

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 22526 OF 2022

Minaketan Panda

....

Petitioner

Mr. Ashok Kumar Rout, Advocate

-versus-

R.T.O., Sambalpur and another

....

Opp. Parties

Mr. Pravakar Behera,

Standing Counsel

(For Transport Department)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

14.09.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition prays for exemption of tax in respect of the vehicle bearing Registration No.OR-05-AN-4561 for the period, it was under seizure by the Forest Range Officer, Bolangiri-Opposite Party No.2.
3. It is submitted by Mr. Rout, learned counsel for the Petitioner that the aforesaid vehicle was illegally seized by the Forest Department in connection with a forest offence. Hence, the Petitioner is not liable to pay the tax in respect of the vehicle for the period, it was seized by the Forest Department. In support of his case, he relied upon the decision in the case of **Prafulla Kumar Samantaray –v- R.T.O., Rourkela and others**, in W.P.(C) No.13421 of 2014 disposed of on 16th February, 2016 in which this Court held that the Petitioner is not liable to pay the tax for the period the vehicle in question was not in his possession as it was under seizure by the Forest Department. It is his submission that without considering the law already settled, the R.T.O., Sambalpur-Opposite Party No.1 initiated recovery a proceeding to

realize the M.V. Tax amount of Rs.52,000/- and penalty of Rs.81,250/- from the Petitioner in respect of the aforesaid vehicle. He, therefore, prays for setting aside the aforesaid proceeding and to exempt the Petitioner to pay the aforesaid tax and penalty amount.

4. Mr. Behera, learned Standing Counsel for the Transport Department, on the other hand, submits that recovery proceeding has already been initiated in respect of the aforesaid vehicle for non-payment of tax for the period from 1st January, 2020 to 31st December, 2021 and the Petitioner has not yet filed any objection in the said proceeding. In the event, the Petitioner files his objection, the same shall be considered before passing the final order in the matter.

5. In view of the rival contentions of the parties, this Court is of the considered opinion that the Petitioner should appear before the Regional Transport Officer, Sambalpur-Opposite Party No.1 and file his objection.

6. This writ petition is, accordingly, disposed of with a direction that in the event, the Petitioner appears before the Regional Transport Officer, Sambalpur-Opposite Party No.1 and files his objection along with certified copy of this order, the same shall be considered in accordance with law keeping in mind the ratio decided in the case of **Prafulla Kumar Samantaray** (supra) and giving opportunity of hearing to the Petitioner.

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

(K.R. Mohapatra)
Judge