

HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA

WRIT PETITION No. 33567 OF 2024

O R D E R:

Petitioner seeks the following relief:

- (i) declare the action of the Respondents in directing the Petitioner to pay additional amount of Rs. 47,980/- based on the price list maintained by the 3rd respondent by treating Rs. 25,93,999/- as the cost of vehicle, though the actual ex-showroom price is Rs. 23,99,000/- as on 11-11-2024 i.e., the date of purchase of the vehicle, as illegal, arbitrary and violative of Sections 2 and 3 of the Telangana Motor Vehicles Taxation Act, 1963
- (ii) declare that the provisions of the Seventh Schedule of the Telangana Motor Vehicle Taxation Act, 1963 are not applicable to petitioner and consequently declare that the action of petitioner to pay Rs. 39,010/- being additional 2% tax payable as per the Seventh Schedule by treating that Mahindra XUV 700 AX7 L Diesel AT 7-Seater variant, Midnight Black Colour bearing Temporary Registration Mark TG 10ETR 9644 purchased by him is a second vehicle as on the date of registration as illegal and violative of the provisions of Telangana Motor Vehicles Taxation Act, 1963.
- (iii) declare the inaction of Respondent No.3 in refusing to register Mahindra XUV 700 AX7 L Diesel AT 7-Seater variant, Midnight Black Colour bearing Temporary Registration Mark TG 10ETR 9644 in favour of the Petitioner as illegal, arbitrary and violative of provisions of Telangana Motor Vehicle Taxation Act, 1963 and the rules framed thereunder and Article 14 of the Constitution of India.
- (iv) Consequently, direct the Respondents to register Mahindra XUV 700 AX7 L Diesel AT 7-Seater variant, Midnight Black Colour bearing Temporary Registration Mark TG 10 ETR 9644 in favour of the Petitioner with registration number TG 11 A 5858, without insisting any additional tax amount in addition to Rs. 4,31,820/- already paid by the Petitioner on 11. 11-2024 through transaction number 49NETR029070153 as per the Sixth Schedule of the Telangana Motor Vehicles Taxation Act, 1963 and pass such further or other order(s) as this

Hon'ble Court may deem fit and proper in the circumstances of the case.

2. Petitioner, on 11-11-2024, purchased Mahindra XUV 700, AX7L, BS6 Diesel variant, in Midnight Black colour, from Neon Motors Private Limited, Ex-showroom price of which was Rs. 23,99,000/- with no discounts provided by the vendor. Sale was confirmed through a Sale Certificate issued by the dealer. Additionally, petitioner paid Rs. 4,31,820/- as vehicle tax, which is 18% of the ex-showroom price, as per Schedule VI of the Telangana Motor Vehicles Taxation Act, 1963. Furthermore, petitioner was provided with Vehicle Fitness Certificate under Form 22 by the dealer and insurance policy dated 11-11-2024.

In compliance with Section 43 of the Motor Vehicles Act, 1988 (for short, 'the Act'), petitioner obtained temporary registration of vehicle through the dealer with Temporary Registration Mark TG 10 ETR 9644, according to the provisions of the Telangana Motor Vehicle Rules, 1989, specifically Rule 84, which grants the dealer the authority to issue such registration for new vehicles sold.

It is stated, petitioner reserved Registration Number TG 11 A 5858 for the vehicle, with an allotment proceeding

dated 19-11-2024 and he is required to complete the vehicle registration within 15 days from the date of reservation. On 25-11-2024, when petitioner approached the 3rd respondent authority to complete the registration process, he was informed that an additional tax of Rs. 86,990/- is required to be paid. The reasons provided therefor were two-fold: firstly, records of the 3rd respondent indicated an ex-showroom price of Rs.25,93,999/-, and therefore, a differential tax amount of Rs.47,980/- was demanded; secondly, petitioner was informed that vehicle, though purchased as a new vehicle, was considered as 'second vehicle' as of registration date, and as per the provisions of the Telangana Motor Vehicles Taxation Act, 1963, an additional 2% tax of Rs. 39,010/- was applicable for second vehicle.

Petitioner, it is stated, immediately contacted the vendor, who issued letter dated 26-11-2024 confirming that ex-showroom price was Rs. 23,99,000/- with no additional discounts offered. Regarding the second vehicle tax, petitioner explained that previous vehicle bearing registration No. AP 11 AP 5694 was sold on 13-11-2024, and a screenshot evidencing the transfer of ownership is also filed. According to petitioner,

additional 2% tax should not apply, as he did not own any other vehicle at the time of registration. However, the 3rd respondent insisted on additional tax payments, refusing to complete the registration process unless the demanded amount was paid. According to petitioner, tax should be based on the actual ex-showroom price of Rs.23,99,000/- and that no additional tax should apply as he did not own any other vehicle at the time of registration.

3. Learned Senior Counsel Sri A. Giridhar Rao, on behalf of learned counsel for petitioner Sri Palle Srinivas Reddy submits that Schedule-VI, which applies to vehicles costing Rs. 20 lacs or more, mandates an 18% tax rate at the time of registration and additional 2% tax under Schedule-VII is only applicable if the individual owns more than one vehicle at the time of registration, not at the time of temporary registration. This contention is supported by the judgment in Writ Petition No. 13626 of 2020 (**Rohit Nayani v. The State of Telangana**), which clarified that date of physical registration is relevant for imposition of taxes, not the date of temporary registration. Learned counsel invokes the principle that ‘taxing statutes should be strictly construed in favor of the taxpayer’, as per the

ruling in **CA Abraham v. Income Tax Officer, Kottayam**¹. He therefore, requests interim relief to prevent forfeiture of reserved registration number, as per Rule 81(6) of the Telangana Motor Vehicle Rules, 1989, which mandates forfeiture of reserved number after 15 days from the reservation.

4. Learned Government Pleader for Transport, Sri M. Vigneshwar Reddy, on receipt of written instructions from the Regional Transport Officer, RTA, Hyderabad East Zone, submits that on verification, the Regional Transport Officer found that ex-show room price of subject vehicle is Rs.25,93,999/-, whereas the dealer collected life time tax for Rs.23,99,000/- only. It is submitted that life tax at 20% has to be collected as the case of petitioner falls in Schedule VII for having already possessed vehicle bearing Registration No. AP 11 AP 5694 as on 11.11.2024 i.e. at the time of temporary registration of the subject vehicle. According to learned Government Pleader, actual applicability of life time tax at 20% on ex-show room price of vehicle of Rs.25,93,999/- would come to Rs.5,18,800/-, instead, the dealer collected Rs.4,31,820/- at 18% on Rs.23,99,000/-; the difference amount was worked out

¹ AIR 1961 609

to Rs.86,980/-. Learned Government Pleader therefore, requests this Court to direct petitioner to pay the difference of amount.

5. Perused the material on record. As regards the ground taken by learned Government Pleader that 20% of the tax has to be levied on petitioner (inclusive of 2% for possessing the second vehicle) is concerned, in Writ Petition No. 13626 of 2020, a Coordinate Bench of this Court dealt with the issue 'as to what will be applicable date of registration for the purpose of levying the appropriate tax, whether the date of purchase of the 2nd vehicle should be taken as the date of reckoning for the purpose of applying the Seventh Schedule or whether the date of actual registration of the vehicle should be taken as a criteria for levying the applicable Schedule i.e. Third Schedule. In the Schedule which are enumerated in the Act, it is clearly mentioned that 'at the time of registration of new vehicles'. In the said order, it has been observed that *there is clear distinction between the temporary licence and permanent registration. When the Act/Schedule states 'at the time of registration of new vehicle', the same has to be interpreted to mean at the time the vehicle is physically presented before the T.T.A. Office for the*

purpose of registration. Temporary licence is generated on line by the dealer and it is only a licence to drive the vehicle for a period of 30 days from the date of delivery by the dealer, by no stretch of imagination can it be contended that the date on which what temporary licence is generated by the dealer should be taken as the date of registration.' In view of the same, and also in view of the fact that petitioner is stated to have sold the vehicle bearing Registration No. AP 11 AP 5694 and the same was got registered in the name of purchaser on 13.11.2024, this Court does not find any ground to take a different view in this regard. Further, to vouch safe the said fact, petitioner also annexed the copy of screenshot evidencing transfer of vehicle to a third party as material papers. Hence, it can safely be said that tax should be levied at 18% only.

6. So far as the contention that ex-show room price of Rs.25,93,999/- is concerned, though learned Government Pleader submits that the Regional Transport Officer verified from the records of their office as per the instructions issued by the Transport Commissioner *vide* Circular Memo No. 3594/IT/2022, dated 29.08.2022, which would be Rs.25,93,999/-, petitioner filed GST invoice and the letter

addressed by the dealer M/s Neon Motors Private Limited to the RTA-Hyderabad-EZ, to the effect that ex-showroom price of the subject vehicle is Rs.23,99,000/- on 11.11.2024 and that they did not give any additional discount to the customer, as material papers, to show that ex-show room price before discount (Tr & life tax paid on this amount) is Rs.23,99,000/- only. According to the Sixth Schedule, where four wheelers whose cost is Rs.20 lacs or above, at the time of registration of new vehicles, tax leviable is at 18%. In view of the same and since it is ruled out that petitioner sold the earlier vehicle on 13.11.2024 itself, Schedule VI applies to his case, but not Schedule VII as contended by the learned Government Pleader. In the light of the foregoing discussion, the amount of tax paid at Rs.4,31,820/- at 18% on the ex-showroom price, in the considered opinion of this Court, is just.

7. The respondents are therefore, directed to register Mahindra XUV 700 AX7L Diesel AT 7-Seater variant, Midnight Black Colour bearing Temporary Registration Mark TG 10ETR 9644 in favour of petitioner with registration No. TG 11 A 5858 (since he has already reserved the number on 19.11.2024, as per Rule 81(6) of the Telangana Motor Vehicle Rules, 1989),

forthwith without insisting on additional tax amount in addition to what has already been paid by him on 11.11.2024.

8. The Writ Petition is accordingly, disposed of. No costs.

9. Consequently, miscellaneous Applications, if any shall stand closed.

NAGESH BHEEMAPAKA, J

29th November 2024

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