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jdt.

26.07.2023

jb.

W.P.A. 13500 of 2023
(Ahadujjaman vs. State of West Bengal & Ors.)

Mr. Mohinoor Rahaman
Maria Rahaman
Iqra Rahaman
.... For the Petitioner
Mr. Amal Kr. Sen
Mr. Jaladhi Das
.... For the State

Report in the form of affidavit submitted on behalf of the respondents is taken on record.

On prayer of the petitioner liberty is granted to correct the cause title of the writ petition.

Heard learned counsels for the parties.

The petitioner seeks refund of the penalty imposed upon him for alleged excess load in both the vehicles of the petitioner.

Penalty of Rs.22,000/- for each of the vehicles of the petitioner, total penalty being of Rs.44,000/- was slapped on the petitioner for carrying excess load. Penalty of another 5000/- for each of the vehicles was imposed on the allegation of dangerous driving. The petitioner seeks refund of the penalty of Rs.44,000/- paid by him on the ground that the load of the vehicles of the petitioner was well within the permissible limits.

It is submitted on behalf of the petitioner that the weight of the petitioner's vehicles was assessed at 47575 kgs and 47540 kgs respectively. The petitioner is entitled to the benefit of the notification issued by the Ministry of Road

Transport and Highways on 16th July, 2018 allowing tolerance up to 5% in the gross vehicle weight for the purpose of compliance of Section 113(3) of the Motor Vehicles Act, 1988.

Learned counsel for the respondents submits that the explanation to the notification suggests that the notification is applicable in case of vehicles which were registered prior to issuance of the notification and not after. The petitioner's vehicles being registered after issuance of such notification are not covered by the same.

Upon consideration of the submission made on behalf of the parties and material on record, this Court is inclined to hold that there is no indication in the notification dated 16th July, 2018 that it pertains to vehicles registered prior to the said notification and not after. The notification clearly demonstrates that there shall be a relaxation of 5 % in the gross vehicle weight for the purpose of compliance of Section 113(3) of the Act of 1988. Therefore the petitioner is entitled to the relaxation offered by the notification and resultantly is entitled to refund of the penalty paid by him for alleged excess weight of his vehicles.

Accordingly the writ petition is disposed of directing the third respondent to refund the penalty imposed upon and deposited by the petitioner to the tune of Rs.44,000/- for alleged excess weight of the vehicles within four weeks from the date of communication of this order.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)