



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P(MD) No. 4484 of 2016

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K.M.Mahaboobu Subuhani

... Petitioner

Vs.

1. The Under Secretary (AEI Section),
Ministry of Heavy Industrial & Public Enterprises,
Department of Heavy Industry,
Room No.384, Udyog Bhavan,
New Delhi - 110 011.
 2. The District Collector/
Regional Transport Authority,
Kanyakumari District,
Nagercoil.
 3. The Regional Transport Office,
Nagercoil,
Kanyakumari District.
 4. Annamallais Toyota,
represented by its
General Manager,
Coimbatore.
 5. Annamallais Agencies Madurai (P) Ltd.,
represented by its
Manager,
Tirunelveli - 627 007.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus to direct the respondents, granting benefits to the petitioner under the excise duty concession on purchase of car by the physically handicapped persons of the petitioner's Toyota Fortuner Auto Transmission Car bearing Engine No.IKDU732891, Chassis No.MBJ11JV51050393540315 and the Registration No.TN-74-AJ-0010 and to issue Manufacturer Certificate within a stipulated period that may be fixed by this Court.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.D.Saravanan for R.1

Mr.A.Muthukaruppan

Additional Government Pleader, for R2 & R3

No appearance for R.4 & R.5

**ORDER**

The petitioner is a physically challenged person. Both his lower limbs could not be used. However, he could drive a vehicle by using his hands. A Medical Certificate was also issued by the Government Institute of Rehabilitation Medicine, K.K.Nagar, Chennai, to the effect that he is capable of operating the vehicle using his hands. Thereafter, the petitioner purchased a New Toyota Fortuner Auto Transmission Car bearing Chasis Number: MBJ11JV51050393540315.

2. The physically challenged persons are entitled to certain concessions on excise duty while purchasing the motor vehicles. As per the guidelines issued by the Department of Heavy Industry for issue of an excise duty concession certificate on purchase of cars by the physically handicapped persons, he applied for concession. However, the first respondent sought for Manufacturer Certificate from the manufacturer.

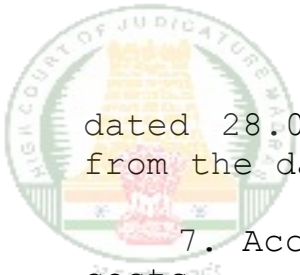
3. Insofar as the petitioner's case is concerned, the vehicle was registered and the Registration Certificate was also issued by the concerned Regional Transport Officer. The specification of the vehicle is given in the Registration Certificate. Thereafter, the modification made to the vehicle was certified by one Shree Vari Engineering Works, a Government Approved Retrofitment Centre, Chennai, wherein, it is certified that they fixed (i) Hand Operated Brake (Mechanical) and (ii) Hand Operated Accelerator (Mechanical) to the vehicle. Since the first respondent insisted for Manufacturer Certificate, again the petitioner approached the respondents 4 and 5 for issuance of the same. Since nothing was forthcoming, the petitioner has approached this Court by way of this writ petition.

4. I have heard rival contentions.

5. Considering the materials available on record, it is seen that the petitioner has purchased a vehicle, viz., New Toyota Fortuner Auto Transmission Car bearing Chasis Number: MBJ11JV51050393540315, which is manufactured by Toyota Kirloskar Motor Ltd., as found in the Registration Certificate and it was modified by Shree Vari Engineering Works, a Government Approved Retrofitment Centre, Chennai. The petitioner has also applied in the prescribed format given in the Annexure II as per the guidelines issued by the Department of Heavy Industry. Therefore, the first respondent is duty bound to consider the case of the petitioner for excess duty concession as provided by the Department of Heavy Industry, to the physically challenged persons and failure to do so, is arbitrary and illegal.

<https://hcservices.ecourts.gov.in/hcservices/>

6. In such circumstances, a direction is issued to the first respondent to consider the application submitted by the petitioner



dated 28.09.2015 and pass orders within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition is disposed of as above. No costs.

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Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Under Secretary (AEI Section),
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Department of Heavy Industry,
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2. The District Collector/
Regional Transport Authority,
Kanyakumari District,
Nagercoil.
3. The Regional Transport Officer,
Nagercoil,
Kanyakumari District.

+1cc to Mr.S.Sivakumar, Advocate SR.No.75447
+1cc to Mr.D.Saravanan, Advocate SR.No.75433
+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.75648
Rsb
MK/RP/SAR 3/13.08.2018/3P/7C

W.P(MD)No.4484 of 2016
27.07.2018