IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.24123 of 2023

S.Sarayuu ... Petitioner

vs.

1.The Transport Commissioner
Commissionerate of Transport and Road Safety
Ezhilagam
Chepauk
Chennai – 600 005.

2.The Regional Transport Officer,
Gobichettipalayam
Erode District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to register the petitioner's motor vehicle namely, Car in pursuance to the e-Application NO.TN36W/SAR/2017/001227814 (Temporary Regn. No.TN 07 TMP 13342) within a time frame to be fixed by this Court and pass suitable orders within the time frame to be fixed by this Court.

For Petitioner : Mr.C.Munusamy

For Respondents : Mr.N.Naveenkumar
Government Advocate

ORDER

The writ petitioner seeks a direction to the respondents to register his Maruti Car with BS-IV Model based on the e-Application submitted by the petitioner in TN36W/SAR/2017/001227814 (Temporary Regn.No. TN 07 TMP 13342) within the time fixed by this Court.

2. It is seen from the affidavit that the petitioner had purchased a new Maruti Celerio VXI Model Car on 30.11.2017 and the said vehicle was temporarily registered before the Registering Authority, Regional Transport Office, Chennai (South) with Temporary Registration No. TN 07 TMP 13342 on 04.12.2017. Thereafter, the petitioner submitted an online application for regular registration of the vehicle before the 2nd respondent along with required documents and paid the life tax and other applicable taxes for registration of a new vehicle to the tune of Rs.51,343/- on

06.09.2021. However, the vehicle of the petitioner has not been registered till date by the 2nd respondent. The respondents are declining to register vehicle on the ground that the petitioner's vehicle is a BS-IV Model and therefore, the same cannot be registered after cut-off date namely 31.03.2020.

3. The learned counsel appearing for the petitioner submitted that in respect of BS-IV motor vehicles, which were purchased prior to 31.03.2020 and the details of the same has already been uploaded in E-Vaahan Portal, there may not be any difficulty for the respondents to register the vehicle.

4. In this regard, the learned counsel relied on the judgment of this Court in ***Tamilnadu Automobile Dealers Association vs. The Principal Secretary/Transport Commissioner*** (W.P.(MD).Nos.5846, 5848, 5865, 5877 and 5869 of 2021, dated 31.03.2021). He also relied on the judgment of the High Court of Punjab and Haryana in ***M/s Tulsi vs. Union of India and others*** in C.W.P.No.5656 of 2021 (O&M) dated 07.04.2022.

5. The learned Government Advocate appearing for the respondents submits that though the petitioner purchased the vehicle on 30.11.2017 and got temporary registration for 30 days, she failed to apply for registration of the vehicle before the cut-off date for registration of BS-IV Vehicle namely 31.03.2020. The petitioner applied for regular registration through online only on 26.09.2019. However, she failed to pay the tax for new registration of the Vehicle. The learned Government Advocate also drawn the attention of this Court to the order passed by the Hon'ble Apex Court in ***M.C. Mehta vs. Union of India and others*** in Writ Petition(s)(Civil) No.13029 of 1985 dated 13.08.2020, wherein the Hon'ble Apex Court held that the Vehicles which have been already uploaded in E-Vaahan Portal and the regular registration could not be done due to the lockdown period alone to be permitted to register subsequent to the date namely 31.03.2020.

6. In ***M.C. Mehta vs. Union of India and others*** while considering the registration of the Vehicles which were purchased prior to cut-off date namely 31.03.2020, the Hon'ble Apex Court observed as follows:-

> *"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, sales 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 registrations 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. (emphasis supplied) However, the position of Delhi and NCR is different. We clarify our 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."

7. A reading of the above order passed by the Hon'ble Apex Court would make it clear that BS-IV Vehicles shall not be registered after 31.03.2020. However, in the above mentioned judgment, exemption has been granted to the Vehicles which were purchased prior to cut-off date and uploading of the same has also been done in E-Vaahan Portal, however, due to lockdown period, the regular registration process could not be completed. Therefore, the exemption granted by the Hon'ble Supreme Court in the above mentioned judgment is confined to the Vehicles which were purchased during lockdown period and not to the vehicles which were purchased prior to the lockdown period.

8. In the case on hand, admittedly, the petitioner purchased the Vehicle in the year 2017 well prior to Covid-19 lockdown period. In such cases, the order passed by the Hon'ble Apex Court in ***M.C. Mehta vs. Union of India and others*** in Writ Petition(s)(Civil) No.13029 of 1985 dated 13.08.2020 will not help the petitioner for registration of his Vehicle, which was purchased in the year 2017 merely on the ground that the uploading E-Vaahan Portal was done prior to the cut-off date. The petitioner has not shown any acceptable reason for his failure to complete registration from

2017 to March 2020 (outbreak of Covid-19)

9. As far as the order relied on by the learned counsel appearing for the petitioner in ***Tamilnadu Automobile Dealers Association vs. The Principal Secretary/Transport Commissioner*** case is concerned, it is not clear whether the said case is relating to the Vehicle purchased during Covid lockdown period or even prior to that period, as in the present csae. Therefore, the said case law will not advance the argument of the learned counsel appearing for the petitioner.

10. Though learned counsel appearing for the petitioner tried to support his argument by relying on the order passed by the High Court of Punjab and Haryana in ***M/s Tulsi vs. Union of India and others***, in the light of the law laid down by the Hon'ble Apex Court in ***M.C. Mehta vs. Union of India and others*** in Writ Petition(s)(Civil) No.13029 of 1985 dated 13.08.2020, the exemption granted by the Hon'ble Supreme Court is only restricted to the Vehicles which were purchased earlier and registration could not be completed during lockdown period.

11. In such circumstances, I am unable to accept the contention made by the learned counsel appearing for the petitioner. It is needless to say that the Vehicle Tax paid by the petitioner cannot be retained by the 2nd respondent when he refused registration of the vehicle. In such circumstances, the entire amount of life tax and other applicable taxes paid by the petitioner towards registration of Vehicle, shall be refunded to the petitioner within a period of four weeks from the date of receipt of copy of this order.

12. With the above observation, the writ petition stands disposed of. No costs.

15.09.2023

Index : Yes/No
Speaking order:Yes/No
Neutral Citation:Yes/No
dm

To

1.The Transport Commissioner
Commissionerate of Transport and Road Safety
Ezhilagam
Chepauk
Chennai – 600 005.

2.The Regional Transport Officer,
Gobichettipalayam
Erode District.

S.SOUNTHAR, J.

dm

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