(1981) 05 KAR CK 0015

In the Karnataka High Court

Case No : WP 10213/80

Indra Prakash Chabra — APPELLANT

Vs

Dy. Commr. of Transport and Another — RESPONDENT

Date of Decision : 25-05-1981

Acts Referred:

Karnataka Motor Vehicles (Taxation On Passengers and Goods) Act, 1961 — Section 6

Citation : (1981) 2 KarLJ 161

Hon'ble Judges : K. Jagannatha Shetty, J

Judgement

1. Indra Prakash Chabra-the petitioner-is the registered owner of a vehicle bearing registration No. MYD 7900. The Tax Officer-Respondent-2 after issuing a notice to the petitioner, assessed the tax on 23rd March 1976 in respect or the vehicle for the period from 1-10-67 to 31-3-69. He also issued a demand notice. Against the said demand, the petitioner appealed to the Deputy Transport Commissioner, Bangalore. That appeal was dismissed.

One of the contentions urged before the Appellate Authority was that the assessment was barred by time under S. 7 of the Karnataka Motor Vehicles (Taxation on Passengers and Goods) Act, 1961 ("the Act"). That contention was summarily rejected by the Appellate Authority by observing that the proceedings were initated not under S. 7 but under S. 6 of me Act.

Hence this writ petition.

2. The primary question for consideration is whether the assessment and demand of tax was barred by time. In my opinion, the answer to the question should be in the affirmative. S. 6 of the Act provides procedure for assessing the tax with or without returns submitted by the operator in respect of any stage carriage or public carriage. S. 7 deals with escaped assessment. It provides that "the Tax Officer may, at any time within, but not beyond three years from the expiry of that month, assess the tax which has escaped assessment, after issuing a notice to the operator. ......". The maximum period provided under S. 7 is three years from the expiry of that month when the tax was leviable. S. 7 is thus

controlled by S. 6. It is not and indeed cannot be independent of S. 6. S. 6 provides procedure for assessing tax with or without returns submitted by the operator. But that power to determine the tax is expressly controlled by S. 7. The appellate authority was therefore in error in holding that the levy of tax was not barred by time when the tax was levied after more than seven years.

3. In the result, the petition is allowed and the impugned demand of tax is quashed.

4. In the circumstances, I make no order as to costs.