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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 14048/2021

UBER INDIA SYSTEMS PRIVATE LIMITED ..... Petitioner

Through: Mr. Arvind Datar, Senior Advocate with Mr.Bharat Raichandani, Mr.Sudipta Bhattacharjee, Mr.Onkar, Harsh Makhija & Mr.Arjyadeep Roy, Advocates.

versus

UNION OF INDIA & ANR. ..... Respondents

Through: Ms.Supriya Juneja, Advocate for Mr.Aditya Singhla, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA

O R D E R

% **10.12.2021**

C.M.Nos.44356-44357/2021

Exemption allowed, subject to all just exceptions.

Accordingly, the applications stand disposed of.

W.P.(C) No.14048/2021 & C.M.No.44355/2021

Present writ petition has been filed challenging clause (iv) of the Notification No. 16 / 2021– Central Tax (Rate) dated 18th November, 2021 and clause 1(i) and clause 2(i) of Notification No. 17 / 2021 – Central Tax (Rate) dated 18th November, 2021 as *ultra vires* the Constitution of India being unreasonable, arbitrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

Learned senior counsel for the Petitioner states that Notification No. 16/2021 and Notification No. 17 / 2021 have made amendments to the parent notifications i.e. Notification No. 12/2017 and Notification No. 17/2017 in order to levy GST on the supply of transportation of passenger service, through an 'electronic commerce operator', and provided by an auto rickshaw. He further states that the Impugned Notifications will come into effect from 1st January, 2022 and if an auto-driver registers itself with an e-commerce operator like the Petitioner and provides transportation of passenger services to passengers identified through such e-commerce platform, GST at 5% or 12% will become applicable on the fare collected on such passenger transport services through auto rickshaws, even though an auto ride through offline modes like street hailing of auto will still be exempt.

Learned senior counsel for the Petitioner submits that the impugned notifications are violative of Article 14 of the Constitution of India as they fail to satisfy the test of reasonable classification. He states that no differentiation in tax treatment can be created between passenger transport services rendered by auto drivers facilitated through e-commerce platforms versus passenger transport services rendered by auto drivers offline.

Issue notice. Ms.Supriya Juneja, Advocate accepts notice on behalf of respondent no.2. She states that Mr.Aditya Singhla, Advocate, who is to argue the matter, is in personal difficulty. She also prays for some time to obtain instructions.

In the interest of justice, re-notify on 21st December, 2021.

MANMOHAN, J

NAVIN CHAWLA, J

DECEMBER 10, 2021
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