

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Petition Nos.29390 and 29411 of 2016

COMMON ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Denial of input tax credit to the petitioner-dealer, (who among others, purchases and sells second hand cars), by the impugned orders or assessment for the period April 2013 to March 2014 and April 2014 to March 2015, is questioned in both these writ petitions as being arbitrary and illegal.

While both Sri S.Ravi, learned Senior Counsel appearing on behalf of the petitioner, and Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes, would agree that the subject matter of these writ petitions is covered by the order of a Division Bench of this Court in ***M/s. Prathul Automobiles Pvt. Ltd. vs. The***

Assistant Commissioner (CT)-II, Hyderabad^[1], Sri S. Ravi, learned Senior Counsel, would however submit that all applications, for initial registration of vehicles either within the erstwhile composite State of Andhra Pradesh or the present State of Telangana, are required to be accompanied with a copy of the invoice at the time of registration; and the information is readily available on the website of the Regional Transport Authority within the State. Learned Senior Counsel would request this Court to modify the earlier order holding that it would suffice for a dealer to claim input tax credit if he is able to produce proof that the vehicle was initially registered within the erstwhile composite State of Andhra Pradesh or the State of Telangana, as it is difficult to produce copies of the invoices which may not be easily available considering the huge number of vehicles which are being registered each day.

In ***M/s. Prathul Automobiles Pvt. Ltd.***¹ this Court observed that the rule making authority had not stipulated the documents required to be furnished by the dealer; and the documentary evidence required to

be produced by the dealer must be such as to satisfy the assessing authority of (1) the price actually paid by the VAT dealer, carrying on business in used/second hand vehicles, on the purchase of vehicles by them, and (2) the vehicle purchased by them having been subjected to VAT at the time of its initial registration, under the Motor Vehicles Act, 1988, within the State of Telangana.

While the submission of Sri S.Ravi, learned Senior Counsel, is that the website of the RTA records the invoice value of the goods, Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes, would submit that the website does not reflect payment of VAT or the amount paid in this regard.

As noted, in the aforesaid judgment, it is only if the subject goods have suffered VAT, under the A.P.VAT Act/Telangana VAT Act, is the benefit of input tax credit available. All that has been observed in the aforesaid order is that, in the absence of any specific Rule made under the VAT Act in this regard, the evidence to be produced before the assessing authority must be such as to show that the vehicles, purchased by the dealer, had been subjected to VAT at the time of its initial registration, under the Motor Vehicles Act, 1988, either within the erstwhile composite State of Andhra Pradesh or the State of Telangana. We, therefore, see no reason to take a view different from that of the earlier Division Bench.

Following the order in ***M/s. Prathul Automobiles Pvt. Ltd.¹***, and in terms thereof, both the Writ Petitions are disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

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(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

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THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

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Date: 31.08.2016

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