(2016) 03 KAR CK 0137

In the Karnataka High Court

Case No : Writ Petition Nos. 28063, 594, 22682, 26102 of 2015 (T-MVT)

Jagadev Biradar and Others APPELLANT

Vs

State of Karnataka and Others RESPONDENT

Date of Decision : 10-03-2016

Acts Referred:

Constitution of India, 1950 — Article 14, Article 19(1)(d), Article 254(1), Article 254(2), Article 301, Article 304(b)
Karnataka Motor Vehicles Taxation (Amendment) Act, 2014 — Section 3, Section 3(1)
Motor Vehicles Act, 1988 - Sectio

Citation : (2016) AIR(Karnataka) 83 : (2016) ILRKarnataka 1463 : (2016) 3 KantLJ 210 : (2016) 3 KCCR 2330

Hon'ble Judges : Anand Byrareddy, J.

Bench : Single Bench

Advocate : Keshav R. Agnihotri, Advocate, for the Appellant; A.S. Ponnanna, Additional Advocate General-II for S.V. Girikumar, Additional Government Advocate and Mohammed Dastagiri, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Anand Byrareddy, J.—1. These petitions are heard and disposed of by this common order, as all the petitioners seek to challenge the constitutionality of the Karnataka Motor Vehicles Taxation (Amendment) Act, 2014 (Hereinafter referred to as the KMVT Act, for brevity).

WP 594/2015

The petitioner is said to be a permanent resident of Kerala, presently employed with a private limited company at Bangalore. It is the case of the petitioner that his employment requires him to travel and stay for varied durations at other places in India. The petitioner is said to be the owner of a motor vehicle bearing registration number KL 8 AQ 495. He is said to have entered the State of Karnataka with the said vehicle on 15.7.2014. On 17.7.2014, the petitioner''s vehicle is said to have been stopped in Karnataka, en route his journey to Kerala.

The vehicle documents were said to have been seized by the authorities and he was called upon to pay lifetime tax applicable, in respect of the vehicle, as per the amended Act.

The petitioner had then approached the Supreme Court of India by way of a writ petition and the same has been disposed of by an order dated 10.10.2014, granting liberty to the petitioner to approach this court. Hence, the present petition questioning the action of the respondents and the constitutional validity of the Amendment Act.

WP 28063/2015

The petitioner is said to be the owner of a car bearing registration number MH 14 DF 2854, registered in the State of Maharashtra. It is stated that on 26.5.2015, the petitioner''s vehicle was said to have been intercepted at K.R. Puram, Bangalore, and the original documents pertaining to the vehicle are said to have been impounded by an inspector of Motor Vehicles. He was called upon to pay life time tax on the vehicle, in accordance with the amended Act. Hence the petition.

WP 22682/2015

The petitioner is said to be an Advocate by profession and has established offices at Bangalore, Puduchari, Chennai and New Delhi. The petitioner is said to be the owner of a motor vehicle registered in Puduchari. The vehicle, while plying in Karnataka was said to have been intercepted and the documents pertaining to the vehicle have been impounded, demanding payment of life time tax, hence the petition.

WP 26102/2015

The petitioner is said to be a resident of Kerala and is the owner of a motor vehicle registered in Kerala, while she was on a visit to Bangalore, her vehicle has been seized on the ground that she is liable to pay life time tax on the vehicle, in terms of the amended Act. Hence the writ petition.

2. The learned Senior Advocate, Shri Aditya Sondhi, appearing for the counsel for the petitioner in WP 594/2015 and leading the arguments for the counsel for the petitioners in the connected cases, contends that the Karnataka Motor Vehicles Taxation Act, 1957 (Hereinafter referred to as the ''KMVT Act'', for brevity) is enacted in exercise of the powers conferred on the State legislature under Entry 57 of List II of the Seventh Schedule to the Constitution of India, while the Motor Vehicles Act, 1988 (Hereinafter referred to as the ''MV Act'', for brevity) is enacted by the Parliament in exercise of powers conferred on it under Entry 35 of List III.

It is pointed out that Section 40 of the MV Act requires the owner of a motor vehicle to obtain registration of the same, by a registering authority in whose jurisdiction he has his residence or place of business, where the vehicle is normally kept. Section 47 of the MV Act lays down that when a motor vehicle registered in one State has been kept in another State, for a period exceeding twelve months, the owner of the vehicle shall apply to the registering authority, within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and present the certificate of registration to that authority.

Section 3 of the KMVT Act seeks to levy a tax on all motor vehicles suitable for use on roads, at the rates specified in Part-A of the Schedule to the Act. Part-A5 of the Schedule pertains to the Lifetime Tax payable for Motor cars, Jeeps, Omni Buses and Private Service Vehicles and is made dependant on the registration of the vehicles.

It is emphasized that a reading of Section 3 and the Schedule would indicate that the levy of life time tax is directly linked to the registration of a vehicle, and that registration is the basis of taxation.

The State of Karnataka has sought to amend the KMVT Act by inserting an Explanation to Section 3 thereof:

"Explanation 2. - In respect of motor vehicles registered outside the State of Karnataka and which are in the State for a period exceeding thirty days, notwithstanding anything contained in the provisions of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), and in any order or direction contained in any judgment or order of any Court, tax shall be levied as specified in Parts Al, A2, A4, A5, A6, A7 and A8 as the case may be."

It is pointed out that the impugned Amendment provides that tax is to be levied as specified in Parts A1 to A8 of the Schedule, which in turn make a reference to Registration.

It is contended that this court had occasion to interpret Section 47 of the MV Act vis-a-vis the power of the State Government to impose lifetime tax under Section 3 and the Schedule, in the case of Mahesh C. Gandhi v. DC for Transport, Belgaum, , 2005 (5) Kar. LJ 362, and it was held as follows:

"22. A perusal of the scheme of levy of lifetime tax in Part A5 indicates that the levy of lifetime tax is linked to registration of vehicle. Registration necessarily should be in the State of Karnataka, inasmuch as, levy of tax in only in respect of vehicles registered here and at the point of registration i.e., as and when a vehicle is sought to be registered within the State of Karnataka, levy for payment of lifetime tax in respect of such a vehicle arises and in terms of the amount stipulated to the class of vehicle as in Part A5 of the Schedule to the Act. Even in respect of vehicle classified in Category B of Part A5, the registration should be in the State of Karnataka, in which event, while no further registration is contemplated, tax as provided in respect of such vehicles has to be paid and in respect of vehicles which are not registered in the State of Karnataka as and when the need arises for registration in the State of Karnataka, the liability for payment of lifetime tax as provided in Category B arises.

23. ... Even in respect of such vehicle which had been registered elsewhere, then

also the liability for payment of lifetime tax under the Act arises at such time of registration.

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29. ... If under the law, a vehicle which is already registered in some other State is brought into this State and there is no obligation or compulsion under the law on the part of the owner of such vehicle to get the vehicle registered in the State of Karnataka, then the question of levy of lifetime tax on such a vehicle under Part A5 of the Schedule to the Act does not arise. If any other provision of the Act enables levy and collection, it may be done, but definitely not where it is not so provided, particularly, under Part A5 of the Schedule the Act.

30. ... Therefore, insofar as the registration of motor vehicles is concerned, it is an aspect regulated by the Central Act viz., MV Act, and a vehicle registered in one State, if it has to be compulsorily registered in another State, it should be within the other State for a period exceeding 12 months. Significance of such registration is due to the reason that levy of lifetime tax under the Act on such vehicles, as one owned by the petitioner herein, is linked to the registration of the vehicles. Part A5 of the Schedule to the Act indicates that levy is at the time of registration of the vehicles. Part A5 of the Schedule to the Act indicates that levy is at the time of registration of new vehicle. Though in category B of Part A5, even vehicles already registered are also roped in for levy of lifetime tax, it should be understood only as in respect of vehicles mentioned in Category A, in the sense at the time of registration of new vehicles and vehicles already registered. The registration in both situations should be necessarily within the State, as otherwise, if the registration is outside the State, the question of levy of tax under the Act does not arise in respect of such vehicles, unless there is an express provision under the Act to charge lifetime tax for such vehicles also. The registration of motor vehicles being an aspect regulated by the Central Act and which cannot be regulated by the State Act, the scheme of the Taxation Act is so made as to subject to levy of lifetime tax only on such vehicles which are registered in the State of Karnataka".

It is thus pointed out that the levy of lifetime tax is linked to registration of vehicles. It is also pointed out that the State Government did not choose to challenge the above decision of this court and it has attained finality.

It is asserted that the State Government does not have the legislative competence or authority to pass the impugned Amendment as it seeks to legislate on the principles of taxation, which are contained in Entry 35 of List III and is already covered by the MV Act. The State Act, namely, the KMVT Act is enacted under Entry 57 of List II.

It is contended that the difference between the above two Entries has been examined by the Apex Court in Bolani Ores Ltd. v. State of Orissa, , (1974) 2 SCC 777 and it was held thus:

"15.... It will thus be seen that while Entry 57 of List II is solely concerned with taxes on vehicles whether mechanically propelled or not, Entry 35 deals with also the principles on which taxes on such vehicles are to be levied. Taxes on vehicles connote the liability to pay taxes at the rates at which the taxes are to be levied. On the other hand, the expression ''principles of taxation'' denote rules of guidance in the matter of taxation. The ambit and amplitude of these two legislative entries in the respective Lists was dealt with in State of Assam and Others vs. Labenya Probha Debi (, AIR 1967 SC 1575) where Subba Rao C.J., speaking for the Constitution Bench of this Court observed at p. 614:

"The two entries deal with two different matters though allied ones - one deals with taxes on vehicles and the other with the principles on which such taxes are to be levied. When two entries in the Constitution, whether in the same List or different Lists, deal with two subjects, if possible, an attempt shall be made to harmonize them rather than to bring them into conflict. Taxes on vehicles in their ordinary meaning connote the liability to pay taxes at the rates at which the taxes are to be levied. On the other hand, the expression "principles of taxation" denotes rules of guidance in the matter of taxation. We, therefore, hold that the Amending Acts do not come into conflict with the existing law in respect of any principles of taxation, but only deal with a subject-matter which is exclusively within the legislative competence of the State Legislature."

It is thus asserted, that as laid down by the Supreme Court, Entry 57 of List II deals with the quantum or rate of tax to be imposed and is the exclusive domain of the State legislature, whereas Entry 35 of List III deals with the principles on which such tax is to be levied. Therefore, it is contended that the impugned Amendment is void ab initio under Article 254(1) of the Constitution of India. For the impugned Amendment is ultra vires and repugnant under Article 254(1) of the Constitution, as the Central Act will prevail over the State Act and to the extent of the repugnancy be void.

The impugned Amendment, it is contended, is also liable to be struck down as it has admittedly not received the assent of the President as contemplated under Article 254(2) even if the State seeks to trace the said amendment to Entry 35 of List III. It is settled law that even an amendment ought to necessarily receive presidential assent in the event of repugnancy. Reliance is placed on the case of PT Rishikesh v. Salma Begum, , (1995) 4 SCC 718.

It is pointed out that the very language of Explanation 2 to Section 3, now inserted by the impugned Amendment, indicates the repugnancy of the State Act, as is evident from the following:

"Notwithstanding anything contained in the provisions of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), and in any order or direction contained in any judgment or order of any Court".

It is next contended that the registration of a vehicle being the basis for levy and collection of lifetime tax as held in Mahesh Gandhi''s case, the same could not be undone by the State Government without invoking the Presidential assent under Article 254(2) of the Constitution, as the same is directly linked to the provisions of the Central Act. The Amendment is clearly to override the decision of this court in Mahesh Gandhi.

It is asserted that as laid down in People''s Union for Civil Liberties v. Union of India, , (2003) 4 SCC 399, the legislature can remove the basis of a decision rendered by a competent court thereby rendering that decision ineffective. And that no Legislature in the country has the power to ask the instrumentalities of the State to disobey or disregard the decisions given by courts. The legislature cannot also declare any decision of a court of law to be void or ineffective.

It is also pointed out that the Statement of Objects and Reasons of the impugned Amendment indicates that it was passed to give effect to the proposals made in the Budget Speech. The relevant proposal was as follows:

"486. It is found that the vehicles are being registered in other States with lower rate of life time tax but plying in the State to avoid payment of life time tax levied in Karnataka. In order to prevent revenue loss from this, I propose to being suitable amendment to the Motor Vehicle Taxation Act."

It is contended that the object of the Amendment was to redress the issue of permanent residents of Karnataka State registering their vehicles in other States with the sole intention of avoiding payment of lifetime tax in Karnataka State. However, in its present form the impugned Amendment does not redress this issue, but instead victimizes persons such as the petitioners who may be residents of neighboring States-visiting Karnataka. This is violative of Article 14 of the Constitution of India, as well. Especially since the Amendment stipulates an arbitrary period of thirty days after which lifetime tax is to be paid. Equating a person visiting the State for a period of 30 days, with a person who has to pay lifetime tax, is ex-facie arbitrary and illegal.

It is further contended that the impugned Amendment has the effect of inhibiting the free movement of persons throughout the territory of India, guaranteed to all citizens under Article 19(1)(d) and Article 301 of the Constitution of India. Under Article 304(b), the legislature of a State may by law impose reasonable restrictions on the freedom of trade, commerce or intercourse, provided that no Bill or Amendment for the purposes of Clause (b) shall be introduced or moved in the legislature of a State without the previous sanction of the President. As such even under Article 304(b) the Amendment is bad for want of Presidential assent.

It is contended that the impugned Amendment seeks to impose lifetime tax on vehicle owners by way of an Explanation to Section 3(1) of the KMVT Act, which itself is linked to Schedule A5, thereof and is based on registration of vehicles. The explanation now introduced therefore transgresses the principal Section and makes no actual amendment to the Schedule itself and is therefore ultra vires. Reliance, for this proposition, is placed on S. Sundaram Pillai v. V.R. Pattabiraman, , (1985) 1 SCC 591, wherein it was held that an ''Explanation'' is a not a substantive provision of law and cannot in any manner enlarge the scope of the original Section.

It is hence sought that the petition be allowed as prayed for.

3. The learned Additional Advocate General, Shri A.S. Ponnanna, appearing on behalf of the State, on the other hand, would contend that the several grounds urged by the petitioners are not tenable. He would seek to point out that though Entry 35 of List III of the Seventh Schedule to the Constitution provides that the Central Government could lay down the principles on which taxes on such vehicles are to be levied, no such principles have been laid down by the Central Government, either in the MV Act or otherwise. It is hence contended that the provision for levy of lifetime tax by the State Government could not be said to be repugnant to a non-existent Central law on the same subject matter.

It is contended that the impugned Amendment could not be said to be repugnant to the MV Act for the reason that repugnancy would arise only if the following twin test is satisfied:

i) Both the enactments have to be under one Entry in the Concurrent List or at least under two different Entries of the Concurrent List. In other words, no repugnancy can arise between two enactments framed under two different Lists of the Seventh Schedule, as is the case in the present writ petition.

ii) Both the enactments should be so irreconcilable that they cannot co-exist.

Reliance is placed on the decision in Rajiv Sarin v. State of Uttarakhand, , (2011) 8 SCC 708, in this regard.

It is further contended that neither Section 47 of the MV Act nor Section 3 of the KMVT Act, (which, it is pointed out, is the charging Section) require that a vehicle should be registered under the MV Act in order for a levy under Section 3 to be attracted. It is asserted that there are only two ingredients which are required to be satisfied, namely, there should be a motor vehicle and it should be suitable for use on roads. It is contended that it may be that use of a motor vehicle without registration is illegal and may be punishable. But non-registration of the vehicle does not in any way mean that the vehicle is not suitable for use on roads for the purpose of Section 3 of the KMVT Act. It is another matter that the vehicles involved in the present writ petitions are registered outside the State of Karnataka and that such registration may be valid throughout the territory of India. If once a vehicle is registered anywhere in India, the question of a vehicle being registered again in any other State, other than the one in which it was registered, would not arise.

It is contended that the words and expressions used in the Entries in the Schedule to the KMVT Act, cannot govern the meaning and purport of the charging Section. Part A5 of the Schedule which is applicable to the petitioners, it considers two classes of vehicles, namely, under ''A'', vehicles which are to be registered are contemplated, this would not apply to the petitioners as their vehicles are already registered in other States. The petitioners would be covered under ''B'', which reads as follows:

"If the vehicle is already registered and its age from the month of registration."

In other words, it is contended, that the registration of the vehicle is required to be considered under the Schedule only for the purpose of computing the age of the vehicle from the date of its registration so that the amount of tax payable can be calculated based on the age of the vehicle from the date of its registration.

It is further contended that merely because the petitioners are called upon to pay life time tax after 30 days of stay in the State of Karnataka, the authorities do not require that they should also obtain a new registration mark as envisaged under Section 47 of the MV Act. Though it is open for the petitioners to seek a new registration mark after the expiry of twelve months period as envisaged under Section 47 of the said Act. It is therefore contended that there is no conflict between the Amendment and Section 47 of the MV Act.

It is claimed that taxes on motor vehicles have been held to be regulatory and compensatory in nature, as held by the Apex Court in Automobile Transport (Rajasthan) Ltd., v. State of Rajasthan, , AIR 1962 SC 1406. It is contended that it is also held therein that such taxes do not come within the purview of the restrictions contemplated by Article 301 and such measures need not comply with the requirements of the proviso to Article 304(b) of the Constitution of India.

It is further contended that the KMVT Act has received the assent of the President at the time of its enactment. The incorporation of an amendment, which is clarificatory in nature, would not require any Presidential assent. Reliance is placed on the decision in Subodhaya Chit Funds (P) Ltd., v. Director of Chits, Madras, , AIR 1991 SC 998, in this regard.

It is urged that a measure of taxation cannot be held to be unconstitutional merely because it causes hardship to some or because the measure falls heavily on some. It is also contended that the subject of taxation on motor vehicles being in the State List, there is no escape from payment of taxes to the State in which the petitioners intend to use their vehicles, subject to claiming refund of the tax paid in any other State. Section 7(3) of the KMVT Act, it is pointed out, read with Part-C of the Schedule to the Act provides for a refund of a proportionate amount of tax if the vehicle is removed to any other State after paying the lifetime tax in this State.

It is contended that the Amendment does not seek to overcome the judgment in Mahesh Gandhi''s case, on the other hand, the State Legislature seeks to remove the basis of the judgment, as perhaps there was some ambiguity in the interpretation of the provisions of Section 3 of the KMVT Act and Part A5 of the Schedule to the said Act. The amendment merely clarifies by way of an explanation the actual intent of the legislature.

It is contended that the State Legislature never intended in the year 1995, when lifetime tax was introduced that such tax be levied on a vehicle registered in some other State, only when it becomes registrable in the State of Karnataka. Lifetime tax was being collected, if a vehicle registered outside the State remained in this State for more than 30 days. Since the interpretation of the provision in Mahesh Gandhi''s case did throw up an apparent ambiguity, the State Legislature has now removed that ambiguity by introducing the Explanation. It is also asserted that this Court has failed to consider the effect of Section 46 of the MV Act, vis-a-vis Part A5 of the Schedule in Mahesh Gandhi''s case.

It is further contended that the respondent authorities are not precluded from presuming that a vehicle registered outside the State has been plying in the State for more than 30 days, since under the Scheme of the Taxation Act, it is for the owner of the vehicle, or the person in control of the vehicle, to declare to the authorities, the date of arrival of the motor vehicle into the State and the period for which the motor vehicle is likely to remain in the State and to pay the requisite tax voluntarily. Section 6 of the KMVT Act read with Rule 10 of the MVT Rules, 1957 provides for the same.

4. In the light of the above rival contentions, the question that arises for consideration is whether the State Government is justified in seeking to recover lifetime tax on motor vehicles under Section 3(1) read with Part A5 of the Schedule to the KMVT Act, by virtue of ''Explanation-2'' inserted by the impugned Amendment Act.

The provisions of the MV Act which pertain to registration of motor vehicles and relevant for a consideration of this case are the following:

"40. Registration, where to be made.-Subject to the provisions of section 42, section 43 and section 60, every owner of a motor vehicle shall cause the vehicle to be registered by a registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept."

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"46. Effectiveness in India of registration.-Subject to the provisions of section 47, a motor vehicle registered in accordance with this Chapter in any State shall not require to be registered elsewhere in India and a certificate of registration issued or in force under this Act in respect of such vehicle shall be effective throughout India."

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"47. Assignment of new registration mark on removal of another State.-(1) When a motor vehicle registered in one State has been kept in another State, for a period exceeding twelve months, the owner of the vehicle shall, within such period and in such form containing such particulars as may be prescribed by the Central Government, apply to the registering authority, within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and shall present the certificate of registration to that registering authority."

The liability for payment of lifetime tax on motor vehicles registered in the State of Karnataka arises under Section 3(1) read with Part A5 of the Schedule to the KMVT Act.

A reading of Section 3 and the Schedule indicates that the levy of lifetime tax is directly linked to the registration of a vehicle and that registration is the basis of taxation.

As per the impugned Amendment an ''Explanation-2'' to Section 3 is inserted, which reads as follows:

"Explanation 2. - In respect of motor vehicles registered outside the State of Karnataka and which are in the State for a period exceeding thirty days, notwithstanding anything contained in the provisions of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), and in any order or direction contained in any judgment or order of any Court, tax shall be levied as specified in Parts Al, A2, A4, A5, A6, A7 and A8 as the case may be."

It is seen that the tax to be levied is as specified in Parts A1 to A8 of the Schedule to the KMVT Act, which in turn refer to registration.

This was exactly the point for consideration in Mahesh Gandhi''s case, while interpreting Section 47 of the MV Act vis-a-vis the power of the State Government to impose lifetime tax under Section 3 read with the Schedule to the KMVT Act. It is laid down therein that levy of life time tax in Part A5 indicates that the levy of lifetime tax is linked to registration of the vehicle and such levy is only in respect of vehicles registered here and at the point of registration, namely, as and when a vehicle is sought to be registered within the State of Karnataka. It was further held that the registration of motor vehicles being an aspect regulated by the MV Act, a Central Act, and which cannot be regulated by the State Act, the scheme of Taxation Act is so made as to subject to levy of lifetime tax only on such vehicles which are registered in the State of Karnataka.

The above decision, rendered in the year 2005, has attained finality.

5. In the face of the above said decision, whether the State Legislature had the legislative competence to pass the impugned Amendment is to be examined.

It may be seen that the State Act has been enacted under Entry 57 of List II, which reads as under:

"57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to entry 35 of List III."

Entry 35 of List III provides as follows:

"35. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied."

The Apex Court on an examination of the difference between the two entries, in the case of Bolani Ores Ltd. (supra) has held that while Entry 57 of List II is solely concerned with taxes on vehicles, whether mechanically propelled or not, Entry 35 deals also with the principles on which taxes on such vehicles are to be levied. The expression ''principles of taxation'' denote rules of guidance in the matter of taxation.

Registration of motor vehicles is entirely governed by Chapter IV of the MV Act. No motor vehicle can be brought on the road without registration. A tax shall be levied on all motor vehicles suitable for use on roads by virtue of the exclusive power of taxation conferred on the State Government. Therefore, the moment a vehicle is registered under the MV Act, the liability to pay tax arises. The principle in the given case, for taxation by the State government, is the requirement of registration under the Central Act.

If the vehicle is once registered in any State in India, it shall not be required to be registered elsewhere in India. But when a motor vehicle registered in one State has been kept in another State, for a period exceeding twelve months, the owner of the vehicle shall apply to the registering authority, within whose jurisdiction the vehicle then is, for the assignment of a new registration mark. This is as provided under Section 46 and 47 of the MV Act.

Therefore, a lifetime tax that is levied at the point of registration of a vehicle in terms of Section 3 read with Part A5 of the Schedule to the KMVT Act, cannot be levied on a vehicle that is already registered, merely on a presumption that a vehicle registered outside the State of Karnataka has remained in the State of Karnataka for a period exceeding thirty days. This would result in the State directly varying the period prescribed under Section 47, of twelve months, beyond which the liability to obtain a new registration mark from the registering authority within whose jurisdiction the vehicle then is, arises. The State Legislature does not have the legislative competence to do so.

The claim of the State government that it has removed the basis of the decision in Mahesh Gandhi, nine years after it was rendered and by recourse to an ''Explanation'' inserted to Section 3 of the KMVT Act without any other change to the legislation, cannot be accepted on the face of it. The very language employed in the said ''Explanation'', to wit, "Notwithstanding anything contained in the provisions of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), and in any order or direction contained in any judgment or order of any Court".....would indicate the clumsy and ham handed manner in which the State Legislature has sought to undo the effect of a decision of this court, which has never been questioned and which has attained finality. The basis of the said decision still subsists. The payment of lifetime tax continues to be dependant on registration or re-registration in terms of Section 40 and Section 47 of the MV Act, as the case may be.

It would be unnecessary to examine other grounds on which the impugned amendment is challenged, in the light of the reason assigned above in proceeding to allow these petitions.

It is declared that ''Explanation 2'', to Section 3 of the KMVT Act, inserted by the Karnataka Motor Vehicles Taxation (Amendment) Act, 2014, is unconstitutional and ultra vires.

The demand raised on the petitioners stand quashed.

