

HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

1	Case No.	WP No.10934/2018
2	Parties Name	MAN Trucks India Pvt. Ltd. Vs. State of M.P. & others
3	Date of Judgment	20/12/2018
4	Bench constituted of	Hon'ble Shri Justice Prakash Shrivastava
5	Judgment delivered by	Hon'ble Shri Justice Prakash Shrivastava
6	Whether approved for reporting	Yes
7	Name of counsels for parties.	Shri R.S. Raghuvanshi, learned counsel for the petitioner. Shri Vivek Patwa, learned counsel for the respondents.
8	Law laid down	Month as defined in Rule 2(e) of the Madhya Pradesh Motoryan Karadhan Rules, 1991 in a case where period of a month commences from a day subsequent to the first day of the month, means the period commencing from that date till the corresponding date in the succeeding month. It does not mean 30 days' period or the period for the remaining days of the month.
9	Significant paragraph numbers	7 to 17

(PRAKASH SHRIVASTAVA)
J u d g e

HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE
(SB: HON. SHRI JUSTICE PRAKASH SHRIVASTAVA)

WP No.10934/2018

MAN Trucks India Pvt. Ltd.

.... Petitioner

Versus

State of M.P. & others

.... Respondents

 Shri R.S. Raghuvanshi, learned counsel for the petitioner.
 Shri Vivek Patwa, learned counsel for the respondents.

Whether approved for reporting :

ORDER

(Passed on 20/12/2018)

1/ The petitioner is aggrieved with the order of the Transport Commissioner dated 14.9.2016 whereby it has been directed that if 30 days period of temporary permit commences after first day of any month and completes in the next month, then two months' tax from that vehicle will be collected because in Rule 2(e) of the Madhya Pradesh Motoryan Karadhan Rules, 1991 (for short "the Rules") month has been defined as British Calendar month. The petitioner is also aggrieved with the consequential communication dated 13.2.2018 issued by the Addl. Regional Transport Authority, Dhar directing the petitioner to deposit two months' tax for temporary registration in terms of the order of the Transport Commissioner.

2/ Facts in nutshell are that the petitioner has set up a manufacturing unit at Pithampur Industrial Area, Dhar and it is involved in the business of manufacture and sale of heavy commercial vehicles of different varieties including trucks under

the brand name "MAN". The respondent No.2 has authorized the officer of the petitioner Company to issue temporary registration for a period of one month from the date of sale of the vehicle and for this purpose petitioner pays registration fee as also applicable taxes. Earlier one month was counted as 30 days from the date of issuance of the temporary registration and accordingly the tax was paid but by the impugned order/communication the petitioner is required to pay the tax for two months in case if the 30 days period ends in the next month.

3/ The stand of the respondents in the reply is that in terms of Rule 2(e) of the Rules a month is reckoned according to British Calendar, therefore, if temporary registration certificate is issued on the first day of the month, the same would be valid for a period of 30/31 days, till the end of the month as the case may be but if temporary registration is issued after the first day of the month, the validity of the registration would be curtailed leaving the days of the month already lapsed, meaning thereby if temporary registration certificate is issued on the last day of the month, the same will remain valid only for a day and for the next month the fresh registration would be required.

4/ Learned counsel for the petitioner submits that the respondents have misread and misinterpreted the provisions of the Act and the Rules and a period of one month means 30 days period.

5/ As against this, learned counsel for the respondents submits that the Rule clearly mentions British Calendar month, therefore, the registration certificate issued in a particular month will remain valid till the last day of that month only and for the

next month the petitioner will again have to pay the tax.

6/ I have heard the learned counsel for the parties and perused the record.

7/ The solitary issue involved in the present case is in respect of interpretation of meaning of "Month" as defined in Rule 2(e) of the Rules.

8/ Section 43 of the Motor Vehicles Act, 1988 provides for temporary registration and it further provides that such a registration will be valid for a period not exceeding one month and the proviso provides for further extension on payment of fee in case of chassis without body attached to it. Relevant extract of Section 43 is as under:-

"43. Temporary registration. - (1)
Notwithstanding anything contained in section 40 the owner of a motor vehicle may apply to any registering authority or other prescribed authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and temporary registration mark.

(2) A registration made under this section shall be valid only for a period not exceeding one month, and shall not be renewable:

Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted [with a body or any unforeseen circumstances beyond the control of the owner], the period may, on payment of such fees, if any, as may be prescribed, be extended by such further period or periods as the registering authority or other prescribed authority, as the case may be, may allow."

9/ Section 3 of the Madhya Pradesh Motoryan Karadhan Adhiniyam, 1991 provides for levy of tax on motor

vehicles and second proviso of sub-section (1) provides for rate of tax on a temporary certificate of registration for a period not exceeding one month and reads as under:-

“3. Levy of tax on Motor Vehicles.-(1) A tax shall be levied on every motor vehicle used or kept for use in the State at the rate specified in the First Schedule:

[Provided that the lifetime tax on every motor vehicle shall be levied at the rates specified in the second Schedule]:

Provided further that in respect of a motor vehicle passing through the State from a manufacturer to a dealer under a temporary certificate of registration for a period not exceeding one month, the rate of tax shall be one third of the tax payable for a quarter.”

10/ Month has been defined under Rule 2(e) of the Rules of 1991 as under:-

“2(e). “Month” means a month reckoned according to the British Calendar.”

11/ The above definition of month is pari materia with the definition of month as given in M.P. General Clauses Act, 1957.

12/ In the present case there is no dispute in calculating a calendar month if registration is issued on the first day of the month, but the dispute is in calculating one calendar month if registration is issued after the first day of the month.

13/ In Halsbury’s Laws of England, 4th Edition, Para-211, the explanation is given in regard to the meaning of Calendar Month running from arbitrary date as under:-

“211. Calendar month running from arbitrary date.-When the period prescribed is a calendar month running from any arbitrary date the period

expires upon the day in the succeeding month corresponding to the date upon which the period starts, save that, if the period starts at the end of a calendar month which contains more days than the next succeeding month, the period expires at the end of that succeeding month.

If a period of one calendar month includes the last day of February there must be 29 or 28 days, according as the year is or is not a leap year.”

14/ The aforesaid explanation makes it clear that if the period of one month commences from a date subsequent to the first day of the month, then the calendar month will be complete upon the day in the succeeding month corresponding to the date when the period had started. For example; if the one month period starts on 20th of February, then it would be over on 19th of March. Similarly if it starts on 20th of March, the one month period will be over on 19th of April. Hence the period of one month will have 28, 29, 31 or 30 days depending upon the month i.e. February, March, April etc. in which the period had commenced.

15/ The Supreme Court in the matter of **Bibi Salma Khatoon Vs. State of Bihar and others reported in 2001(7) SCC 197** while considering the three month's limitation prescribed under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 has calculated the said period by referring to the meaning given by Halsbury's Laws of England as quoted above. Same is the view taken by the Madras High Court in the matter of **K.K.C. Textile Mills and Another Vs. Maize Products reported in (1998) 93 Company Cases 919**, wherein while interpreting Section 3(35) of the General Clauses Act which contains the same definition of month as is given in Rule 2(e) in the present case, has held as

under:-

"In *Misri Lal v. Jwala Prasad* [1961] 1 ILR (All) 761, the Division Bench of the Allahabad High Court has held thus :

"Section 3(27) of the General Clauses Act which interprets 'month' is inapplicable because that interpretation is to be adopted only when the word is used in a statute and not when it is used in a private document like a notice to quit. But, even when it is used in the statute, it may be interpreted to mean a period of 30 days, as was done in [Vama Dev Desikar v. Murugess Mudali](#) [1905] ILR 29 Mad 72. We, therefore, hold that the notice required the appellant to quit after 30 days and was valid".

[In Kathayee Cotton Mills v. Gopala Pillai](#) [1979] KLT 721, the Division Bench of the Kerala High Court has observed thus (headnote) :

"In interpreting a statutory provision we have to look into the plain meaning of the language used therein, and if it does not give room for any ambiguity that meaning has to be given to it in the absence of any contrary or different intention indicated expressly or at least by implication. In this case, the term 'month' has not been defined in the definition section, namely, section 2 of the Act. In common parlance a month is understood to mean a period of 30 days. Under section 3(35) of the General Clauses Act, 1937, the number of days in a month has to be reckoned according to the British calendar under which some months have 31 days while others have either 30 days, and one month having 28 or 29 days. In the absence of a definition giving a different meaning there is no justification for departing from the meaning given to the term in common parlance."

The relevant portion in [Bhikhalal v. Noormamad Abdul Karim](#), AIR 1978 Guj 149, 150 is as follows :

"In common parlance, the term 'month' is hardly understood as a calendar month according to the Gregorian calendar, but it by and large means 'the space of time' from a day in one month to the corresponding day in the next. This is the meaning of the term 'month' given in the Concise Oxford Dictionary, 1964 Edition. The term 'month' has been explained also in the Bombay General Clauses Act, 1904. The term 'month' as defined in section 2(30) of the Bombay General Clauses Act, means 'a month reckoned according to the British calendar'. The term 'reckoned' is equivalent to the term 'calculated' or 'counted'. If the Legislature wanted a month to mean only a compact unit of a calendar month, the normal definition would have been as a British calendar month or a calendar month. The elaborate explanation given in the definition of the term 'month' and particularly the reference to calculation clearly and pointedly suggest that what is intended to be referred to by the term is space of time between the two dates of the two contiguous months."

Learned counsel for the respondent per contra, cited the following decisions :

Daryodh Singh v. Union of India, AIR 1973 Delhi 58.

Provas Chandra Poddar v. Visyaraju Kasi Viswanatham Raju, AIR 1962 Orissa 149.

Ram Kali (Smt.) v. Sia Ram, AIR 1978 All 546.

Vasudevan (G.) v. Rajammal [1992] 1 MWN (CrI.) 241 (Mad).

It is held in Daryodh Singh v. Union of India, AIR 1973 Delhi 58, as follows (page 61) :

"In its ordinary accepted sense the expression 'month' means a 'calendar month' and not a 'lunar month'. As to how a calendar month is to be counted from a date which is not the first of the month has been described in paragraph 143 of Halsbury's Laws of England, Volume 37, (Third Edition) in the following words :

"When the period prescribed is a calendar month running from any arbitrary date the period expires with the day in the succeeding month immediately preceding the day corresponding to the date upon which the period starts; save that, if the period starts at the end of a calendar month which contains more days than the next succeeding month, the period expires at the end of the latter month'."

In provas [Chandra Poddar v. Visyaraju Kasi Viswanatham Raju](#), AIR 1962 Orissa 149 it is observed thus :

"In Halsbury's Laws of England, Second Edition, Volume 17, Paragraph 176, the principle applicable to the case of this type has been laid down thus :

"When the period prescribed in a calendar month running from any arbitrary date and not coinciding with any particular month in the calendar the period cannot exceed in length the number of days in the month in which it starts, and when the second of the two months in which the period falls is a month containing fewer days than those contained in the first month, the number of days in that period may be less than that of those of the first month'."

In the same line, the other decisions are also available.

In Sugavanam (M.D.) v. Farook Commercial Corporation [1992] 1 MWN (CrI.) 239 (Mad) it is observed as follows :

"As such, I am clear, that the cause of action would arise only after expiry of 15 days from the date of receipt of the notice. The payee can file a complaint within a month thereof. In the instant case, notice was received by the accused on May 16, 1991. Fifteen days therefrom will take us to May 31, 1991. One month thereof will take us to June 30, 1991. The complaint has

been laid on June 26, 1991. Hence, it is within time."

Section 142 of the Negotiable Instruments Act provides thus :

"Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) -

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138."

Section 138(c) of the Negotiable Instruments Act, 1881, states that the cause of action arises once the drawer of the cheque fails to make payment of the said amount to the payee. As already held by this court, the cause of action arises after the expiry of the said 15 days.

In this case, as admitted by both, January 11, 1994, is the date of expiry of 15 days, the time given and the cause of action arises on January 12, 1994. The complaint was filed on February 11, 1994. But, dispute arises over the term "one month". According to counsel for the petitioners, "one month" means 30 days, which falls on February 10, 1994. According to counsel for the respondent, the term "one month" does not connote "30 days" but it means an English calendar month and the last day of the month falls on February 11, 1994, and the complaint was filed on that date.

The term "one month" is not defined in the Act. Under the General Clauses Act, 1897, under section 3(35), a "month" is defined as "a month shall mean a month reckoned according to the British calendar".

For ascertaining the meaning of the expressions not defined in the Act, reference must be made to the definition of that expression with reference to the meaning contained in General Clauses Act. Even in the enactment, the definition contained in this Act would certainly apply to the word used in the statutes.

Therefore, the term "one month" as contained in section 142 of the Negotiable Instruments Act would be a calendar month and as per section 3(35) of the General Clauses Act, 1897, the number of days in a month reckoned according to the British calendar under which some months have 31 days and other have 30 days, while one month has 28, in the leap year 29 days.

So, in the light of this definition there is no difficulty in coming to the conclusion that "one month" being a calendar month cannot be restricted to the meaning of "30 days".

If it was the intention of the Legislature that only "30 days"

time is to be given for filing the complaint, then it would have certainly incorporated in the section in unambiguous terms as "30 days" instead of "one month", because it is made clear that in all other aspects, the period was mentioned in terms of days. For instance, the notice must be issued within 15 days from the date of dishonour and there must be 15 days' grace time to be given to the drawer of the cheque for payment after receipt of the notice.

As indicated earlier, the cause of action arises on the expiry of the 15th day. So, only for filing of the complaint, the term or period "one month" is used instead of "30 days". That itself would show that the meaning of "month" is the English calendar month. This could be understood in this way :

The month of February has 28 days and in the leap year it has got 29 days. Some months have 30 days and some have 31 days. For example, if the cause of action arises on the 28th day of February, the complaint must have been filed on or before 27th day of March and the number of days in between is 28 days.

If the cause of action arises on 29th day of February, the complaint must have been filed on or before 28th day of March, in which the total number of days is 29.

If the cause of action arises on 30th April, then the complaint must have been filed on or before 29th May. The number of days taken in this case would be 30 days.

If the cause of action arises on March 31, then the complaint must have been filed on or before April 30, and in that case, one month means 31 days.

If the cause of action arises on 29th or 30th or 31st day of January, then the complaint must have been filed on or before 28th or 29th day of February as the case may be, and in that case, "the month" means 31/32, 30/31 and 29/30 days."

16/ The intention of the legislature is also clear from Section 43 of the Motor Vehicles Act, 1988 and Section 3 of the M.P. Motoryan Karadhan Adhiniyam, 1991, wherein the phrase "period not exceeding one month" has been used. If the contention of the respondents that one calendar month period will be over on the last day of that month is accepted, then it would lead to absurd result. For example; a temporary registration certificate issued on 31st of March after payment of requisite fees and taxes for a month, would be valid only for

one day i.e. on 31st of March and on the next day i.e. 1st of April the dealer will be required to pay the fees and tax for another month, but that is not the intention of the legislature. It is also not the intention of the legislature that a month will mean 30 days or till the last date of that month, otherwise the legislature would have defined month to mean 30 days or the remaining period of that month. It has also not been disputed by counsel for the respondents that since the commencement of the Motor Vehicles Act or the Motoryan Karadhan Adhiniyam, month has never been treated in the manner as contained in the impugned order/communication dated 14.9.2016 or 13.2.2018.

17/ Hence, it is held that month as defined in Rule 2(e) of the Rules of 1991 in a case where period of a month commences from a day subsequent to the first day of the month, would mean the period commencing from that date till the corresponding date in the succeeding month.

18/ Having regard to the aforesaid the impugned order dated 14.9.2016 and communication dated 13.2.2018 cannot be sustained and are hereby set aside with a direction to the respondents to calculate the period of a month in the manner as held above.

19/ Writ petition is accordingly allowed.

(PRAKASH SHRIVASTAVA)
J u d g e