

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

WEDNESDAY, THE TWENTY FIRST DAY OF AUGUST  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

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

**WRIT PETITION NO: 3659 OF 2010**

**Between:**

Mohd. Ayub Khan, S/o. Mohd. Shafi Khan, Aged about 39 years, Occ:  
Business, R/o. D.No. 4-7-10/5/A, Raghavendra Nagar, Nacharam, Ranga  
Reddy District.

**...PETITIONER**

**AND**

1. The Transport Commissioner, Transport Bhavan, Khairatabad, Hyderabad.
2. The Secretary, Regional Transport Authority, Karimnagar, Karimnagar District.
3. The Motor Vehicle Inspector, SRTA, 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 writ order or direction more particularly one in the nature of Writ of Certiorari calling for the records pertaining to the 1st respondent proceedings No. 8305/R1/2009 dt. 27-1-2009 dt. 27-1-2010 and to quash the same as illegal, arbitrary and unconstitutional and contrary to the provisions of the A.P. Motor Vehicle Taxation Act

**I.A. NO: 2 OF 2010(WPMP. NO: 4776 OF 2010)**

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 suspend the 1st respondent proceedings No. 8305/R1/2009 dt. 27-1-2010. pending disposal of the writ petition

**Counsel for the Petitioner: SRI B. CHANDRA SHEKHAR**

**Counsel for the Respondents: SRI M. VIGNESWAR RAO, 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.3659 of 2010**

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

None for the petitioner.

Mr. M.Vigneswar Reddy, learned Government Pleader for Transport for the respondents.

2. In this writ petition, the petitioner has assailed the validity of order dated 27.01.2010 by which the appeal filed by the petitioner was rejected.
3. Facts giving rise to filing of this writ petition briefly stated are that the petitioner purchased JCB Escort Articulated Construction Equipment bearing chassis No.43682 on 17.02.2009 from one Mr. Mohd. Khaleel Khan of Ramagundam, who in turn purchased the same from M/s. Gupta Coal Fields and Washeries Limited of Ramagundam, Karimnagar District and the sale certificate was issued in the name of the said firm by the

manufacturer i.e., JCB India Limited on 03.02.2004. The said purchaser did not register the said vehicle with the territorial authority and the said vehicle was being used by the said firm for excavating the coal in the Ramagundam open fields. The second purchaser also did not get it registered with the concerned registering authority. When the vehicle was seized on 01.09.2009 for certain alleged irregularities, the petitioner filed W.P.No.18731 of 2009 which was disposed of on 08.09.2009 directing the respondents therein to release the vehicle on deposit of Rs.10,000/- and on giving an undertaking to the effect that the petitioner shall not transfer nor alienate the vehicle pending enquiry and the same shall be produced as and when required for the purpose of enquiry. In compliance of the same, the vehicle was released and a show cause notice was issued to the petitioner to submit an explanation. Thereafter, the petitioner submitted the explanation. But, without considering the same, the demand notice dated 14.10.2009 was issued directing the petitioner to pay an amount of Rs.1,88,720/- towards tax and penalty from the quarter ending 31.03.2004 to 31.12.2009. It is further

averred in the writ petition that in the demand notice, the respondent No.2 referred to Section 6 of the Andhra Pradesh Motor Vehicle Taxation Act which is to the effect that the registered owner or person having the possession and control thereof shall be liable to pay the tax and penalty. It is averred that from the date of issuance of the Form 21 by the manufacturer dated 03.02.2004 till the purchase of the vehicle by the petitioner by way of sale letter dated 17.02.2009, the said vehicle was in possession and control of the persons other than the petitioner. Therefore, the liability of the petitioner starts from quarter ending 31.03.2009 only but not from the date of invoice. It is further stated that aggrieved by the demand notice dated 14.10.2009, the petitioner preferred an appeal to the respondent No.1, which was dismissed by the order dated 27.01.2010 taking into account Rule 12 of the Andhra Pradesh Motor Vehicle Taxation Rules, 1963. Hence, the writ petition.

4. The solitary issue which arises for consideration in the instant writ petition is whether the vehicle in question



is a "construction equipment vehicle" within the meaning of Andhra Pradesh Motor Vehicles Taxation (Amendment) Act, 2010. Rule 2(ca) of the Central Motor Vehicles Rules, 1989 (hereinafter referred to as "the 1989 Rules") defines the "construction equipment vehicle", which is extracted below for the facility of reference:

"2.(ca) "Construction equipment vehicle" means rubber tyred (including pneumatic tyred), rubber padded or steel drum wheel mounted, self-propelled, excavator, loader, backhoe, compactor, roller dumper, motor grader, mobile crane, dozer, fork lift truck, self-loading concrete mixer or any other construction equipment vehicle or combination thereof designed for off highway operations in mining, industrial undertaking, irrigation and general construction but modified and manufactured with "on or off" or "on and off" highway capabilities.

*Explanation.*—A construction equipment vehicle shall be a non-transport vehicle the driving on the road of which is incidental to the main off highway function and for a short duration at a speed not exceeding 50 kms per hour, but such vehicle does not include other purely off highway construction equipment vehicle designed and adopted for use in any enclosed premises, factory or mine other than road network, not equipped to travel on public roads on their own power."

5. It is pertinent to note that the circular dated 17.05.2010 has been issued by the Transport Commissioner of the erstwhile State of Andhra Pradesh to clarify the doubts with regard to the definition and coverage of various categories of construction equipment vehicles and liability to pay tax. Clause 4 of the aforesaid circular provides that the trailer fitted with the equipment like rig, generator compressor are non-transport vehicles, but not covered under the definition of 'construction equipment vehicle'. The petitioner's vehicle does not come within Clause 4 of the aforesaid circular and it is a 'motor vehicle' as defined under Section 2(28) of the Motor Vehicles Act, 1988 and falls under Rule 2(ca) of the 1989 Rules. Therefore, the petitioner is liable to pay the life time tax on the said vehicle under Section 3 of the A.P. Motor Vehicles Taxation Act, 1963, as amended by Act 11 of 2010.

6. The issue whether on a construction equipment vehicle life time tax is required to be paid has been answered by a Division Bench of this Court in **Khader**

**Basha and others vs. Regional Transport Officer,  
Chittoor and others<sup>1</sup>.**

7. In view of the aforesaid enunciation of law, since the vehicle in question is a construction equipment vehicle, the petitioner company is liable to pay life time tax on the aforesaid vehicle.

8. 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.

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SD/-K.AMMAJI  
ASSISTANT REGISTRAR  
SECTION OFFICER

- To,
1. One CC to SRI B. CHANDRA SHEKHAR, Advocate [OPUC]
  2. Two CCs to GP FOR TRANSPORT, High Court for the State of Telangana.  
[OUT]
  3. Two CD Copies  
BN

BSR

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HIGH COURT

DATED:21/08/2024

ORDER

WP.No.3659 of 2010



DISMISSING THE WRIT PETITION  
WITHOUT COSTS

6 copies  
for  
28/9/24