

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

MONDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

WRIT PETITION NO: 19141 OF 2015

Between:

Ramnath Arumugam, s/o Arumugam Ramasamy, Aged 31 years, Assistant Vice President , (South India) Wasan Dental Health Care, R/o H. No. 33/38, Sarangapani Street, T.Nagar, Chennai-17, Tamilnadu State.

...PETITIONER

AND

1. The Regional Transport Officer, (Central Zone) O/o The Joint Transport Commissioner and Secretary RTA, RTA Cimplex, Somajiguda, Hyderabad.
2. The Joint Transport Commissioner & SRTA, RTA Complex, Somajiguda, Hyderabad.
3. The Assiatant Motor Vehicles Inspector, Sangareddy, Medak District, on Special Duty at Hyderabad.
4. The Transport Commissioner, Government of Telangana State, RTA Complex, Somajiguda, Hyderabad.
5. State of Telangana, Represented by The Principal Secretary to Government, Transport Roads and Buildings Department, Transport Wing, Secretariat, Hyderabad.

...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 issue an appropriate writ, order or direction more particularly onr in the nature of Writ of Mandamus and declare the memo R. No. 3175/C19/HC/2015 dated 12-06-2015 of the 1st respondent insisting to pay life tax to the petitioners other state car TN76F2332 for which life tax has already been paid, in spite of the Orders of the 5th respondent issued in GO Ms. No. 601 Home (Tr-II) Department dated 27-03-1963 and in violation of the Orders of this Honble Court and seizure

of the vehicle by the 3rd respondent as illegal, arbitrary, discriminatory, adamant, malafide, vindictive and against the Fundamental Rights guaranteed under Articles 19 and 21 of the Constitution of India and consequently direct the respondents herein to release the vehicle to the petitioner.

I.A. NO: 1 OF 2015(WPMP. NO: 24750 OF 2015)

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 2nd respondent to release the petitioner's car TN76F2332 seized by the 3rd respondent forthwith.

Counsel for the Petitioner : SRI C.L.N.GANDHI

Counsel for the Respondents: SRI VIGNESWAR REDDY, GP FOR TRANSPORT

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.19141 of 2015

ORDER: *(Per the Hon'ble Sri Justice J. Sreenivas Rao)*

This writ petition has been filed questioning the memo R.No.3175/C19/HC/2015, dated 12.06.2015 of the respondent No.1 demanding the petitioner to pay an amount of Rs.1,79,920/- towards tax and penalty to the car bearing No. TN 76 F 2332.

2. Heard Sri C.L.N.Gandhi, learned counsel for the petitioner through online and Sri M.Vigneswar Reddy, learned Government Pleader for Transport appearing for respondents.

3. **Brief facts of case:**

3.1 Facts giving rise to filing of this writ petition briefly stated are that the father of the petitioner, namely Arumugam Ramasamy, was the owner of the car bearing No.TN 76 F 2332 (for short 'the subject vehicle') and doing business and he paid life tax to the State of Tamil Nadu. His father uses the vehicle regularly for his business purpose in Chennai. The petitioner

brought the vehicle to Hyderabad for temporary visit on an official trip. While the petitioner was going to Vasan Hospital, Banjara Hills, on 02.12.2014 respondent No.3 stopped and checked the subject vehicle and issued a Vehicle Check Report No.251847 on the ground that the subject vehicle was liable to pay Telangana life time tax and seized the subject vehicle invoking the provisions under Sections 8 and 207 of the Motor Vehicles Act, 1963 (for short, 'the Act'). Aggrieved by the said seizure, the father of the petitioner filed W.P.No.1738 of 2015 before the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh and the said writ petition was disposed of on 02.02.2015 permitting his father to approach respondent No.2 therein and make appropriate application for release of the vehicle and on receipt of such application, respondent No.2 was directed to consider the same and pass appropriate orders thereof within one week from the date of receipt of the application for release of the vehicle subject to appropriate conditions. Pursuant to the said order, the father of the petitioner submitted application on 10.02.2015 before the Regional Transport Authority, Khairatabad Central Zone, Khairatabad, Hyderabad, and the

said authority while passing an order No.C19/HC/2015 dated 14.02.2015 directed the father of the petitioner to pay an amount of Rs.1,60,640/- towards life time tax, Rs.19,280/- towards penalty and Rs.525/- towards compounding fee. Questioning the said order, the father of the petitioner filed W.P.No.6978 of 2015 before the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh and the said writ petition was allowed on 18.03.2015 on the ground of non-mentioning the legal provision and directed the concerned respondent authority to hear and take note of specific power to impose life time tax on a vehicle which was been registered admittedly in another State and the said exercise shall be completed within a period of three weeks from the date of communication of the order. Thereafter, respondent No.2 issued show cause notice R.No.2161/C19/HC/2015 dated 13.04.2015 directing the father of the petitioner to submit explanation within one week as to why an amount of Rs.1,60,640/- towards life time tax, Rs.19,280/- towards penalty and Rs.525/- towards compounding fee should not be collected. Pursuant to the said show-cause notice, the father of the petitioner submitted

explanation on 20.05.2015 stating that as per G.O.Ms.No.601 Home (Tr-II) Department dated 27.03.1963, the Government exempted tax in respect of other State Non-Transport Vehicles which were registered and normally kept in any other State in India for which tax had been paid to the home State, hence, the subject vehicle is not liable to pay life time tax, penalty or compounding fee. Thereafter, respondent No.2 passed impugned order dated 12.06.2015 directing the owner of the vehicle to pay an amount of Rs.1,79,920/- towards tax and penalty. Aggrieved by the same, present writ petition is filed.

Submissions of the learned counsel for the petitioner:

4. Learned counsel for the petitioner submitted that the father of the petitioner purchased the subject vehicle in Chennai and he paid life time tax to the State of Tamil Nadu and the petitioner brought the subject vehicle for temporary visit to Hyderabad and respondent No.3 seized the vehicle on the ground that the subject vehicle is liable to pay Telangana life time tax and the same is contrary to law. He further submitted that once life time tax is paid to the vehicle in the State of Tamil Nadu where the said vehicle was registered,

merely because of the vehicle entered for temporary purpose in other State, the vehicle is not liable to pay life time tax.

4.1. He further submitted that the Government had issued G.O.Ms.No.601 dated 27.03.1963 exempting tax in respect of other State non-transport vehicles which were registered and normally kept in any other State in India for which tax has been paid to the home State and the said G.O. is still in existence. Respondent No.1, without properly considering the explanation dated 20.05.2015 submitted by the father of the petitioner to the show cause notice dated 13.04.2015, passed the impugned order.

4.2. He further submitted that in earlier round of litigation in W.P.No.6978 of 2015, the Division Bench of erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh set aside the order passed by respondent No.2 therein dated 14.02.2015 and directed the respondent authorities to pass orders afresh specifically mentioning the power to impose life time tax on a vehicle which has been registered admittedly in another State, by its order

dated 18.03.2015. However, respondent No.1 without mentioning the source of power passed the impugned order.

Submissions of learned Government Pleader for Transport:

5. Learned Government Pleader submitted that as per the provisions of Section 3(1) of the Motor Vehicle Taxation Act, 1963 (hereinafter referred to as 'the Act, 1963') and the Motor Vehicle Taxation Rules, the subject vehicle is liable to pay life time tax in the State of Telangana and respondent No.1 after following the due procedure as contemplated under law and after considering the explanation submitted by the father of the petitioner rightly passed the impugned order dated 12.06.2015.

Analysis:

6. This Court considered the rival submissions made by the respective parties and perused the material available on record. It is an undisputed fact that the subject vehicle was registered in the State of Tamil Nadu and life time tax was paid to the State of Tamil Nadu. Respondent No.3 on 02.12.2014 issued Vehicle Check Report No.25184 and seized the subject vehicle exercising the powers conferred under Sections 8 and 207 of

the Act on the ground that the subject vehicle is liable to pay Telangana life time tax. Questioning the said seizure, the father of the petitioner filed W.P.No.1738 of 2015 and the said writ petition was disposed of directing him to submit application before respondent No.2 for release of the vehicle and on such application, respondent No.2 is directed to consider the same and pass appropriate orders for release of the vehicle subject to appropriate conditions. Thereafter, respondent No.1 passed order dated 14.02.2015 directing the registered owner i.e., father of the petitioner, to pay life time tax of an amount of Rs.1,60,640/-, penalty of an amount of Rs.19,280/- and compounding fee of Rs.525/-. Aggrieved by the said order, the father of the petitioner filed W.P.No.6978 of 2015 and the same was allowed on 18.03.2015 by setting aside the order dated 14.02.2015 on the ground that impugned order has not reflected the legal provision and the respondent authorities were directed to pass appropriate orders within a period of three weeks. Thereafter, respondent No.1 had issued show cause notice dated 13.04.2015 directing the father of the petitioner to submit explanation as to why an amount of Rs.1,70,920/- towards life time tax, penalty and compounding

fee should not be collected from the registered owner within a period of one week. In the said notice, it was mentioned that as per the provisions of Sections 3(1) and 4(4) of the Act, 1963 as well as the Motor Vehicle Taxation Rules, the owner of the vehicle is liable to pay life time tax. Pursuant to the said notice, the father of the petitioner submitted an explanation on 20.05.2015 wherein he stated that as per G.O.Ms.No.601 dated 27.03.1963, the Government exempted tax in respect of other State non-transport vehicles which were registered and normally kept in other State in India for which tax has been paid to the home State and the subject vehicle is not liable for payment of life tax. Thereafter, respondent No.1 passed the impugned order directing the father of the petitioner, who is the owner of the vehicle, to pay an amount of Rs.1,79,920/- towards life time tax, penalty and compounding fee.

7. It is relevant to place on record that similar issue has came up for consideration before this Court in W.P.No.17038 of 2014 wherein light motor vehicle was registered in the State of Tamil Nadu and owner paid life time tax to the State of Tamil Nadu. When the said vehicle entered in the composite State of Telangana and Andhra Pradesh, the transport authorities

seized the vehicle on the ground that the said vehicle is required to pay life time tax and penalty. Learned Single Judge of this Court while considering the provisions of the Act, 1963 and the Motor Vehicle Taxation Rules allowed the writ petition on 10.07.2014 holding that statute maker never intended a motor vehicle to suffer repeated life tax payment obligation; the motor vehicles which are registered in some other State but entering into the State for purposes of entering the rolls of that State by way of change of address or transfer of ownership, alone are required to suffer the tax specified in Sixth schedule; if a motor vehicle registered in some other State entered into the composite State of Andhra Pradesh or the bifurcated State of Telangana or Andhra Pradesh, it is not required to suffer to taxation spelt out in the Sixth schedule, automatically.

8. In **State of Karnataka and others vs. Sri Jagadev Biradar** (W.A.No.850 of 2016 and batch), the validity of the explanation 2 to Section 3 of the Karnataka Motor Vehicle Taxation Act, 1957 was in question before Karnataka High Court, Bengaluru and the Division Bench of the said Court held that tax under Section 3(1) of the Karnataka Motor Vehicle Taxation Act, 1957 is leviable on a motor vehicle which is plying

in the State of Karnataka and which has been registered in the State under the Act. For the vehicle, which is registered outside the State and re-registered in the State of Karnataka under Section 47 of the Motor Vehicles Act, 1988, Section 3(1) of the Karnataka Motor Vehicle Taxation Act, 1957 would apply and life time tax is leviable and not otherwise.

9. In the case on hand, the subject vehicle was registered in the State of Tamilnadu and life time tax was paid to the State of Tamilnadu. The said vehicle has entered into the State of Telangana for temporary purpose and the said vehicle was not re-registered in the State of Telangana. If the said vehicle is re-registered in the State of Telangana as per the provisions of Motor Vehicles Act, 1988, it is liable for payment of life time tax. Merely on the ground that the vehicle has entered into the State of Telangana, for temporary purpose and limited period, the respondent authorities are not entitled to demand for payment of life time tax.

10. For the foregoing reasons, the impugned order dated 12.06.2015 passed by respondent No.1 is liable to be set aside and accordingly set aside. The respondents are directed to

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refund the amount to the owner of the vehicle, which was deposited pursuant to the interim order dated 09.07.2015, within a period of one month from the date of receipt of a copy of this order.

11. Accordingly, the writ petition is allowed. No costs.

Miscellaneous petitions, pending if any, shall stand closed.

SD/-P.CH.NAGABHUSHAMBA
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

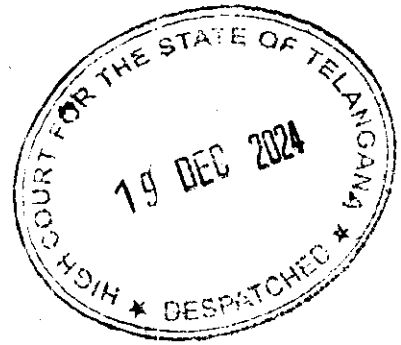
1. The Regional Transport Officer, (Central Zone) 0/o The Joint Transport Commissioner and Secretary RTA, RTA Cimplex, Somajiguda, Hyderabad.
2. The Joint Transport Commissioner & SRTA, RTA Complex, Somajiguda, Hyderabad.
3. The Assistant Motor Vehicles Inspector, Sangareddy, Medak District, on Special Duty at Hyderabad.
4. The Transport Commissioner, Government of Telangana State, RTA Complex, Somajiguda, Hyderabad.
5. The Principal Secretary to Government, Transport Roads and Buildings Department, State of Telangana, Transport Wing, Secretariat, Hyderabad.
6. One CC to SRI C.L.N.GANDHI, Advocate. [OPUC]
7. Two CCs to GP FOR TRANSPORT, High Court for the State of Telangana. [OUT]
8. Two CD Copies.

BSK/BSK

K.P.

HIGH COURT

DATED:09/12/2024



ORDER

WP.No.19141 of 2015

**ALLOWING THE WRIT PETITION
WITHOUT COSTS**

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13/12/24.