HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.5784 of 2011

ORDER:

The action of respondent No.4, in seizing the petitioners Fork Lifts, is questioned in this Writ Petition as being illegal, arbitrary, in violation of Articles 14, 19(1)(g) of the Constitution of India, and contrary to the provisions of the Motor Vehicles Act, 1988 and the A.P. Motor Vehicles Taxation Act, 1963.

The petitioner's case, in short, is that "Fork Lifts" are not motor vehicles under the Motor Vehicles Act, and the petitioners are therefore not liable to pay life tax; and the said Fork Lifts cannot be used in a public place as alleged in the check report.

A Division Bench of this Court, in **Khader Basha v. Regional Transport Officer, Chittoor**[1], observed that, under Rule 2(ca) of the Central Rules, vehicles designed and adapted for use in the enclosed premises, factory or mine other than road network, not equipped to travel on public roads on their own power were not Construction Equipment Vehicles (CEVs); and Rule 2(ca) referred to 11 categories of Construction Equipment Vehicles, including Fork Lifts.

While the learned Government Pleader for Transport would submit that Fork Lifts are also motor vehicles capable of being used on roads and, as such, the petitioners are

[1] 2012(6) ALT 660 (DB)

required to pay life tax, Sri G.Krishna Murthy, learned counsel for the petitioner, would submit that not all construction vehicles have been held to be motor vehicles in **Khader Basha**[1]; Fork Lifts are not capable of being used on roads; and, consequently, the petitioners are not liable to pay life tax on such vehicles.

It is wholly unnecessary for this Court to examine the factual dispute whether or not the subject Fork lifts are motor vehicle, as these are all matters to be examined, in the first instance, by respondent No.2. Suffice it, therefore, to permit the petitioner to submit a representation to respondent No.2 furnishing details on the basis of which they claim that the subject Fork Lifts are not motor vehicles; and they are, therefore, not liable to pay life tax. If such a representation is submitted within two weeks from today, respondent No.2 shall consider the same in accordance with law, including the judgment of this Court in **Khader Basha**[1], and pass orders within four weeks thereafter. Till orders are passed by respondent No.2, the interim order granted earlier shall continue to remain in force. It is made clear that, in case the petitioner does not submit his representation, as afore-directed, it is open to the respondents to proceed and recover life tax, from the petitioner, treating the subject vehicles as motor vehicles.

The Writ Petition is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand dismissed. However, in the circumstances, without costs.

RAMESH RANGANATHAN, ACJ

Date: 22.06.2018
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