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SooperKanoon Citation : sooperkanoon.com/474877

Court : Allahabad

Decided On : Apr-23-2004

Reported in : 2004(3)AWC2471

Judge : M. Katju and ;R.S. Tripathi, JJ.

Acts : [Constitution of India](#) - Article 14; Uttar Pradesh Motor Vehicles Taxation Rules, 1998 - Rule 29

Appeal No. : C.M.W.P. No. 538 of 2004

Appellant : Ashok Kumar Agrawal and ors.

Respondent : State of U.P. and anr.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : L.P. Naithani and ;H.P. Dube, Advs.

Disposition : Petition dismissed

Judgement :

ORDER

M. Katju, J.

1. This writ petition has been filed challenging the validity of Rule 29 (v) of the U. P. Motor Vehicles Taxation Rules, 1998. The petitioners have also prayed for a

mandamus directing the respondents not to impose and realise additional tax from the petitioners at the rate specified in Article 5 of IVth Schedule of the U. P. Motor Vehicles Taxation Act, 1997.

2. Heard learned counsel for the parties.

3. The petitioners are residents of Kanpur City and their vehicles are engaged by various educational institutions in Kanpur for carrying school children to and from the institutions.

4. It is alleged that the petitioners did not use their vehicles for any other purpose on the public road except for carrying students to and from the institutions.

5. It is alleged in para 5 of the petition that the petitioners are not charging any fare from any individual student. The petitioners, entered into a contract with the institutions concerned on contract amount which is between 9,500 to Rs. 12,500 per month.

6. In the year 1962, passenger tax was imposed as stated in para 6 of the writ petition. The U. P. Motor Vehicles Taxation Act, 1997 and the Rules made thereunder were made with the object to consolidate all taxes in one place and to provide for levy of additional tax in place of 'Yatri kar' and 'Mal kar'. Stage carriages owned by the recognised educational institutions and used exclusively for the convenience of students to and from the institutions have been exempted under Rule 29 (v) of the U. P. Motor Vehicles Taxation Rules, 1998. Rule 29 (v) states :

'Stage carriages owned by a recognised educational institution and used exclusively for the convenience of people to and from the institution shall be exempted from the payment of additional tax under the Act.'

7. Sri L. P. Naithani, learned Sr. counsel for the petitioner submitted that Rule 29 (v) creates hostile discrimination between the vehicles owned by the recognised educational institutions and those not owned by the recognised educational institutions.

8. In our opinion there is no merit in this petition. Rule 29 (v) grants exemption only to stage carriages owned by the recognised educational institutions. If a stage carriage is not owned by the recognised educational institution then the exemption under Rule 29 (v) does not apply.

9. It is well settled that in tax matters Article 14 has much narrower scope than with respect to other laws.

10. It may be mentioned that in tax matters the Government has a greater latitude to tax one category and not to tax other categories vide *Anant Mills v. State of Gujarat*, AIR 1975 SC 1234 ; *R. K. Garg v. Union of India*, 1982 UPTC 355 (SC) ; *Malwa Bus Service v. State of Punjab*, (1983) 3 SCC 237 ; *Income Tax Officer v. N.I.R. Rymbai*, AIR 1976 SC 670 ; *Amalgamated Tea Estate v. State of Kerala*, 1975 UPTC 89, etc. A taxing statute is not open to attack on the ground that it taxes some persons or objects and not others. *East India Tobacco Co. v. State of A.P.*, AIR 1962 SC 1733. The State has a wide discretion in selecting the objects or persons that it will tax, and in order to tax something it is not bound to tax everything. *Orient Weaving Mills v. Union of India*. AIR 1963 SC 98 ; *State of M. P. v. Bhopal Sugar Industries*, AIR 1974 SC 1179. It can pick and choose objects, areas, persons, rates of tax, etc. *V. V. R. Verma v. Union of India*, AIR 1969 SC 1094 ; *Gopal Narain v. State of U. P.*, AIR 1964 SC 370 ; *Khyerbari Tea Co. Ltd. v. State of Assam*, AIR 1964 SC 925 and *T. G. Venkatrama v. State of Madras*, AIR 1970 SC 508, etc.

11. The above decisions have been followed by the decision of this Court in *M/s. Lallooji and Sons v. State of U. P. and Ors.*, 2003 UPTC 900.

12. Thus, there is no force in this petition and it is dismissed.