

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION NO: 1588 OF 2013

Between:

S. Sudeep Reddy, S/o. S. Prasen Kumar Reddy, age 32, Occ ; Advocate, R/o. H.No. 8-3-1102/2, Flat No. 501, Geetanjali, Plot No. 108, Sri Nagar Colony, Hyderabad -- 73.

.....PETITIONER

AND

1. State of Andhra Pradesh, represented by Principal Secretary, Transport, Secretariat, Hyderabad.
2. The Transport Commissioner,, Dr. B.R.Ambedkar, Transport Bhavan, Khairtabad, Hyderabad - 82.
3. Regional Transport Authority, Central Zone, RTA, Khairatabad, Hyderabad - 82.
4. Joint Transport Commissioner and Secretary RTA, # 6-3-646, Opp Eenadu Office, Somajiguda, Hyderabad - 82.
5. Malik Cars Private Limited, Authorised dealers of TATA Motors and FIAT, # 3-6-422 and 422/A, Street No.3, Main Road, Himayat Nagar, Hyderabad - 29.

.....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to passed a Writ or order or direction, moreso in the native of Writ of mandamus, whereby directing the Respondents to refund an amount of Rs. 10,093.34, along with interest or 12% P.A., which was collected excessly in relation to Vehicle Registration bearing No. AP09CM7545, by declaring the same

to be without authority of law, being in violation of Article 14, 19, 21, 265, 300A of the Constitution of India, and also being arbitrary, illegal, and without jurisdiction.

I.A.NO:1 OF 2013 (WPMP.NO:1915 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No.2 to dispose of the representation dated 03-11-2012 submitted by the petitioner.

Counsel for the Petitioner : M/s LAWYERS & SOLICITORS

**Counsel for the Respondents : SRI MOHAMMED IMRAN KHAN, ADDITIONAL
ADVOCATE GENERAL**

The Court made the following ORDER ; -

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION No.1588 of 2013

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Anand Kumar Kapoor, learned counsel representing M/s. Lawyers & Solicitors, for the petitioner.

Mr. Mohammed Imran Khan, learned Additional Advocate General for the State.

2. In this writ petition, the petitioner, *inter alia*, seeks a writ of mandamus to the respondents to refund the sum of Rs.10,093.34 along with interest @ 12% per annum, which according to the petitioner, has been collected in excess of the life tax on the vehicle which is purchased by him. In order to appreciate the grievance of the petitioner, reference to the relevant facts need mention which are stated infra.

3. The petitioner had purchased the vehicle, namely Fiat Grande Punto 1.3 Multijet Diesel Emotion, vide invoice

No.MalikC-1213-00899, dated 26.09.2012, for a sum of Rs.6,63,973.00 including taxes. In the invoice, the unit price of the vehicle was shown as Rs.6,08,638.88 and a discount of Rs.28,750.04 was given to the petitioner. Thus, the unit price of the vehicle is Rs.5,79,888.84. On the aforesaid amount, an amount of Rs.84,083.88 was collected from the petitioner on account of value added tax. Thus, the total consideration of the vehicle is Rs.6,63,973.00. The petitioner got the said vehicle registered on 04.10.2012 and a tax receipt was issued to the petitioner on 26.09.2012.

4. A sum of Rs.79,680.00 was collected from the petitioner as life tax on the said vehicle. According to the petitioner, an excess amount of Rs.10,093.34 has been collected from the petitioner and the amount of value added tax cannot be treated to be the cost of the vehicle. The petitioner thereupon submitted a representation on 03.11.2012 to the respondents. However, the representation submitted by the petitioner failed to evoke

any response. The petitioner, therefore, has filed this writ petition.

5. Learned counsel for the petitioner, at the outset, has invited the attention of this Court to the expression "cost of the vehicle" as defined in Section 2(aa) of the Telangana Motor Vehicles Taxation Act, 1963 (hereinafter referred to as, "the Act"), and pointed out that the aforesaid provision was inserted with effect from 13.04.2023. It is submitted that prior to 13.04.2023, the expression "cost of the vehicle" was not defined in the Act and, therefore, the same cannot mean to include the tax. The respondents have no authority to impose tax. The attention of this Court has also been invited to Section 3 of the Act and it has been contended that the life tax has been collected in contravention to the maximum limit prescribed under the First Schedule appended to the Act. It is, therefore, urged that the amount of Rs.10,093.34 along with interest @ 12% per annum be refunded to the petitioner. In support of the aforesaid submission, reliance has been placed on the Single Bench decision of the Andhra Pradesh High Court in

Talasila Sowjanya v. The State of Andhra Pradesh

(W.P.Nos.12089 of 2019 and 3049 of 2021, dated 13.06.2023).

6. On the other hand, learned Additional Advocate General has submitted that the cost of the vehicle includes the component of tax and, therefore, the tax has rightly been levied. In support of the aforesaid submission, reliance has been placed on an order passed by a Division Bench of this Court in **State of Telangana v. K.Rai Sohni** (W.A.No.805 of 2018 and batch, dated 29.01.2019).

7. We have considered the submissions made on both sides and have perused the record.

8. It is trite law that if an expression is not defined either under the Act or the Rules, its meaning has to be understood as common parlance. In common parlance, the expression "cost of the vehicle" is the amount actually paid by the purchaser to the dealer and it is the consideration for transfer of the vehicle from the dealer to the purchaser. Admittedly, the State Government had

issued a Circular Memo No.49840/02/1994, dated 07.01.1994, which prescribed that the cost of a new vehicle means the total cost of the vehicle inclusive of all taxes as per the invoice and not the price of the vehicle noted therein. It is not in dispute that the aforesaid Circular Memo was in vogue at the time when the petitioner purchased the vehicle. Thus, the aforesaid Circular Memo issued by the State Government, the validity of which is not under challenge before us, has to be taken into consideration while construing the expression "cost of the vehicle", which also indicates that the cost of the vehicle means the total cost of the vehicle inclusive of all taxes as per the invoice and not merely the price of the vehicle noted therein. Therefore, the contention urged on behalf of the petitioner that the cost of the vehicle does not include tax and the respondents have no authority to levy tax on tax, does not deserve acceptance.

9. Section 3 of the Act deals with levy of tax on motor vehicles. Section 3(1) of the Act provides that the Government may, by notification, from time to time, direct

that a tax shall be levied on every motor vehicle used or kept for use, in a public place in the State. The fourth proviso to Section 3(2) of the Act deals with levy of life tax on a vehicle. The relevant extract of Section 3(2) of the Act is extracted below for the facility of reference:

“(2) The notification issued under sub-section (1) shall specify the class of motor vehicles on which, the rates for the periods at which, and the date from which, the tax shall be levied:

...

Provided also that in the case of three or four wheeler motor vehicles including Motor Cars coming under non-transport category, omni buses upto a seating capacity of (10) ten persons in all, new Motor Cabs and the Motor Cabs of other States that are entering into the rolls of this State by way of change of address or transfer of ownership, the tax shall be levied at the rates specified in the Sixth Schedule.”

10. Thus, from a perusal of the aforesaid proviso, it is evident that the levy of life tax on a vehicle is governed by the rates prescribed in the Sixth Schedule appended to the Act. Therefore, the contention that the levy has been made in contravention of the First Schedule appended to the Act, also does not deserve acceptance.

11. For the aforementioned reasons, we do not find any merit in the writ petition. The same fails and is hereby dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

//TRUE COPY//

SDI-A.V.S.PRASAD
ASSISTANT REGISTRAR

SECTION OFFICER

To

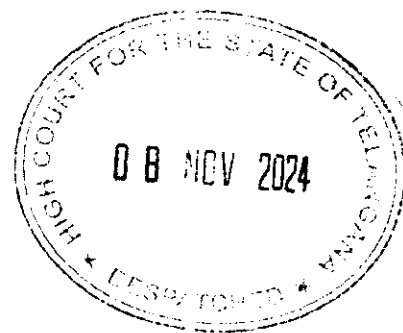
1. One CC to M/s LAWYERS & SOLICITORS, [OPUC]
2. Two CCs to Advocate General, High Court for the State of Telangana at Hyderabad. [OUT]
3. One CC to SRI MOHAMMED IMRAN KHAN, Advocate (OPUC)
4. Two CD Copies

SA
GJP



HIGH COURT

DATED:03/09/2024



ORDER

WP.No.1588 of 2013

**DISMISSING THE W.P
WITHOUT COSTS.**

Ⓢ
08/11/24
bx