231

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-941-2022 (O&M)
Reserved on: 23.05.2024
Pronounced on: 9th December, 2024

State of Punjab and others ...Appellants

Vs.

Libra Bus Service (P) Ltd. ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr Jatinder Singh Gill, DAG, Punjab
for the appellants.

Mr. Amit Jhanji, Sr.Advocate with
Mr. Sangram Singh Saron and
Ms Zaheen Kaur, Advocates for the respondent.

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DEEPAK MANCHANDA, J.

Through this intra-Court appeal, the appellants have challenged the judgment dated 17/8/2022, in case CWP-13510-2022, titled "Libra Bus Service (P) Ltd. Vs. The State of Punjab and Others." where the learned Single Judge issued directions to the appellants to grant Certificates of Fitness for the respondent's buses under Section 56 of the Motor Vehicles Act, 1988, and Rules 38 to 41 of the Punjab Motor Vehicles Rules, 1989. The learned Single Judge also ordered the appellants to allow the respondent to operate their buses and to establish equitable installment plans to pay vehicle taxes, enabling the respondent to deposit the motor vehicle tax as required by law. Additionally, the appellants were directed to consider the feasibility of extending the amnesty scheme dated 04.05.2022 based on equitable considerations as permitted by law.

2. Facts:-

2.1. The outlined facts emerging from the record are that the respondent filed a petition for directing the appellants to issue Certificates of Fitness with regard to the respondent's buses as per Section 56 of the Motor Vehicles Act, 1988 and Rules 38 to 41 of the Punjab Motor Vehicles Rules, 1989 as also inclusion of the respondent's name in the time table for the various routes. The respondent's raised a grievance that despite submitting an application dated 11.01.2022 for issuing the Certificates of Fitness for its 73 buses, only two Certificates were issued in May, 2022 and that too, without giving any valid reasons. As pleaded, the respondent has a fleet of 73 buses and during COVID-19, could not pay the Motor Vehicles Tax due to a financial crunch but was forced to make payment of undue taxes even against the road permits which had already expired. As per the facts cited by the respondent, during COVID-19 a Notification dated 20.03.2020 restricting all public service vehicles from plying in Punjab w.e.f. 21.02.2020 to 31.03.2020 was issued and the said restriction adversely impacted the respondent's business. On 02.06.2020, the appellants issued another Notification under Section 13(3) of the Punjab Motor Vehicles Taxation Act, 1924 (for short '1924 Act') exempting Motor Vehicle Tax of all types *of* Stage Carrier Buses from 23.03.2020 to 19.05.2020 (Annexure P-4). After 15.12.2020, another Notification for extending the exemption till 31.12.2020 was issued (Annexure P-5). After that, the respondent sent several representations dated 14.07.2021, 04.12.2021, 16.12.2021 to Regional Transport Authority, Sangrur (for short 'the Authority') i.e. appellant No.3, requesting computation of Motor Vehicle Tax after due adjustment of tax for the expired permits and for making installments of the tax due after exempting the expired permits. However, without considering the respondent's representations on 17.12.2021 (Annexure P-11), appellant No.3 issued office order directing the respondent to pay four monthly installments of Rs.1,46,36,750/- by 20th of each month.

2.2. On 20.12.2021, being aggrieved against the inaction of the appellants, the respondent again made a representation raising therein the difference in the tax as calculated by the respondent. After considering the prayer made by the respondent, the Authority-appellant No.3 on 21.12.2021 given Section 11B (2) of 1924 Act, only changed the date of paying the installment from 20th of each month to 27th of each month. Though admittedly, the respondent paid the first installment on 27.12.2021 within the stipulated time frame but as pleaded, raised an objection saying that the tax demand was unreasonable, excessive and contrary to the exemptions granted by the appellants. It is further mentioned that on 29.12.2021, respondent No.1 issued another Notification to provide relief and exempted Motor Vehicle Tax of Stage Carrier Buses (Big and Mini Buses) from 01.04.2021 to 31.07.2021 vide Annexure P-14. In continuation, on 03.01.2022, the respondent submitted one more representation to appellant No.3 to seek an adjustment of the tax of the expired permits and till the said issue was not decided, made a prayer for passing of the vehicles by issuing Fitness Certificates in light of statutory provisions as the issue of payment of Motor Vehicles Tax was an independent issue and also requested for deferring the payment of installments till the final decision regarding adjustment of tax was made.

2.3. On 15.02.2022, appellant No.2 sought comments from appellant

No.3, given the request made by the respondent for deferring the pending installments of Motor Vehicle Tax, but during the pendency of the said issue, appellant No.3 without awaiting the decision by appellant No.2 passed the order dated 03.03.2022 (Annexure P-21) by saying that since respondent made a default in making the balance payment, renewal of the Stage Carrier Permit was directed to be canceled. Aggrieved by the said action, the respondent filed a Civil Writ Petition No.5632-2022 challenging the order dated 03.03.2022, during the pendency whereof, respondent No.2 passed an *ex parte* order dated 25.03.2022 (Annexure P-26). The said petition was withdrawn on 06.04.2022 with the liberty to assail the orders mentioned above.

2.4. In pursuance to the withdrawal of the writ petition mentioned above, when despite repeated efforts, the issue of adjustment of the Motor Vehicle Tax of the respondent was not decided, the respondent filed CWP No.8074-2022 challenging therein the orders dated 21.12.2021, 03.03.2022 and 25.03.2022, which petition is still pending adjudication through which respondent agitated that pendency of arrears of taxes is not a disqualification for issuance of Fitness Certificates. Besides, on 04.05.2022, respondent No.1 issued an order/amnesty scheme, whereby the owners of transport vehicles, who were in arrears of taxes under the Punjab Motor Vehicles Tax Act, 1924 could pay the same from 06.05.2022 to 05.08.2022. Vide the impugned judgment dated 17.08.2022, the learned Single Judge allowed the writ petition bearing No.13510-2022,filed by the respondent, where impugned judgment had been passed but being aggrieved with the same, the appellants have preferred this present intra-Court appeal.

3. <u>Submissions of the appellants:-</u>

3.1. Learned counsel for the appellants contends that Rule 73 of the Central Motor Vehicles Rules, 1989 prescribes that no application for any vehicle can be entertained for grant of Fitness Certificate unless the same is accompanied by a tax clearing Certificate and the learned Single Judge has not correctly appreciated the true import of Sections 56, 64 and 65 of Motor Vehicles Act, 1988 read with Rule 73 of the Central Motor Vehicles Rules, 1989 and Rule 38 to 41 and did not consider that where tax is not paid no defaulter shall ply its vehicle on road and the said default is to be regarded as violation of provisions of the 1988 Act and Rules made thereunder. Learned counsel further contends that as per the record, the respondent is in arrears of Motor Vehicles Tax of Rs.6,29,32,440/- up to 31.07.2022 and by admitting the inability, requested for recovery of the said amount in four monthly installments, but out of said four installments paid only one installment and has defaulted again in making payment of outstanding arrears of taxes, consequently, the fitness Certificate cannot be issued.

3.2. Learned counsel for the appellants has contended that the learned Single Judge, without appreciating the fact that the renewal of the Fitness Certificate is subject to mandatory tax clearance, wrongly allowed the prayers made by the respondent. He further submits that even otherwise, Rule 73 of the Central Motor Vehicles Rules, 1989 has two parts: one part is mandatory and the other part is directory, where non-acceptance of application for grant/renewal of Certificate of Fitness is the compulsory part of Rule 73, and prescription of form by the State Government as envisaged under Rule 73 cannot be read down to the prejudice of the State and to the benefit of the operator/respondent for grant/renewal of Fitness Certificate without payment of tax.

3.3. To give strength to his arguments, he further adds that the statute gives the Rule making power to both, i.e. Central as well as State Governments on the matters specified under Sections 64 and 65 of the Motor Vehicles Act, 1988, and same nowhere suggests that Central Government as well as the State Government have to frame Rules together/simultaneously on the same subject for applicability of such Rule and does not suggest that in case, either of the two Governments have not framed a Rule on matters specified under Sections 64 and 65 of the Act, then Rule made by the Central Government would be unenforceable.

3.4. Learned counsel for the appellants has further argued that the learned Single Judge wrongly interpreted the statutory provisions and allowed the writ petition on the ground that the application for grant of renewal for a Certificate of Fitness/tax clearing Certificate has sanctity only when the State Rules prescribe the form and if the State specifies no such form, then Rule 73 of Central Motor Vehicles Rule 1989 will not answer the question. Learned counsel argues that it is well-settled law that while interpreting the statutes, the legislative intent and object of the Statutory provision must be seen and in that case the legislative intent of Rule 73 is not to entertain any application for grant or renewal of fitness Certificate without payment of Motor Vehicles Tax, and prescription of the specified form by the State Government is merely a modality/procedure to achieve such legislative intent. In other words, the legislative intent is not to prescribe a specific form but to grant/renew fitness Certificates on payment of Motor Vehicle Tax only and not otherwise.

3.5. To support his contentions, learned counsel relied upon the judgments in "***State of Kerala Vs. C.P.Varghese", 2017 SCC Online Ker 10291, "The State of T.N.Vs. M.K.Kandaswami etc.", 1975(4)SCC 745, "Balram Kumwat Vs. Union of India and others", 2003 (7) SCC 628, "Sanjay Ramdas Patil Vs. Sanjay and others", 2021 (10) SCC 306 and "Deepak Kumar Tewari Vs. State of U.P.(Allahabad), 2012 (6) All.LJ 600, "R.K.Milgani Vs. The state of M.P." I.L.R.(2017)M.P.2671, "Patna Zila Truck Association Vs. State of Bihar", 1193AIR (Patna) 151, "Sanjay Ramdas Patil Vs. Sanjay and others", 2021 (10) SCC 306, "Chairman, Board of Mining Examination and Chief Inspector of Mines Vs. Ramjee" 1977 AIR (Supreme Court) 965***

4. Submissions made by respondent:-

4.1. Learned Senior counsel for the respondent referred to Sections 56, 64 and 65 of the Motor Vehicles Act, 1988, read with Rules 62 to 72 and 73 of Central Motor Vehicles Rule 1989, Article 246 of the Constitution of India with entry No.56 of List II and entry No.35 of List III and contends that respondent made several representations to Authorities regarding computation of tax after adjusting tax of the expired vehicles, but request of respondent was not accepted, and without adjusting the tax of the expired permits, the appellants passed the order dated 17.12.2021 under Section 11 B(2) of the Punjab Motor Vehicles Taxation Act, 1924 directing the respondent to make payment in four instalments of Rs.1,46,36,750/- each, but to show *bona fide*, respondent paid first revised instalment of Rs.1,45,93,100/- in view of the office order dated 21/1/2021(Annexure P-13) passed by appellant No.3 regarding payment of installments on 27.12.2021. Learned senior counsel further contends that during this period, exemption from payment of any tax was extended by the Government vide different Notifications dated 29.12.2021 from 01.04.2021 to 31.07.2021 issued time to time, where again vide order dated 03.03.2022 renewal of permits was rejected, and when all went in vain, the respondent filed CWP No.8074-2022 challenging the orders 21.12.2021, 03.03.2022 and 25.03.2022, which is pending adjudication. He has also alleged discrimination for granting Fitness Certificate to many other operators who are also tax defaulters.

4.2. Learned senior counsel for the respondent has further argued that the provisions of the Motor Vehicles Act, 1988 govern the fitness Certificate of Motor Vehicles. In contrast, the payment of Motor Vehicle Tax is governed by the Punjab Motor Vehicles Taxation Act, 1924 and by referring to Rule 73 of the Central Motor Vehicles Rules, 1989, submitted that the said Rule cannot be made applicable in the State of Punjab as the same has not been adopted, given the powers under Section 65(2)(d) of the Motor Vehicles Act, 1988. Learned senior counsel further argues that a perusal of Section 73 of the Central Motor Vehicles Rules, 1989 would show that no authorised testing station shall accept an application for the grant or renewal of a Certificate of Fitness unless the same is accompanied by a Tax Clearance Certificate in such a form as may be prescribed by the State Government from the Regional Transport Officer. But the Rules framed by the State Government, i.e. Punjab Motor Vehicles Rules, 1989, do not answer such a contingency of providing for any motor vehicle tax clearance without any such form for a tax clearance Certificate and in State Rules, the intention is straight forward not to have such requirement of tax clearance for the issuance of fitness Certificate. To support his contentions, he has relied upon the judgments passed by Hon'ble Supreme Court in

"***Nasiruddin and others Vs. Sita Ram Agarwal", 2003 (2) SCC 577, Union of India and another Vs. Manik Lal Banerjee", 2006 SCC (L&S) 1959, K.S.Panduranga Vs. State of Karnataka", 2013 (3) SCC 721*** and ***"Babu Verghese and others Vs. Bar Council of Kerala and others", 1999 (3) SCC 42.***

5. We have heard the learned counsel for the parties and have perused the material on record.

6. A perusal of the pleadings and impugned judgment would show that the controversy involved in the present intra-Court Appeal revolves around the renewal of the Fitness Certificate and whether for the renewal/issuance of the same tax clearance under Rule 73 of the Act is mandatorily required or not. Secondly, whether without deciding the issue raised by the respondent, qua adjustment of taxes of the expired permits, considering all the rebates/exemptions granted by the appellants themselves, the demand of tax made by the appellants is justified.

7. For adjudication of the above issues, it is of utmost importance to meticulously examine the statutory provisions pressed into serve by the parties. The provisions of law, which have been referred to during arguments are reproduced herein below:-

> ***"56. Certificate of fitness of transport vehicles.***
> *(1) Subject to the provisions of sections 59 and 60, a transport vehicle shall not be deemed to be validly registered for section 39 unless it carries a Certificate of fitness in such form containing such particulars and information as may be prescribed by the Central Government, issued by the prescribed authority, or by an authorised testing station mentioned in sub-section (2), to the effect that the vehicle complies for the time being with all the requirements of this Act and the rules made thereunder:*
> *Provided that where the prescribed authority or the "authorised testing station" refuses to issue such Certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal:*
> *[Provided further that no Certificate of fitness shall be granted to a*

car after such date as may be notified by the Central Government unless such vehicle has been tested at an automated testing station.]
[(2) The "authorised testing station" referred to in sub-section(1) means any facility, including automated testing facilities, authorised by the State Government, where fitness testing may be conducted in accordance with the rules made by the Central Government for recognition, regulation and control of such stations.]
(3) Subject to the provisions of sub-section (4), Certificate of fitness shall remain effective for such period as may be prescribed by the Central Government having regard to the objects of this Act. (4) The prescribed authority may for reasons to be recorded in writing cancel a Certificate of fitness at any time if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Act and the rules made thereunder and on such cancellation the Certificate of registration of the vehicle and any permit granted in respect of the vehicle under Chapter V shall be deemed to be suspended until a new Certificate of fitness has been obtained:
**[Provided that no such cancellation shall be made by the prescribed authority unless,-*
(a) such prescribed authority holds such technical qualification as may be prescribed by the Central Government, and where the prescribed authority does not hold the technical qualification, such cancellation is made on the basis of the report of an officer having such qualification and
(b) the reasons recorded in writing for cancelling a Certificate of fitness are confirmed by an authorised testing station chosen by the owner of the vehicle whose Certificate of fitness is sought to be cancelled:
Provided further that if the cancellation is confirmed by the authorised testing station, the cost of undertaking the test shall be borne by the owner of the vehicle being tested and in the alternative by the prescribed authority.]
[(5) A Certificate of fitness issued under this Act shall, while it remains effective be valid throughout India.
[(6) All transport vehicles with a valid Certificate of fitness issued under this section shall carry, on their bodies, in a clear and visible manner such distinguishing mark as may be prescribed by the Central Government.]
[(7) Subject to such conditions as the Central Government may prescribe, the provisions of this section may be extended to non-transport vehicles.]"

64. Power of the Central Government to make rules. - The Central Government, as the supreme authority in this matter, may make rules to provide for all or any of the following matters, namely:
(a)the period within which and the form in which an application shall be made and the documents, particulars and information it shall accompany under sub-section (1) of section 41;

(b)the form in which the Certificate of registration shall be made and the particulars and information it shall contain and the manner in which it shall be issued under sub-section (3) of section 41;

(c)the form and manner in which the particulars of the Certificate of registration shall be entered in the records of the registering authority under sub-section (5) of section 41;

> *(d)how and the form in which the registration mark, the letters and figures and other particulars referred to in sub-section (6) of section 41 shall be displayed and shown;[(da) providing for the period of validity of a Certificate of registration under sub-section (7) of section 41;]*
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> *(e)the period within which and the form in which the application shall be made and the particulars and information it shall contain under sub-section (8) of section 41;[(ea) the period of renewal of Certificate of registration of different types of motor vehicles under sub-section (10) of section 41;]*
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> *(f)the form in which the application referred to in sub-section (14) of section 41 shall be made, the particulars and information it shall contain and the fee to be charged;[(fa) the issue of temporary Certificate of registration and temporary registration mark under section 43;(fb)the terms and conditions under which a motor vehicle sold by an authorised dealer shall not require production before a registering authority under sub-section (1) of section 44;](g)the form in which and the period within which the application referred to in subsection (1) of section 47 shall be made and the particulars it shall contain;*
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> *(h)the form in which and the manner in which the application for No Objection Certificate shall be made under sub-section (1) of section 48 and the form of receipt to be issued under sub-section (2) of section 48;(i)the matters that are to be complied with by an applicant before no objection Certificate may be issued under section 48;*
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> *(j)the form in which the intimation of change of address shall be made under sub-section (1) of section 49 and the documents to be submitted alongwith the application;[(ja) the form and manner for the electronic submission of the intimation of change of address, documents to be submitted along with such intimation including proof of authentication under sub-section (1A) of section 49;]*
>
> *(k)the form in which and the manner in which the intimation of transfer of ownership shall be made under sub-section (1) of section 50 or under sub-section (2) of section 50 and the document to be submitted alongwith the application;*
>
> *(l)the form in which the application under sub-section (2) or sub-section (3) of section 51 shall be made;[(la) specifications, conditions for approval, retro fitment and other related matters for the alteration of motor vehicles under sub-section (1) of section 52;*
>
> *(lb)the conditions for the alteration of any motor vehicle into an adapted vehicle under sub-section (2) of section 52;]*
>
> *(m)the form in which the Certificate of fitness shall be issued under sub-section (1) of section 56 and the particulars and information it shall contain;(n)the period for which the Certificate of fitness granted or renewed under section 56 shall be effective;[(na) the distinguishing mark to be carried on the body of transport vehicles under sub-section (6) of section 56;*
>
> *(nb)the conditions under which the application of section 56 may be*

extended to non-transport vehicles under sub-section (7) of section 56;

(nc)the recycling of motor vehicles and parts thereof which have exceeded their life under sub-section (4) of section 59;]

(o)the fees to be charged for the issue or renewal or alteration of Certificates of registration, for making an entry regarding transfer of ownership on a Certificate of registration, for making or cancelling an endorsement in respect of agreement of hire-purchase or lease or hypothecation on a Certificate of registration, for Certificates of fitness for registration marks, and for the examination or inspection of motor vehicles, and the refund of such fees;[(oa) all or any of the matters under sub-section (1) of section 62B;

(ob)all or any of the matters under sub-section (1) and sub-section (2) of section 63;]

(p)any other matter which is to be, or maybe, prescribed by the Central Government."

65. Power of the State Government to make rules. - (1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter other than the matters specified in section 64.
(2)Without prejudice to the generality of the foregoing power, such rules may provide for

(a)the conduct and hearing of appeals that may be preferred under this Chapter (the fees to be paid in respect of such appeals and the refund of such fees);

(b)the appointment, functions and jurisdiction of registering and other prescribed authorities;(c)the exemption of road-rollers, graders and other vehicles designed and used solely for the construction, repair and cleaning of roads from all or any of the provisions of this Chapter and the rules made thereunder and the conditions governing such exemption;

(d)the issue or renewal of Certificates of registration and fitness and duplicates of such Certificates to replace the Certificates lost, destroyed or mutilated;

(e)the production of Certificates of registration before the registering authority for the revision of entries therein of particulars relating to the gross vehicle weight;

(f)the temporary registration of motor vehicles, and the issue of temporary Certificate of registration and marks [under the proviso to section 43];

(g)the manner in which the particulars referred to in sub-section (2) of section 58 and other prescribed particulars shall be exhibited;

(h)the exemption of prescribed persons or prescribed classes of persons from payment of all or any portion of the fees payable under

this Chapter;

(i)the forms, other than those prescribed by the Central Government, to be used for the purpose of this Chapter;

(j)the communication between registering authorities of particulars of Certificates of registration and by owners of vehicles registered outside the State of particulars of such vehicles and their registration;

(k)the amount or amounts under sub-section (13) of section 41, sub-section (7) of section 47, sub-section (4) of section 49, or sub-section (5) of section 50;

(l)the extension of the validity of Certificates of fitness pending consideration of applications for their renewal;

(m)the exemption from the provisions of this Chapter, and the conditions and fees for exemption, of motor vehicles in the possession of dealers;

(n)the form in which and the period within which the return under section 62 shall be sent;[***]

(p)any other matter which is to be or may be prescribed."

*"**Rule 73 of the Central Motor Vehicles Rules, 1989***

73. Tax Clearance Certificate to be submitted to the testing station- No authorised testing station shall accept an application for the grant or renewal of a Certificate of fitness unless the same is accompanied by a tax clearance Certificate in such form as may be specified by the State Government, from the Regional Transport Officer or motor vehicle inspector having jurisdiction in the area to the effect that the vehicle is not in arrears of motor vehicle tax or any compounding fee referred to in sub-sections (5) and (6) of Section 86."

8. After considering the arguments raised by learned counsel for the appellants, we find that the appellants are hinging upon Sections 56, 64 and 65 of the Motor Vehicle Act, 1988 read with Rule 73 of the Central Motor Vehicles Rules, 1989 and submit that unless and until the respondent pays the due taxes, no fitness Certificate can be issued. But another question that arises for consideration is that the chronology of circumstances and facts reveal that the respondent is not lacking in its *bona fide* for paying the taxes for the purpose of issuance of fitness Certificate and nothing to the contrary has also been brought on the record. Rather, the record reveals that since 2021, the respondent has been asking the appellants for due tax adjustments, which were never made. Resultantly, the appellants cancelled the permits and refused the renewal of Fitness Certificates. It is not the case of the respondent that there is no intention on the respondent's part to pay taxes. Rather, the respondent's has been requesting for due calculations after adjustment of the taxes which were levied against the expired permits, which has not been done so far by the appellants.

9. The perusal of impugned judgement shows that the learned Single Judge has also endorsed the imposition of valid taxes but only segregated the issue of Fitness Certificate with the payment of taxes. Therefore, in view of the segregation of issues the same should not be misconstrued. Moreover, after hearing the submissions made by the appellants, we are of the view that the issue raised by the appellants can't be brushed aside rather same holds sanctity in its entirety. Simultaneously, we also cannot loose sight of the fact that until and unless the issue of taxes is adjudicated by the appellants, the arguments raised by referring to Rule 73 of the Central Motor Vehicles Rules, 1989, are meaningless. On the other hand, the intent of Rule 73 of the Central Motor Vehicles Rules, 1989 is only for granting renewal of the Certificate of fitness subject to clearance of taxes as may be specified by the State Government time to time. The appellants being the State authority have raised a valid point about the imposition of taxes in light of statutory provisions and the Act. Even the law cited by the learned counsel for the appellants also holds that Tax Clearance Certificate for issuance by renewal/fitness Certificate is the conditional precedent, but it is also the settled law that the technical aspects cannot be pitched against the genuineness of the respondent, who, to show their *bona fide*, had paid the instalment of Rs.1,45,93,100/- but could not paid the rest of the installments without the adjustment of taxes, which was rightly requested. It is to be noticed that there is no denial of the tax payment by the respondent and pleadings also reveals that there is continuous prayer for the adjustment of undue taxes, which seems justified. The same can also be strengthened by the *bona fide* conduct of the respondent where they have already paid one instalment of motor vehicle tax in view of their own request for making the payment of tax in four instalments.

10. A perusal of impugned judgement would show that the learned Single Judge while passing the impugned judgement ignored the instance of making one instalment qua payment of taxes which amounts to acceptance of payment of tax for the issuance of Fitness Certificate especially when there was no denial to pay tax and the only question which was raised for levying of undue taxes and prayer made therein was for adjustment of the same. So instead of going into technicalities of statutory provisions, the same should have been dealt with, in reference to the specific prayer for issuance of Fitness Certificate.

11. Further, the perusal of orders dated 21.12.2021 (Annexure P-13), 03.03.2022 (Annexure P-21) and 25.03.2022 (Annexure P-26), which are annexed with the present intra-Court appeal and challenged through Writ Petition No. CWP-8074-2022 also do not reveal the adjudication upon the adjustment of taxes. So neither the issue of adjustment of taxes is under challenge through the aforementioned writ petition nor same has been adjudicated by the learned Single Judge before passing the impugned judgement, which should have been considered first.

12. Given the above discussion, the intra-Court appeal is partially allowed to hold that appellants are well within their rights to ask for a Tax Clearance Certificate. Accordingly, the impugned judgement is modified to the extent that appellants are directed to pass a well reasoned speaking order qua adjustment of undue taxes as prayed for by the respondent within a period of two months from the date of receipt of certified copy of this order.

13. All pending miscellaneous application(s), if any, also stand disposed of.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

9th December, 2024
vanita

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No