

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 9th OF JULY, 2022

WRIT APPEAL No. 722 of 2019

Between:-

1. TRANSPORT DEPARTMENT SECRETARY MANTRALAYA VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. TRANSPORT COMMISSIONER GWALIOR (MADHYA PRADESH)
3. ADDITIONAL REGIONAL TRANSPORT AUTHORITY, (ARTO) DHAR, DIST. DHAR (MADHYA PRADESH)

.....APPELLANT

(SHRI SHREY RAJ SAXENA, LEARNED DY. A.G. FOR THE APPELLANT/STATE.)

AND

MAN TRUCKS INDIA PVT. LTD. THR. SHRI LIONEL JORDAN S/O LATE SHRI EDWARDA JORDAN REGISTERED OFFICE AT 201-216 PRIDE SILICON PLAZA BESIDES CHATURSHRINGI TEMPLE SENAPATI BAPAT ROAD PUNE 411016 AND HAVING ITS FACTORY AT PLOT NO.3-B-1, 2A AND 2C SECTOR 1 PITHAMPUR INDUSTRIAL ESTATE PITHAMPUR DHAR (MADHYA PRADESH)

....RESPONDENTS

(SHRI RAGHAVENDRA SINGH RAGHUVANSHI, LEARNED COUNSEL FOR THE RESPONDENT/PETITIONER .)

*This appeal coming on for hearing on this day, **JUSTICE VIVEK RUSIA** passed the following:*

ORDER

Appellants/State have filed the present writ appeal being aggrieved by the order dated 20.12.2018 passed by the writ court in writ petition no.10934/2018 whereby the writ petition was allowed by quashing the demand raised by the appellant nos.2 and 3.

2. Facts of the case in short are as under:-

i. The respondent/writ petitioner is the company registered under the Companies Act and engaged in the business of sale of heavy commercial vehicles under the brand name of “MAN” (in short “the Company”). The

company set up a manufacturing unit at Pithampur Industrial Area, District-Dhar. After manufacturing the vehicles, the company under authorization issues a temporary registration certificate for the period of a month for the purposes of transporting the vehicle to prospective purchasers through dealers. Under section 43 of the Motor Vehicle Act, 1988 read with Rule 45 of M.P. Motor Vehicles Rules, 1994 the competent authority can authorize an officer of the manufacturing company to issue a temporary registration certificate for the period of one month. All of a sudden appellant no.2 issued an order dated 14.09.2016 directing all the Regional Transport Officers in the State of M.P. by giving an interpretation of the expression "a month" that if the temporary registration is issued to a vehicle and 30 days of it falls on any day of the consequent month then in such event Motor Yan Kara /Vehicle Tax shall be levied for two months. Based on the aforesaid order dated 14.09.2016 appellant no.3 vide letter dated 14.04.2017 has demanded taxes for two months for all the vehicles manufactured since the date of establishment of the manufacturing unit of the company. The petitioner submitted a reply/objection on 30.05.2017 clarifying that under Rule 45 of M.P. Motor Vehicles Rules, 1994 company issues a temporary registration certificate with validity of period of one month and the interpretation of the expression of a 'month' as has been done by the respondents so as to mean it British Calendar month is unjust, unfair, arbitrary and in violation of the statutory provisions.

ii. Without considering the aforesaid reply/objection, the appellants have ordered that if the validity of the temporary registration issued by the respondent/petitioner falls in the following month then the respondent/petitioner is under obligation to pay the relevant tax for two months from the date when the company was authorized to issue such temporary registration i.e. from the year 2012. Again, the petitioner submitted the reply and thereafter approached this court by way of the writ petition.

3. The appellants/ State filed the reply to the writ petition justifying its action.

4. Vide order dated 20.12.2018 the writ court after considering the (i)provisions of section 43 of the Motor Vehicle Act,1988, (ii)section 3 of the M.P. Motoryaan Karadhan Adhiniyam, 1991, (iii) provisions of the M.P. General Clauses Act and (iv)the definitions of a '**calendar month**' given in the Webster dictionary and Oxford dictionary, came to the conclusion that the period of one month commences from the day subsequent to the 1st day of the month and would mean the period commences to that day and till the corresponding date in the succeeding month and accordingly set aside the impugned order dated 14.09.2016 and communication dated 13.02.2018.

5. Being aggrieved by the aforesaid orders the appellants have filed this writ appeal on the grounds that under section 43 of the Motor Vehicle Act,1988 the word 'month' is used by the parliament and as per the definition of 'the month' in the Rule 2 (e) of the M.P. Motoryan Karadhan Rules 1991 the validity of temporary registration issued by the prescribed authority is only for a month meaning the same cannot be extended for the next succeeded month. The learned single judge has wrongly held that the expression ' a month' as defined under Rule 2(e) of the M.P. Motoryan Karadhan Rules 1991 relates to the "period of the month". Hence the impugned order is bad in law and is liable to be set aside.

6. Shri Shrey Raj Saxena learned Dy. A.G. for the appellant/State further submits that now the definition of a month has been amended by the state legislature and according to which the temporary certificate shall be valid for a month and part thereof. Therefore, the intention of the legislature is that the temporary certificate shall be valid for a month in which it was issued, and it will not succeed to the next month and if it so then the manufacturer/owner shall be liable to pay the taxes for two months. Shri Saxena further submits that the month should be counted as per the British calendar and if the total 30 days falls in two consecutive months then the tax would be paid for two months instead of one month.

7. *Per contra* Shri Raghuvanshi appearing for the respondent submits that there is no ambiguity in the definition of the month under the Rules of 1991. Learned writ court has rightly found that if the interpretation given

by the state is accepted then it will lead to an absurdity for example a registration certificate issued on 31st March after payment of requisite fee and taxes for a month it would be valid for one day and on the next day i.e. 1st April the dealer will be required to pay a fee and taxes for another month It is further submitted by the learned counsel that within one day it would not be possible for the manufacturer to transport vehicle to the owner to enable him to obtain permanent registration certificate. Learned writ court has rightly concluded that under Rule 2(e) of the Rule of 1991 when the period of 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. The period of a month is always treated as 30 or 31 days. It is further submitted by the learned counsel that the Learned writ court has rightly relied on the definition of the period given in Webster's dictionary and according to which the period is the "time that runs continuously". The Oxford dictionary provides the definition of the period as "a length of time" and hence no interference is called for and the petition is liable to be dismissed.

We have heard learned counsel for the parties and perused the record.

8. Section 40 of the Motor Vehicle Act,1988 provides that every owner of a motor vehicle shall cause the vehicle to be registered by any registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept. Section 41 of the Motor Vehicle Act,1988 provides submission of application by the owner of the vehicle for registration in a prescribed format. Section 43 of the Motor Vehicle Act,1988 provides that the owner of a motor vehicle may apply to any registering authority or any other authority as may be prescribed by the state government to have the motor vehicle temporarily registered and such authority shall issue a temporary certificate of registration "**for one month**" in such manner as may be prescribed by the state government. The period of a month is not defined in the Motor Vehicle Act. Rule 47 of Central Motor Vehicle Rules, 1989 provides that application for registration of a motor vehicle shall be made in Form 20 to the registering

authority within a period of seven days from the date of taking delivery of such vehicle, excluding the period of the journey. Sub-rule (2) of Rule 47 of Central Motor Vehicle Rules, 1989 provides that in respect of vehicles temporarily registered applications under sub-rule (1) shall be made before the temporary registration expires. Sub-rule(3) inserted from 1st January 2015, says that every vehicle manufacturer shall, in accordance with Form-20, Form-22 and Form-22-A, upload the vehicle details in the portal <https://www.vahan.nic.in/>

9. In exercise of the power conferred under the Motor Vehicle Act the State Government has made rules called M.P. Motor Vehicle Rules, 1994 and Chapter-4 of these rules deals with the Registration of Motor Vehicle. Rules 45 provide temporary registration and according to which application for temporary registration or extension of the period of validity thereof shall be made to the Registering Authority in Form M.RM.V.R.-20. Sub-rule (2) provides that the Officer of a manufacturer of the motor vehicle posted at the place of manufacturing or the Regional Sales Officer of the manufacturer, as the case may be, shall be competent to grant a temporary certificate of registration under this rule if so, authorized by the Transport Commissioner. The temporary certificate of registration shall be in Form-M.P.M.V.R.-21. The Form-21 is reproduced below: -

FORM M.P.M.V.R.-21 (C.R. Tem)

[See Rule 45 (3)]

Temporary certificate of registration

Temporary registration mark.....

Name, name of father/husband and address of owner.....

Description of vehicle

1. Class of Vehicle.....

2. Maker's name.....

3. Type of Body.....

4. Seating capacity.....

5. Colour.....

6. Engine Number.....

7. Chasis Number.....

Under the provisions of section 43 of the Motor Vehicle Act, 1988 the vehicle described above has been temporarily registered by me and **the registration is valid until the.....day of.....19....** Details of M.V. Tax paid amount.....R. No.....Bood No.....T.C. No.....Dt.....

Dated.....199.

.....
Signature & designation of registering
authority or issuing authority

It is clear from the aforesaid Form that it shall specify the validity date until the temporary registration is valid therefore, the registration authority is required to mention the date up to which this certificate is valid but shall not extend beyond one month.

10. For the purpose of recovery of Motor Vehicle tax, the State Government has enacted M.P. Motoryaan Karadhan Adhiniyam, 1991. Section 3 of the M.P. Motoryaan Karadhan Adhiniyam, 1991 provides a levy of tax on the motor vehicle which shall be used or kept for use in the State of Madhya Pradesh as provided in the first schedule and the second schedule. Section 4 of the M.P. Motoryaan Karadhan Adhiniyam, 1991 mandates the tax at the annual rate specified in the IIIrd schedule shall be paid by the manufacturer of all the dealers in the motor vehicle. Rule 2 (e) of the Rule of 1991 provides the definition of 'month' and according to which month is reckoned according to the British calendar. Under sub-rule (2) of Rule 45 of the MPMV Rules 1994 the office of the manufacturer is authorized to issue a certificate of temporary registration under Form-21 and in which the date up to which the temporary registration would be valid is required to be mentioned. Under Section 43 of the Motor Vehicle Act that the State Government may register a motor vehicle and issue a certificate of temporary registration for a period of one month in such a manner as may be prescribed. Therefore, the State authorities under the Motor Vehicle Act and Rules are bound to issue a certificate only for a month by mentioning the last date of its validity. There is No. provision for issuance of a temporary registration certificate of the motor vehicle for two months hence authorities under the MV Act cannot recover the taxes for more than a month. Since the expression 'period of a month' is used in the rules and the period of a month in a particular month is always 30 to 31 days as the case may be. Under section 43 of MV Act read with Rules 45 of the Rules of 1994 the authority who issues the certificate of temporary registration mentioning the last date of validity same shall be valid for 30 or 31 days as the case may be depending on the month on which the certificate is issued.

11. After the aforesaid judgment passed by the writ court the State Government the power conferred under section 24 of M.P. Motoryan Karadhan Adhiniyam, 1991 has amended the Rule 2 (e) of M.P. Motoryan Karadhan Rules 1991 as under:-

“(e) “month” means a complete month of a British Calendar or part thereof;”

Therefore, the State Government has realized that the period of one month denotes only complete one month hence, the expression ‘a part thereof’ has been added to the definition. Hence, this writ appeal has virtually rendered infructuous after the aforesaid amendment so far as the legal issue is concerned. Accordingly, the writ appeal is dismissed.

(VIVEK RUSIA)
JUDGE

(ANIL VERMA)
JUDGE

Ajit/-

