

Assistant Transport Commissioner, Lucknow and Others

Vs

Nand Singh

Civil Appeal No. 2497 of 1969

27.07.1979

JUDGMENT

1. This is an appeal by certificate. The Allahabad High Court decided that the date of the communication of the order will be the starting point of limitation for filing an appeal under Section 15 of the U.P. Motor Vehicle Taxation Act. The respondent wanted exemption of tax in respect of his motor vehicle for a certain period. He applied to the Taxation Officer, Kanpur. The order rejecting his prayer was communicated in the letter of Taxation Officer, Kanpur. The order rejecting his prayer was communicated in the letter of Taxation Officer, dated October 20/24, 1964 through the Regional Transport Authority, Kanpur. The respondent received that letter on October 29, 1964. His appeal was within 30 days of October 29, 1964 but beyond 30 days of October 24, 1964. If October 24, 1964 could be taken to be the date of the order then obviously the appeal was out of time. If, however, the date of the order in Section 15 of the U.P. Motor Vehicle Taxation Act, in the context, meant the date of the communication of the order, then the appeal was within time. Following the decision of this Court in Raja Harish Chandra Raj Singh v. Deputy Land Acquisition Officer ((1962) 1 SCR 676 : AIR 1961 SC 1500 : (1962) 1 SCJ 696), the High Court has held in favour of the respondent : hence this appeal.

2. In our opinion, the judgment of the High Court is right and cannot be interfered with by this Court. Apart from the reasons given by this Court in the earlier judgment to the effect that the order must be made known either directly or constructively to the party affected by the order in order to enable him to prefer an appeal if he so likes, we may give one more reason in our judgment and that is this : It is plain that mere writing an order in the file kept in the office of the Taxation Officer is no order in the eye of law in the sense of affecting the rights of the parties for whom the order is meant. The order must be communicated either directly or constructively in the sense of making it known, which may make it possible for the authority to say that the party affected must be deemed to have known the order. In a given case, the date of putting the order in communication under certain circumstances may be taken to be the date of the communication of the order or the date of the order but ordinarily and generally speaking, the order would be effective against the person affected by it only when it comes to his knowledge either directly or constructively, otherwise not. On the facts stated in the judgment of the High Court, it is clear that the respondent had no means to know about the order of the Taxation Officer rejecting his prayer until and unless he received his letter on October 29, 1964. Within the meaning of Section 15 of the U.P. Motor Vehicle Taxation Act that was the date of the order which gave the starting point for preferring an appeal within 30 days of that date.

3. For the reasons stated above, we hold that there is no substance in this appeal. It is accordingly dismissed but in the circumstances without costs.

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