

CASE NO.:
Appeal (civil) 1331 of 2008

PETITIONER:
STATE OF PUNJAB & ORS.

RESPONDENT:
BALWINDER SINGH

DATE OF JUDGMENT: 15/02/2008

BENCH:
S.H. KAPADIA & B. SUDERSHAN REDDY

JUDGMENT:
JUDGMENT

O R D E R
(Arising out of SLP(C)No. 12999/07)

Leave granted.

Heard learned counsel on both sides.

This appeal is filed by State of Punjab against the judgment and order dated 23.11.2006 in CWP No. 9291/2006. By the impugned judgment Proviso to Rule 10 of Punjab Motor Vehicle Taxation Rules 1925 was sought to be challenged is ultra vires Sec.13 of Punjab Motor Vehicle Taxation Act 1924.

By the impugned judgment the High Court has allowed the writ petition. We quote the operative part of the impugned judgment:

\023In view of the above, we allow this petition and declare Proviso to Rule 10 of the Rules to be ultra vires the provisions of section 13(1) of the Act. We make it clear that even if registration certificate is not deposited, the permit holder will be entitled to exemption if he proves to the satisfaction of the competent authority that the vehicle was not used. Accordingly, the impugned order denying exemption to the petitioner for the period prior to the date of deposit of registration certificate is set aside and respondent No.4 is directed to consider the matter afresh without taking into account Proviso to Rule 10 of the Rules.\024

Suffice it to state that if the Proviso to Rule 10 according to the High Court was ultra vires (inconsistent) with Sec.13(1) of Punjab Motor Vehicle Taxation Act, we fail to understand on what basis the High Court has stated that the exemption application made by the respondent should be decided afresh without taking into account the said proviso. No reasons have been given for allowing the impugned proviso to remain on the statute book and at the same time directing the authority to ignore the said proviso while deciding the exemption application.

In view of this inherent contradiction in the operative part of the order we set aside the impugned judgment and we remit the matter to the High Court for fresh consideration in accordance with law.

The Appeal is allowed with no order as to costs.