

HC set aside demand as dept. fails to inform transporter about right of extension within 8 hours of expiry of e-way bill

Facts of the case : Karan Singh v. State of West Bengal - [2023] (Calcutta)

The petitioner was engaged for transporting heavy vehicle (JCB) by trailer to Darjeeling from Maharashtra. It was directed in E-Way Bill that the JCB would have to be delivered to its destination by 12th July, 2022. Since the said JCB was not delivered in the address of the recipient, the department issued a show-cause notice to authorized representative of the petitioner on the ground that e-way bill was expired. However, the trailer carrying the said JCB had reached and parked at Ghoshpukur in the District of Darjeeling.

It submitted reply but the department passed order demanding tax and penalty. The appeal was filed but the same was dismissed and the petitioner filed writ petition.

Decision of the case :

- The Honorable High Court noted that there was delay of only 41 minutes in delivering the consignment and the destination, Malli Bazar in Darjeeling is situated at a hilly terrain. Therefore, it would be obvious that there might be few minutes delay in delivering the consignment.
- However, the imposition of tax was made by the Adjudicating Authority within 40 minutes from the expiry of E-Way Bill. The Court noted that E-Way Bill may be extended within 8 hours from the date of its expiry. Even though it would be discretion of the authority to inform transporter about such extension before passing order but authority failed to exercise same. Therefore, the Court held that the impugned orders were liable to be set aside.