

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

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 6940 of 2025

Sunandita Sarangi

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Bhaskar Nandi

For the State : Mr. Pantu Deb Roy
: Mr. Pannalal Bandopadhyay

Judgment on : **15.05.2026**

Rai Chattopadhyay, J. :-

- 1.** The writ petitioner who is an inter State stage carriage permit owner and plies her vehicle in between the States of Orissa and West Bengal. Orissa is her permit issuing State and West Bengal is the reciprocating State. She has challenged in the instant writ petition, a letter issued by the Regional Transport Authority & Ex-Officio Assistant Director, STA, West Bengal, dated 25th November, 2024, addressed to the Taxing Officer with copy thereof being forwarded to the writ petitioner.
- 2.** The said impugned letter was issued on the subject "Payment of Additional Tax and M.V. Tax against stage carriage permanent Permit No. 59-R/2021 in respect of vehicle No. OD05AD/0629 (Model - 2017)".
- 3.** The sender writes that with respect to the permit of the writ petitioner as mentioned above, additional tax and motor vehicle tax are to be

collected for the period from (i) 3rd June, 2021 to 2nd June 2026 (quarterly/yearly); from (ii) 13th July, 2019 to 30th September, 2020; and from (iii) 3rd June 2021 till the date of the said letter. The writ petitioner is aggrieved about such direction of the respondent Authority in the said impugned letter dated 25th September 2024, hence challenges the same.

4. The petitioner's grievance is that the demand by the respondent Authority as above, amounts to be gross arbitrariness and stands against the settled legal position in this regard. The petitioner has enumerated the following factual background of the case in the writ petition:
5. The permit of the petitioner was renewed by the permit issuing Authority, with effect from 3rd June 2021, to be valid till 2nd June 2026. Consequent thereupon the State Transport Authority Orissa writes to the Secretary, State Transport Authority West Bengal, vide the letter dated 16th September, 2021, to countersign the renewed permit being No. 59-R-2021.
6. Since thereafter, allegedly despite several reminders having been sent by the petitioner herself to the said counter signing Authority, no response has yet come from its end, by way of counter signing the permit so renewed in favour of the writ petitioner by the permit issuing State. Instead by virtue of the impugned letter dated 25th November, 2024, the respondent has raised demand which the petitioner denies and disputes as arbitrary and not maintainable.
7. According to the writ petitioner, pursuant to the demand raised vide a communication dated 11th July 2019, she has deposited taxes in the manner as follows:

i) for the period from 12th July, 2019 to 12th July 2019 – vide Receipt No. WB1R190700005898/WB1907116058261 dated 12th July, 2019

ii) for the period from 12th July, 2019 to 11th October, 2019 – vide Receipt No. WB1R190800009676/WB19082011337149 dated 20th August, 2019 and

iii) for the period from 12th October, 2019 to 11th January, 2020 – vide Receipt No. WB1R190900016456/WB19093027203299 dated 30th September, 2019.

- 8.** Hence, the petitioner says that in view of payments made by her in the manner as stated above, there remains no outstanding dues of additional tax and motor vehicle tax against the petitioner's permit for the period from 13th July, 2019 to 30th September, 2020. According to the writ petitioner, therefore, the demand made by the Regional Transport Officer and ex-officio Assistant Director, STA, West Bengal vide the impugned letter is not maintainable.
- 9.** The petitioner is represented by Mr. Bhaskar Nandi, learned advocate. He has put forth argument principally on two-fold grounds. Firstly, he says, in view of the materials available on record, it clearly appears that the petitioner has already remitted tax and additional tax during the period from 13th July, 2019 to 30th September, 2020. Therefore, claiming further tax for the said period amounts to subjecting the writ petitioner to double jeopardy. Also that, such double taxation is not permitted under the law.
- 10.** Secondly, Mr. Nandi, learned advocate has submitted that by operation of the statutory provision particularly Section 6 and Section 7 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989, the demand raised is absolutely illegal. He submits by interpreting the said provisions of law that the petitioner/permit holder is only liable to pay tax to the reciprocating State for the period during which the vehicle has actually operated, after its permit having been counter-signed in due course. Mr. Nandi has informed that, in this case admittedly, since after renewal of the

petitioner's permit and communication of the letter of the Deputy Secretary, STA, Orissa dated 16th September, 2021, requesting the reciprocating State for counter-signature over the said renewed permit, no steps have yet been taken by the reciprocating State to counter-sign the petitioner's permit, till date. As an effect, for the entire period of renewal of permit, the petitioner has not been able to ply her vehicle within the State of West Bengal in terms of her permit conditions. In such situation and in view of the specific provision of the statute as referred to above, the counter-signing State Authority cannot demand tax or additional tax for the period when no effective counter-signature has been granted to the renewed permit of the writ petitioner, Mr. Nandi has submitted.

11. In support of his contentions, Mr. Nandi, learned advocate for the petitioner has referred to the following judgments:-

i) ***Subodh Kumar Roy Vs. State of Jharkhand*** dated **15th March, 2018** in **WP(C) No. 4483 of 2016** (Jharkhand High Court at Ranchi)

ii) ***Smt. Yamuna Singh Vs. State of Bihar and Others*** order dated **25th November, 2016** in **Civil Writ Jurisdiction Case No. 74 of 2016** (High Court of Judicature at Patna)

iii) ***Sri Jata Shankar Jha vs. The State of West Bengal & Ors.*** in **MAT No. 2709 of 1999** order dated **17th January, 2000** (High Court at Calcutta)

12. The respondent authority/State is represented by Mr. Pantu Deb Roy, Learned Advocate. The preliminary point of the State respondent is with regard to non-maintainability of this writ petition on the ground of availability of alternative efficacious mechanism as provided under the statute. It is submitted that the petitioner may file a statutory appeal in case of any grievance as against the demand or calculation of motor vehicles tax and additional tax. Mr. Deb Roy, Learned Advocate has strongly relied on the provision under Section 9 of the

West Bengal Motor Vehicles Tax Act, 1979 to submit that any grievance against the amount of tax can be raised before the Appellate Forum and the Appellate Authority has jurisdiction and power as per provision under Section 9 of the Act of 1979 to decide thereupon. Hence, the instant writ petition is stated to be not entertainable as well as maintainable, before this Court.

- 13.** It has further been submitted by Mr. Deb Roy that payment of motor vehicles tax and additional tax, if any, is the statutory duty and obligation of the permit holder and any breach disentitles the permit holder to enjoy benefit under the permit, as per law. He insists that the instant writ petition may be dismissed. The following judgments have been referred to by Mr. Deb Roy on behalf of the State respondent: -

i) ***Titaghur Paper Mills Co. Ltd. and another Vs. State of Orissa and Anr.*** reported in ***AIR 1983 SC 603***

ii) ***Assistant Collector of Central Excise, Chandan Nagar, West Bngal Vs. Dunlop India Ltd. and Others*** reported in ***AIR 1985 SC 330***

iii) ***Goutam Kumar Sarangi Vs. The State of West Bengal & Ors.*** dated ***17th July, 2023 in WPA 12348 of 2023***

- 14.** So far as the point of maintainability of the writ petition is concerned, after careful perusal of the provision enumerated under Section 9 of the West Bengal Motor Vehicles Tax Act, 1979, the Court finds that, provision of an appeal has been prescribed therein against an order of the Taxing Officer under the said Act. In this case, however, no order has yet been issued by the Taxing Officer, as yet. Only the impugned communication made by the RTO and ex-officio Assistant Director, STA, West Bengal addressed to the Taxing Officer is challenged herein. Therefore, the Court considers that the necessary precondition as provided in the statute for filing of an appeal has not

yet reached and for an appeal the present case has still not matured enough.

- 15.** Further it is the well-settled principle of law that, existence of any alternative remedy is not an absolute bar for a writ petition to be maintainable in so far as the petitioner has been able to throw light on some alleged arbitrariness, mala fide or perversity in the administrative decision-making process. In view thereof and considering the factual background of this case that the petitioner has been made subject to tax twice for a specific period and that too without counter-signature of her permit, the said precondition for maintaining and entertaining a writ petition appears to have been duly fulfilled in the instant case.
- 16.** So far as the preliminary point of maintainability is concerned, as raised by the respondent authority, thus, is overruled.
- 17.** The Court is inclined to note the provision under Section 88(1) of the Motor Vehicles Act, 1988, which clearly provides that a permit granted in the State shall not be valid, unless it is counter-signed by the State Transport Authority of the other State. On the basis thereof, the inter-state permit issued by State Transport Authority, Orissa in case of the present petitioner, would not be valid in the State of West Bengal, until it is counter-signed by the Transport Authority of the State of West Bengal.
- 18.** Let Sections 6 and 7 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 be quoted as herein below: -

“6. Realisation of additional tax.- The additional tax leviable under section 4 shall be realized 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.

7. Computation of additional tax.- The additional tax leviable under section 4 shall be computed on an annual basis and shall be payable to the authority concerned before the date on which the tax becomes payable,

that is, the date on which the validity of the countersignature commences.”

- 19.** On a careful reading of the provisions of law as above, it clearly transpires that, realization of any additional tax leviable has been made subject to counter-signature of the permit. Of course, Section 6 has been worded with *“in such case the tax shall be leviable for the entire duration for which the counter-signature subsists”* and Section 7 has pronounced that validity of the counter-signature should commence before the date on which the yearly/quarterly tax becomes payable. In case of the present petitioner, the statutory conditions as above, are not found to have been fulfilled.
- 20.** Record reveals that, after expiry of the validity period of the inter-state stage carriage permit of the writ petitioner, the same has been renewed by the issuing authority that is, STA Orissa for the period from 3rd June, 2021 to 2nd June, 2026. No counter-signature has been granted to the petitioner despite several request letters being sent to the counter-signing respondent authority, beginning with one from the STA Orissa dated November 16, 2021.
- 21.** The said factual context, being applied with the provision of the statute as mentioned above, leads to the only conclusion that, during the period when the renewed permit has not been counter-signed, the permit holder is not liable to pay any tax as against the permit/vehicle for the said period, as the counter-signature should commence before the date on which the yearly/quarterly tax becomes payable, irrespective of it having been actually paid or not.
- 22.** As a matter of fact, for the period from 13th July, 2019 to 30th September, 2020, the petitioner has already remitted motor vehicles tax and additional tax for her permit. Fact remains that, in spite thereof neither the counter-signature has been granted to her, nor any acknowledgement of the said amount of tax remitted by the

petitioner is apparent from the impugned letter dated 25th September, 2024.

- 23.** The statutory framework governing inter-State stage carriage permits proceeds on the foundational doctrinal principle that the power to levy and realise tax by the reciprocating State is inseparably linked with the conferment of reciprocal operational rights by way of counter-signature. The doctrine underlying Section 88(1) of the Motor Vehicles Act, 1988 read with Sections 6 and 7 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 is that fiscal liability and corresponding statutory privilege must operate co-extensively. A permit holder can be compelled to bear the burden of tax only when the State simultaneously enables lawful utilisation of the permit within its territorial jurisdiction. In absence of counter-signature, the permit remains inoperative in the reciprocating State and consequently no enforceable taxable event arises for the relevant period. Any interpretation permitting the State to realise tax without granting the corresponding statutory right to ply the vehicle would defeat the scheme of reciprocal transport regulation contemplated under the statute and would amount to imposition of a levy without the existence of the legal condition precedent contemplated by law.
- 24.** Another important doctrinal principle attracted in the present case is the principle against arbitrary and duplicative fiscal exaction by the State. Taxing statutes, though strictly construed, must nevertheless satisfy constitutional standards of fairness, non-arbitrariness and reasonableness under Article 14 of the Constitution of India. Once the petitioner had already remitted taxes for the period from 13th July, 2019 to 30th September, 2020, raising a further demand for the self-same period, without acknowledging such payment and simultaneously withholding counter-signature, militates against the doctrine that the State cannot unjustly enrich itself through repeated or unsupported fiscal demands. Administrative authorities exercising

statutory power are bound to act in a manner consistent with fairness, transparency and procedural propriety. The impugned action, therefore, suffers not merely from statutory infirmity but also from the vice of arbitrariness in administrative decision-making, thereby justifying exercise of judicial review under Article 226 of the Constitution.

- 25.** In this writ petition, the Court finds that, due to operation of the statutory provision particularly, that under Section 6 and 7 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989, the reciprocating authority that is the STA, West Bengal in this case, has no jurisdiction to raise a claim for motor vehicles tax or additional tax as against the inter-state permit of the petitioner issued by the originating State, Orissa, unless and until it grants counter-signature to the permit issued/renewed by the originating State. In other words, in due consideration of the statutory provision as mentioned above, it can be stated grant of counter signature by the reciprocating State cannot be made subject to actual remittance of tax by the permit holder, even if it falls due and payable.
- 26.** In such view of the fact, the impugned letter dated 25th September, 2024 issued by Regional Transport Officer and ex-officio Assistant Director, STA, West Bengal appears to be without jurisdiction and not in conformity with the law. Hence, it is liable to be dismissed.
- 27.** For the reasons as discussed above, the instant writ petition is disposed of with the following directions: -
- i)* Impugned letter dated 25th September, 2024 is set aside.
 - ii)* The Secretary, State Transport Authority, West Bengal/respondent No. 4 is directed to immediately grant counter-signature as regards the renewed permit of the writ petitioner within a period of 10 days from the date of communication of copy of this judgment.

iii) this order however does not restrain the respondent to realise due and outstanding tax and additional tax, if any, from the petitioner/permit holder, in accordance with the law.

- 28.** With the directions as above, the instant writ petition No. 6940 of 2025 is disposed of with pending application, if any.
- 29.** Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)