

(2004) 04 SC CK 0153

In the Supreme Court Of India

Case No : Civil Appeal No's. 5054-56 of 1998

Government of A.P. and Another

APPELLANT

Vs

Road Rollers Owners Welfare Association and Others

RESPONDENT

Date of Decision : 06-04-2004

Acts Referred:

Motor Vehicles Act, 1988 — Section 2(21), 2(28)

Citation : (2004) 9 SCALE 34 : (2004) 6 SCC 210

Hon'ble Judges : S. N. Variava, J;H. K. Sema, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. These Appeals are against the Judgment of the Andhra Pradesh High Court dated 27th March, 1998. 2. The Appellants had issued G.O.Ms No. 75 dated 27th April, 1993 by which the road tax on vehicles was increased.

2. That G.O. was challenged in a Writ Petition bearing No. 7315 of 1993 which came to be dismissed. The G.O. was held to be valid. Thereafter, the Respondents filed Writ Petitions claiming that road rollers were not motor vehicles under the Motor Vehicles Act, 1988 and hence no tax could be levied on road rollers.

3. The High Court in the impugned Judgment holds that the imposition of tax was authorised by Entry-57 of List-II of Schedule-VII of the Constitution of India and that pursuant thereto the Andhra Pradesh Motor Vehicles Taxation Act, 1963 permitted levying of tax on vehicles using the roads. The High Court placed reliance on a Judgment of this Court in the case of Bolani Ores Ltd., and held that before vehicles could be taxed they must be adapted/suitable for use on loads. The High Court noticed the definition of 'Motor Vehicle' u/s 2(28) as well as the definition of 'Light Motor Vehicle' u/s 2(21) of the Motor Vehicles Act, 1988. The High Court still concluded that a road roller was not suitable for use on roads because it was meant only for laying roads and was not meant for

transporting people or goods from place to place. The High Court held that connotation of vehicle itself meant a conveyance for carrying people or goods. The High Court clarified that even though G.O.Ms. No. 75 had been upheld, no tax could be imposed on road rollers.

4. Undoubtedly, the power to impose taxes on vehicles is derived from Entry-57 of List-II of Schedule-VII of the Constitution of India. This permits levy of taxes on vehicles, whether mechanically propelled or not, suitable for use on roads. The Andhra Pradesh Motor Vehicles Taxation Act, 1963 does not define what is a vehicle. It, however, provides that definition will be as given in the Motor Vehicles Act. The Motor Vehicles Act, 1988 defines a "Motor Vehicle" u/s 2(28) as follows:-

"2(28) - "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding [twenty five cubic centimetres]"

Therefore any vehicle which is mechanically propelled and which is adapted for use upon roads falls within this definition. Further Section 2(21) defines a "Light Motor Vehicle" as follows:-

"2(21) - "light motor vehicle" means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed [7500] kilograms"

It is to be seen that a road roller is specifically included in the definition of a Light Motor Vehicle. If a road roller is a light motor vehicle then it is a motor vehicle. It is settled law that if the intention of the Legislature is clear and unambiguous, then Courts cannot ignore clear wording and hold to the contrary. As the Act categorically provides that a road roller is a motor vehicle we fail to understand how the High Court, even after noticing the definition, could have held that road roller was not a motor vehicle.

5. Even otherwise, we cannot understand the reasoning of the High Court. Undoubtedly, a road roller is meant for repairing roads. This itself shows that it is adapted for use on roads. A road roller is not capable of being used off road. Merely because its purpose is to repair roads does not mean that it is not suitable or not adapted for use on roads. We fail to understand from where the High Court concludes that the connotation of vehicle must mean a conveyance for carrying people or goods. The definition of motor vehicle does not so provide. Merely because a vehicle does not carry passengers or goods does not mean that it ceases to be a motor vehicle. So long as it is a vehicle, which is mechanically propelled, and is adapted for use on roads, it is a motor vehicle within the meaning of the Motor Vehicles Act, 1988.

6. Strong reliance was placed upon the case of Bolani Ores (supra). It was submitted that in this case it has been held that whilst construing a taxing section, one must take into account the purpose of the Motor Vehicles Act which is basically to provide for transport. It is submitted that if the purpose is kept in mind then it is clear that every vehicle cannot be taxed. It was submitted that before a vehicle could be taxed it should be a vehicle which is capable of forming part of the traffic and must be a vehicle which is utilising or using the road for its own purposes. It is submitted that merely because a vehicle is capable of moving or is propelled by mechanical power does not mean that it becomes a motor vehicle which can be taxed. In our view, the case of Bolani Ores (supra) can be of no assistance to the Respondents. In that case the question was whether dumpers, rockers and tractairs, which were not built for being used on road, could be considered to be motor vehicles. This Court specifically held that as these types of vehicles are never used on the roads, they are not motor vehicles within the meaning of the Act. In the present case, it is clear that a road roller can only be used on the road. It is not built for use off the road. As it is built for use only on the road it is a motor vehicle.

7. In the case of Ashok Gangadhar Maratha Vs. Oriental Insurance Co. Ltd., , it has been held that even a light motor vehicle is a motor vehicle under the Motor Vehicles Act. Further, the view which we are taking that a road roller is a motor vehicle is supported by a decision of this Court in the case of Bose Abraham etc. Vs. State of Kerala and Another, .

8. In the above view, the impugned Judgment cannot be sustained and is set aside. The Writ Petitions filed by the Respondents stand dismissed.

9. The Appeals are accordingly allowed. There will be no order as to costs.