

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4525 of 2022

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Buddha Vikas Samiti, Buddha Colony, Patna through its Secretary namely Shanti Roy, aged about 63 years, Female, Wife of Sri Sheo Bihari Roy, Resident of A/22 Budha Colony, near Hospito India, P.S.- Budha Colony, District- Patna (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Secretary to the Government, Transport Department, Govt. of Bihar, Patna.
3. The Commissioner, Transport Department, Vishweshwaraiya Bhawan, Govt. of Bihar, Patna.
4. The District Transport Officer, Patna, District- Patna.
5. The District Transport Officer, Vaishali, District- Vaishali at Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar, Advocate
Mrs. Ritika Rani, Advocate
For the Respondent/s : Mr. Sarvesh Kumar (GP- 24)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-04-2024

The petitioner, the management of a school, challenges the notification dated 30.06.2020 which allowed



a rebate of 40 per cent of motor vehicle tax between 21.03.2020 to 30.06.2020; which if filed before 31.07.2020 would not carry penalty also.

2. Learned counsel for the petitioner submits that the school buses, the list of which is given in the present writ petition, had not plied during the time since there was a restriction imposed by the Government. The Government cannot hence limit the benefit to 40 per cent and the entire tax paid during the period in which the Covid-19 raged across the country should be granted rebate and refunded, if already paid. There should be no imposition of penalty even if the taxes were paid after 31.07.2020 which also should be refunded if already paid.

3. We find absolutely no reason to interfere with the notification since it is a beneficial notification granting rebate between 21.03.2020 and 30.06.2020, when there was a national lockdown by reason of the pandemic. The levy of tax as seen from the Bihar Motor Vehicles Taxation Act, 1994 is on every owner of the registered motor vehicle which does not require use on the roads. Any registered motor vehicle would be levied tax since it is kept ready for



use on the roads within the State of Bihar. The petitioner does not have a case that the petitioner had sought suspension of the registration or that the petitioner had made any prior intimation of a temporary discontinuance of use of a vehicle as is provided under Section 17 of the Taxation Act. We garner support also from the intention of the legislature as is required from Section 14 of the Taxation Act which requires any vehicle under a permit issued by a competent Transport Authority of any other State also requiring payment of tax under the Taxation Act if it is to be used or kept for use within Bihar. Hence, the use of the vehicle itself is not a necessary requirement for attracting the levy of tax.

4. Furthermore, we have to notice that 21.03.2020 to 30.06.2020 is the date on which there was a national lockdown during which period the petitioner was granted 40 per cent rebate. The petitioner cannot challenge the beneficial notification issued for part exemption of the tax leviable; under Section 15 of the Taxation Act on the ground that in fact full exemption should have been granted, which is the policy of the Government. Tax, as is trite, is not



based on *quid pro quo* and the national lockdown imposed or the order of the State not to reopen the schools, thus restricting use of the vehicles on the road would not absolve the liability under the Taxation Act. Especially when the Taxation Act contemplates situations and the mode by which such exemptions can be granted that too on application made by the registered owner; which is absent in the present case.

5. One another contention raised is that the school buses shall not be levied with Green Tax. Exemption of a school bus from tax is again within the domain of the State Government which in its wisdom has not been granted. Green Tax is also for registered transport vehicles which are more than 20 years old; reckoning the pollution that would be caused by the old vehicles. Merely because it is a school bus or that it transports children from home to school would not by itself result in any mitigation to the environmental depredation caused. It is not the status of the passengers but the condition of the engine that results in environmental pollution which is sought to be mitigated by the levy of Green Tax on the principle of 'polluter pays'. The petitioner



to avoid such tax would be advised to purchase new vehicles for the purpose of transporting children which also would necessarily be a positive step in ensuring the safety of school-going children.

6. We find absolutely no reason to entertain the writ petition and dismiss the same.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

P.K.P./-

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Uploading Date	20.04.2024
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