(1979) 10 AP CK 0003

In the Andhra Pradesh High Court

Case No : Writ Petition No''s. 5095 and 5096 of 1977

Palavan Transport Corporation Ltd. APPELLANT

Vs

Additional Regional Transport Officer, Chittoor and Another RESPONDENT

Date of Decision : 26-10-1979

Acts Referred:
Motor Vehicles Act, 1939 — Section 68

Citation : AIR 1980 AP 197

Hon'ble Judges : P.A. Choudary, J

Bench : Single Bench

Advocate : K. Mangachari, for the Appellant; Govt. Pleader, for the Respondent

Judgement

P.A. Choudary, J.—In these writ petitions, the question raised is "whether the Tamil Nadu State undertaking is exempt from paying taxes by reason of the Inter State Transport Reciprocal Agreement between the Government of Andhra Pradesh and Tamil Nadu dated 2-6-1975?"

2. The petitioner, the State Transport undertaking of Tamil Nadu, applied for and obtained a transport permit under Sec. 68-F (1-A) which occurs in Chap. IV- A of the Motor Vehicles Act, 1939 to ply a stage carriage on the Inter State route of Madras to Nagari of Mahabalipuram to Tirupati. This inter state route of Mahabalipuram to Tirupati is one of the Routes covered by an inter State agreement entered into between the Andhra Pradesh and Tamil Nadu. But although it was notified under Sec. 68-D of Motor Vehicles Act it was not yet approved u/s 68 of the Act. Pending approval the petitioner applied for and obtained a transport permit from the Tamil Nadu State Transport authorities under Sec. 68-F (1-A) of the Motor Vehicles Act. While the vehicle was plying in Andhra Pradesh the Additional Regional Transport Officer, Chittoor, found that the permit issued by the Tamil Nadu authorities was not countersigned by the Andhra Pradesh Transport Authorities and therefore, issued a show cause notice dated 27-9-1977 calling upon the petitioner to pay tax and penalty on the basis that the petitioner does not come under the aforesaid inter State Agreement. The

petitioner does not come under the aforesaid inter State Agreement there is no liability attaching to the petitioner to pay motor vehicles tax of this Inter State route. But this plea of the petitioner was negatived by the Additional Regional Transport Officer, Chittoor, and that let to the filing of these writ petitions.

3. It is argued by Sri Mangachary, the learned counsel for the petitioner, that the stage carriage for the petitioner, that the stage carriage permit which had been granted to his client by the Tamil Nadu authorities u/s 68-F (1-A) is fully covered by the agreement entered into between the States of Tamil Nadu and Andhra on 2-6-1975 exempting the Stage carriage vehicles from tax liability. Mr. Mangachary mainly relied upon Part-I Cl. (d) and Part VI (a) of the aforesaid agreement which read as follows: -

"Part I (d) "Where permits are issued by the authorities of the States in respect of stage carriages and taxi cars on Inter State routes as a result of agreements reached between the two Stages. The need for countersignature in the reciprocating States in respect of such permit will be disposed with. Each State will frame suitable rules in exercise of the powers by sub sec. (2) (h) of Section 68 of Motor Vehicles Act 1939 (Central Act V of 1939) for this purpose. This will apply to the permits issued under Chaps. IV and VI-A of the said Act. Part VI (a) Transport vehicles covered by this agreement shall be exempt from payment of any tax to the reciprocating State".

On the basis of the above, Mr. Mangachary''s contention is that no tax is leviable on the vehicle plying on the route of Mahabalipuram to Tirupati under a valid permit obtained from the Tamil Nadu Transport Authorities u/s 68-F (1-A) . On the other hand, the learned Government Pleader for the Transport Authority had granted the petitioner is only a temporary permit and it is not covered by the aforesaid agreement granting tax exempted. The Government Pleader in support of this contention not only referred to part V of the aforesaid agreement but had also referred to G. O. Ms. No. 2040 (Home) dated 11-10-1965 issued by the Government of Andhra Pradesh.

4. It appears to me that the contention of the petitioner is fully supported by the language of the aforesaid Inter State Agreement. Part I-A (d) speaks about the permits issued under Chaps. IV and IV-A of the Motor Vehicles Act, 1939 and says that permits issued on Inter State routes as a result of agreement reached between the two State need no counter signature. Now as Part I (d) Specifically speaks about Chaps IV and IV-A of the Motor Vehicles Act, the petitioner''s vehicle plying on the Inter State route of Mahabalipuram to Tirupati and which is covered by Part I (a) is covered by this agreement; and such a vehicle covered by the agreement is clearly exempted from payment of any tax to the reciprocating State by reason of Part VI of the aforesaid agreement. But the Government Pleader''s Argument based as it is on the G. O. of the year 1965, cannot be of any use in interpreting the present agreement. The Government pleader''s further submission relying upon Part V of the agreement does not deal with stage carriage. On the other hand it expressly deals only with contract

carriages and also goods vehicles. In as much as we are now concerned with State carriages, part V of the agreements has no relevance.

5. Finally, the Government pleader stated that Tamil Nadu Government is not granting exemption to Andhra State vehicles in the Inter State routes in pursuance of the aforesaid agreement. So, Mr. Mangachary, had stated on behalf of the petitioner that that statement is not factually correct as Tamil Nadu Government in granting full exemption to the vehicle of Andhra Pradesh. In any case, it cannot be otherwise. The terms of the Inter state agreement being what they are, they clearly bind the Tamil Nadu Government also. In these circumstances, I hold that the petitioner''s vehicle plying on the route of Mahabalipuram to Tirupati does not require any counter signature from the reciprocating State of Andhra and it is also exempt from payment of taxation, under Motor Vehicles Taxation Act. Accordingly this writ petition is allowed. But in the circumstances there shall be no order as to costs. Advocate''s fee Rs. 150/-.

6. W. P. Nos. 5096 and 5097/77.

In the light of what has been said in the Writ Petition No. 4095/77, these writ petitions are also allowed. There shall be a declaration that the vehicles concerned in these writ petitions do not require any counter signature of the Transport authorities in the State of Andhra Pradesh and they are also not liable to pay taxes to the Andhra Pradesh Government. They are accordingly allowed. NO costs. Advocate''s fee Rs. 150/-.

7. Petitions allowed.

