HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 6950/2025

Rohan Malhotra

----Petitioner

Versus

The State Of Rajasthan & Ors.

----Respondents

For Petitioner(s)	:	Mr. Anil Mehta, Sr. Advocate with Mr. Ranvijay Singh, Advocate & Mr. Saurav Mehta, Advocate
For Respondent(s)	:	Mr. S.S. Naruka, Additional Advocate General assisted by Mr. Sachin Singh Rathore, Advocate, Mr. Jitendra Kumar, Advocate. Mr. Tanishq Aditya Parmar, Advocate

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HON'BLE THE CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

02/07/2025

Heard on prayer for stay.

Learned Senior counsel appearing for the petitioner would argue that even if it is assumed for the argument's sake that the vehicle of the petitioner had overstayed in the State of Rajasthan beyond 30 days, as there is no notification, as envisaged under Section 4(1)(c) of the Rajasthan Motor Vehicles Taxation Act, 1951 (hereinafter referred to as 'the Act of 1951'), a non transport private vehicle which is neither goods vehicle, nor passenger vehicle could not be taxed. According to him, the scheme of taxation in respect of vehicles from outside the State is enabling provision. The State may have its own policy of non charging any one time road tax on vehicle, coming from other State and overstaying in the State of Rajasthan. The State's policy of imposing one time road tax on non transport private vehicles from other State other than (Goods and Passenger Vehicles) could be implemented only by way of notifying the rates of tax in respect of such vehicles in exercise of power under Section 4 (1)(c) of the Act of 1951. As long as notification specifying rates of tax under Section 4 (1)(c) of the Act of 1951 has not been issued, the State Authorities are not competent to levy one time road tax in respect of vehicles which are already registered in other State and in respect of which one time tax has already been paid even if those vehicles have overstayed in the State of Rajasthan beyond 30 days.

Learned Additional Advocate General for the State would submit that Notification dated 10.07.2024 (Annexure-6) filed by the petitioner makes it clear that the rates of tax in respect of non transport vehicles (Private Vehicles) have also been prescribed. Referring to provisions contained in proviso (iv) of the aforesaid notification, it has been contended that the notification clearly envisaged imposition of road tax on vehicles which are registered in other States but are plied in the State of Rajasthan and once it is found that those private vehicles are brought into Rajasthan and used for a period extending 30 days then the owner shall be required to pay tax, as notified for such vehicle in the State, as stated in Rule 28(1)(i) of the Rajasthan Motor Vehicles Taxation Rules, 1951 (hereinafter referred to 'the Rules of 1951'). Therefore, a conjoint reading of the provisions contained in Section 4(1)(b) of the Act of 1951 read with Rule 28 of the 1951 and notification dated 10.07.2024 (Annexure-6) makes it clear that the petitioner whose vehicle over stayed in the State of Rajasthan would be liable to pay one time road tax.

On *prima facie* consideration, we find that levy of tax on motor vehicles throughout the State of Rajasthan is governed by the provisions contained in the Act of 1951. Section 4 of the Act of 1951 is the charging Section which provides for imposition of tax. Section 4 (c) provides *inter-alia* that tax in respect of motor vehicles registered outside the State and using roads in the Rajasthan would be chargeable to road tax at such rates, as may be notified by the State Government in the Official Gazette. The provisions contain upper limits in respect of passenger vehicle and other vehicles. Sub-Section (b) of Section 4 of the Act of 1951 deals with liability for payment of road tax as one time tax in case of non transport vehicles as well as transport vehicles at the rates specified by the Government by way of the notification in the Official Gazette which contains an upper limit which shall not exceed 50% of the cost of the vehicle/chassis. Therefore, provisions contained in Sub-Section (b) and (c) of the Act of 1951 deals with different contingencies. In case of vehicle from outside the State, levy of tax would be at the rate notified under Section 4 (c) of the Act of 1951. Therefore, in order to levy one time road tax on vehicle registered outside the State and brought into State of Rajasthan, appropriate notification is required to be issued.

From the reply filed by the State, it is revealed that though notification in exercise of powers in Sub-Section (a) and (c) have been issued in respect of goods vehicles and passenger vehicles, learned State counsel has not placed on record any notification issued under Section 4 (c) of the Act of 1951 applicable in the case of non transport vehicles like cars, which are meant for private use (excluding taxi used as passenger vehicle).

In the absence of notification prescribing rates of tax payable by those vehicle owners falling within the mischief of provisions contained in Rule 28 (1) (i) of the Rules of 1951, levy of road tax would not be authorized under the law even though it may be permissible upon issuance of appropriate notification.

The submission of learned State counsel that proviso (iv) of Notification dated 10.07.2024 (Annexure-6) substantially complies with the requirement of issuance of notification under Section 4(c) of the Act of 1951 does not appear to be *prima-facie* acceptable as the aforesaid notification essentially lays down the rates of tax in respect of cases covered under Section 4(1)(b) of the Act of 1951. Proviso (iv) of Notification dated 10.07.2024 (Annexure-6) deals with a situation where those vehicles, which are already registered in or outside the State or in case of military disposal, on which one time tax was not payable earlier. In such cases, one time tax is required to be arrived at by reducing the amount of tax at the rate of 5% per financial year or part thereof upto five years from the date of registration. This cannot obliviate the statutory requirement of issuance of notification under Section 4(1)(c) of the Act of 1951, if the State intends to tax vehicles, which are being brought outside the State. Though to the extent of goods vehicle and passenger vehicle, notification under Section 4(1)(c) of the Act of 1951 has been issued, in the absence of there being similar notification issued in respect of non transport private vehicles, the aforesaid proviso does not come to the aid of the State to serve as the authority to levy road tax on vehicles registered outside the State and using the road in the State of Rajasthan, which falls within the mischief of provisions contained in Rule 28 (1) (i) of the Rules of 1951.

In view of the above consideration, we are inclined to stay demand/recovery of road tax from the petitioner.

However, petitioner shall submit undertaking within a period of one month before the Respondent No.2-District Taxation Officer that in the event he fails and does not get any relief, he shall pay the entire tax within a period of one month.

Matter be listed for final hearing in the month of August, 2025.

(MANEESH SHARMA),J (MANINDRA MOHAN SHRIVASTAVA),CJ

Sanjay Kumawat/Seema/110