(2010) 08 CHH CK 0020

In the Chhattisgarh High Court

Case No : Writ Petition No. 1004 of 2001

Raghvendra Singh and Others — APPELLANT

Vs

State of Chhattisgarh and Another — RESPONDENT

Date of Decision : 26-08-2010

Acts Referred:

Madhya Pradesh Motor Vehicles Taxation Act, 1947 — Section 6
Madhya Pradesh Municipalities Act, 1961 — Section 127(1)
Mariendragarh Nagar Palika Sadko Tatha Sarvajanik Sthano Par Astai Dhakhal Upvidhia 2000 — Section 358(4)

Citation : AIR 2011 Chh 46

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Satish K. Agnihotri, J.—Heard learned Counsel for the parties.

2. By this petition, the Petitioners seek to challenge announcement and the imposition of stand fees/tax from the buses, which are parked in the bus-stand within the territorial limit of Municipal Council, Manendragarh, District Korea, vide resolution dated 21-7-2000 and notification dated 11-8-2000 and 29-8-2000 (Annexures-R/3 & R/4) on the ground that the Municipal Council is not competent to levy toll tax on motor vehicles in view of the well settled proposition of law, as laid down by the Supreme Court in Municipal Council, Manasa v. M.P. State Road Transport Corporation, (1997) 11 SCC 640: 1998 AIR SCW 4117 .

3. This very provision was under challenge in the High Court of Madhya Pradesh, which ultimately reached to the Supreme Court and the Supreme Court handed down the order in Municipal Council Manasa (supra), upholding the judgment of the High Court of Madhya Pradesh.

4. Having considered the provisions of Section 6 of the Madhya Pradesh Motor Vehicles Taxation Act 1947 (for short "the Act, 1947") and the provisions of

Section 127(1)(iii) of the Madhya Pradesh Municipalities Act, 1961 (for short "the Act, 1961") the Supreme Court held that the Act, 1947 is a special enactment while the Act, 1961 is a general enactment and that the provisions of Section 127(1)(iii) and Section 6 of the Act, 1947 are to be read in a way that both can stand together. Thus, the imposition of above stated tax was not just & proper.

5. Learned Counsel appearing for the Respondent No. 2 submits that the Act, 1947 is not applicable on the ground that subsequent Act, 1961 has obtained assent of the President of India and secondly the bye-laws framed in exercise of powers u/s 358(4)(kh)(chh) of the Mariendragarh Nagar Palika Sadko Tatha Sarvajanik Sthano Par Astai Dhakhal Upvidhia 2000, have overriding effect.

6. The aforesaid contention on behalf of the Respondent No. 2 is noticed to be rejected as the Supreme Court has already held that the Act, 1961 is a general enactment and the Act, 1947 was a special enactment. There is no other Taxation Act as thereafter been enacted overriding or superseding the Act, 1947. Thus, the impugned action taken by the Respondent authorities is not at all sustainable in the eye of law.

7. In the result, the writ petition is allowed. No order as to costs.

