



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

W.P.No.8868 of 2021

Between:

Dr. Gudipati Swamy,
Occ: Retired Residential Medical Officer,
R/o. H.No.8-250/1-107, Flat No.107,
C Block, Subba Lakshmi Apartments,
Katuru Road, Ward No.8, Vuyyuru, Krishna District.

... **Petitioners**

And

- \$ 1. The State of Andhra Pradesh, rep. by its Principal Secretary, Transport Department, Secretarial Buildings, Velagapudi, Amaravati, Guntur District.
2. The Transport Commissioner for Andhra Pradesh, Arrival Block, Pandit Nehru Bus Station, Vijayawada, Andhra Pradesh 520013.
3. The Deputy Transport Commissioner, Vijayawada, Krishna District.
4. The Regional Transport Unit Office, Vuyyuru, Krishna District, rep. by its Registering Authority, Vuyyuru, Krishna District.
5. Varun Motors Pvt. Ltd., 48-17-4/1, Ring Road Vijayawada, rep. by its Manager.

... **Respondents**

Date of Judgment pronounced on : 06-07-2021

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

1. Whether Reporters of Local newspapers
May be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked
to Law Reporters/Journals: : Yes/No
3. Whether the Lordship wishes to see the fair copy
Of the Judgment? : Yes/No



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*** HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

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% Dated: 06-07-2021

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... Respondents

! Counsel for petitioner : Sasanka Bhuvanagiri

^Counsel for Respondents 1 to 4 : G.P. for Transport

^Counsel for Respondent No.5 : M/s. Indus Law Firm

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>HEAD NOTE:

? Cases referred:

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO****W.P.No.8868 of 2021****ORDER:**

The petitioner is aggrieved by the non-refund of life tax amount of Rs.54,530/- collected from him during the registration of his vehicle bearing No.A.P.-16-FC-3897 and the subsequent proceedings in Rc.NO.3897/2020, dated 26.02.2020 issued by the Deputy Transport Commissioner, Vijayawada, 3rd respondent herein, rejecting his application for refund.

2. The petitioner has a physical disability of 50% in his left leg due to post polio residual paralysis from his childhood. He had retired after serving in the Government health sector. After retirement, he had purchased a Maruti Suzuki Celerio ZXI-AGS (O), petrol variant with an automatic gear shift. According to the petitioner, one of the reasons why he had purchased the said vehicle was the attractive concessional GST rate, which was advertised by the Company for customers with physical disability. The petitioner was also medically examined by the Chief Medical Officer of Maruti Suzuki India Limited at New Delhi and was given a certificate dated 31.01.2018 that he has a disability of 50% of left lower limb and that he was certified fit to drive a passenger car fitted with automatic transmission. The vehicle was delivered to the petitioner on 23.07.2018 with a temporary registration being given by the 4th respondent. At the time of the final registration, the petitioner said that due to a technical error in the website of the Road Transport Authority, the petitioner had to pay a life tax of Rs.54,530/- to the 5th respondent, who in turn paid it to respondents 1 to 4. Thereafter, on the advise of the 5th respondent, the petitioner sought refund of the life tax amount from the 2nd and 3rd respondents. The petitioner was also able to obtain a classification for his car as "invalid carriage" and a new registration certificate to that effect was also issued by the 4th respondent.

3. The petitioner, relying upon G.O.Ms.No.351, dated 29.08.1978, issued under Section 9(1) of the Andhra Pradesh Motor Vehicles Taxation Act,



1963, claimed exemption from payment of life tax and consequential refund of the amount of Rs.54,530/-, which was paid as life tax. The petitioner submitted an application on 24.01.2020 to the 3rd respondent along with his physical disability certificate and the certificate issued by the manufacturer of the vehicle to the effect that the vehicle purchased by the petitioner was suitable for his disability. However, the 3rd respondent, by proceedings in Rc.No.3897/C2/2020, dated 26.02.2020 had rejected the said application for refund. The 3rd respondent took the view that G.O.Ms.No.351 dated 29.08.1978 granted tax exemption only to those vehicles fitted with such gadgets or contrivances, owned by physically handicapped persons, and hence refund of life tax is not permissible as no gadget or contrivance was fixed in the car of the Petitioner.

4. Aggrieved by the said rejection, the petitioner has approached this Court by way of the present writ petition.

5. Sri Sasanka Bhuvanagiri, learned counsel for the petitioner submits that the stipulation in G.O.Ms.No.351 dated 29.08.1978 was that a car should be altered to enable the physically handicapped persons to drive the vehicle and the said stipulation should not be understood as a condition precedent for grant of refund.

6. The learned Government pleader for Transport has filed a counter affidavit on behalf of the respondents. He contends that exemption of tax payable under the Act would be available only to such vehicles, which are fitted with some gadgets or contrivances to make the vehicle capable of driving by physically handicapped persons, who own the vehicle. He further relies upon the TCs Circular Memo No.14/4928/S/2012, dated 18.10.202, which reads as follows:

"It is observed that G.O.Ms.No.351 Tr R&B (Tr-1) Dept, dated 29.08.1978 is a facility given to physically challenged persons to encourage them, which is negated by the fact that first they have to pay life tax and later apply for refund and pursue. In order to reduce the hardship to physically challenged persons, it has been



decided to allow exemption of payment of Life Tax at the temporary registration stage itself. Later when the applicant comes for registration, the verification with reference to fitment of Gadgets/contrivances can be made. If fitments are not made prescribed Life Tax can be collected and then only their vehicles registered.”

7. The learned Government Pleader would submit that the said circular makes it amply clear that the benefit of exemption is available only if a gadget or contrivance modifies the car to enable a physically handicapped person to drive the car and in the absence of such an alteration there can be no exemption.

8. Heard Sri Sasanka Bhuvanagiri, learned counsel for the petitioner and learned Government Pleader for Transport, Roads & Buildings.

9. G.O.Ms.No.351, Tr., R & B (Tr-II), dated 29.08.1978 reads as follows:

“In exercise of the powers conferred by sub-section (1) of Section 9 of the Andhra Pradesh Motor Vehicles Taxation Act, 1963 (Act 5 of 1963) and in supersession of the orders issued in G.O.Rt.No.1445, Home (Tr-II) Department, dated 06.05.1972, the Governor of Andhra Pradesh hereby grants exemption of the tax payable under the said Act in respect of all motorised vehicles other than transport vehicles owned by physically handicapped persons and fitted with such gadgets or contrivances as to make the vehicles capable of being driven by them so long as they are driven exclusively by such persons except while proceeding to or returning from a work shop for repairs, subject to the following conditions, namely:

- i) the physically handicapped person driving the vehicle shall possess a valid licence to drive motorised vehicle;
- ii) a board with inscription “driven by a physically handicapped person” shall be exhibited to the front of the vehicle.

10. A reading of the G.O. would show that the exemption granted under the G.O. is only for vehicles which are driven by physically handicapped



persons. There are two conditions precedent for grant of exemption. Firstly, the vehicle should be owned by a physically handicapped person. Secondly, the vehicle should be driven by the handicapped person alone. It must be remembered that the said G.O. has been issued in the year 1978 when it would be extremely difficult for a physically handicapped person to drive a regular mass produced motor vehicle. In those days, a physically handicapped person would have been able to drive such a vehicle only after it was suitably modified by fitting it with gadgets or contrivances. Keeping in view this requirement, the stipulation that such exemption should be given only after the vehicle has been suitably modified appears to have been incorporated.

11. In view of the technological advances since then, we now have motor vehicles which can be driven by physically handicapped persons, without any further modification. The G.O. has been given as a measure of benefit and has to be understood in that perspective by giving a liberal interpretation. The object of incorporating the words –

“fitted with such gadgets or contrivances as to make the vehicles capable of being driven by them so long as they are driven exclusively by such persons”

– is to ensure that the registering authority verifies whether the motor vehicle is capable of being driven by a physically handicapped person. Once the intent in the said Government Order is clear, the subsequent circular issued on 18.10.2012 cannot be taken to mean that exemption is available only if there is an alteration of the vehicle.

12. In the circumstances, G.O.Ms.No.351 dated 29.08.1978 has to be understood to mean that any physically handicapped person, who purchases a vehicle other than a transport vehicle, for his personal driving, would be entitled for an exemption of tax payable under the A.P. Motor Vehicles Act, or the A.P. Motor Vehicle Taxation Act, 1963, provided the authority is satisfied that the said vehicle is capable of being driven by a physically handicapped person. In the



present instance it is nobody's case that the vehicle of the Petitioner cannot be driven by him, without further modification. In such circumstances the registering authority cannot insist that there must be some modification to the vehicle before an exemption is granted from payment of life tax.

13. In view of the above, this writ petition is allowed. The proceedings dated 26.02.2020 in Rc.No.3897/C2/2020, passed by the 3rd respondents are set aside with a direction to the 3rd respondent to refund the life tax paid by the petitioner on his car bearing No.A.P-16-FC-3897, within a period of three weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

6th July, 2021
Js.

R. RAGHUNANDAN RAO, J.



HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

W.P.No.8868 of 2021

6th July, 2021

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