BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.8736 of 2024

M.Venkateshwaran ... Petitioner

Vs.

1.The Secretary to the Government of Tamil Nadu,
Department of Transport,
Fort St. George,
Chennai.

2.The Transport Commissioner,
Transport Department,
Chepauk,
Chennai.

3.The Assistant Transport Commissioner,
Transport Department,
Thanjavur District.

4.The District Collector,
District Collector Office,
Thanjavur.

5.The Regional Transport Officer,
Regional Transport Office,
Pattukkottai Taluk,
Thanjavur.

6.The Break Inspector Level -1,
Division Office, Pattukkottai,
Thanjavur. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the sixth respondent in A.T.No. 17810/A2/22, dated 09.01.2024, quash the same as illegal and consequently, direct the respondents to register the vehicle by allowing Road Tax Exemption as per G.O.Ms.No.3352, Home (Tr.1) Department, dated 29.12.1976.

For Petitioner : Mr.T.M.Lankaram

For Respondents : Mr.G.Suriyananth
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the sixth respondent in A.T.No.17810/A2/22, dated 09.01.2024, and consequently, direct the respondents to register the vehicle by allowing Road Tax Exemption as per G.O.Ms.No.3352, Home (Tr.1) Department, dated 29.12.1976.

2. The petitioner, who is a physically challenged person, having disability at 90%, has purchased a light motor vehicle namely, Carens

G1.5 6 MT Prestige7, has filed an application for exemption from payment of road tax in terms of G.O.Ms.No.3352, Home (Tr.1) Department, dated 29.12.1976 [to be read again with G.O.Ms.No.1932, Home Department, dated 19.07.1972].

3. It is the case of the petitioner that the vehicle is meant for the petitioner and the seat has been modified and the said vehicle satisfies the definition of "adapted vehicle" under Section 2(1) of the Motor Vehicles Act, 1988 read with Section 52(2) of the said Act. It is therefore submitted that the rejection of prayer of the petitioner for grant of exemption of road tax on the ground that the vehicle is not "adapted vehicle" as is contemplated in Section 2(1) of the Motor Vehicles Act, 1988 cannot be countenanced.

4. The learned counsel for the petitioner would draw attention to the decision of this Court rendered in **Angappan vs. The Secretary to Government of Tamil Nadu** [W.P.(MD)No.1480 of 2023, dated 13.03.2023]. The learned counsel for the petitioner would submit that in an identical facts and circumstances of the case, this Court referred to the definition in Section 2(1) of the Motor Vehicles Act, 1988 and Section

52(1) of the said Act and has ultimately granted relief to the petitioner therein. It is therefore submitted that the petitioner's case is no different and therefore, the benefit of the said decision should be accrued to the petitioner.

5. The learned Additional Government Pleader for the respondents submitted that the vehicle does not qualify the adapted vehicle as contained in Section 2(1) of the Motor Vehicles Act, 1988 read with Section 52 of the said Act. That apart, the learned Additional Government Pleader would submit that the decision rendered in **Angappan's case** [cited supra] will not apply to the facts of the present case.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

6. This Court in the decision rendered in **Angappan's case** [cited supra] has examined the issue and has come to the conclusion that alteration made to the vehicle to adapt it more user friendly for a person, who is physically challenged to make ingress and egress into and out of the vehicle easier would entitle exemption. The relevant paragraphs from the said decision read as under:-

> *"12.Further, a perusal of Section 52(1) of the Act would clearly indicate that the particulars of the alterations, which should be contained in the registration, are with reference to replacement of an engine. Such alteration is to be communicated to the Registering Authority within 14 days from the date of making the alterations. A person holding a vehicle under a hire purchase agreement can make such alteration only with the written consent of the registered owner. The registration certificate of the vehicle provides provides the class of vehicle, makers name, model name, type of body, seating capacity, engine etc for identifying a vehicle and modifications to this can be made only with the approval of the Registering Authority.*
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> *13.The case on hand does not deal with any major alteration as contemplated under Section 52(1) of the Act supra. The alterations have been made only to adapt the vehicle to make it more user friendly for the petitioner, who is physically challenged to make ingress and egress into and out of the vehicle easier. Neither the definition under Section 2(1) nor Section 52 specifies that it is the person, for whose purpose, the adaption is made, who should ride the vehicle. On the contrary, the definition of adapted vehicle makes it clear that the vehicle should be used solely by or "for such person". Therefore, in the instant case, the adaption is made for the use of the petitioner and taking into account the Government Order, which provides for the exemption, the Writ Petition is allowed, directing the respondent/Registering Authority to apply the Government Order referred supra and grant exemption to the petitioner. However, there shall be no order as to costs."*

7. Considering the law laid down by this Court in the above referred case, I am inclined to allow this Writ Petition, by directing the fifth respondent to examine the issue afresh in the light of the above observations made in the said order and pass appropriate orders within a period of 15 days from the date of receipt of a copy of this order.

8. This Writ Petition stands allowed with the above observation. No costs.

Index : Yes/ No 10.04.2024
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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C.SARAVANAN, J.

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