11-12-2025
ct no. 10
Sl.10
RP

WPA 21006 of 2025

Abhishek Kumar
-Versus-
State of West Bengal & Ors.

Mr. Sankar Nath Mukherjee,
Mr.Sk. Samin Aktar
...for the petitioner
Mr. Lalit Mohon Mahata,Ld. AGP,
Mr. Ziaul Haque
...for the State

1. The petitioner submits that he is the owner of a vehicle having registration no. BR-10PC-5494, registered at Regional Transport Officer at Bhagalpur in State of Bihar. The said vehicle was registered in the name of petitioner 02.06.2025. The Regional Transport Authority Bhagualpur issued one Special Permit bearing no. BR2025-SLP 5344A in favour of petitioner to carry Pilgrim Party in between Bhagalpur and Tarapith between 8th June, 2025 and 14th June, 2025. The said vehicle was intercepted on 10.06.2022 by the Motor Vehicle Inspector of Rampurhaat Motor Vehicles Department, ARTO. Thereafter, issued a Challan, by imposing a fine and a penalty for running the vehicle in violation of Section 192 of Motor Vehicles Act, 1988 and Section 4(2)(c) of the West Bengal Motor Vehicles Act, 1979. Thereafter, the vehicle of

the petitioner was released upon a payment of Rs.1,55,660/-

2. The petitioner submits that the authority concerned has seized the vehicle without proper application of mind by invoking Section 4(2)(c) of the West Bengal Motor Vehicles Tax Act 1979 and 3(2)(c) of the West Bengal Additional Tax and One Time Tax on Motor Vehicles Act, 1989 Act is reproduced below:-

3(c) In the case of a transport vehicle registered in any State other than West Bengal, but plying within West Bengal without valid permit and without payment of tax payable in West Bengal under this Act, the duration of such plying shall, notwithstanding anything contained in this section or elsewhere in this Act, be reckoned as a period of seventeen weeks prior to the date of interception and such transport vehicle shall be liable to pay arrear tax at the rate specified under the sub-heading "B". Vehicle for carrying passengers plying for hire or reward" or, as the case may be, under the sub-heading" C. Goods carriages (including those owned by Motor Training Schools)." Of heading "Description of Motor Vehicles and Rate of Annual Tax", in the schedule, for a period of seventeen weeks from the date of every interception of the transport vehicle together with a fine of an equal sum:
Provided that tax for a period of not less than one week but not more than one month shall be realized after the date of interception for such transport vehicle in respect of which a temporary permit is to be issued by the respective Regional Transport Authority in West Bengal for stay or operation of such transport vehicle for such a period not exceeding one month.
5.It is stated that Section 3(2)(c) of the West Bengal Additional Tax and One Time Tax on Motor Vehicles Act, 1989 provides that – where a transport vehicle registered in any state other than West Bengal is found to be plying within West Bengal without valid permit or without payment of additional tax payable under this Act, the duration of such plying shall, notwithstanding anything contained in this section or elsewhere in this act, be reckoned as the duration for a period of seventeen weeks retrospectively from the date of interception and such transport vehicle shall be liable to pay additional tax at the rates specified in item © of serial no. 4 under the sub- heading "B. Vehicles for carrying passengers for hire or reward" or, as the case may be, in serial no. 2 under the sub-heading "C. Goods carriages and those owned by motor training schools" of heading "Description of Motor Vehicles and Rate of Additional Tax", in Schedule I, for a period of seventeen weeks retrospectively from the date of every interception of the transport vehicle together with a fine of an equivalent sum."

3. The petitioner submits that already an application dated 24.06.2025 has been made before the Taxing Officer being respondent no. 6 for the refund of the e-challan of the penalty amount which was

imposed wrongly by reckoning 17 weeks retrospectively from the date of interception as per the provision of the statute laid down under Section 3((c)(2) and 4 (c)(2) of the said Act.

4. It is also submitted that the said application was made before the respondent no. 6 under Section 13 of the said Act which prescribes the manner of claiming refund or remission.
5. The State respondent files a report and an exception taken by the petitioner is also filed and the same are kept on record.
6. It is submitted that the respondents have intercepted the vehicle without looking into the date of registration of the vehicle. The vehicle has been registered only few days before the date of interception and has been unnecessarily penalized by reckoning 17 weeks retrospectively from the date of interception.
7. The State respondent strenuously argues that though the vehicle was registered two days before the date of interception as per the statute, the duration of the plying of the vehicle shall be reckoned as the duration for a period of 17 weeks retrospectively from the date of interception and such vehicle shall be liable to pay additional tax as per the rate mentioned in item no.(c) Serial no. 4 under sub-heading “B”.

8. After careful consideration of the submissions made by the parties, I am of the considered view that the petitioner has already made an application before the respondent no. 6 and the same can be treated as an application filed under Section 13 for consideration.
9. The respondent no. 6 shall consider the representation dated 24.06.2025 within a period of 60 days and pass a reasoned order in accordance with law upon affording opportunity of hearing to the petitioner along with the concerned interested parties, if any and communicate such decision within a week thereafter.
10. The writ petitioner being WPA 21006 of 2025 is disposed of without taking any exception to the merits of the case.
11. However, it is made clear that at the time of consideration the respondent no. 6 shall probe into the sufficiency of the 'registration certificate' of a vehicle newly registered before imposing fine and/or penalty by reckoning a period of 17 weeks retrospectively from the date of interception.

(Smita Das De, J.)