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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.987 of 2023

Mr.T.A.Senthil Vel

Petitioner

vs.

1.The Union of India,
Rep. by the Joint Secretary,
Ministry of Road Transport and Highways Department,
Government of India,
Transport Bhawan,
No.1, Parliament Street,
New Delhi – 110 001.

2.The Officiating Director,
The Automotive Research Association of India (ARAI),
(The Research Institute of the Automotive Industry with
Ministry of Heavy Industries and
Public Enterprises, Government of India)
Regd. Office, S.No.102, Kothrud,
Pune 411 038, PB. No.832,
Pune – 411 004.

3.The Additional Chief Secretary,
Transport Department,
Government of Tamil Nadu,
Secretariat, Chennai – 600 009.

4.The Commissioner,
O/o. The Transport Commissioner and Road Safety,
Ezhilagam, Chepauk,
Chennai – 600 005.



5.The Regional Transport Officer,
O/o. The Regional Transport Office,
No.482, Phase II, Sathuvachary,
Vellore – 632 009.

6.The V.S.T. Motors Private Limited,
The Marketing Manager,
No.43, Katpadi, Chittoor Road,
Gandhi Nagar, Vellore 632 006.

7.Mr.Venkatesa Turmalla,
Regional Manager – Customer Care,
Regional Office – South,
Old No.37 and 38, New No.52
A.S.V. Ramanas Tower,
6th Floor, Venkatnaraya Road,
T.Nagar, Chennai – 600 017.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the Respondents 3 to 5 to consider the representation of the Petitioner dated 19.07.2022 made to the 5th respondent requesting to correct the Certificate of Registration, permit in respect of National Permit Heavy Goods Vehicle and Authorization Certificate of National Permit (Goods) in the Column of Gross Vehicle Weight as 55,000 instead of 49,000 to the petitioner vehicle named TATA SIGNA 5525 S BSVI-4X2 bearing Registration No.TN 23 DA 9892 by giving opportunity of personal hearing to the petitioner by submitting the relevant documents and records and pass appropriate suitable order within the stipulated time frame granted by this Court.



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For Petitioner : Mr.S.Srinivasan

For Respondent : Mr.M.Sathyam
Central Government Standing Counsel
for R1 & R2

Mrs.S.Mythreye Chandru
Special Government Pleader
for R3 to R5

Mr.L.P.Maurya for R7

ORDER

This writ petition has been filed for issue of writ of mandamus directing the respondents to consider the representation made by the petitioner on 19.07.2022, wherein, the petitioner has sought for certain alteration/rectification in the certificate of registration and permit given to the petitioner with respect to the vehicle TATA SIGNA 5525 S BSVI -4 X2 bearing Registration No. TN 23 DA 9892.

2.The case of the petitioner is that he had purchased a Zeep which is a lorry with a trailer (Goods Carrier). According to the petitioner, the vehicle is capable of carrying load of 55 tons. However, the grievance of the petitioner is that the 5th respondent while registering the vehicle and giving the Certificate of Registration and other documents, erroneously registered as if the gross vehicle weight was only 49 tons instead of mentioning it as 55 tons. The petitioner made a representation in this regard seeking for the correction/rectification by entering the correct gross weight of vehicle as 55 tons. Since the same was not considered, the present writ



3. The 5th respondent has filed a counter affidavit. The relevant portions in the

counter affidavit are extracted hereunder:

7) *In the present case, though the petitioner has purchased a Goods Carrier which has the capacity of 55,000 Kgs Gross Vehicle Weight, the Trailer purchased by the Petitioner has a capacity of only 49000 Kgs. As such, the petitioner's vehicle can be permitted to carry only up to 49,000 Kgs and not 55,000 Kgs. In fact, the "Form 21" issued by the manufacturer of the Trailer in itself mentioned the Gross Vehicle Weight as only 49,000 Kgs and not 55,000 Kgs. Further, the term "49T" in the model name of the Trailer "INDICO 40FT 3 AXLE FBT 49T" purchased by the petitioner would denote the capacity of 49,000 Kgs. Similarly, with respect to the 55,000 Kgs. Trailer, the model name of the will carry the term "55T", for example, "TRATICO 32 FT TANDEM FLAT BED SEMI TRAILER 55T GCVW with Anti Lock Braking System (ABS)" manufactured by M/s Tratico Engineering India Private Limited.*

8) *Further, it is imperative to state that Trailers with the capacity of 55,000 Kgs are also available in the market that has been recognised and approved by the Transport Department. Since the petitioner has purchased INDICO 40FT 3 AXLE FBT 49T with has the Gross vehicle weight as 49000 Kgs, the impugned Registration Certificate also mentions 49000 Kgs. In*



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55,000 Kgs, the registration certificate would also reflect 55,000 Kgs.

9) *It is submitted that the Registration Certificate issued by the 5th respondent is absolutely correct and in terms of the certified issued by the testing agency AARI, Pune in Type approval Certificate No.AAON 0032, dated:30.01.2019 and Type approval Certificate(No.646/2022) issued by The Transport Commissioner in Lr. No.24843/HA2/2022, dated:28.06.2022 with respect to HMV Semi-Trailer Makers classification INDICO 40FT 3 AXLE FBT 49T with Gross vehicle weight 49000 Kgs.*

10) *It is submitted that the contention of the petitioner that the Goods Carrier having Gross Vehicle weight of 55000 Kgs can be used to carry the trailer with 55000 Kgs of goods irrespective of Gross Vehicle weight mentioned in the trailer is not correct. The GCW of Trailer is 49000 Kgs only. So the Goods CarrierTN23DA9892 is permitted to carry to load of 49000 Kgs only since the ARAI, Pune has approved GVW of 49000 Kgs only to the trailer.*

11) *It is submitted that the Goods Carrier having capacity of GVW of 55000 Kgs can be used to carry various GVWs of trailer up to 55000 Kgs. But, the petitioners trailer is permitted to carry load up to 49000 Kgs only. So, the prayer of the petitioner cannot be allowed.*



4. Heard Mr.S.Srinivasan, learned counsel appearing on behalf of the petitioner, Mr.M.Sathyam, learned Central Government Standing Counsel appearing on behalf of the respondents 1 and 2, Mrs.S.Mythreye Chandru learned Special Government Pleader appearing on behalf of the respondents 3 to 5 and Mr.L.P.Maurya, learned counsel appearing on behalf of the 7th respondent.

5.The short issue that is involved in the present writ petition is as to whether a positive direction can be issued to the 5th respondent to enter the gross weight of vehicle as 55 tons instead of 49 tons as has been entered already. The counter affidavit of the 5th respondent justifies the entry that was made as 49 tons with respect to the gross weight of the vehicle. The learned counsel for the petitioner submitted that he has certain documents to establish that the gross weight of the vehicle is 55 tons and not 49 tons as was understood by the 5th respondent going by the model name that was given by the manufacturer of the vehicle.

6.In view of the above, no positive direction can be issued to the 5th respondent as sought for by the petitioner. However, it is left open to the petitioner to submit all the relevant documents before the 5th respondent in order to establish that the gross vehicle weight of the vehicle is 55 tons and not 49 tons. The same can be considered by the 5th respondent and ultimately, a final decision shall be taken by the 5th respondent. This process shall be completed by the 5th respondent, within a



period of four weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the 5th respondent along with all the relevant documents and also a copy of this order. The 5th respondent on receipt of the same can call the petitioner for a personal hearing and clarify regarding the documents that are submitted by the petitioner and thereafter, the 5th respondent can take a decision.

7.This writ petition is disposed of with the above directions. No Costs.

18.04.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr

To

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Union of India,
Ministry of Road Transport and Highways Department,
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No.1, Parliament Street, New Delhi – 110 001.

2.The Officiating Director,
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N. ANAND VENKATESH, J.

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