**(1981) 01 KAR CK 0025**

**In the Karnataka High Court**

**Case No :** WP. 2936/77

Badawadagi B.K. APPELLANT

Vs

Rto. Bijapur and Another RESPONDENT

**Date of Decision :** 15-01-1981

**Acts Referred:**

Karnataka General Clauses Act, 1899 — Section 10
Karnataka Motor Vehicles Taxation Act, 1957 — Section 16

**Citation :** (1981) 1 KarLJ 293

**Hon'ble Judges :** M. K. Srinivasa Iyengar, J

# Judgement

1. The petitioner is the owner of a motor vehicle bearing No. MYJ 3054. He sent a telegrahic intimation to the effect that the vehicle would be under non-use with effect from 1-10-76 during the quarter commencing on that day. This intimation was received by the RTO. on the same day. It transpires that the petitioner sent the relevant documents that were with him by post on the same day to the RTO. at Bijapur. Apparently, it was sent from Guledgud, the place of residence of the petitioner. 1st, 2nd and 3rd of October, 1976 were holidays. It transpires that the documents were received by the RTO. on 4-10-1976, which was the next working day for the office. The RTO. returned the documents by a communication dated 6-10-1976, wherein he has stated as follows:

"Though you had given intimation of surrender telegraphically on 30-9-76, your non-use intimation 30-9-76 along with receipt from the Police Sub-Inspector, Guledgud, and tax challan for Q.E. 30-9 76 in respect of M.V. No. MYJ 3054 is received in this Office on 4-10-76 instead of on or before 1-10-76 as required under Government Notification No. HD. 70 MVT 58 dt. 13-3-59, Hence it is rejected"

That communication also directed the petitioner to pay the tax for the Quarter 1-10-76 to 31-12-76 on or before 15-10-76. Feeling aggrieved by this notice, the petitioner preferred an appeal to the Deputy Transport Commissioner, Belgaum Division, Belgaum. He dismissed the appeal holding that as intimation was received at the R.T.O.''s office on 4-10-76 only, the requirement of the Government Notification had not been complied with and therefore the rejection of intimation of non-user by the R.T.O. and demand for payment of tax was correct.

2. It is contended by Sri S.D. Chhatre. learned Counsel for the petitioner, admittedly, the intimation of non-user had been received by the R.T.O. by telegraphic communication on 30-9-76 and this condition required under the Government Notification has been satisfied. His further argument was that the rejection of the intimation of non-user on the ground that the documents were received only on 4-10-76 is contrary to law and incorrect, as the documents could not be surrendered on the 1st, 2nd and 3rd October, 1976, as they were holidays and the petitioner was entitled to produce them on the next working day, namely 4-10-76 and in the instant case, the documents have been received by the R.T.O. on 4-10-76 and they must be treated as having been filed in accordance with the Government Notification. He submitted that the provisions of the Karnataka General Clauses Act have been specifically made applicable for the interpretation of the Karnataka Motor Vehicles Taxation Act, 1957, under S. 2(2) of that Act and in terms of S. 10 of the Karnataka General Clauses Act, the receipt of documents on 4-10-1976 was to be treated as in due compliance with the provisions of the Government Notification. In my opinion the contention urged for the petitioner is sound and must be accepted. In the case of R.S. Lakshman Redely v. Transport Commissioner, Bangalore and the R.T.O. Kolar, WP. 3397/77 dt. 16-10-79, it was held that the benefit of S. 10 of the Karnataka General Clauses Act was available to a person under similar circumstances. In that case, 30th of September, 1973, was a public holiday and therefore the petitioner who had to file the intimation of non-user could not actually present it on that day but presented it on 1-10-1973 the next working day, along with the required documents as required under the aforesaid Government Notification. The question was whether the filing of the intimation of non-user on 1-10-1973 was in accordance with law The intimation of non-user had not been accepted on the ground that it should have been sent on 30th September 1973. I held therein that the petitioner was entitled to the benefit ofthe provisions of S. 10 of the Karnataka General Clauses Act and accordingly the intimation of non-user on 1-10-1973 was valid. The instant case is slightly different, as the intimation had been sent on 30th September, 1976 and only the documents could not be presented on 1-10-1976, as it was a holiday and the documents were actually received by the R.T.O. on the next working day, namely 4-10-1976. In my opinion, the petitioner is entitled to the benefit of S. 10 of the Karnataka General Clauses Act, and the documents having been sent on 30th September 1976 and received by the R.T.O. on 4-10-1976 which is the next working day, is to be treated as having been filed in due compliance with the Government Notification. It is clear that even if the petitioner went to the office of the R.T.O. on 1-10-1976 itself, the documents could not be presented as the office had been closed and so also on the next succeeding two days. Accordingly the rule is made absolute, and

 

the order ''Ex-C'' of the Deputy Transport Commissioner, and the rejection of the intimation of the non-user by the R.T.O., as also the demand made thereunder, are hereby quashed. The R.T.O. shall accept the intimation of non-user.

Smt. M.R. Vanaja, Government Advocate for the respondents, is permitted to file Memo of appearance within two weeks from to-day.

 