IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 8161 OF 2016

OSL Automobiles (P) Ltd., Cuttack .... ***Petitioner***

Mr. Soumya Ranjan Pradhan, Advocate

-versus-

State Transport Authority and others .... ***Opp. Parties***

Mr. Pravakar Behera,
Standing Counsel
(For Transport Department)

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER

Order No. **21.10.2022**

4. 1. This matter is taken up through hybrid mode.

2. The Petitioner, which is a dealer of automobiles and spare part thereof has filed this writ petition assailing the instruction issued by the Transport Commissioner vide communication dated 29th March, 2016 (Annexure-2) to collect tax from dealers/manufacturers on the basis of total number of vehicle in their possession and registered during the entire year by the dealer. It was further instructed to be more vigilant at the dealer points through regular checking and conducting raids to collect tax of the vehicle possessed by the dealers. The said instruction was assailed by the Odisha Automobiles Dealers Association (OADA) in W.P.(C) No.5648 of 2017. While disposing of the writ petition vide order dated 18th May, 2017, this Court has held as under:

> *46. Rule-177 of the Orissa Motor Vehicle Rules, 1993 clearly states that all officers of the*

> *Orissa Motor Vehicles Department shall be subordinate to the Commissioner and shall exercise the powers and perform the duties as assigned to them from time to time under the Act and rules and the notification issued thereunder. They shall carry out the instructions and orders issued by the Commissioner from time to time. In exercise of such power, since the order in Annexure-2 dated 29.03.2016 has been issued by the Commissioner to subordinate officers, namely, RTOs, it is well within his competence and no fault can be found with him for issuance of such instruction to his subordinate officers and on the basis of the instruction issued in consonance with the provisions contained in Rule-177, if the subordinate officers carries out the same to give effect the provisions contained under Section 5 of the Orissa Motor Vehicles Taxation Act, 1975, this Court is of the considered view that the action of the authorities is well within their jurisdiction and the same does not warrant any interference.*

The said judgment is also reported in 2017(II) OLR 170 in the case of ***Odisha Automobiles Dealers Association (OADA) -Vs- State of Odisha and another.***

3. The Petitioner-Dealer also assails the demand made by the Taxing Officer, R.T.O., Cuttack vide its letter dated 29th March, 2016 under Annexure-3 pursuant to the instruction under Annexure-2 imposing tax of Rs.20,600/- in respect of 103 numbers of vehicle @ Rs.200/- per vehicle. Since tax as demanded was not paid by the Petitioner-Dealer, certificate was drawn against the Petitioner-Dealer vide Annexure-4, which is also under challenge in this writ petition.

4. In view of the ratio decided in ***Odisha Automobiles Dealer Association*** (supra), this Court finds that nothing remains to be decided in this case. Since the instructions issued under Annexure-2 are held to be valid, demand under Annexure-3 and certificate drawn under Annexure-4 cannot be faulted with.

5. Accordingly, this Court while dismissing the writ petition upholds the instruction issued under Annexure-2, demand made under Annexure-3 as well as certificate drawn against the Petitioner-Dealer under Annexure-4.

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

(K.R. Mohapatra)
Judge

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