the vehicle bearing Registration No.OSX-4153

(Bus). The Petitioner if denies the certificate amount has to contest the same under Rule 3 of the Schedule-II of the Act. Hence, this writ petition is not maintainable in view of Rule 3 of Schedule-II of the Act.

5. Taking into consideration the submissions made by learned counsel for the parties and on perusal of the relevant provisions of the Act, it appears that since the Petitioner has a remedy under Rule 3 of Schedule-II of the Act, this Court is not inclined to entertain the writ petition. Accordingly, this writ petition stands dismissed.

6. It is, however, observed that the Petitioner, if so advised, may work out his remedy under Rule 3 of the Schedule-II of the Act and in that event, the authority while considering the question of delay may take into consideration the pendency of this writ petition before this Court from 10th May, 2022 till date along with other grounds.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks