**(2002) 03 OHC CK 0002**

**In the Orissa High Court**

**Case No :** O.J.C. No. 9819 of 1998

Chief General Manager, Ib Valley Area, Mahanadi Coalfields Ltd. — APPELLANT

Vs

State of Orissa and Others — RESPONDENT

**Date of Decision :** 11-03-2002

**Acts Referred:**
Constitution of India, 1950 — Article 141

**Citation :** (2002) 03 OHC CK 0002

**Hon'ble Judges :** P.K. Balasubramanyan, C.J;A.S. Naidu, J

**Bench :** Division Bench

**Advocate :** Sanjit Mohanty, N.C. Sahoo, S.P. Panda, B.R. Mohanty and D. Mohanty, for the Appellant; Standing Counsel (Transport), for the Respondent

## Judgement

P.K. Balasubramanyan, C.J.—The owner of the Dumper is again before us. Again the challenge is to the liability to tax under the Orissa Motor Vehicles Taxation Act (hereinafter referred to as the ''Taxation Act''). Actually, the prayer is to quash the demand for recovery of outstanding tax for the period April, 1998.to June. 1998 against 140 Dumpers. The question sought to be raised by the Petitioner has been raised earlier and has been the subject-matter of the following decisions of the Supreme Court:

(i) Bolani Ores Ltd., .

(ii) Travancore Tea Estates Co. Ltd. and Others Vs. State of Kerala and Others, .

(iii) State of Karnataka Vs. K. Gopalakrishna Shenoy and Another, .

(iv) M/s. Central Coal Fields Ltd. and Others Vs. State of Orissa and others, ,

(v) Union of India and others, Vs. Chowgule and Co. Pvt. Ltd., etc. etc., ;

(vi) Chief General Manager, Jagannath Area and Others Vs. State of Orissa and Another, .

 

and the recent decision of this Court in OJC No. 1090 of 1998.

2. We may incidentally notice that one of us (No doubt sitting in Anr. High Court) has discussed the question in regard to trailers used exclusively in the Cochin Port area with reference to Kerala Motor Vehicles Taxation Act in Chakkiat Agencies Pvt. Ltd. v. State of Kerala AIR 2001 Kerala 362. It may incidentally be noted that the petition for Special Leave to Appeal filed against that judgment was dismissed by the Supreme Court.

3. One ground urged in the writ petition is that the decisions of the Supreme Court in M/s. Central Coal Fields Ltd. and Others Vs. State of Orissa and others, , and in Chief General Manager, Jagannath Area and Others Vs. State of Orissa and Another, , require reconsideration in view of the recent decision of the Supreme Court under the Central Excise Act, 1944 in Goodyear India Ltd. Vs. Union of India and others, We are afraid that we cannot entertain this argument raised on behalf of the Petitioner since we are bound by the decisions of the Supreme Court. In this context, a reference to Article 141 of the Constitution of India is really unnecessary. Whatever it be, this ground urged cannot be considered by this Court in this writ petition. That apart, the decision rendered under the Central Excise Act cannot be applied when there are direct decisions under the Taxation Act itself.

4. An attempt was made to contend that there are some differences in the rules framed under the Motor Vehicles Act, 1988 and those framed under the Motor Vehicles Act, 1939 and the Dumpers used by the Petitioner are not road-worthy and cannot be deemed to be motor vehicles. This aspect is really seen covered by the decision in Chief General Manager, Jagannath Area v. State of Orissa (1996) 10 OCR 676, against the Petitioner. Moreover, what we are concerned with is the question whether Dumpers would come within the purview of charging provision under the Motor Vehicles Taxation Act. On that, the Supreme Court has directly spoken. Therefore, nothing seems to turn on this argument sought to be raised on behalf of the Petitioner.

5. In this situation, we are of the view that the Petitioner is not entitled to the relief claimed. Hence, we dismiss the writ petition. We make no order as to costs.

A.S. Naidu, J.

6. I agree.

 