(1998) 10 SC CK 0055

In the Supreme Court Of India

Case No : Civil Appeal No''s. 1188 of 1988 and 7734-35 of 1996

Mandsaur Transport Association — APPELLANT

Vs

State of M.P. and Others — RESPONDENT

Date of Decision : 15-10-1998

Acts Referred:

Citation : (2001) 9 SCC 328

Hon'ble Judges : Sujata V. Manohar, J;G. B. Pattanaik, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. These two appeals are from the judgment of the Full Bench of the Madhya Pradesh High Court dated 5-2-1996 under which the High Court has held that the levy of toll under the Indian Tolls Act, 1851 is in the nature of a compensatory tax. From its very nature, once the amounts which have been spent for the construction of a road and/or a bridge is recovered, toll cannot be continued perpetually like a general tax. It may, however, be levied for the repair of the road and/or the bridge concerned or its necessary upkeep. The High Court has, therefore, held that the State cannot recover toll in excess of the cost of construction with interest and maintenance of roads and bridges. The Full Bench, inter alia, set aside the finding given by an earlier Division Bench of the Madhya Pradesh High Court reported in Mandsaur Transport Assn. v. State of M.P. to the effect that toll can be utilised for general welfare activity of the State.

2. Learned counsel appearing for the appellant State of Madhya Pradesh has very fairly drawn our attention to a notification dated 29-6-1998 issued by the State of Madhya Pradesh in exercise of powers conferred by Section 4 of the Indian Tolls Act, 1851 under which the State Government has exempted collection of tolls on such bridges on which the entire cost of construction has been realised by way of tolls. In view of the provisions of that notification, he very fairly states that the State Government has accepted the principles laid down by the Full Bench decision of the High Court of Madhya Pradesh impugned herein and hence

no useful purpose would now be served by pursuing these appeals. These two appeals are, therefore, dismissed.

3. This appeal is filed by Mandsaur Transport Association challenging the judgment of the Division Bench of the Madhya Pradesh High Court reported in Mandsaur Transport Assn. v. State of M.P. under which the Division Bench had held that the toll could be for the purpose of meeting the general welfare activities of the State. The impugned judgment in this appeal has been set aside by the Full Bench of the Madhya Pradesh High Court. The appeals from the judgment of the Full Bench have not been pressed before us as already stated. Hence, Civil Appeal No. 1188 of 1988 has to be allowed.

4. Learned counsel appearing for the appellant, however, points out that under the notification of 29-6-1998, although the State Government has exempted the collection of tolls on such bridges in respect of which the entire cost of construction has been realised by way of tolls, the State Government has also provided that where the collection of tolls has been given to a contractor by public auction, the collection of toll shall be suspended only after the expiry of the period of contract executed with the contractor. He submits that in the present case which deals with a toll imposed on the bridge at Shivna, admittedly, the cost of construction has been realised by way of toll several times over. He submits that toll should not be continued on that bridge henceforth. There would be no justification for continuing the toll till the contract period with the contractor is over in respect of that bridge. Looking to the facts and circumstances relating to the said bridge we find much force in this submission. There is no reason at all why collection of toll should continue henceforth where the cost of construction and even cost of maintenance have already been recovered by the State Government several times over by way of toll on that bridge. We, therefore, direct that no toll shall be collected on the bridge at Shivna henceforth. The appeal is disposed of accordingly. There will, however, be no order as to costs.

