IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21021 of 2018

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Shri Nibash Agarwalla @ Sri Nibash Mitruka, Son of Late Ruli Chand Agrawal @ Rulichand Mitruka, Resident of M.G. Road, Khalpara, Siliguri, P.S.- Siliguri, District- Darjeeling (West Bengal)

... ... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Transport, Bihar, Patna
2. The Member Board of Revenue, Government of Bihar, Patna (Revisional Authority).
3. Secretary, Transport Department, Government of Bihar, Patna.
4. Joint State Transport Commissioner, Government of Bihar, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ajay Kumar Jha, Advocate
For the Respondent/s : Mr. Ajay Kr. Rastogi, AAG-10

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-07-2023

The petitioner is concerned with an order passed by the Board of Revenue, Bihar, Patna rejecting the appeal filed as Transport Case No. 36 of 2016. The brief facts to be noticed are that the petitioner is engaged in transport business and WB- 73-1515 is the Registration Number of a Stage Carriage operated by the petitioner which had a permit from the State Transport Authority (for brevity STA), West Bengal which is produced as Annexure-1. The permit held by the petitioner was an Inter State Stage Carriage Permit in the route Siliguri-Saharsha which was countersigned by the STA, Bihar, Patna, which is produced at Annexure-2. It is stated that by Annexure-3 dated 01.12.1999 the petitioner surrendered the documents pertaining to the vehicle before the STA, West Bengal. After 30.11.1999 the Stage Carriage bearing No. WB-73-1515 was out of order and was not entering into the State of Bihar. The said vehicle was also deleted from the permit and substituted with a different vehicle having Registration No. WGY-1838 to operate one up and down trip from Siliguri to Saharsha, curtailed up to Murliganj, as is seen at Annexure-5. The said deletion was also informed to the STA, Bihar as per Annexure-6 which was responded to by Annexure-6A is the contention.

2. In such circumstances, the vehicle having not entered into the State of Bihar after 31.11.1999, it is argued that there could be no claim for tax raised against the vehicle or its owner, the petitioner herein. The learned counsel for the petitioner argued that the vehicle being registered in West Bengal, there is no question of surrender of permit before the STA State of Bihar. It is also contended that information was furnished to the STA, Bihar regarding the surrender of permit to the STA, West Bengal and in such circumstances no tax could be levied.

3. The petitioner had approached this Court against

the orders passed by the Original Authority and the Appellate Authorities as per C.W.J.C. No. 7026 of 2012; the judgment in which is produced at Annexure-7. A reading of the said judgment discloses that the petitioner at that stage had raised two pleas before Court. The first was that, the registering authority being in the State of West Bengal there was no requirement to surrender original registration certificate, tax token and permit before the authorities in the State of Bihar; especially when the same was surrendered before the STA, State of West Bengal. The second ground raised was that the document issued by the West Bengal STA evidencing surrender of the permit issued by that authority, countersigned by the STA, Bihar, was submitted in original to the authority at Bihar. Hence, the rigor of Section 17 of the Bihar Motor Vehicle Taxation Act could not have been applied to the vehicle as the same was plying only on an Inter State Permit and the vehicle was not registered in the State of Bihar.

4. Insofar as the first issue was concerned, the learned Single Judge found that the contention was raised neither before the Appellate Authority nor the Revisional Authority that, the surrender of the original registration certificate and other documents before the West Bengal

authority was duly intimated by producing a document in original issued by the West Bengal Authority before the STA, Bihar. Hence, the said ground was declined to be considered. However, it was noticed that the surrender being required to be intimated in Form-J was not considered by the Revisional Authority and hence the matter was directed to be considered afresh by the revisional authority.

5. The revisional authority by Annexure-8 elaborately considered the issue. The permit issued for Inter State operation by the concerned transport authority Siliguri, West Bengal was found to have been countersigned by the STA, Bihar for the period 23.04.1999 to 24.04.2004. Though the petitioner had contended that the vehicle in question suffered a breakdown and was not fit for operation, there was nothing produced to evidence the same. It was specifically found that Section 17 of the Bihar Motor Vehicle Taxation Act requires intimation of a temporary discontinuance of use of a vehicle in the prescribed Form-J in terms of Rule 13, in terms of Bihar Motor Vehicle Taxation Rules, 1994. The period for which the vehicle is to be kept off the road was also to be intimated which, if not done, the liability to tax would survive for the entire period of the permit. Only after the submission of Form-J could

there be an application before the Taxing Officer for exemption during the period during which the vehicle was kept off the road. The Board of Revenue also found that the surrender was intimated without any date on it. If there was a surrender then there should have been proper authenticated documents of surrender produced before the authority which countersigned the permit, along with Form-J, failing which tax would be levied for the entire period of permit.

6. This Court is convinced that Section 17 of the Bihar Motor Vehicle Taxation Act 1994 covers every situation in which there is a temporary discontinuance of use of a vehicle. Admittedly, the vehicle had an Inter State permit which was countersigned by the STAs of West Bengal and Bihar. Even if the permit is surrendered in West Bengal, there should be a surrender within the State of Bihar also or an intimation obtained from the West Bengal Authority as to such surrender in which event alone the vehicle will be absolved of the tax liability.

7. The contention of the petitioner that the vehicle registered in West Bengal need not submit itself to the jurisdiction of the STA, Bihar cannot be countenanced, especially considering the fact that the vehicle had been issued

with an Inter State permit countersigned by the STA, Bihar. The averment in the writ petition regarding payment of motor vehicle tax for the vehicle to the State of Bihar up to 30.11.1999 makes it very clear that the vehicle was also kept for use within the roads of Bihar, by virtue of an Inter State permit, and had the liability to pay tax under the Motor Vehicle Taxation Act of Bihar State.

8. If there is a temporary discontinuance of the vehicle, then necessarily Form-J has to be filed as prescribed in the Rules failing which the vehicle would be liable to pay tax throughout the period of validity of the Inter State permit i.e. up to 24.04.2004. There can be no assumption that on surrender of documents there would be no plying of vehicle on public roads. In fact, if Form-J is filed and then the vehicle is plying on public road, there is a penalty mulcted on the permit holder by such use despite a Form-J having been filed.

9. Further it is to be seen that Annexure-3 is not an authenticated copy of the intimation given to the STA, Bihar, Patna and there is no endorsement insofar as the surrender having been made.

10. We notice Annexure-3 only in the nature of the contention raised by the petitioner of an intimation having been

given to the STA, Bihar about the surrender of permit at West Bengal. In any event, Annexure-3, if at all submitted, is insufficient since the clear prescription as per the Act as available from the Rules is to submit the prescribed Form-J. We have also noticed Annexure-5, which is said to be one another communication issued by the petitioner to the STA at Patna; not endorsed as received by the Authority and there is nothing produced to show that such intimation is send by post or otherwise. Yet again we notice Annexure-6 and 6A which are of the year 2006 not relevant to the period in which the Inter State transport permit was valid.

11. We find absolutely no reason to interfere with the order of the Board of Revenue and dismiss the writ petition, leaving the parties to suffer their respective costs.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

aditya/-

AFR/NAFR	NAFR
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