(1996) 02 KAR CK 0028

In the Karnataka High Court

Case No : Writ Petition No. 13855 of 1993

H. Sarvothama Rao APPELLANT

Vs

Regional Transport Officer, Hassan and Others RESPONDENT

Date of Decision : 27-02-1996

Acts Referred:

Karnataka Motor Vehicles Taxation Act, 1957 — Section 2(F)
Karnataka Motor Vehicles Taxation Rules, 1957 — Rule 11(B)
Motor Vehicles Act, 1988 — Section 50(1)(A)

Citation : (1996) 3 KarLJ 436

Hon'ble Judges : G. C. Bharuka, J

Judgement

1. Petitioner is aggrieved by the order dated 19-9-1993 passed by the respondent-Deputy Commissioner for Transport under Section 15 of the Karnataka Motor Vehicles Taxation Act, 1957 (in short, ''the Act'') whereby he has affirmed the demand of tax of Rs. 49,240/- in respect of Omni Bus bearing No. MEX 1768 raised against the petitioner.

2. The foundational facts are not in dispute. The bus in question had the seating capacity of 8 + 1. It is not in dispute that the petitioner purchased the vehicle on 10-6-1988 and his name was duly registered as owner under the provisions of the Act. Thereafter the tax was regularly paid up-till 31-8-1990. Since as per the provisions made by the Karnataka Act 14 of 1989 which came into force on 1-4-1989 tax was to be levied on floor area basis, petitioner was served with a notice for production of the vehicle so that the floor area may be measured. On receiving the said notice, petitioner sent a letter on 13-8-1990 informing therein that he has sold the bus under a sale deed executed by him. Whereupon he was communicated by the respondents that since the vehicle still stands in his name therefore he is liable to produce the vehicle for measurement. However, the other demands were made in the notice for the period from 1-4-1989 to 30-11-1990. But the petitioner instead of paying the taxes due, sent a legal notice on 19-9-1992 again intimating about the sale of the vehicle. Subsequently, on appeal, the learned Deputy Commissioner has upheld the levy of tax by referring

to the provisions of Motor Vehicles Act, 1988 (in short, ''the Central Act'') as also the Taxation Act on the ground that the petitioner being admittedly a registered owner in law he was liable to pay tax.

3. It is not in dispute that the petitioner had not taken any steps in terms of either Section 50(1)(a) of the Central Act or Rule 11(B) of the Karnataka Motor Vehicles Taxation Rules, 1957 for change of ownership. The said provisions read as under:

"Section 50 of the Central Act reads as under:

"Section 50. Transfer of ownership.-(1) Where the ownership of any motor vehicle registered under this chapter is transferred,-

(a) the transferor shall,- (i) in the case of a vehicle registered within the same State, within fourteen days of the transfer, report the fact of transfer, in such form with such documents and in such manner, as may be prescribed by the Central Government to the registering authority within whose jurisdiction the transfer is to be effected and shall simultaneously send a copy of the said report to the transferee; and (ii) in the case of a vehicle registered outside the State, within forty five days of the transfer, forward to the registering authority referred to in sub-clause (i),- (A) the no objection certificate obtained under Section 48; or (B) in a case where no such certificate has been obtained,- (I) the receipt obtained under sub-section (2) of Section 48; or (II) the postal acknowledgement received by the transferor if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in Section 48, together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted".

Rule 11-B of the Karnataka Motor Vehicles Taxation Rules, 1957 reads as follows:

"(1) Where the ownership of any motor vehicle is transferred,- (a) the transferor shall, within fourteen days of the transfer, report the transfer in Form No. 12-A to the Registering Authority, within whose jurisdiction the transfer is effected and shall simultaneously send a copy of the said report to the transferee;

(b) the transferee shall, within thirty days of the transfer, report the transfer in Form No. 12-B to the Registering Authority within whose jurisdiction he received by him from the transferor if in order then Registering Authority and a copy of the report received by him from the transferor if in order then the particulars of the transfer of ownership shall be entered in the taxation card;

(2) A Registering Authority other than the original Registering Authority making any such entry shall communicate the transfer of ownership to the original Registering Authority, in Form No. 12-C; and (3) Notwithstanding anything contained in sub-rules (1) and (2) of this rule in respect of the vehicles where the tax payable annually a new taxation card shall be issued on the surrender of

the taxation card issued in the name of the previous owner. The fee payable for issue of a fresh taxation card under this sub-rule shall be rupee five".

4. Section 2(f) of the Taxation Act defines "registered owner" to mean a person in whose name a motor vehicle is registered under the Act. Section 3 of this Act provides for levy of tax in respect of motor vehicles suitable for use on road. Section 4 provides that the tax levied under Section 3 shall be paid in advance by the registered owner or the person having possession or control of the motor vehicle.

5. In the present case, though there is no evidence on record to show as to who was having possession or control of the motor vehicle, but one thing is certain that the petitioner was the registered owner.

6. In the above view of the-matter, in my opinion, the tax liability has rightly been fastened on the present petitioner. I do not find any good ground to interfere with the same. Writ petition is accordingly dismissed. No costs.