

Tata Engineering and Locomotive Co. Ltd.

Vs

State of Orissa and Others

Civil Appeal No. 503 (NCM) of 1976

(Sabyasachi Mukharji, S. Ranganathan JJ)

10.02.1988

ORDER

1. This appeal by special leave is from the judgment and order dated September 17, 1975 of the High Court of Orissa holding that motor vehicles tax was payable in respect of vehicles in transit through the State of Orissa. Aggrieved thereby the appellant has come in appeal to his Court by special leave. In view of the decision of this Court in the case of State of Mysore v. T. V. Sundaram Iyengar & Sons (P.) Ltd.((1980) 1 SCC 66 : (1980) 2 SCR 1), the appeal has to be allowed and the judgment and order of the High Court cannot be sustained and are, therefore, set aside.

2. One additional point, however, was urged before us in this case by Mr. G. L. Sanghi, counsel for the respondent that as the appellant has collected these taxes there should not be any order of refund because that will entail undue enrichment. Pursuant to this we directed the appellant as well as the respondents to file affidavits in this Court. Affidavits have been filed by one Mr. Padmanabha Panda affirmed on January 4, 1988 on behalf of respondents as well as one by Shri K. A. Nair affirmed in January 1988 on behalf of the appellant company. We are satisfied on those affidavits that no tax in this case has really been collected by the Company. In that view of the fact, no question of undue enrichment arises in this case. In the premises the appeal is allowed. The appellant will be entitled to costs of this case.

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