(2004) 04 JH CK 0092

In the Jharkhand High Court

Case No : Writ Petition (C) No. 2397 of 2002

Ramjee Prasad Srivastava APPELLANT

Vs

State of Jharkhand and Others RESPONDENT

Date of Decision : 08-04-2004

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1988 — Section 17

Citation : (2004) 2 JCR 547

Hon'ble Judges : Amareshswar Sahay, J

Bench : Single Bench

Advocate : Rajiv Ranjan, for the Appellant; Dharmendra Kumar Malityar, JC to AAG, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—The prayer of the petitioner in this writ petition is for quashing of the order dated 8.5.2001 passed by the Joint Transport Commissioner, Jharkhand, Ranchi and also for quashing the order dated 7.12.2001 passed by the Secretary Transport, Government of Jharkhand (Annexure-8) whereby the claim of the petitioner for exemption of tax for the period from 1.1.1998 to 31.10.2000 with regard to the vehicle bearing registration No. BHM No. 6755 was rejected.

2. The grounds taken by the petitioner for the said tax exemption is that the vehicle in question required major repairing work and therefore, on 30.6.1997 the petitioner surrendered all the valid documents i.e. registration certificate, tax token, fitness certificate, permit and insurance certificate along with affidavit and application in "Form J" as required u/s 17 of the Motor Vehicle Act in the office of District Transport Officer, Sahebganj.

3. From perusal of the Annexure-7 i.e. order dated 8.5.2001 passed by the Joint Transport Commissioner, Sahebganj it appears that from, the materials on record he found that when the District Transport Officer went for verification on spot on

1.3.2000 then he did not find the vehicle in question parked there where it ought to have been parked as mentioned in the application form filed by the petitioner.

4. It appears that on consideration of the above fact the Joint Transport Commissioner, held that u/s 17(1) of the Motor Vehicle Taxation Act, if during the temporary period of surrender the vehicle is not found parked on a place mentioned by the applicant and it is found somewhere else then it would be deemed that during the said period of temporary surrender, the vehicle has been used.

5. The Joint Transport Commissioner by his order dated 8.5.2001 however allowed the exemption from payment of tax for the period of six months only i.e. 1.7.1997 to 31.12.1997 on the ground that in a case of surrender of a vehicle for temporary period, the Tax exemption can be granted for a maximum period of six months only. Accordingly, the prayer for grant of exemption from payment of tax for the period 1.1.1998 to 31.10.2000 was rejected.

6. The learned appellate authority vide its order dated 20.11.2001 as contained in Annexure-8 after considering the facts and relevant materials and on perusal of the order of the Joint Transport Commissioner dismissed the appeal and affirmed the order passed by the Joint Transport Commissioner.

7. I find that the Joint Transport Commissioner has given his finding of facts on the basis of the relevant materials on record and also relying on the enquiry report of the District Transport Officer wherein it was found that vehicle in question was not found to have been parked in place, where it ought to have been parked. I am of the view that the said findings of the fact cannot be disturbed by this Court in its writ jurisdiction by substituting its own finding arrived at by the Joint Transport Commissioner and affirmed by the appellate authority.

8. Accordingly, I do not find any merit in this writ petition. It is dismissed.