IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Writ Petition No. 11535/2023

Khuman Singh S/o Smrith Singh, Aged About 63 Years, R/o. 166, Bhawanipura, Pokaran, Ward No. 19, Pokaran, Dist. Jaisalmer, Rajasthan. At Present 374, Rajputon Ka Bera, Chandsama, Shergarh, Dist. Jodhpur- Rajasthan. (Rj 24 Pa 4016).

----Petitioner

Versus

1. State Of Rajasthan, Through Joint Secretary, Transport Department, Government Of Rajasthan, Parivahan Bhawan, Sahkar Bhawan Marg, Jaipur - 302005- Rajasthan.
2. Union Of India, Through Commissioner, Department Of Transport Ministry Of Road Transport And Highways, Transport Bhawan, 1, Parliament Street, New Delhi-110001.
3. District Transport Officer (Taxation Officer), District Jodhpur, Bjs Colony, Jodhpur, Rajasthan 342006
4. District Transport Officer (Registering Authority), District Sirohi, Sirohi, Rajasthan 307001

----Respondents

Connected with

D.B. Civil Writ Petition No. 9901/2023

Shivari Devi W/o Shri Babu Lal, Aged About 48 Years, Resident Of Vishnoiyon Ka Bass, Dhawa, Jodhpur (Raj.).

----Petitioner

Versus

1. The State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.
2. The Regional Transport Authority, Jodhpur (Raj.).
3. The Taxation Officer, Department Of Motor Tax Department, R.t.o., Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 9997/2023

Parmila Rajpurohit W/o Shri Rajendra Singh, Aged About 59 Years, Resident Of 27C, 11Th Pal Road, Jodhpur (Raj).

----Petitioner

Versus

1. State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.

2. The Regional Transport Authority, Jodhpur (Raj)
3. The Taxation Officer, Department Of Motor Tax Department, R.t.o Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10020/2023

Jogendra Choudhary S/o Shri Pokar Ram Choudhary, Aged About 36 Years, Resident Of A81, Sharmikpura, Masuriya, Jodhpur (Raj)

----Petitioner

Versus

1. State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.
2. The Regional Transport Authority, Jodhpur (Raj)
3. The Taxation Officer, Department Of Motor Tax Department, R.t.o Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10068/2023

Govind Ram Choudhary S/o Shri Mohan Lal Choudhary, Aged About 70 Years, Resident Of A10, Sharmikpura, Masuriya, Jodhpur (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.
2. The Regional Transport Authority, Jodhpur (Raj.)
3. The Taxation Officer, Department Of Motor Tax Department, R.t.o., Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10072/2023

Gavri Devi W/o Pokar Ram, Aged About 49 Years, Resident Of Shramikpura Masuriya Jodhpur (Raj.).

----Petitioner

Versus

1. The State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.
2. The Regional Transport Authority, Jodhpur (Raj.).
3. The Taxation Officer, Department Of Motor Tax Department, R.t.o., Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10500/2023

Raksha W/o Jitendra, Aged About 68 Years, Resident Of Sarkari

School, Pal Road, Kheme Ka Kua, Jodhpur (Raj.)

----Petitioner

Versus

1. The State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.
2. The Regional Transport Authority, Jodhpur (Raj.)
3. The Taxation Officer, Department Of Motor Tax Department, R.t.o., Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10522/2023

Nathu Ram Puniya S/o Shri Baga Ram, Aged About 47 Years, Resident Of P.no. 9, Balaji Nagar, Pal Road, Jodhpur Rajasthan

----Petitioner

Versus

1. The State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.
2. The Regional Transport Authority, Jodhpur (Raj.)
3. The Taxation Officer, Department Of Motor Tax Department, R.t.o., Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10526/2023

Puna Ram S/o Jugta Ram, Aged About 59 Years, Resident Of Dhandhniya Bhaila, Shergarh, Jodhpur.

----Petitioner

Versus

1. The State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.
2. The Regional Transport Authority, Jodhpur (Raj.)
3. The Taxation Officer, Department Of Motor Tax Department, R.t.o., Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10581/2023

Shivari Devi W/o Late Shri Babu Lal, Aged About 48 Years, Resident Of Vishnoiyon Ka Bass, Dhawa, Jodhpur (Raj)

----Petitioner

Versus

1. The State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.
2. Th Regional Transport Authority, Jodhpur (Raj).

3. The Taxation Officer, Department Of Motor Tax Department, R.t.o. Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10781/2023

Khuman Singh S/o Shri Karan Singh, Aged About 69 Years, Resident Of 722, Hanslaw Ka Bera, Ward No. 58, Jodhpur (Raj).

----Petitioner

Versus

1. State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.
2. The Regional Transport Authority, Jodhpur (Raj)
3. The Taxation Officer, Department Of Motor Tax Department, R.t.o., Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 11080/2023

Vikram Singh S/o Shri Khuman Singh, Aged About 33 Years, Resident Of 722, Hanslaw Ji Ka Bera Warnd No. 58, Jodhpur (Raj.).

----Petitioner

Versus

1. The State Of Rajasthan, Through The Commissioner Cum Secretary, Department Of Transport, Government Of Rajasthan, Jaipur.
2. The Regional Transport Authority, Jodhpur (Raj.).
3. The Taxation Officer, Department Of Motor Tax Department, R.t.o., Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 11536/2023

Khuman Singh S/o Smrith Singh, Aged About 63 Years, R/o 166, Bhawanipura, Pokaran, Ward No. 19, Pokaran, Dist. Jaisalmer, Rajasthan. At Present 374, Rajputon Ka Bera, Chandsama, Shergarh, Dist. Jodhpur, Rajasthan. (RJ 19 PB 8236)

----Petitioner

Versus

1. State Of Rajasthan, Through Joint Secretary, Transport Department, Government Of Rajasthan, Parivahan Bhawan, Sahkar Bhawan Marg, Jaipur-302005, Rajasthan.
2. Union Of India, Through Commissioner, Department Of Transport, Ministry Of Road Transport And Highways, Transport Bhawan, 1, Parliament Street, New Delhi 110001.
3. District Transport Officer (Taxation Officer), District

Jodhpur, Bjs Colony, Jodhpur, Rajasthan 342006.

4. District Transport Officer (Registering Authority), District Jodhpur, Bjs Colony, Jodhpur, Rajasthan 342006.

----Respondents

D.B. Civil Writ Petition No. 11672/2025

Karan Singh S/o Shri Ugam Singh, Aged About 45 Years, R/o Madho Singh Ki Dhani, Ketu Dhirpura, Balesar Satta, Dheerpura, Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11685/2025

Derawar Singh S/o Shri Kan Singh, Aged About 42 Years, R/o Ward No. 9, Bonada, Jaisalmer, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11722/2025

Achal Singh S/o Shri Ugam Singh, Aged About 38 Years, R/o Madho Singh Ki Dhani, Ketoo Dheerpura, Balesar, Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.

3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11759/2025

Karan Singh S/o Shri Ugam Singh, Aged About 45 Years, R/o Madho Singh Ki Dhani, Ketu Dhirpura, Balesar Satta, Dheerpura, Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11761/2025

Pep Singh S/o Shri Song Singh, Aged About 70 Years, R/o. Bari Sidd, Bari Seer, Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11779/2025

Pukh Singh S/o Shri Bhagwat Singh, Aged About 31 Years, R/o Chhadi, Rohina, Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.

4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11800/2025

Achal Singh S/o Shri Ugam Singh, Aged About 38 Years, R/o Madho Singh Ki Dhani, Ketoo Dheerpura, Balesar, Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11801/2025

Shyam Singh S/o Shri Prem Singh, Aged About 43 Years, R/o Rajputo Ka Baas, Dantal, Jaisalmer, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11803/2025

Bhikam Giri S/o Pratap Giri, Aged About 41 Years, R/o 98 Swamiyo Ki Dhani, Kui Jodha, Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional

Transport Officer, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11805/2025

Nakhat Singh S/o Shri Ugam Singh, Aged About 44 Years, R/o Mokamgarh, Dheerpura, Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11809/2025

Pep Singh, S/o. Shri Song Singh, Aged About 70 Years, R/o. Bari Sidd, Bari Seer, Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 11841/2025

Padam Singh Rathore S/o Shri Sumer Singh, Aged About 42 Years, R/o Setrawa, Shergarh, Jodhpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Transport, Government Of Rajasthan, Jaipur, Rajasthan.
2. Commissioner, Department Of Transport, Jaipur, Rajasthan.
3. Regional Transport Authority, Jodhpur, Rajasthan.
4. Taxation Officer, Department Of Motor Tax, Regional Transport Office, Jodhpur, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Saurabh Maheshwari Mr. Deven Maheshwari, Mr. Manvendra Singh Rathore with Mr. Ashok Godara. Ms Saumya Choudhary. Mr. Manish Bhunwal for Mr. Sajjan Singh Rajpurohit
For Respondent(s)	:	Mr. Sajjan Singh Rathore, AAG with Mr. Yuvraj Singh Rathore. Mr. B.L. Bhati, AAG with Mr. Deepak Chandak

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

HON'BLE MR. JUSTICE ANUROOP SINGHI

Per Hon'ble Mr. Justice Vinit Kumar Mathur, J.

Order

Reportable

Judgment Reserved on : 18/08/2025

Judgment Pronounced on : 22/08/2025

D.B. Civil Writ Petition No. 11535/2023 :

1. The present writ petition raises a challenge to the amendment made by Transport Department, Government of Rajasthan by Notification dated 24.02.2021, whereby, a new category at S.No.7(a)(iii) has been inserted in the existing Notification dated 10.07.2019. Challenge has further been made to the notice issued by the respondents in Form M.T.R. dated 24.03.2023 and demand notice issued in Form M.T.Q. dated 21.06.2023. A further declaration has been sought to the effect that the petitioner be assessed and taxed as per S.No.7(a)(ii) of Notification dated 10.07.2019 read with notification dated 24.02.2021 and be granted exemption thereunder.

2. Brief facts of present writ petition relevant for consideration of the above challenge are that the petitioner is the registered owner of a motor vehicle bearing Registration No. RJ-24 PA 4016,

registered on 15.06.2017 as a 'Bus' with body type 'Sleeper', and operating under a valid contract carriage permit for plying vehicle exclusively within the Revenue Divisional Limits. Vide Notification dated 10.07.2019 issued under the Rajasthan Motor Vehicles Taxation Act, 1951, motor vehicle tax was prescribed on the basis of the class of vehicle and seating capacity, with 'body type' considered only for computation purposes, and the petitioner's vehicle accordingly fell under Serial No. 7(a)(ii) of the said Notification.

3. By Amendment-cum-Exemption Notification dated 24.02.2021, the State Government substituted Serial No. 7(a) of the 2019 Notification, altered tax rates, and introduced a new category at Serial No. 7(a)(iii) 'Sleeper Bus', thereby imposing a separate levy based on body type, without extending the exemptions as made available to Serial Nos. 7(a)(i) and 7(a)(ii). A further Amendment Notification dated 23.02.2022 enhanced the exemption for categories under Serial Nos. 7(a)(i) and 7(a)(ii) from 50% to 70%, but continued to exclude category at Serial No. 7(a)(iii) 'Sleeper Bus' from such benefit.

Even subsequent to these amendments, the petitioner was taxed under S.No. 7(a)(ii) and the tax was accordingly paid by him. However, vide impugned notices dated 24.03.2023 and 21.06.2023 the impugned demand towards tax was raised by the District Transport officer (Taxation Officer) for the period 01.04.2022 to 30.06.2023. The petitioner has challenged the vires of the amendment introducing Serial No. 7(a) (iii) 'Sleeper Bus', contending that the State Government lacked authority to create a new class of motor vehicle under the guise of taxation and the same is ultra vires to the Motor Vehicles Act, 1988 and contrary to the scheme of the original Notification, and that the impugned demand is without jurisdiction, in violation of the Motor Vehicles Act, 1988, and in breach of the principles of natural justice. Hence the present writ petition has been filed.

4. Learned counsel for the petitioner submitted that the impugned amendment to the Notification dated 10.07.2019 made vide Notification dated 24.02.2021, whereby, a new category 'Sleeper Bus' was inserted at Serial No. 7(a)(iii), is arbitrary, illegal and without jurisdiction. He submitted that under the Rajasthan Motor Vehicles Taxation Act, 1951, the State Government is empowered only to levy motor vehicle tax on the basis of the class of motor vehicles and their seating capacity as per the parent Notification, whereas the classification of motor vehicles is within the exclusive domain of the Central Government under the Motor Vehicles Act, 1988. By introducing 'Sleeper Bus' as a separate taxable class on the basis of body type, the State Government has acted beyond its legislative competence.

5. He further submitted that Article 265 of the Constitution of India mandates that no tax shall be levied or collected except by authority of law, which means that there must be a valid law authorizing the levy and the collection of tax must be in accordance therewith. The Rajasthan Motor Vehicles Taxation Act, 1951 does not authorize the creation of a new class of motor

vehicles, and a bare perusal of the parent Notification dated 10.07.2019 shows that the levy is based on the class of motor vehicles and their seating capacity, not their body type. The impugned amendment changes the very basis of taxation by substituting 'body type' for 'class of vehicle', thereby altering the basic structure of the parent Notification, which is impermissible in law.

6. Learned Counsel for the petitioner submitted that the "Explanation" in the original Notification, which continues to remain, stipulates that each sleeper berth shall be counted as two seats for computation of tax, therefore, the petitioner's vehicle, having both sleeper berths and seats, clearly falls under Serial No. 7(a) (ii) and is entitled to the exemption provided there under. However, by placing the petitioner's vehicle under Serial No. 7(a) (iii), the respondents have denied the exemption without any rational basis, resulting in discrimination between vehicles of the same class, which is violative of Article 14 of the Constitution.

7. He further submitted that the levy must be in consonance with the registration certificate of the vehicle, issued under the Motor Vehicles Act, which in the present case describes the petitioner's vehicle as a 'Bus'. The term 'Sleeper Bus' is not defined as a class of vehicle under any statute; it appears only in the Rajasthan Motor Vehicles Rules, 1990, as a body type specification for construction norms and not as a classification for taxation. The Central Government alone, under Section 41 of the Motor Vehicles Act, is empowered to notify classes of vehicles, and

the State Government cannot, under the guise of amending tax rates, create new classes for the purpose of imposing higher tax.

8. Learned counsel submitted that the impugned amendment also violates Article 301 of the Constitution as it imposes a pecuniary burden which directly and immediately restricts the freedom of trade and commerce within the State by compelling operators to raise passenger fares. Such restriction is not saved by Article 304(b), as the mandatory proviso thereto has not been complied with. He further submitted that the powers under Sections 3 and 4 of the Rajasthan Motor Vehicles Taxation Act, 1951 are not unfettered and must be exercised reasonably, keeping in mind the doctrine of legitimate expectation, which the respondent authority has failed to do.

9. Assailing the demand notice dated 21.06.2023, it was submitted that the same has been issued in gross violation of Rule 8 of the Rajasthan Motor Vehicles Taxation Rules, inasmuch as neither reasonable opportunity of hearing was afforded to the petitioner, nor the notice was accompanied by any computation of tax nor certified copy of the order was given to him. The initial notice in Form M.T.R dated 24.03.2023 proposed levy for the period 01.04.2022 to 31.03.2023, but the impugned demand in Form M.T.Q covers the period 01.04.2022 to 30.06.2023, which is inconsistent and illegal. Moreover, the petitioner has been taxed under Serial No. 7(a) (iii) instead of Serial No. 7(a) (ii), thereby denying the applicable exemption as per new clause (iii-a).

10. Learned counsel for the petitioner submitted that the creation of the third category of a vehicle in Serial No. 7(a) of the notification dated 24.02.2021 has entailed into the denial of exemption granted to the petitioner in the unamended provision in categories provided in Serial No. 7(a)(i) and 7(a)(ii). He further submitted that the denial of the exemption to the petitioner in these circumstances becomes relevant when the category of 'sleeper bus' has not been defined under the Motor Vehicles Act, 1988. He submitted that creation of a 'sleeper bus' category is a clear discrimination vis-a-vis other buses mentioned at Serial No. 7(a)(i) and 7(a)(ii) as no exemption has been granted to the 'sleeper buses' mentioned in the category.

11. Alternatively, learned counsel for the petitioner submitted that even if a category of vehicle in the name of 'sleeper bus' at S.No. 7(a)(iii) has been created by the respondents, then the exemption granted to the category-(i) and (ii) mentioned in Serial No. 7(a) cannot be denied to the petitioner, if the 'sleeper bus' is plied within the one revenue divisional area. He further submitted that the discussion for grant of concessional rates to the buses mentioned in category at S.No.7(a)(i) and (ii) was centering around those buses which are plied within one revenue divisional area and therefore, on the same count, if the sleeper coach buses are permitted to be plied in one revenue divisional area, the benefit of concessional rate of tax should have been made available to the category at S.No.7(a)(iii) also.

12. Learned counsel for the petitioner submitted that in many other States, the category of 'sleeper bus' has been defined and the rate of tax has been imposed categorizing it as a different category whereas in the State of Rajasthan, the category of 'sleeper bus' has not been defined anywhere and therefore, levy of tax on the body type of the vehicle is *de hors* the law.

13. Learned counsel further submitted that the so-called substitution under the amendment has, in reality, introduced a new class of vehicles for higher taxation under the garb of altering tax rates. This is a colorable exercise of power which virtually cripples the petitioner's business and adversely impacts public transport services. Thus, learned counsel for the petitioner prays that the notification dated 24.2.2021 (Annex.5) inserting the class of motor vehicle as 'Sleeper Bus' at S.No. 7(a)(iii) to the parent notification dated 10.07.2019 be quashed and set aside and as a consequence, the notices issued in Form MTR dated 24.03.2023 and Form MTQ dated 21.06.2023 be quashed.

14. To buttress his contentions, learned counsel for the petitioner has relied upon the following judgments:-

(1). Decided by the Hon'ble Supreme Court:-

(i). Commissioner of Customs V/s M/s Dilip Kumar & Company (C.A. No.3327/2007) decided on 30.07.2018.

(ii). Vemareddy Kumarswamy V/s State of AP (CA No.3066/2000) decided on 13.02.2006.

(iii). Opto Cirtcuit V/s Axis Bank, reported in 2021 CRLJ 1636.

(iv). Tata Chemicals V/s Commissioner of Customs, reported in 2015 AIR SCW 3571.

(2). Decided by the Rajasthan High Court:-

(i). Sobhagmal Kataria V/s State of Rajasthan, reported in AIR 1997 RAJ 7.

(ii). Dilip Buildcon Ltd. V/s State of Rajasthan (DB CWP No.5407/2022) decided on 21.04.2022 (Jaipur Bench).
(iii). Rampal Samdani V/s Union of India (DB CWP No.9022/2021) decided on 12.01.2023.

(3).Decided by the Karnataka High Court:-
(i). Union of India V/s Bundi Technology (Case No. WA 1274/2021) decided on 03.12.2022.

15. Per contra, learned counsel for the respondents submitted that sleeper buses primarily cater to long-distance passengers by providing comfortable night travel and their operation and continuation in adequate numbers is essential in public interest for ensuring the availability of such important services. Sleeper buses are permitted to obtain regional permits in the form of contract carriage permits, as any prohibition on public transport would be unjustified in a democratic system.

16. Learned counsel for the respondents submitted that tax exemption has not been extended to sleeper buses for obtaining regional permits, unlike other buses, because granting such exemption would encourage a large number of sleeper buses to shift to regional permits. This would adversely affect the availability of sleeper buses for long-distance night travel, potentially disrupting night public transport services. The respondents further submit that such a shift would cause a significant reduction in the proportion of sleeper buses operating on long-distance night routes, which is not desirable.

17. Learned counsel further submitted that extending such exemption to sleeper buses would negatively impact government revenue and could lead to unhealthy competition in the regional

permit sector, potentially resulting in the collapse of regional public transport services. According to the respondents, buses other than sleeper buses operating under regional permits are economically less viable, as they lack sleeper facilities and carry fewer passengers and hence, have been encouraged through the grant of tax exemption.

18. Learned counsel for the respondents submitted that the creation of the category of 'sleeper bus' at Serial No. 7(a) (iii) is absolutely correct and has nexus to the object sought to be achieved. Learned counsel submitted that creation of such a new category is well within the domain of the respondents as Section 2(7) and (29) clearly envisages the kind of motor vehicle and in pursuance of the same, the Central Government has issued the notification dated 05.11.2004, whereby, specifications of the types of motor vehicles have been mentioned. Since the types of vehicle mentioned in the Central Government notification has not been further categorized, therefore, keeping in mind the specification of types of motor vehicles, the State Government is well within its rights to categorize the same as per their body types and imposed the tax on such vehicles permissible within the parameters of Section 4 of the Rajasthan Motor Vehicles Taxation Act, 1951. Learned counsel submitted that in the present case, the imposition of tax has been levied keeping in mind the boundaries and parameters enshrined under Section 4 of the Rajasthan Motor Vehicles Taxation Act, 1951, therefore, no illegality has been committed. Learned counsel further submitted that even as per Rajasthan Motor Vehicles Rules, 1990, the categorization of the

vehicles is permissible and the present notification has been issued keeping in mind the provisions of the Rajasthan Motor Vehicles Rules, 1990. Learned counsel submitted that the validity of classification of sleeper coach under Rule 7.14A under Chapter VII of the Rajasthan Motor Vehicles Rules, 1990 was assailed before this Court and vide judgment dated 04.04.2018 delivered in **CWP No.15421/2010 (M/s. Chandra Shubh Yatra Co. Pvt. Ltd. vs. State of Rajasthan)**, the validity of Rule 7.14A was upheld. He therefore, submitted that the amended notification dated 24.02.2021 is in conformity of law and the same does not call for any interference by this Court. He therefore, prays that the writ petition may be dismissed.

19. In support of his contention, learned counsel for the respondent relied upon judgment dated 13.01.2023 passed by the Hon'ble Supreme Court in the case of ***the State of Himachal Pradesh and Ors. vs. Goel Bus Service, Kullu and Ors.***, reported in *(2023) 16 SCC 210,* paragraph-54 of which reads as under:-

> *"54. Entry 35 of List II conferred the power on the Parliament as also the State Legislatures to make laws relating to mechanically propelled vehicles of all kinds and also to lay down the principles on which taxes on such vehicles are to be levied. The central enactment i.e. the law made by the Parliament has not laid down any principles for levy of taxes. The State Legislatures had the power to levy taxes not only under Entries 56 and 57 of List II but also to lay down the principles under Entry 35 of List III. Therefore, no repugnancy of any kind could be alleged or pleaded or proved in the absence of there being any central law laying down principles of levy of tax. In view of the above, no repugnancy or conflict of the State enactment with the central enactment could be sustained."*

20. As per the reply filed by Union of India, the stand of the respondent No.2 is also supporting the stand taken by the State of Rajasthan and submitted that the amendments made vide notification dated 24.02.2021 are very much within the powers of the State Government and the word 'body type' does not mean class of vehicles. It was submitted that it is very much within the powers of the State Government to or not to provide tax exemption to any motor vehicle.

21. In our considered opinion, the points of consideration in the present case are:

> "(i) Whether the State Government was competent to create a new taxable category based on "body type" of vehicle under the Rajasthan Motor Vehicles Taxation Act, 1951; and
>
> (ii) Whether the classification of "Sleeper Bus" as a separate category for levy of tax, without extending exemptions, is arbitrary or violative of constitutional provisions."

22. Before proceeding further, we deem it appropriate to quote the following provisions of law:

> ***"Sections 2(7) & 2(29) of the Motor Vehicles Act, 1988 read as under:***
>
> ***(7) "contract carriage"*** *means a motor vehicle which carries a passenger or passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum—*
>
> *(a) on a time basis, whether or not with reference to any route or distance; or*
>
> *(b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes—*
>
> *(i) a maxicab; and*
>
> *(ii) a motor cab notwithstanding that separate fares are charged for its passengers;*

*"**Section 2(29)- "omnibus"** means any motor vehicle constructed or adapted to carry more than six persons excluding the driver;"*

"Section 41 of the Motor Vehicles Act, 1988 also reads as under:

*"**41. Registration, how to be made**.—*
(1) ……
(2) ……
(3)……
(4) In addition to the other particulars required to be included in the certificate of registration, it shall also specify the type of the motor vehicle, being a type as the Central Government may, having regard to the design, construction and use of the motor vehicle, by notification in the Official Gazette, specify."

"Chapter VIII of Rajasthan Motor Vehicles Rules, 1990 - Rule 7.14A reads as under :

7.14A. Sleeper coach.-
(1) Sleeper coach shall mean a Motor Vehicle desgined or constructed to provide facility to either sleep or sleep and sit having two tier, arrangement with berth necessarily on the upper tier shall have 1x1 or 2x1 berth arrangement. The lower tier may have either of the following arrangements:
(i) Having berth arrangement of 1x1 or 2x1 berth along the chassis.
(ii) Having seating arrangement of 2x1 or 1x1 seats across the chassis
(iii) Any other arrangement subject to approval by State Transport Authority."

"Section 4 of the Rajasthan Motor Vehicles Taxation Act, 1951 also reads as under:

*"**4. Imposition of tax***

(2) A tax on motor vehicles other than those covered by one time tax shall be payable under this section by the owner of motor vehicle except for the period during which the owner surrenders the certificate of registration to the taxation officer, in the prescribed manner, that the vehicle has remained out of use for such reasons as may be prescribed, or satisfies the taxation officer that vehicle has not been used due to following reasons :-

i) that the motor vehicle was restrained from plying by the competent court or authority;

(ii) that the motor vehicle was involved in an accident and a report to this effect was made to the police and because of accident it remained out of use;

(iii) that the motor vehicle was attached for the recovery of tax under the Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956) by the competent authority or attached under the warrant of attachment issued by the competent authority or court and during the period of attachment the vehicle did not remain in his possession:"

"Rule 8 of Rajasthan Motor Vehicles Taxation Rules, 1951 reads as under :

*"**8. Verification of declaration and computation of tax.**- The Taxation Officer shall satisfy himself every declaration or additional declaration presented to him is complete in all respects and that the correct amount of tax or additional tax, as the case may be, has been paid, according to the rate of tax prescribed by the State Government from time to time under the provisions of the Act. If the declaration submitted by owner of motor vehicle appears to the Taxation Officer to be incorrect or incomplete, or owner of motor vehicle fails to submit declaration, the Taxation Officer shall, after giving a notice in Form M.T.R. and giving a reasonable opportunity of being heard to the owner shall compute the amount of tax payable by the owner for the period for which the declaration was either not filed or found to be incorrect, and shall serve a notice on the owner in the Form M.T.Q. along with a certified copy of the order, requiring him, to pay the tax and the penalty, so computed, forthwith. If the owner fails to pay the computed tax and penalty forthwith or the disputed amount is stayed by the competent authority under Sec. 14 of the Act, or by a competent Court, he shall be liable to pay, on the amount of the tax not paid or on the amount of tax stayed, if found due later on, as the case may be, simple interest, from the next day following the day of service of notice of demand at the rate of 1.5% per month] till the default continues:*

Provided that the amount of interest shall in no case be more than the amount of tax due.

Provided [further] that where the vehicle is detained under sub-sec. (2) of Sec. 17 of the Act for the non-payment of tax before the issuance of the notice in Form M.T.R. such vehicle shall not be released unless full tax due in respect of such vehicle has been paid."

23. We have considered the submissions made at the Bar and gone through the relevant record of the case.

24. A close reading of the provisions mentioned above and taking into consideration the Registration Certificate of the vehicle in issue, it is manifest that the vehicle involved in the present case is a 'Bus' which falls in the definition of Sections 2(7) and 2(29) of Rajasthan Motor Vehicles Act, 1988. Since the Registering Authority is required to register a vehicle as per Section 41 of the

Motor Vehicles Act, 1988, therefore, the vehicle registered in the present case has been kept under the class of vehicle as 'Bus' and we have no doubt that the 'Bus' falls in the definition of Section 2(7) and 2(29) of the Motor Vehicles Act, 1988 and in Column-1 (Transport Vehicles) type-xii/xxi mentioned in the notification dated 05.11.2004 issued by the Central Government under Section 41(4) of the Motor Vehicles Act, 1988 providing specification of type of motor vehicles.

25. Once the type or class of vehicle mentioned hereinabove is further categorized into the different categories based on seating capacity/berth arrangement as per the body types defined under the Rajasthan Motor Vehicle Rules, 1990, the State Government is well within its right to categorize such vehicles for the sake of imposition of tax. Power to levy tax on motor vehicles is within the domain of the State and it derives power from Entry 57 of List II-State List and Entry 35 of List III-Concurrent List of the Seventh Schedule of the Constitution of India.

26. Insertion of S.No. 7(a)(iii) cannot be said to be anything beyond specifying the rate of motor vehicle tax payable on passenger vehicles, which is very much within the domain and authority of the State Government in exercise of powers conferred by Clause (a) and (c) of Sub-Section (1) of Section 4 read with Section 3 of the Rajasthan Motor Vehicles Taxation Act, 1951. Since, the State Government has not violated the Central Act by categorizing the contract carriage/omnibus based on the body-type under the Rajasthan Motor Vehicles Taxation Act, 1951, therefore, in the humble opinion of this Court, the respondents

have not exceeded their jurisdiction in categorizing the "Sleeper Bus" in category at S.No. 7(a)(iii) by amending the parent notification dated 10.07.2019.

27. We further note that while amending the notification dated 10.07.2019, the category at S.No. 7(a)(iii) of the transport vehicle has been introduced as "Sleeper Bus" which is not in violation of the provisions of the Motor Vehicles Act, 1988 and the notification issued by the Central Government, whereby, the types of the transport vehicles have been mentioned. Since the category of the "Sleeper Bus" continues to be in the type and class of the vehicles mentioned in the Central Act and the definition of the contract carriage 2(7) and omnibus 2(29) and further the registration having been done in accordance with Section 41(4) of the Act of 1988, therefore, the same cannot be stated to be violative of the Central Acts.

28. We further note that even as per the respondent-State Government, a 'Sleeper Coach' and a 'Sleeper Bus' is one and the same and since the "Sleeper Coach" is defined in Rule 7.14A of the Rajasthan Motor Vehicles Rules, 1990, therefore, there is no difficulty in creation of the same for the purpose of taxation by the respondent-State. The amendment made vide notification dated 24.02.2021 by introduction of the category at Serial No.7 (a)(iii) of the notification dated 10.07.2019 is well within the domain of the State Government as the type and class of the vehicle introduced has not been changed and the same is perfectly in conformity with the provisions of the Motor Vehicles Act, 1988. It is also relevant to note that a similar clause duly exists in the

notification dated 10.07.2019 at S.No.8(b) which refers to 'sleeper coaches' and further Explanation to the said notification provides that for the purpose of computation of seating capacity of the sleeper coach, each berth shall be treated equal to 2 seats. Thus, the concept of capacity of/facility provided in a bus, it being 'seating' or 'sleeper', very much existed in the parent notification and insertion of category at S.No. 7(a)(iii) cannot be termed as creation of a new class of the type of vehicle.

29. Therefore, we are of the considered opinion that the answer to the question no.1 raised hereinabove is that the State Government was very much within its competence in creating a new taxable category based on body-type of the vehicle in exercise of powers conferred by clause (a) and clause (c) of Section 4 read with Section 3 of the Rajasthan Motor Vehicles Taxation Act, 1951.

30. So far as the second question raised above is concerned, the State Government vide notification dated 10.07.2019 has specified the rate of Motor Vehicle Tax payable on the passenger vehicles registered in the State of Rajasthan or registered under any other State as per the description of class of motor vehicles and rates of tax therein.

31. We note that for different class/types of vehicles, different rates of tax have been prescribed and, therefore, at serial no.7 the vehicles plying on contract carriage permits have been categorized on the basis of seating capacity. The State Government has keeping-in-mind the body-types as per Rajasthan Motor Vehicles Rules, 1990 has categorized 'Sleeper Coach' as one of the

types/class of vehicles in conformity with the Motor Vehicles Act, 1988 and the notification dated 05.11.2004 issued under Section 41(4) by the Central Government. Since, the Sleeper Bus is a category of class/type of vehicle mentioned in the Motor Vehicles Act, 1988, therefore, levy of tax and grant of exemptions on the different categories of vehicles of a particular class/type is perfectly valid and well within the domain of the State Government.

32. We further note that as per the amendment dated 24.02.2021, the rates of tax have been amended keeping-in-mind the intelligible differentia of the class of vehicles and the area of their operation, therefore, there is no infirmity in imposing the rate of tax mentioned as per the notification dated 24.02.2021. It is further noted that the rates of tax imposed in the categories mentioned in the notification dated 24.02.2021 are well within the boundaries as mentioned in Section 4 of the Rajasthan Motor Vehicles Taxation Act, 1951. Since the boundaries prescribed under Section 4 of the Rajasthan Motor Vehicles Taxation Act, 1951 have not been breached, therefore, it cannot be said that the State Government has exceeded in their jurisdiction while imposing the tax on certain categories of the vehicle.

33. We further note that for the grant of exemption the State Government is fully competent to extend the benefit of exemptions to a particular category and deny the same to other, keeping-in-mind the Larger Public Interest, the nexus and the object sought to be achieved. In the present case, the reasoning given by the State Government for grant of exemption to the

category of vehicles at S.No.7(a) (i) and (ii) is that in order to promote the plying of buses with seating capacity in the Revenue Divisional Limits, the exemptions have been granted and the same has not been extended to the sleeper buses mentioned in the category at S.No.7(a)(iii) so as to avoid competition with those persons who are running their buses in the revenue divisional limits. It is further stated that since the Sleeper Buses are plied on long distance routes by providing comfortable night travel on the regional permits, therefore, such benefit has not been extended to them vis-a-vis categories mentioned at S.No.7(a) (i) and (ii) in order to avoid unhealthy competition between category at S.No.7(a) (i) and (ii) vis-a-vis category at S.No.7(a)(iii).

34. It is further noteworthy that a perusal of the prayers made in the writ petition reveals that no challenge has been made with respect to insertion of clause at S.No.7(a)(iii-a), which was also inserted by the notification dated 24.02.2021, whereby exemption of 50% has been extended only to motor vehicles falling in the categories at S.No.7(a) (i) and (ii) and thus, there is no occasion to deal with the same in detail. As challenge has been made to the insertion of category at S.No.7(a)(iii) vide notification dated 24.02.2021, once it is so held that no separate class/type of vehicle has been created by the State Government by the said notification, the entire basis of the submissions made by the petitioner does not survive. Therefore, in view of the discussions made above, the second question posed by us hereinabove is answered in the terms that the State was well within its domain to create a separate category titled 'Sleeper Bus' falling in the same

class/type mentioned in the Central notification for the purpose of levying tax without extending any exemption of tax in the present case.

35. The judgments relied upon by the learned counsel for the petitioner are clearly distinguishable on the facts and circumstances in the present case as the statute holding the field for the application of the tax in the present case are clear and unambiguous. Further the respondents have imposed the tax absolutely within the ambit of Section 4 of the Rajasthan Motor Vehicles Taxation Act, 1951 and the imposition of tax by the respondent is as per the registration of the vehicle in the particular class/type as mentioned in the notification issued by the Government of India under Section 41 of the Motor Vehicles Act, 1988.

36. It is further noted that the amendment made by the State Government to the notification dated 10.07.2019 does not suffer from any ambiguity as the same has been done as per the provisions mentioned in the Rajasthan Motor Vehicles Taxation Act, 1951. Further while taxing the Motor Vehicle by adding the "Sleeper Bus" in the category is not violative of the parent statute and, therefore, there is no ambiguity/illegality in the same. Thus the judgments relied upon by the learned counsel for the petitioner render no help to the petitioner in the present case.

37. The contention of the learned counsel for the petitioner that in other States the class of Motor Vehicles in the 'Sleeper Bus' category has been created for imposing the tax, but, in the State of Rajasthan there is no such provision, thus, it can safely be

presumed that the State Government has exceeded its jurisdiction in creating such category is noted to be rejected on the ground that as per Rule 7.14A of the Rajasthan Motor Vehicles Rules, 1990, the category of 'Sleeper Coach' has been provided and as per the respondents 'Sleeper Bus' and 'Sleeper Coach' are one and the same. Since the 'Sleeper Coach' and 'Sleeper Bus' are the categories of type/class of vehicle mentioned in the Motor Vehicles Act, hence, not mentioning the 'Sleeper Bus' into a separate category will not create any hindrance for the State to impose tax on the category i.e. 'Sleeper Bus' at S.No.7(a)(iii) inserted vide notification dated 24.02.2021.

38. Since the class or type of the vehicle has not been newly created and it is only a category which has been created falling under the type and class mentioned in the Central Statute, therefore, the State is well within its right to create a separate category in a particular class or type.

39. As far as challenge to the notice issued in Form MTR dated 24.03.2023 and demand notice issued in Form MTQ dated 21.06.2023 is concerned, it is not disputed that even after the issuance of notification dated 24.02.2021, the State Government continued to tax the petitioner under S.No.7(a)(ii) of the notification dated 10.07.2019 and tax was deposited by the petitioner in accordance with the same. It is not the case of the respondents that any misrepresentation or concealment was made by the petitioner while paying the tax as demanded. Rather, the respondents admit that there was an error on their part in the portal. Further, the impugned notices in form MTR and MTQ fail to

mention any of these facts and rather, even fail to specify the basis for issuance of the same. Further also, the said notices fail to adhere to the procedure as envisaged in Rule 8 of the Rajasthan Motor Vehicles Taxation Rules, 1951 as no certified copy of the order computing the demand was annexed along with Form MTQ. In absence of the said compliance, the impugned notices issued in Form MTR dated 24.03.2024 and demand notice issued in Form MTQ dated 21.06.2023 deserve to be quashed and are accordingly quashed.

40. Consequently, the writ petition stands partly allowed in the manner that the challenge made to the amendment vide Notification dated 24.02.2021, whereby, a new category at Sr. No.7(a)(iii) has been inserted in the existing Notification dated 10.07.2019 is upheld, however, the notices issued in the form of M.T.R. dated 24.03.2023 and demand notice issued in Form M.T.Q. dated 21.06.2023 are quashed and set aside. However, the respondents will be at liberty to initiate proceedings, if so permissible, strictly in accordance with law.

1. D.B. Civil Writ Petition No. 9901/2023
2. D.B. Civil Writ Petition No. 9997/2023
3. D.B. Civil Writ Petition No. 10020/2023
4. D.B. Civil Writ Petition No. 10068/2023
5. D.B. Civil Writ Petition No. 10072/2023
6. D.B. Civil Writ Petition No. 10500/2023
7. D.B. Civil Writ Petition No. 10522/2023
8. D.B. Civil Writ Petition No. 10526/2023
9. D.B. Civil Writ Petition No. 10581/2023
10. D.B. Civil Writ Petition No. 10781/2023
11. D.B. Civil Writ Petition No. 11080/2023
12. D.B. Civil Writ Petition No. 11536/2023
13. D.B. Civil Writ Petition No. 11672/2025
14. D.B. Civil Writ Petition No. 11685/2025
15. D.B. Civil Writ Petition No. 11722/2025
16. D.B. Civil Writ Petition No. 11759/2025

17. D.B. Civil Writ Petition No. 11761/2025
18. D.B. Civil Writ Petition No. 11779/2025
19. D.B. Civil Writ Petition No. 11800/2025
20. D.B. Civil Writ Petition No. 11801/2025
21. D.B. Civil Writ Petition No. 11803/2025
22. D.B. Civil Writ Petition No. 11805/2025
23. D.B. Civil Writ Petition No. 11809/2025
24. D.B. Civil Writ Petition No. 11841/2025

1. Learned counsel for the parties are in agreement that the controversy involved in the present writ petitions are squarely covered by a judgment of even date rendered by this Court in **D.B. Civil Writ Petition No. 11535/2023 (Khuman Singh vs. State of Rajasthan)**.

2. In view of the above, these writ petitions are also partly allowed in light of judgment passed by this Court in *Khuman Singh*'s case (supra).

3. The stay applications and other pending applications, if any, also stand disposed of.

4. Photocopy of this order be placed in each connected file.

(ANUROOP SINGHI),J **(VINIT KUMAR MATHUR),J**

84-108-KartikDave/Taruna
/SunilS/Sanjay/-