APHC010295762012

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

Bench Sr.Nos:- 42, 43 [3579]

Writ Petition No: 8400 of 2012
along with
Writ Petition No.27532 of 2012

<u>Writ Petition No: 8400 of 2012</u>

M/s.UltraTech Cement Ltd. ...Petitioner

Vs.

The Government of Andhra Pradesh and others ...Respondents

<u>Writ Petition No.27532 of 2012</u>

M/s. UltraTech Cement Ltd. ...Petitioner

Vs.

The Government of Andhra Pradesh and others ...Respondents

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Advocate for Petitioner: CKR Associates

Advocate for Respondents: GP for Transport

CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE NINALA JAYASURYA

DATE : 28th April, 2026.

<u>LISA GILL,CJ.</u>

W.P.Nos.8400 and 27532 of 2012 are taken up together for adjudication and decision, at request and with consent of learned counsel for parties, who are *ad idem* that an identical question for consideration arises in both the writ petitions.

2. Issue involved in both writ petitions is as to whether special equipment wheel loaders, hydras and dumpers used by petitioner in mines to undertake mining of limestone fall under definition of 'motor vehicles' within the ambit of Section 2 (28) of Motor Vehicles Act, 1988, read with Section 10 of Andhra Pradesh Motor Vehicles Taxation Act, 1963, and are thus exigible to levy of life tax thereon.

3. It is the case of petitioner that it is engaged in manufacture and sale of cement, having its cement plant in the State of Andhra Pradesh. Petitioner owns a number of dumpers and other mining equipment, including wheel loaders, hydra cranes, sweeping machines, Godrej forklift, Godrej tyre handlers, other cranes and water tankers, which are used exclusively for mining operations in its captive mines.

4. Dumpers in question are huge in size and designed/manufactured for exclusive use in mining areas and are not capable of use on roads. In terms of Section 3 of A.P.Motor Vehicles Taxation Act and Section 2 (28) of Motor Vehicles Act, respondent is competent to levy tax only on those vehicles, which are adapted for use on roads, but not on vehicles of special types adapted for use in a factory or mines. Reference is also made to Section 10 of A.P. Motor Vehicles Taxation Act, which specifically provides that provisions of said Act shall not apply to motor vehicles designed and used solely for agricultural and mining purposes.

5. Section 2 (28) of Motor Vehicles Act reads as under:

> *"(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 exceeding1 [twenty-five cubic centimetres];"*

6. Section 3 of A.P. Motor Vehicles Taxation Act reads as under:

> ***"3. Levy of tax on motor vehicles: -*** *(1) The Government may, by notification, from time to time, direct that a tax shall be levied on every motor vehicle used or kept for use, in a public place in the State.*
>
> *(2) The notification issued under sub-section (1) shall specify the class of motor vehicles on which, the rates for the periods at which, and the date from which, the tax shall be levied:*
>
> *Provided that the rates of tax shall not exceed the maximum specified in column (2) of the First Schedule in respect of the classes of motor vehicles fitted with pneumatic tyres specified in the corresponding entry in column (1) thereof; and one and a half times the said maximum in respect of such classes of motor vehicles as are fitted with non-pneumatic tyres:*
>
> *Provided further that in the case of motor cycles (including motor scooters and cycles with or without attachment), invalid carriages, motor cars and jeeps and other non-transport vehicles not exceeding 2286 kgs in unladen weight and omnibuses with a seating capacity of (8) eight persons in all but not exceeding (10) ten persons in all and their chassis, the tax shall be levied at the rates specified in the Third Schedule.*
>
> *Provided also that in respect of chassis of a motor vehicle passing through this State from a manufacturer to a dealer under a temporary certificate of registration for a period not exceeding seven days, the rate of tax shall be one twentieth of the tax payable for quarter.*
>
> *Provided also that in respect of motor vehicles operated with*

> *battery / compressed natural gas / solar energy, no tax shall be levied for a period of five years from the date to be notified.”*

7. Section 10 of Andhra Pradesh Motor Vehicles Taxation Act, 1963, reads as under:

> **“10. Provisions of this Act not to apply to the motor vehicles designed and used solely for agricultural and mining purposes:-**
>
> (1) Nothing in this Act shall apply to a motor vehicle registered in the name of the owner or occupier of any agricultural land or mine if such land is under his personal cultivation or if such mine is being worked personally by him and such motor vehicle is designed and used solely for carrying out agricultural or mining operations on such land or mine or within a distance of fifteen miles from the limits of such land or mine.
>
> (2) Notwithstanding anything contained in the Act, a tax at rupees twenty five per quarter shall be levied on any vehicle specified in sub-section (1), when the vehicle is not used solely for carrying out such agricultural or mining operations but is used by its registered owner for any other purpose of his own.
>
> Explanation I: - …
>
> Explanation II: - …
>
> Explanation III: - For the purpose of this Section, the expression "mining operation" operation undertaken for the purpose of winning of any mineral.”

8. In the above said circumstances, petitioner claims that taxation of vehicles/equipment in question, by respondents, at the rate of 7.5% as lifetime tax is unjustified, uncalled for and in fact, illegal and arbitrary, as it is not permissible under any applicable law.

9. Learned counsel for petitioner further submits that the matter is squarely covered in favour of petitioner in terms of judgment of Hon’ble the Supreme

Court in ***UltraTech Cement Limited v. State of Gujarat and others, 2026 SCC Online SC 48***. It is thus prayed that both the writ petitions be allowed.

10. Learned counsel for respondents has made a valiant effort to oppose the writ petitions, however, he is unable to deny that there is a specific averment and categoric assertion in the writ petition that dumpers, hydra cranes and other equipments are designed, manufactured and used exclusively in mining areas and are not capable of use on roads. This averment has not been refuted in the counter-affidavit filed in both the writ petitions.

11. Learned counsel for respondents is also unable to point out as to how judgment of Hon'ble the Supreme Court in the case of **Ultratech Cement Limited v. State of Gujarat and others** is distinguishable from the facts and circumstances of present writ petitions. Hon'ble the Supreme Court in the said case, involving present petitioner itself, has adjudicated upon an identical question which was framed as under:

> *"Whether Heavy Earth Moving Machinery or special services vehicles or any construction equipment vehicles such as Dumpers, Loader, Excavators, Surface Miners, Dozers, Drills, Rock Breakers etc. are "motor vehicles" within the ambit of Section 2(28) of the Motor Vehicles Act, 1988 and are liable to be taxed under the Gujarat Motor Vehicles Tax Act, 1958."*

12. It was held that provisions of Gujarat Motor Vehicles Tax Act, 1958, (which is *pari materia* to the A.P. Act) does not provide for any rate of tax for

collection from special types of vehicles, which in fact stand excluded from the definition of motor vehicles and are in effect construction equipment vehicles.

13. Reference was also made to circular dated 13.07.2020, issued by Ministry of Road Transport and Highways (MoRTH) clarifying that vehicles as used by the appellants i.e., vehicles of a special type or those used in construction activity, if not run on roads, do not qualify to be motor vehicles, requiring regular registration. It was held by Hon'ble the Supreme Court in abovesaid case as under:

> *"44. On a composite reading of Section 3 of the Gujarat Tax Act, the definition of motor vehicles under Section 2 (28) of the Act, the definition of construction equipment vehicles contained in Rule 2 (cab) of the Rules and Schedule I of the Gujarat Tax Act, it is crystal clear that the vehicles of the kind used by the appellant which are special vehicles i.e., construction equipment vehicles may be suitable for plying upon roads are essentially meant to be used in a factory or an enclosed premises and as such are not chargeable to tax under the Gujarat Tax Act. Even otherwise in view of the language employed in Entry 57 of List II of Seventh Schedule of the Constitution of India, no authority is authorized to levy or collect tax on vehicles which are not suitable for use on roads and have been designed for off-road use in factory or enclosed premises.*
>
> *45. The view taken by us above finds full support from the three-Judge Bench decision of this Court Bolani Ores Ltd. vs. State of Orissa [(1974) 2 SCC 777. In the said case this Court was dealing with the definition of the motor vehicle as it existed in the Motor Vehicles Act of 1939 in reference to Bihar and Orissa Motor Vehicles Taxation Act,1930. The "motor vehicle" was defined in Section 2(18) of the aforesaid Act which used the phrase "adapted for use upon roads". In the light of the said definition, this Court considered whether dumpers, rockers and tractairs are taxable under the Bihar and Orissa Motor Vehicles Taxation Act, 1930. This Court while considering the meaning of the words "adapted for use" observed that they must be construed as "suitable for use or in other words fit for use on road". This connotation was based upon Entry 57 of List II of the Seventh Schedule of the Constitution. It was held that in view of Entry 57 of List II of the Seventh Schedule of the Constitution, the power to impose tax on motor vehicles is regulatory and compensatory in nature and that the said power can be exercised to impose taxes*

on motor vehicles which use the roads in the State. This Court further observed that the vehicles such as dumpers, rockers and tractairs are though suitable for use on roads but in the light of the pleadings as they were used only within the enclosed premises specifically for the industrial purpose, they cannot be held liable for taxation. <u>It was categoricallyheld that if a vehicle does not use the public roads, it cannot be taxed. It was also observed that if a vehicle merely moves from one place to another, it need not necessarily be a motor vehicle.</u> It also holds that vehicles though registered under the Act as motor vehicles need not be subjected to tax if otherwise those vehicles do not ply on roads.

46. The vehicles used by the appellant undeniably are not used on roads and are not even kept for use on roads.

54. Contrary to the above, this Court recently in Tarachand Logistic Solutions Limited [2025 SCC OnLine SC 1851] was called upon to decide whether the premises of Visakhapatnam Steel Plant, Andhra Pradesh, a corporate entity of Rashtriya Ispat Nigam Limited ('RINL') where the alleged special type vehicles were exclusively used constitute a "public place". This Court inter alia observed that if a motor vehicle is not used in a public place or is not kept for use in a public place and the person concerned is not deriving any benefit from the public infrastructure, he should not be burdened with the motor vehicle tax.

55. In view of the aforesaid discussion specially considering the pleadings and the material on record, we are of the conclusive opinion that the vehicles used by the appellants are vehicles of special types, precisely construction equipment vehicles which are suitable and are meant for use for operation and use within the industrial area/factory premises/ defined enclosed premises and are not meant for use on roads or public roads. They are off-road equipments and as such stand excluded not only from the purview of the "motor vehicle" as defined under Section 2 (28) of the Act but also from tax as Entry 57 of List II of the Seventh Schedule of the Constitution only authorizes taxation of vehicles suitable for use on roads only. They are not even chargeable to road tax in view of Schedule I to Section 3 (1) of the Gujarat Tax Act which do not prescribes any tax for such kind of vehicles i.e., construction equipment vehicles. However, if any such kind of vehicles are found using roads, they would not be free from the rigors of Section 2 (28) of the Act and Section 3 of the Gujarat Tax Act and may also be subject to proceedings for seizure and penalty in accordance with the law."

14. Learned counsel for respondents is unable to point out any ground whatsoever which calls for any different dispensation in the present writ petitions.

15. Keeping in view facts and circumstances as above, it is held that vehicles used by petitioner as described in writ petition are construction equipment vehicles, suitable and meant for use and operation only within mining areas and not meant for use on roads/public roads, thus they are excluded from the purview of 'motor vehicle' as defined under Section 2 (28) of Motor Vehicles Act and also from tax under A.P. Motor Vehicles Taxation Act.

16. Accordingly, the demand raised *qua* petitioner *vide* impugned memo dated 30.07.2012, which is the subject matter of Writ Petition No.27532 of 2012 and memo dated 22.03.2012, which is the subject matter of Writ Petition No.8400 of 2012, are set aside. It is clarified that in case any of these vehicles are found being used on the roads for any other purpose, they would be subject to rigours of Section 2 (28) of Motor Vehicles Act and Section 3 of A.P. Motor Vehicles Taxation Act, and would also be subject to seizure and penalty, as may be, in accordance with applicable provisions of law.

17. Writ Petitions are allowed accordingly. No costs. Pending miscellaneous applications, if any, shall stand closed.

LISA GILL, CJ.

NINALA JAYASURYA, J.

AKN/SSN