CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

WPA 2149 of 2022

Sankos Tea Garden
Vs.
The State of West Bengal and Ors.

Mr. Kunaljit Bhattacharjee
Mr. Alok Sah
Ms. Panchali Deb Sarkar
.for the petitioner

Mr. Hirak Barman
Mr. Momenur Rahman
..for the State

Item No. 12
Judgment on: 02.02.2023

BIBEK CHAUDHURI, J. : –

The petitioner is a subsidiary unit of Goodricke Group Limited and engaged in production and manufacture of tea. It is the case of the petitioner that they operate as many as 22 numbers of vehicles of different nature like tractors, leaf trailers and water tankers exclusively for the purpose of plantation inside the tea garden. The petitioner prayed for exemption of road tax by a letter dated 12th April, 2021 to the

Taxing Officer, Department of Motor Vehicles, Alipurduar, the respondent No.4 herein stating, inter alia, that the said vehicles are used only within the territorial limit of the tea garden and exclusively for agricultural purpose. Therefore, the respondent No.4 may exempt payment of tax in respect of said vehicles.

As the application dated 12th April, 2021 was not replied to, the petitioner has approached this Court for issuance of appropriate writ.

The learned advocate appearing for the petitioner has placed notification No. 1780-WT date 14th February, 1992 which stipulates the guidelines on the basis of which exemption of paying taxes shall be granted. I have already recorded that the petitioner has already made an application in this regard before the Taxing Officer.

In my opinion, since appropriate authority for taking a decision in this regard has already been approached by the petitioner, such authority must take decision on the petitioner's application upon giving an opportunity to the petitioner of hearing within a specific period of time. The learned advocate for the respondents, on the other hand submits that tea plantation and manufacture does not fall within the meaning of 'agricultural purpose' and secondly, the notification imposes the burden of strict proof upon the petitioner which he requires to discharge.

On perusal of the notification it clearly appears that the notification stipulates:-

"The tractors/trailers owned by the tea gardens which are used on public roads may claim exemption. However, the onus of proving the fact that these were never used even for a single instance on public roads would lie on the owner of such tractors/trailers. They will have to comply with the statutory formalities under Section 4(3) and Section 13 of the M.V. Act to be entitled to claim for any exemption. Otherwise they shall have to pay road tax as usual like all other motor vehicles."

Under such circumstances, the respondent No.3 is directed to give an opportunity to the petitioner of hearing on the question of exemption of tax in relation to the application filed by the petitioner on 12th April, 2021 within a period of four weeks from the date of communication of this order. Such direction shall be communicated to the petitioner within a further period of two weeks.

Needless to add, the Taxing Officer while deciding on this issue shall take into account the notification which has been referred to the earlier part of this order.

With the above direction, the writ petition was disposed of on contest.

Since this writ petition is being disposed of without calling for any affidavit, the allegations made in the writ petition shall be deemed to have been denied.

There shall be no order as to costs.

The parties are at liberty to act on the server copy of this order.

(Bibek Chaudhuri, J.)