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21.08.2024
Court No. **25**
D.Hira

WPA 27455 of 2023
With
CAN 1 of 2024

Arijit Chakraborty
Vs.
State of West Bengal & Ors.

Mr. Tapas Kumar Dey.
... for the petitioner

Mr. K.J. Yusuf,
Ms. Rupsha Chakraborty.
... for the State

1. Affidavit-of-service filed in Court today is taken on record.

2. This case has been filed by the petitioner challenging imposition of tax on the ground of his vehicle being equipped with the Air Conditioner and Audio facilities.

3. Mr. Tapas Kumar Dey, learned counsel appearing for the petitioner has submitted that such imposition is only unlawful and not maintainable, in so far as the concerned vehicle does not enjoy any luxurious facilities, like Air Conditioner or Audio system.

4. Hence, he seeks that the impugned notice Annexure 'P8' imposing tax upon the vehicle, considering the same, as a luxury vehicle, may be set aside, thereby setting aside the purported action of imposition of tax.

5. Mr. K.J. Yusuf, learned counsel appearing for the State respondent submits contrarily that the vehicle has been registered as a luxury vehicle containing

A.C. and Audio facilities and subsequently at one point of time, the petitioner has remitted the tax leviable against such category of a vehicle without any protest. He says that, at this stage, the petitioner cannot dispute imposition of tax upon such vehicle containing no such facilities being available with the same.

6. He seeks dismissal of this writ petition.

7. The petitioner is the owner of a four wheeler being INDIGO ECSLBS – IV (Non A/C. Taxi) No. WB – 15 C 4813.

8. The vehicle has been registered to have facilities of Air Conditioner and Audio (at page 17 of the writ petition).

9. Record further reveals that previously the petitioner has remitted tax of the vehicle in accordance with law at a rate allowable to such kind of a vehicle.

10. It is further noted that in VAHAN database, the vehicle of the petitioner has been registered to have such facilities as mentioned above.

11. This fact is however, disputed in this case.

12. Be that as it may, considering the documents relating to registration of the vehicle and the tax paid earlier by the petitioner as well as considering the report submitted on behalf of the respondent authorities, the petitioner's plea as above does not inspire confidence.

13. Contrarily, the Court is constrained to hold that the document of registration of the vehicle, is petitioner's own document, relied on by him. Thus, his documents speak otherwise, than what he submits. There is no material not to rely on the certificate of registration of the vehicle as produced by the petitioner and on its basis petitioner's oral submissions are discarded. The said document shows the vehicle to posses the facilities like Air Conditioner and Audio system. Thus, there would not be any scope of doubt, regarding availability of such facilities, in the vehicle.

14. Though earlier the petitioner has remitted tax with respect to the said vehicle, in accordance with the rate and slab applicable to a vehicle possessing facilities of Air Conditioner and Audio, but at present he is not agreeable for any such payment and is aggrieved that on the allegation of non-payment of such tax by him, statutory fine has been imposed upon him, which he addresses to be arbitrary and illegal. However, upon finding the vehicle having the facilities as mentioned above, and that petitioner having earlier remitted tax for the same, his contention and prayer made in the present writ petition are not based on cogent and substantial ground. Hence, this writ petition is meritless.

15. Since no affidavits are called for, allegations made in the writ petition, are deemed to have been denied by the respondents.

16. For the reasons as discussed above, this matter being WPA No. 27455 of 2023 is dismissed, along with the pending applications, if any.

17. Urgent Photostat certified copy of this order duly downloaded from the official website of this Court upon compliance all legal formalities.

(Rai Chattopadhyay, J.)