(2001) 08 AHC CK 0038

In the Allahabad High Court

Case No : C.M.W.P. No. 30162 of 2001

Hasi Devi Yadav APPELLANT

Vs

Regional Transport Officer, Varanasi and Others RESPONDENT

Date of Decision : 16-08-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 192A, 200, 207, 208, 66(1)
Uttar Pradesh Motor Vehicles Taxation Act, 1997 — Section 10(3)

Citation : (2001) 4 AWC 2711

Hon'ble Judges : V.M. Sahai, J;Sudhir Narain, J

Bench : Division Bench

Advocate : B.B. Singh, for the Appellant;

Final Decision : Dismissed

Judgement

Sudhir Narain, J.—This writ petition is directed against the order dated 19th July. 2001, passed by the Regional Transport Officer, Varanasi, whereby he has directed to pay ten times of the tax due against the petitioner as penalty.

2. The petitioner is owner of Vehicle No. WB-03-A 6048. The Assistant Regional Transport Officer, Varanasi. seized the vehicle in question on 13th July. 2001 u/s 207 of the Motor Vehicles Act. 1988. on the ground that the petitioner was plying the vehicle without registration certificate and permit. On 19th July, 2001, the petitioner made an application to release the vehicle in question and prayed that since the vehicle of the petitioner was plying without permit, she was ready to deposit penalty as provided under (he law. "Respondent No. l, on the application of the petitioner, directed her vide impugned order dated 19th July. 2001 to pay ten times of the tax due against her and on such deposit, the vehicle shall be released.

3. Learned counsel for the petitioner submitted that even the vehicle is plying, without permit, it should be taken as an offence and is punishable u/s 192A of the Motor Vehicles Act, 1988 and the proceedings can be taken for violation of

plying the vehicle without permit under the said provision and penalty can be imposed but the penalty u/s 10(3) of Motor Vehicles Taxation Act. 1997, cannot be imposed for the same offence.

4. Section 192A provides that whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of Sub-section (1) of Section 66 or in contravention of any condition of a permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, shall be punishable for the offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees and for any subsequent offence with imprisonment which may extend to one year but shall not be less than three months or with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees or with both."

5. Certain offences have been made compoundable as referred to u/s 200 of the Motor Vehicles Act, 1988. The Uttar Pradesh Motor Vehicles Taxation Act, 1997, was enacted to impose tax and additional tax on the vehicles and also the penalty in case the tax is not paid. Sub-section (3) of Section 10 provides that if the transport vehicle is found plying in Uttar Pradesh without payment of the tax or additional tax payable under this Act, such tax or additional tax along with a penalty, equivalent to ten times of the due tax or additional tax shall be payable. It reads as under :

"(3) If such transport vehicle is found plying in Uttar Pradesh without payment of the tax or additional tax payable under this Act, such tax or additional tax along with a penalty, equivalent to ten times of the due tax or additional tax, shall be payable."

6. The owner who is plying vehicle without obtaining permit can be, prosecuted for an offence u/s 192A in the manner provided u/s 208 of the Motor Vehicles Act, 1988. The offence is triable by a Court and the penalty is to be imposed upon in accordance with the provisions of the said Act. A person, who is plying the vehicle without permit and also has not paid the tax is liable to pay not only the tax but the penalty as provided under U. P. Motor Vehicles Taxation Act. The scope of both the Sections are different. It may be that the owner is plying the vehicle without any permit and also without paying any tax due under the provisions of Uttar Pradesh Motor Vehicles Taxation Act. 1997 and such person can be prosecuted for offence u/s 192A of the Act and the authority can also impose penalty under Sub-section (3) of Section 10 of the Uttar Pradesh Motor Vehicles Taxation Act. 1997.

7. In view of the above there is no merit in the writ petition and it is accordingly dismissed.