

Tata Engineering and Locomotive Co. Ltd.

Vs

State of Bihar and Others

Civil Appeal No. 585 of 1979

(Sabyasachi Mukharji, S. Ranganathan JJ)

10.02.1988

ORDER

1. This appeal raises the question of taxability on dumpers and tippers owned by the appellant company under the Bihar and Orissa Motor Vehicles Taxation Act, 1930, as amended by Ordinance 84 of 1976. The contention on behalf of the petitioner who is appellant before us is that unless vehicles were used, the tax could not be levied. This contention was urged before the High Court and has been considered by the High Court in the judgment under appeal. In the meantime, there were some amendments introduced in the Act by the Ordinance 84 of 1976. Reading the Act in the light of the Ordinance, the High Court took the view that the Sections 6 and 8 of the Act and the Ordinance are intra vires and also consistent with the views expressed by this Court in the case of Bolani Ores Ltd. v. State of Orissa ((1974) 2 SCC 777 : (1975) 2 SCR 138). The High Court came to the conclusion that the Sections 6 and 8 of the Bihar and Orissa Motor Vehicles Taxation Act, even after the amendment, need not be declared ultra vires and they should be given a limited meaning in the light of aforesaid observations of the High Court. The Certificate Officer was directed by the High Court to examine the liability of the appellant company to pay tax in the light of the observations and after examining the objections already raised or to be raised under Section 9 of the Bihar and Orissa Public Demands Recovery Act and dispose of the certificate cases in accordance with law.

2. In that view of the matter we find no ground to interfere with the order of the High Court. The High Court has proceeded on the well settled principles of law. We further clarify that it will be open to the appellant to raise all legitimate legal objections before the Certificate Officer. In the interest of justice, it is also necessary to clarify that the certificate should not be given effect until such objections are disposed of by him in accordance with law. This, however, will not prejudiced the rights, of any, of the appellant to prefer any appeal from the order passed by the Certificate Officer in accordance with law.

3. The appeal is disposed of accordingly. There will be no order as to costs.

</html