

Abdul Azeez Vs. Regional Transport Officer

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Court : Karnataka

Decided On : Sep-05-1985

Reported in : ILR1986KAR2446

Judge : Rajasekhara Murthy, J.

Acts : [Karnataka Motor Vehicles Taxation Act, 1957](#) - Sections 16(1)

Appeal No. : W.P. Nos. 8835 and 8836 of 1983

Appellant : Abdul Azeez

Respondent : Regional Transport Officer

Advocate for Def. : H.L. Dattu, HCGP

Advocate for Pet/Ap. : A. Ananda Shetty, Adv.

Disposition : Writ petitions allowed

Judgement :

ORDER

Rajasekhara Murthy, J.

In these two Writ Petitions the two orders passed by the Deputy Commissioner for Transport, Bangalore Division, Bangalore, as per Annexures 'C' and 'D' are challenged.

2. The Writ Petitions arise out of (1) refusal to accept the surrender application; and (2) consequently the notice of demand issued as per Annexure-B. Two appeals were filed against the order and the demand notice before the Deputy Commissioner for Transport, Bangalore, in Nos.TXA.32 and 31 of 1983-84, who also dismissed the appeals. Aggrieved by these orders these Writ Petitions are filed by the petitioner challenging them.

3. A goods vehicle bearing No. MDL 3344 met with an accident on 17-5-1982. On 20-6-1982 the petitioner surrendered all the documents and claimed exemption from the payment of tax for the period 1-6-1982 to 31-8-1982. Along with the surrender application the petitioner produced the tax paid receipt, Registration Certificate and the Insurance Certificate. It was mentioned in the surrender application that the tax card was seized by the Motor Vehicles Inspector, and parts of Annexures 'A' and 'B' of the permit was available in the office of the 1st respondent.

4. The Regional Transport Officer, Bangalore, by his endorsement dated 9-7-1982 (Annexure-A) rejected the application on the ground that the surrender was not in accordance with the Government Notification. No other reason is stated in the said endorsement. This was the subject-matter of appeal in No. TXA.32/82-83.

5. It was contended by the petitioner before the Appellate Authority that taxation card was not produced as it was seized by the Motor Vehicles Inspector, but he had not obtained any acknowledgment to that effect. The Appellate Authority got a report from the concerned Motor Vehicles Inspector, who denied having seized the taxation card. That part 'A' and 'B', of the permit was available in the office of the respondent, was also denied. Therefore, the only question was whether on the basis of the documents produced along with the surrender application, the surrender could be accepted.

6. Section 16 of the Karnataka Motor Vehicles Taxation Act provides for exemption from payment of tax subject to any such restrictions and conditions as may be specified by the Government. Power to impose such restrictions and conditions is vested with the State Government as are necessary in public interest so to do. One of the documents that is required to be produced along with the intimation of non-user is the tax token. In these cases the said document was not produced, The surrender was not accepted by the Regional Transport Officer since the tax token was not produced. But, it is not denied by the Appellate Authority that the, taxation paid receipt was produced along with Form No. 30. The Tax receipt was also returned to the petitioner by the Regional Transport Officer as per Annexure-A along with other documents.

7. But, the Deputy Commissioner for Transport applied the conditions specified in the Notification literally and dismissed the appeals in this behalf holding that unless the taxation card was before him, he was not willing to consider the surrender application.

8. The question whether the tax token was seized by the Motor Vehicles Inspector was in dispute and the petitioner did not have the acknowledgment for its seizure and the Motor Vehicles Inspector denied such seizure. Therefore, the only document that was available for the purpose of complying with the terms of the Notification was the taxation paid receipt. The Deputy Commissioner dismissed the appeals solely on the ground that the petitioner did not produce tax card.

9. The approach of the Deputy Commissioner is most unreasonable in the circumstances of the case. The rejection of the surrender application on the ground stated by him is wholly unjustified. Production of the documents as required by the Government Notification is made obligatory so that the owner of the vehicle should not use the same after such surrender of the documents as required. The purpose of the Notification is only to give effect to the provisions of Section 16(1) of the [Karnataka Motor Vehicles Taxation Act, 1957](#), under which the registered owner can claim exemption from payment of tax subject to the conditions as may be prescribed by the Government and not to defeat those provisions by taking highly technical view and unreasonable approach in these matters.

10. This Court had occasion to deal with similar cases and it was observed in more than one case that the authorities under the Act should not place artificial and unreasonable interpretation on the requirements of the Government Notification, It is

needless to say that the purpose of Government Notification is only to enable the owner to claim exemption in genuine cases of non-user and not to claims on some frivolous reason.

11. The petitioner's contention that he has substantially satisfied the Government Notification by producing the taxation paid receipt in the circumstances pleaded by him should have been accepted.

12. The other order challenged in these Writ Petitions relates to the tax demand as a consequence of the refusal to accept the surrender. In the view I have taken on the question of surrender, this order upholding the demand and the tax demanded notice are also set aside.

13. The Writ Petitions are accordingly allowed, and the rule issued is made absolute. The endorsement (Annexure-A) and the tax demand notice (Annexure-B) as also the two orders of the Deputy Commissioner (Annexures 'C' and 'D') are set aside. The petitioner is entitled to costs in these two Writ Petitions which is quantified at Rs. 200/-.

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