

The State of Mysore

Vs

Alexander Misquith, etc.

Civil Appeal Nos. 1724-1726 of 1966

(J. C. Shah, K. S. Hegde JJ)

08.04.1970

JUDGMENT

HEGDE, J. -

1. These appeals by special leave brought by the State of Mysore raise a common question of law. That question is whether the 1st proviso to Section 3 of Madras Motor Vehicles (Taxation of Passengers and Goods) Act XVI of 1952, is valid. The High Court and the Courts below following certain earlier decisions of the High Courts of Mysore, Madras and Andhra Pradesh have held that proviso is invalid and consequently the passenger transport operators who have been compelled to pay tax under Section 3 of the aforementioned Act are entitled to the refund of the tax paid by them.

2. The respondents in these appeals were passenger transport operators plying their buses in the District of South Kanara which district till November 1, 1956, was a part of the former State of Madras and thereafter became a part of the new State of Mysore. The State Legislature of Madras enacted Madras Motor Vehicles (Taxation of Passangers and Goods) Act XVI of 1952 and on the strength of the provisions of that Act levied and collected certain taxes from the operators. Thereafter the operators sued the State of Madras for refund of those taxes. After re-organization of the State in 1956, the State of Mysore was substituted for the State of Madras. As mentioned earlier the High Court as well as the Courts below have upheld the claims of the operators.

3. The question of law raised in these appeals has become academic, the impugned provisions being no more in operation. They claims involved in these appeals are by no means substantial. They range between Rs. 852.25 P. and Rs. 2652.37 P. Hence we do not think that these are fit cases in which this Court should exercise its special and discretionary jurisdiction under Article 136 of the Constitution. For that reason we decline to go into the merits of the contentions advanced in these cases.

4. In the result these appeals failed and they are dismissed. The respondents are exparte in these appeals; there will be no order as to costs in these appeals.

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