03-07-2023
Item no.1
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

MAT No.1203 of 2023
Sunandita Sarangi
-vs-
The State of West Bengal & Ors.
with
CAN No.1 of 2023

Mr. Arabinda Chatterjee, sr. adv.
Mr. Bhaskar Nandi, adv. ...**for the appellant**

Mr. Chandi Charan De, Addl. Govt. Pleader
Mr. S.K. Halder, adv.
Mr. Anirban Sarkar, adv. ...**for the State**

As the point involved is very short, dispensing with all formalities, we have heard out the appeal.

On principles, we find no infirmity in the impugned judgement and order dated 20th June 2023 relegating the appellant-petitioner to the appellate authority under section 9 of the West Bengal Motor Vehicles Tax Act, 1979 read with section 22 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989.

The appellant-writ petitioner was aggrieved by a decision dated 23rd May 2023 made by the Regional Transport Officer, Tamluk, Purba Medinipur making a demand of Rs.2,58,968/- as tax, additional tax, special tax together with fine for the period from 17th January 2023 to 15th May 2023 in relation to the appellant's A.C. delux bus. According to the appellant, the amount should have been no more than Rs.23,766/- for this period, and even if 100% penalty was taken into account, it could not be more than Rs.47,532/-.

Mr Chatterjee, learned senior advocate representing the appellant, submits that the appellate forum is not available to his client as till date no appellate authority has been prescribed under section 22 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989.

We are unable to concur with the submission of Mr Chatterjee. We have examined section 9 of the 1979 Act and section 22 of the 1989 Act. We have been shown the designation of the appellate authority under section 9 of the 1979 Act. There also must be an appellate authority under the 1989 Act which learned counsel have been unable to identify. At any rate, we are of the view that the appellate authority under section 9 of the 1979 Act would decide on appeal, the issue arising out of the said decision dated 23rd May 2023.

We relegate the appellant to the said remedy. On the condition the appellant deposits Rs.50,000/- in an account specified by the Regional Transport Officer, Tamluk, Purba Medinipur, without prejudice to the rights and contentions of the parties, by 14th July 2023, then irrespective of filing of an appeal, the respondent authority will release the said vehicle to the appellant to be plied by her pending decision by the appellate forum. Plying of the vehicle and other matters relating to it, including payment of tax penalty, fine etc., would abide by the decision to be taken by the appellate body.

The appellate authority will accept the appeal on a copy of the impugned order dated 23rd May 2023 subject to the undertaking of the appellant to file a certified copy thereof. If the certified copy of this order is not available, the respondent authority will act on the basis of a server copy thereof.

If no appeal is filed by 14th July 2023, the said order dated 23rd May 2023 of the Regional Transport Officer may be forthwith enforced.

The appeal and the connected application (CAN No.1 of 2023) are, thus, disposed of.

[I.P. Mukerji, J]

[Biswaroop Chowdhury, J]