



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2021

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.1056 of 2021

M/s.Maverick Motors,
Partnership Firm Rep.by K.Sivaramanan,
Managing Partner,
200/1A3, Ayanpapakudi Village,
Airport Road,
Near Burma Colony,
Madurai-625 022.

... Petitioner

-Vs-

1. The State Transport Department,
Madurai Central Road Transport Officer (TN-64)
Madurai Central,
Melur Road,
Madurai-625 000.

2. Ministry of Road Transport of Highways,
Government of India,
Parivahan Bhavan-1,
Parliament Street,
New Delhi-110 001.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to register BS-IV vehicles

1.Skoda Superb L & K (130KW, TDI CR) with Chasis number TMBBKJNP0JA301300,

2.Skoda Octavia L & K-AT (105KW, TDI) with Chasis number TMBBJKNE6KA008350 and

3.Skoda Rapid Style-AT (81KW, TDI CR) with Chasis number TMBBVKNA2JG108409 of the petitioner and consequently, issue registration certificates for the said cars.

For Petitioner : Mr.K.P.Hemant Kumar

For R1 : Mrs.M.Rajeswari
Government Advocate

For R2 : Mr.S.Jeyasingh



ORDER

Heard the learned counsel on either side.

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2.The petitioner is a registered partnership firm. The petitioner wants the RTO, Madurai Central to register the petition mentioned vehicles. The first respondent has declined to register the vehicles on the ground that the sale transaction did not take place before the cut-off date. Therefore, this Writ Petition came to be filed.

3.There cannot be any dispute that the case on hand is covered by the direction issued by the Hon'ble Supreme Court in Writ Petition (Civil Nos.13029/1985 on 13.08.2020. The order passed by the Hon'ble Supreme Court reads as under:-

"Heard the learned counsel for the parties at length.

Considered the rival arguments. The lockdown was imposed from 25.03.2020. The sales data has been furnished for the lockdown period by FADA and Non-FADA Members for the period with effect from 15.03.2020. There are usually a large number of transactions, which had taken place during the lockdown period inter se dealers, which cannot be recognised for the purpose of actual sales and registration. We disallow the registration on the basis of such kind of transactions inter se dealers. As they are not sales to the customers and registration of these kinds of vehicles cannot be allowed, there is a ploy to misuse of the order and such vehicles cannot be permitted to be sold in market now. They are not genuine transactions of the sale to the customers. Hence, no registration of such kind of vehicles shall be made, which were sold inter se dealers during the lockdown period.

Apart from that, there are large number of vehicles, sales of which were not uploaded on E-Vaahan Portal. Since sales were not uploaded, as required, the transactions cannot be recognised as genuine sales. The order passed by this Court on 24.10.2018 is clear that sale and registration of BS-IV vehicles shall not be allowed after 31.03.2020. We cannot allow the registration of such vehicles, sale of which were not uploaded on E-Vaahan Portal of the Central Government or the portal of the concerned State Government.

There are still stated to be a large number of sales which have been made and uploaded on the E-Vaahan Portal, even temporary registration were made. Their registration during the lockdown period could not be made. Hence, we allow registration of such vehicles only which could not be registered during lockdown in the month of March, 2020 and for no other reason. However, the position of Delhi and NCR is differednt. We

<https://hcservices.ecm.cis.gov.in/hcservices/> order dated 27.03.2020 to the effect that no



registration of BS-IV vehicles is to be made in Delhi and NCR as people are suffering from severe air pollution and the order passed by this Court in 2018 was clear. No vehicle of BS-IV in Delhi and NCR to be registered.

We order that in the Delhi and NCR, no registration of the vehicles of BS-IV is to be made after 31.03.2020.

This order is for the rest of the country and only due to lockdown, not to be used for any other purpose/reason and for registration of other vehicles of which registration was not done for any other reason.

I.A.Nos.56015, 56017 and 56018/2020

(APPLNS. FOR IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM FILING ATTESTED AFFIDAVIT ON B/O NORTH EAT PLANATATION AND COMMERCIAL PVT. LTD)

The application for impleadment is allowed to the extent of intervention. In the peculiar facts and circumstances of the case, registration of the vehicles in question in these applications be made. However, it shall not be treated as a precedent for any other case. Application for directions is accordingly allowed. Pending interlocutory applications if any are disposed of. "

4. Based on the aforesaid order of the Hon'ble Supreme Court, the Transport Commissioner, Chepauk Chennai, has also issued Lr.R.No.8678/S3/2020, 27.08.2020. Therefore, the only question that has to be considered by me is as to whether the petitioner had already sold the vehicles in question and whether the details were duly uploaded in the E.Vaahan Portal.

5. The petitioner's counsel took me through the averments in the affidavit filed in support of the writ petition and also the materials enclosed in the typed set of papers. He would contend that the sale transaction had in fact taken place on 30.03.2020 and that the details had also been duly uploaded in the E.Vaahan Portal.

6. The petitioner's counsel is technically right in the sense that the particulars regarding the sale transaction had been uploaded in the E.Vaahan Portal. But then, in the counter affidavit, it has been brought out that the petitioner sold the vehicles to himself. In other words, the vendor as well as the purchaser happen to be Maverick Motors. In Paragraph Nos.14 and 15 of the counter affidavit, the respondents had taken this stand.

"14. So far as the petitioner is concerned, it is respectfully submitted that they are approved dealers having trade certificate for the purpose of sale of vehicles which are purchased from different manufacturers and sold to the customers only. But the petitioner have seek permission to register the sale of three LMV-Motor Cars supplied by the manufacturer viz "SKODA AUTO INDIA PVT LTD" Aurangabad-431201 sold in the name of



dealer himself and uploaded in Vaahan-4 portal on 30.03.2020, the Form 20, Form-21 (sale certificate) Form 22 (Road worthy certificate and pollution standards) and Insurance Certificates issued by the United India Insurance Company valid from 30.03.2020 to 29.03.2021. But no fee for registration was paid in e-vahan portal which is said to have been disallowed on 31.10.2020. In this connection, it is contended that the petitioner who are an authorized dealer ought to have sale vehicles to their customers only. But the petitioner had uploaded the documents with effect that three of LMV-Cars which are under dealers premises were said to have been sold in the name of the dealer themselves only instead of selling it to their customers and there was a ploy to misuse the order of Hon'ble Apex Court and such vehicles cannot be permitted to be sold in market now. Further, they are not found to be genuine transactions of the sale to the customers and no reregistration of such kind of vehicles shall be made which were sold inter-se-dealers or on the other hand said to be sold to the name of dealer themselves during the lock down period as per the directions of Hon'ble Apex Court dated 13.08.2020.

(a) Further the petitioner have seeking permission to grant permission to register the vehicles in question by related upon the Hon'ble Supreme Court Judgment in W.P.(Civil)Nos.13029 of 1985, dated 18.09.2020. In the said Judgment, the Hon'ble Supreme Court of India held that as vehicles purchased upto 31.03.2020 by the customers which are BS-IV complaint are concerned, they must have been registered with the E-Vahan Portal before the cut-off date to establish the date of purchase. The Hon'ble Apex Court never direct all vehicles sold before 31.03.2020 in the name of dealer or inter-se-dealers to register it in the name of dealer themselves or in the name of inter-se-dealers and such illegal sales cannot be entertained and registered as per the previous direction of the Hon'ble Apex Court in W.P.(Civil)Nos.13029 of 1895, dated 13.08.2020 and the above said facts are suppressed by the petitioner in their affidavit.

15.It is respectfully submitted that in toto, the dealer had sold three LMV-Cars in the name of the dealer only as on 30.03.2020 and uploaded the documents on Vahan Portal and the above said vehicles are not sold to their customers. As such transactions/registration could not be entertained as per the directions of the Hon'ble Supreme Court of India, dated 13.08.2020, since they are not considered as genuine transaction."

7.I am of the view that the direction given by the Hon'ble Supreme Court cannot be circumvented by such ingenious methods. As rightly pointed out by the learned Government Advocate, only a genuine sale transaction can be recognized by the authorities as



to be one and the same, the transaction would obviously not be entitled to the benefit conferred by the Hon'ble Supreme Court. In this view of the matter, I find no ground to grant relief. The Writ Petition stands dismissed. No costs.

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Sd/-
Assistant Registrar (T&P)

// True Copy //

/ /2021
Sub Assistant Registrar(CS-)

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The State Transport Department,
Madurai Central Road Transport Officer (TN-64)
Madurai Central,
Melur Road,
Madurai-625 000.

+1 CC to Mr.S.JEYASINGH, Advocate (SR-4744[F] dated 12/02/2021)
+1 CC to Mr.K.PATTABI, Advocate (SR-4787[F] dated 12/02/2021)
+1 CC to GP (SR-5139[F] dated 15/02/2021)

RMI

TE : 02/03/2021 : 5P/5C

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