

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Om Narayan Rai

WPA 11601 of 2025

Ashok Kumar Gorain

-vs.-

The State of West Bengal & Ors.

For the Petitioner : Mr. Sattwik Bhattacharyya, Adv.
Mr. Titas Niyogi, Adv.
Ms. Reshma Sharma, Adv.
Mr. Aritra Ray, Adv.

For the State Respondent : Mr. Amal Kumar Sen, Ld. AGP
Mr. Lal Mohan Basu, Adv.

For the Respondent No. 4 : Ms. Aishwarya Rajyashree, Adv.

Hearing Concluded on : 16.07.2025

Judgment on : 08.08.2025

Om Narayan Rai, J.:-

1. This writ petition assails the refusal on the part of the State Transport Authority, West Bengal to countersign the renewal of the petitioner's permit bearing no. PSTS - 14/09 (WB) for his Vehicle No. JH-09AR-0684 in respect of the route Ranchi to Chirkunda (extended up to Asansol) despite the same being forwarded to it by the State Transport Authority, Jharkhand as far back as on January 21, 2025.
2. Briefly summed up, the case run in the writ petition is as follows: -
 - a) The petitioner owns a vehicle bearing no. JH-09AR-0684 in respect whereof he had obtained a Permanent Stage Carriage Permit bearing

no. P.S.TS.No.14/09(WB) from the State Transport Authority, Jharkhand.

- b) Such permit was lastly renewed by the said State Transport Authority, Jharkhand on January 16, 2025 for a period of 5 years till January 19, 2029 with effect from January 20, 2024.
- c) Having thus renewed the permanent stage carriage permit of the petitioner, the Secretary, State Transport Authority, Jharkhand issued a Memo being Pari-Ayu-1462/2008/STA dated January 16, 2025 to the Secretary State Transport Authority, West Bengal thereby indicating that the permanent stage carriage permit in respect of the petitioner's vehicle was initially valid till January 19, 2024 and that upon renewal its validity had been extended up to January 19, 2029. By the said letter the Secretary, State Transport Authority, West Bengal was also requested to countersign the said renewed permit.
- d) Thereafter on January 21, 2025, the petitioner made an application before the State Transport Authority, West Bengal for countersigning the renewed permit along with the approved time table issued by the State Transport Authority, Jharkhand. The petitioner's application requesting for such countersignature has been refused by the respondent no. 2 i.e. the Regional Transport Authority and Ex-officio Assistant Director, State Transport Authority, West Bengal by a Memo bearing no. I/610950/2025 dated February 25, 2025 observing as follows: -

“I am directed to request you to collect Additional Tax and M.V. Tax in connection with the subject as mentioned above with effect from 20/01/2024 to 19/01/2029 with fine (Quarterly/Yearly basis), to Tax and Addl. Tax may be paid 01/04/2024 onwards.”

e) Feeling aggrieved by such refusal, the writ petitioner has approached this Court by filing the instant writ petition.

3. The respondent no.3 has filed a Report in the form of an Affidavit whereby the said respondent has sought to justify the demand of tax. In the said report it has been contended that when the permit had originally been issued in the year 2009 by the State Transport Authority, Jharkhand, the same had been duly countersigned by the State Transport Authority, West Bengal and that since the said permit has been renewed on January 16, 2025 for five years with effect from January 20, 2024 till January 19, 2029, therefore, in terms of the proviso to Section 81(1) of the said Act of 1988, the countersignature that was done prior to the date of renewal thereof (i.e. January 16, 2025) would remain effective for the renewed validity period “so as to synchronise with the validity of the primary permit”. Provisions of Sections 6 and 7 of the West Bengal Additional Tax and One Time Tax on Motor Vehicles Act, 1989 (hereafter “the said Additional Tax Act of 1989”) have also been quoted and relied on in the said report.
4. Mr. Bhattacharya, learned Advocate appearing for the petitioner submitted that the State Transport Authority, West Bengal had acted without jurisdiction in demanding additional tax and motor vehicle tax in respect of the petitioner’s vehicle for the period January 20, 2024 to January 19, 2029 together with fine without first countersigning the permit. He invited the

attention of this Court to an unreported judgment of the Hon'ble Division Bench of this Court rendered on January 17, 2000 in the case of **Sri Jata Shankar Jha vs. The State of West Bengal & Ors. (MAT 2709 of 1999)** to buttress his contention that the State Transport Authority, West Bengal would not have authority to demand payment of additional taxes on the petitioner's vehicle without first countersigning the permit of the appellant.

5. He further relied on a judgment of the Hon'ble Supreme Court in the case of **Bolani Ores Ltd. vs. State of Orissa**¹ to contend that for a vehicle to be taxed it must be shown that the vehicle is suitable or is fit for use on road. It was submitted that unless the countersignature as sought for was appended to the permit, the vehicle would not be suitable for use on road.
6. Mr. Bhattacharya also relied on the judgment of the Hon'ble Supreme Court in the case of **International Tourist Corporation & Ors. vs. State of Haryana & Ors.**² and **All Kerala Distributors Association, Kottayam Unit vs. The State of Kerala & Anr.**³ and contended that the Motor Vehicles Act, 1988 (hereafter "the said Act of 1988") neither dealt with levy of taxes on motor vehicles nor consequence of non-payment of such tax.
7. Mr. Amal Kumar Sen, learned Advocate appearing for the respondent nos. 1 to 3 submitted that tax would be payable by the petitioner in respect of the subject vehicle irrespective of whether the vehicle was used or not and irrespective of the date of renewal of the permit.
8. He invited the attention of this Court to the proviso to Section 81(1) of the said Act of 1988 and submitted that going by the said provision once a

¹ 1974 2 SCC 777; 1974 Supreme(SC) 295

² 1981 2 SCC 318; 1980 Supreme(SC) 519

³ 2022 Supreme(SC) 677

permit was countersigned under Section 88(1) of the said Act of 1988 at the time when it was originally issued, then, notwithstanding that the same had not been subsequently countersigned on being renewed, the countersignature appended earlier would remain effective for the entire period of its renewed validity. Mr. Sen sought to contend that no matter when the countersignature was done it would synchronise with the validity of the permit. It was submitted that the unreported judgment in the case of **Sri Jata Shankar Jha** (supra) rendered by the Hon'ble Division Bench of this Court that had been relied on by the petitioner had not considered the effect of the proviso to Section 81(1) of the said Act of 1988.

9. Mr. Sen then also took the Court through Sections 4 and 5 of the West Bengal Motor Vehicle Tax Act, 1979 and submitted that a person who was the owner of a motor vehicle was liable to pay tax in advance. He then invited the attention of this Court to Section 6 and submitted that the authorities were very well justified in demanding tax even prior to putting the countersignature post renewal.
10. Mr. Sen also relied on a judgment of the Hon'ble Supreme Court in the case of **Mahindra And Mahindra Financial Services Ltd. vs. State of Uttar Pradesh & Ors.**⁴ and submitted that the concept of advance tax mandates payment of tax before actual user of the vehicle. He has invited the attention of the Court to paragraph 9.1 of the said report to submit that the Hon'ble Supreme Court had in the said case held that the concerned vehicle owners were obliged to “*pay the tax and use*” the vehicle and not “*use and pay the tax*”.

⁴ (2022) 5 SCC 525

11. The short question that has fallen for consideration of this Court is whether the respondent State Transport Authority, West Bengal is justified in demanding payment of tax prior to appending countersignature to the inter-state permit that has been renewed by the State Transport Authority Jharkhand.

12. In order to decide the issue at hand, the relevant provisions of the said Act of 1988 need to be noticed and discussed briefly.

13. Section 81 thereof provides for duration and renewal of permits. For facility of reference, only such portion of the said provision that is relevant to the present case is extracted herein below:-

“81. Duration and renewal of permits. – (1) A permit other than a temporary permit issued under section 87 or a special permit issued under sub-section (8) of section 88 shall be effective [from the date of issuance or renewal thereof] for a period of five years:

Provided that where the permit is countersigned under sub-section (1) of section 88, such counter-signature shall remain effective without renewal for such period so as to synchronise with the validity of the primary permit.”

14. Section 88 of the said Act of 1988 provides for validation of permits for use outside the region for which the same has been granted. The relevant segment thereof is quoted herein below:-

“88. Validation of permits for use outside region in which granted. - (1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned.”

15. A perusal of the aforementioned provisions of Section 81(1) along with the proviso thereto and Section 88 of the said Act of 1988, at the first blush, tends to suggest that the argument of Mr. Sen that if a countersignature is to remain effective without renewal for such period so as to synchronise with the validity of the primary permit, then a countersignature done at the time of issuance of the permit would remain effective for the renewed validity period of the permit as well, is indeed compelling. However, upon a more sincere perusal of the said provision in the light of the law governing the field, it would be at once clear that there is an impending danger in accepting such an interpretation at its face value.
16. If such an interpretation is accepted, then there would be no requirement of any countersignature after renewal of the permit at all. That would then have the effect of effacing every need of any countersignature for renewal of a permit, but that does not appear to be the scope of the said provision. In the considered view of this Court, the said provision is for the purpose of managing and coping up with procedural delays in getting the renewed permit countersigned by the relevant State Transport Authority so that the periods of validity of the two signatures i.e. the signature done by the permit issuing and permit renewing State Transport Authority and the countersignature done by the other State Transport Authority do not suffer from a mismatch.
17. The matter can be looked at from another angle also. In terms of the law as it stands, every renewed permit is actually a fresh permit. Law on this score was settled by the Hon'ble Supreme Court in the case of **Gajraj Singh &**

Ors. vs. State Transport Appellate Tribunal & Ors.⁵. Paragraphs 35 to 38 of the said judgment deserve notice in the present context:-

“35. This may be angulated from yet another legal perspective, namely, consequences that would flow from the meaning of the word ‘renewal’ of a permit under Section 81 of the Act. Black’s Law Dictionary, Sixth Edn., defines the word ‘renewal’ at p. 1296 thus:

“The act of renewing or reviving. A revival or rehabilitation of an expiring subject; that which is made anew or re-established. The substitution of a new right or obligation for another of the same nature. A change of something old to something new. To grant or obtain extension of;”

36. In P. Ramanatha Aiyar’s “The Law Lexicon” (Reprint Edn. 1987), the word ‘renewal’ is defined at p. 1107 to mean “a change of something old for something new”. The renewal of a ‘licence’ means “a new licence granted by way of renewal”. The renewal of a negotiable bill or note is regarded simply as a prolongation of the original contract. The office of a ‘renewal’, as it is termed, of a life policy, is to prevent discontinuance or forfeiture.

37. In Provash Chandra Dalui v. Biswanath Banerjee [1989 Supp (1) SCC 487] (SCC at p. 496) in para 14, this Court drew the distinction between the meaning of the words extension and renewal. It was held that:

“... a distinction between ‘extension’ and ‘renewal’ is chiefly that in the case of renewal, a new lease is required while in the case of extension the same lease continues in force during additional period by the performance of the stipulated act. In other words, the word ‘extension’ when used in its proper and usual sense in connection with a lease, means prolongation of the lease.”

38. It is settled law that grant of renewal is a fresh grant though it breathes life into the operation of the previous lease or licence granted as per existing appropriate provisions of the Act, rules or orders or acts intra vires or as per the law in operation as on the date of renewal. The right to get renewal of a permit under the Act is not a vested right but a privilege subject to fulfilment of the conditions precedent enumerated under the Act. Under Section 58 of the Repealed Act, renewal of a permit is a preferential right and refusal thereof is an exception. But the Act expresses different intention. Sections 66, 70, 71 and 80 prescribe procedure for making application and compliance of the conditions

⁵ (1997) 1 SCC 650

mentioned therein. Existence of the provisions of the Act consistent with the Repealed Act is a precondition. Grant of renewal under Section 81 is a discretion given to the authority (STA or RTA) subject to the conditions and the requirement of law. Discretion given by a statute connotes making a choice between competing considerations according to rules of reason and justice and not arbitrary or whim but legal and regular. Sections 70 and 71 read with Section 81 do indicate that grant of permit or renewal thereof is not a matter of right or course. It is subject of rejection for reasons to be recorded in support thereof. Therefore, right to renewal of a permit under Section 81 is not a vested or accrued right but a privilege to get renewal according to law in operation and after compliance with the preconditions and abiding the law.”

(Emphasis supplied by underlining)

18. Since a fresh permit issued by the State Transport Authority of a particular State would in any way require to be countersigned by the State Transport Authority of the other State (where the vehicle is intended to be plied), therefore if law treats a renewed permit as a fresh permit, there is no reason why the requirement of countersignature would not be there. In such view of the matter too, the interpretation proffered by the State Transport Authority, West Bengal cannot be accepted. While on this it may be noticed that renewal of permit was not considered to be a fresh permit in the context of the earlier avatar of the Motor Vehicles legislation i.e. Motor Vehicles Act, 1939 but as may be noticed from the case of **Gajraj Singh** (supra), there has been a shift in such consideration with the advent of the present legislation.
19. The provisions of the said Additional Tax Act of 1989 may now be noticed. Section 3 of the said Taxation Act of 1989 provides that every owner of a registered motor vehicle or every person, who owns or keeps in his possession or control any motor vehicle, shall pay the additional tax at the rate specified therein against such vehicle. Section 4 thereof provides for

payment of additional tax by owner of a motor vehicle registered in other State and plying in West Bengal. The relevant portion thereof reads thus:-

“4. Payment of additional tax by owner of a motor vehicle registered in other State and plying in West Bengal- Every owner of a motor vehicle as described in Schedule I and registered in any State other than West Bengal and plying in West Bengal shall pay the additional tax at the rate specified in Schedule I, notwithstanding anything contained in any Inter-State Reciprocal Transport Agreement under sub-section (6) of section 88 of the Motor Vehicles Act, 1988.”

20. Section 6 of the Taxation Act of 1989 reads thus:-

“6. Realisation of additional tax- The additional tax leviable under section 4 shall be realised by the authority where under any law for the time being in force such authority has to countersign the permit, and in such case the tax shall be leviable for the entire duration for which the countersignature subsists.”

21. A cumulative reading of the aforesaid sections of the Taxation Act of 1989 clearly indicates that an owner of the vehicle registered in another State but plying in West Bengal is liable to pay tax in West Bengal for the entire duration for which the countersignature subsists.

22. It need not be overemphasised that in order to a person who has his vehicle registered in some other State is able to ply his vehicle in West Bengal, such person must have an interstate permit issued by the registering State duly countersigned by the State Transport Authority of West Bengal. **(See- State of West Bengal & Ors. vs. Mani Bhushan Kumar⁶)**

23. Under such a situation, tax incidence and impact on the owner of the vehicle would begin from the point of time when the owner is able to or in a position to ply his vehicle in West Bengal. To wit, once the vehicle is legally available to be plied tax would be attracted but not before that. Such being the

⁶ (2011) 10 SCC 147

situation, the question of demanding tax prior to appending countersignature does not and cannot arise. The interpretation of the proviso to Section 81(1) of the said Act of 1988 as provided on behalf of the Respondent State Transport Authority, West Bengal does not appeal.

24. Turning now to the judgments cited by the parties, the unreported judgment of the Hon'ble Division Bench of this Court in the case of **Sri Jata Shankar Jha** (supra) has clearly settled the issue that tax cannot be demanded without countersignature being done and the same is binding on this Court. In fact this Court would not have had to travel any further upon seeing the said judgment but for the submission of Mr. Sen that the said judgment had not considered the effect of the proviso to Section 81 of the said Act of 1988. Nothing has however turned on such submission, inasmuch as even after considering the effect of the proviso to Section 81 of the said Act of the result has been the same.

25. The judgment in the case of **Bolani Ores Ltd.** (supra) relied on by the petitioner was rendered in an absolutely different context i.e. to answer the questions as to whether dumpers, rockers and tractors were motor vehicles within the meaning of the relevant State Motor Vehicles Taxation Act, and were accordingly taxable thereunder as well as the question of the constitutional validity of the Bihar and Orissa Motor Vehicles Taxation Act, 1930. The same does not aid the petitioner at all.

26. Similarly the judgments in the case of **International Tourist Corporation** (supra) and **All Kerala Distributors Association, Kottayam Unit** (supra) cited by the petitioner also do not further the petitioner's case. While the judgment in the case of **International Tourist Corporation** (supra) was

rendered in the context of a challenge thrown to the vires of Section 3(3) of the Haryana Passengers and Goods Taxation Act, the judgment in the case of **All Kerala Distributors Association, Kottayam Unit** (supra) was rendered while deciding a challenge to the constitutional validity of certain provisions of the Kerala Motor Vehicles Taxation Act, 1976.

27. As regards the judgment in the case of **Mahindra And Mahindra Financial Services Ltd.** (supra), cited on behalf of the Respondent, it needs to be noted that the same was rendered in the context of the Uttar Pradesh Motor Vehicles Taxation Act, 1997 where the relevant provisions mandated that no motor vehicle other than a transport vehicle, shall be used in any public place in Uttar Pradesh unless a one-time tax had been paid in respect thereof and that such tax was initially to be paid at the time of the registration of the vehicle under the Motor Vehicles Act, 1988 and thereafter on or before the fifteenth day of each calendar month next following. The said case was not one where any question as regards appending of countersignature on interstate permit was involved. The observations of the Hon'ble Supreme Court in the said case were made in the context and the facts of that case. In the case at hand, the language of the relevant provisions is markedly different from the one that had fallen for consideration before the Hon'ble Supreme Court. The said judgment therefore does not help the respondents at all.

28. In fine this Court is of the view that the State Transport Authority, West Bengal is not justified in demanding tax prior to countersigning the relevant interstate permit of the petitioner. In such view of the matter the State Transport Authority, West Bengal is hereby directed to countersign the

petitioner's interstate permit forthwith. It is clarified that upon such countersignature being done by the relevant State Transport Authority, West Bengal the petitioner shall become liable to pay the relevant taxes in accordance with law.

29. WPA 11601 of 2025 stands disposed of as above. No costs.

30. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all formalities.

(Om Narayan Rai, J.)