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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.08.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.15973 & 15978 of 2021

M.Dharsan

..Petitioner in both WPs

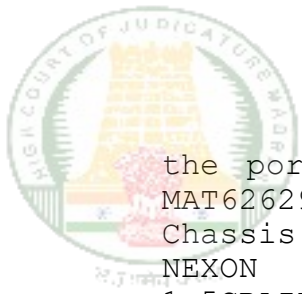
Vs

The Regional Transport Officer,  
Vellore  
Vellore District

..Respondent in both WPs

Prayer in WP No.15973 of 2021: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondent to register the two wheelers uploaded in the portal for the following vehicles 1) PULSAR 220 DTS Chassis No.MD2A13EY6KCD43721, Engine No. DKYC KD66148 2) PULSAR 220 DTS Chassis No.MD2A13EY2 KCD43683, Engine No. DKYCKD66286 3) PLATINA 100 ES Chassis No. MD2A 76AY9JWH08184, Engine No.PFYWJH71521 4) AVENGER 160 STREET Chassis No.MD2B57CY4KCD18044, Engine No. PDYCKD 43686 5) PLATINA 100 ES Chassis No. MD2 A76AY0HWD20318, Engine No.PFYWHD00107 6) PULSAR 200 DTS Chassis No.MD2A 13EY2KCA23490, Engine No. DKYCKA93 342 7) PLATINA 110 Chassis No.MD2A76AYXKWD03470, Engine No.PFYWKD05937 8) PLATINA 110 Chassis No. MD2A76AY4 KWM03755, Engine No.PFY WKM52614 9) PULSAR 220 DTS Chassis No.MD2A13 EY7KCD45946 Engine No. DKYCKD68809 10) AVENGER 160 STREET Chassis No. MD2B57CY7KCD12755, Engine No.PDYCK D36289 11) DISCOVER 125 Chassis No. MD2A15BY2HWD09296, Engine No.JZYWHD65351 12) PULSAR 220 DTS Chassis No.MD2 A13EY1KCA23478, Engine No. DKYC KA93551 13) PULSAR 220 DTS Chassis No. MD2A13EYXKCD 46170, Engine No. DKYCK D69431 14) AVENGER 160 STREET Chassis No. MD2B57CY 1KCD12640, Engine No. PDYCKC32148 15) PULSAR 220 DTS Chassis No. MD2A13EY0KCD45934, Engine No.DKYCKD68919 16) PULSAR 150DTS Chassis No.MD2A11CY 3KCD34983, Engine No.DHYCKD50183 in the name of the petitioner company and issue the registration certificates within stipulated period and pass such further or other orders.

Prayer in WP No.15973 of 2021: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus or order or direction in the nature of writ directing the respondent to register the BS-IV four Wheelers up loaded in



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the portal for the following vehicles 1) TIAGO XZ+ Chassis No MAT626294KKD 36983, Engine No. REVTRN02DPYK44799 2) TIAGO XZ+ Chassis No.MAT6261 89KKD36214, Engine No.1.05LCR02DPYW12000 3) NEXON XZ+ Chassis No.MAT627162HL H03796, Engine No. 1.5CRAIL01HSYW 12190, 4) NEXON XZ, Chassis No.MAT627163JLD19765, Engine No.1.5CRAIL01DRYW17761 5) TIAGO XZ+ Chassis No.MAT6261 89LKA02189, Engine No.1.05LCR02AZXW00188 6) TIGOR XZ+ Chassis No.MAT629402KKJ58907 Engine No. 1.05LCR02HPYW19 545 7) ZEST XE Chassis No.MAT624004JPK14244 Engine No.100A2000-0777008 8) ZEST XE Chassis No.MAT624004JPJ 11622 Engine No.100A2000-0768611 9) NEXON XM Chassis No. MAT627221KLG33705, Engine No.REVTRN03GPYK66402 10) NEXON XZ+ Chassis No.MAT627162KLG30768, Engine No. O.1.5CRAIL01GPYW17666 11) TIGOR XZ+ Chassis No.MAT629402 KKJ58879 Engine No.1.05LCR02HPYW1 9642 12) TIGOR XZ (O) Chassis No.MAT629301HKD28457 Engine No.REVTRN05ESYK 24787 13) NEXON XZA+ Chassis No.MAT62 7265JLE21340 Engine No.REVTRN03ERYK41641 14) NEXON XZA+ Chassis No.MAT627 165JLE22160 Engine No.1.5CRAIL01 ERYW19730 in the name of the petitioner company and to issue the registration certificate with in stipulated period and pass such further or other orders

For Petitioner : Mr.M.Sathish Kumar  
in both Wps

For Respondent : Mr.U.Bharanidharan  
in both WPs Government Advocate

#### O R D E R

The issue involved in both the writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2. Heard the learned counsel for the petitioner and Mr.U.Bharanidharan, learned Government Advocate for the respondents.

3. The writ petitioner has approached this Court seeking for the issuance of the writ of mandamus directing the respondent to register the vehicles that were uploaded in the portal on or before 31.03.2020.

4. The case of the petitioners is that the partnership firm is carrying on with the business of sale and service of two-wheelers and four wheelers. The Hon'ble Supreme Court in the judgement in M C Mehtha Vs. Union of India while considering the serious impact on environment caused by vehicles belonging to a certain category, had directed the ban of such vehicles on and from 01.04.2020. Due to the lock down that was announced through out the country, several lakhs of vehicles which were sold and



uploaded in the portal, were not able to be registered due to the ban that was imposed by the Hon'ble Supreme Court. In view of the above, petitions came to be filed before the Hon'ble Supreme Court seeking for permission to register the vehicles, which have already been sold within the time limit fixed by the Hon'ble Supreme Court in the earlier order passed in [M.C.Mehta Vs. Union of India]. The Hon'ble Supreme Court passed an order on 27.03.2020 and the relevant portions in the order are extracted hereunder:-

With the consent of Mr. A.N.S. Nadkarni, learned Additional Solicitor General and Mr. K.V. Vishwanathan, learned senior counsel, it is ordered that sold vehicles be registered by the concerned authorities by 30.04.2020. However, at the same time we direct the applicant to furnish details of the purchasers, on affidavit, of the aforesaid vehicles through e-mail, within seven days from today. Details of registration shall also be furnished to this Court.

With respect to unsold vehicles as the manufacturer should have been ready because of deadline set for BS-VI compliant vehicles, there is no justification to extend the time which was fixed long time ago. This is not something new which has occurred, it would be further injurious and further burden on human health to be caused by pollution of BS-IV vehicles when BS-VI vehicles are supposed to be produced by the manufacturers well in advance considering the deadline of 31st March, 2020.

It is stated that there are 7,00,000 two-wheelers which are unsold through out India with different dealers. Similarly, passenger vehicles are 15,000 and commercial vehicles are 12,000. In Delhi and NCR region, we are not allowing sale and registration of these kind of vehicles any more. However, in the remaining part of the country, due to the situation which has arisen due to lock- down, it is ordered that not beyond 10% of the vehicles, except with the Dealers in Delhi and NCR region, are permitted to be sold out of the aforesaid number of vehicles to make up the good of six days which were available before the lock-down has been ordered in the country. Details of the sale shall be furnished by the applicant and there shall be no violation of the order passed by this Court. Sales to be done within ten days of the lifting of the lock-down operating in the concerned cities and not beyond it and on an affidavit number of vehicles sold shall be stated by the applicant/Federation of Automobile Dealers Association and only those vehicles shall be permitted to be



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registered about which affidavit is filed. If out of the vehicles which are permitted to be sold some of them remain unsold then obviously there is no question of any further extension of time for sale of these kind of vehicles. Particulars shall be given on an affidavit with engine and chassis numbers by the applicant/Federation of Automobile Dealers Association of the sale of vehicles before the registration is made, within seven days of the sale.

5. The specific case of the petitioner is that they have uploaded the details of the vehicles, which are falling within the category of BS-IV before the cut off date i.e 31.03.2020 in the portal. Therefore, the petitioners are claiming for the same benefit that was granted by the Hon'ble Supreme Court and according to the petitioner, there is no bar for registering the BS-IV vehicle, which have already been uploaded in the portal before the cut-off date.

6. A case of similar nature came up before the Bombay High Court and the Bombay High Court took into consideration the orders passed by the Hon'ble Supreme Court. The relevant portions of the order of the Bombay High Court in [M/s.Infinity Cars Pvt Ltd., Vs. State of Maharashtra and others] made in WP No.2209 of 2021 dated 28.06.2021 are extracted hereunder :-

The State's objection to the registration of these vehicles arises from an order passed by the Supreme Court on 24/10/2018 directing the Union and the States not to permit sale or registration of motor vehicles conforming to the emission standard BS -IV in the entire country with effect from 01/04/2020. This order has since been clarified by the Supreme Court by orders dated 27/03/2020 and 13/08/2020. The need for those clarifications arose as a result of the present Covid -19 pandemic, which held up registrations of vehicles which were sold prior to, but could not be registered as a result of the pandemic, and also for those vehicles whose sales were not reflected in E-Vaahan portals of the RTOs in addition to the lost opportunity to the dealers to sell vehicles during the 10 - day period of actual lockdown. In the Petitioner's case, the Petitioner had purchased these vehicles and registered them in its own name prior to 31/03/2020. The registration is, therefore, not in breach of the Supreme Court order of 24/10/2018. As for registration in the name of a dealer, there is no bar in law for the same. A dealer is within his rights to purchase and register any vehicle in his own name. There is no prescribed number of vehicles which the dealer can so purchase and register. The observations



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of the Supreme Court in its clarifcatory orders of 27/03/2020 and 13/08/2020 are a result of sales, which were neither conducted nor registered or placed on the portal before 30/03/2020. The Court was mindful of the fact that the dealers were conducting inter se sales and registering vehicles in their own name under the extension granted by the Supreme Court in its order dated 27/03/2020 as a result of the peculiar situation arising out of the pandemic. The dealers attempted to get over the bar in the order of 24/10/2018 by conducting inter se sales and register vehicles in the ten - day window opened by the Court for registration of sales of Bharat Stage IV compliant vehicles as a result of the pandemic. It was these sales and registrations which were frowned upon by the Supreme Court and not permitted in its orders dated 27/03/2020 and 13/08/2020. The observations of the Supreme Court in these two orders have nothing to do with those vehicles, which were sold prior to 31/03/2020, and which sales were registered and put on the portal before 31/03/2020.

7. It is clear from the above that a leverage has been given by the clarification order passed by the Hon'ble Supreme Court to the effect that vehicles which have been sold prior to 31.03.2020 and which sale has been registered and uploaded in the portal before 31.03.2020, will be entitled for registration. If the vehicles for which the petitioner is seeking for registration, falls within the above said criteria, the respondent has to proceed further to register the vehicles. However, it will be left open to the respondent to satisfy himself as to whether the parameters are fulfilled by the petitioner on a case to case basis. This Court is not inclined to issue a positive mandamus in this writ petition. In view of the above discussion, there shall be a direction to the petitioner to make a fresh representation to the respondent along with all the particulars and a copy of this order. The respondent on receipt of the same, shall take a decision within a period of four weeks from the date of receipt of copy of this order.

8. Both the writ petitions are disposed of with the above directions.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

rka



To

The Regional Transport Officer,  
Vellore  
Vellore District

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+2cc to Mr.M.Sathishkumar, Advocate, S.R.No.37534

+1cc to the Government Pleader, S.R.No.37704, 37705

W.P.No.15973 & 15978 of 2021

GPL (CO)

RGA (01/09/2021)