

W.P.(MD) Nos.12955 and 13043 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.06.2023**

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THE HONOURABLE Ms.JUSTICE **P.T.ASHA**

W.P.(MD) Nos.12955 and 13043 of 2023
and
W.M.P.(MD) No.11040 of 2023

W.P.(MD) No.12955 of 2023:-

Carunia Seelavathi

... Petitioner

/vs./

- 1.The Secretary to the Government of Tamil Nadu,
Department of Transport,
Fort St.George,
Chennai 600 009.
- 2.The Transport Commissioner,
Transport Department,
Chepauk,
Chennai 600 005.
- 3.The Deputy Transport Commissioner,
Regional Transport Office,
Tirunelveli,
No.111, NGO B Colony,
Palayamkottai 627 707,
Tirunelveli District.



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4.The District Collector,
District Collector Office,
Tirunelveli District.

5.The Regional Transport Officer,
Regional Transport Office
Tirunelveli,
No.111, NGO B Colony,
Palayamkottai 627 707,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 5th respondent vide office proceedings in Na.Ka. No.19154/A3-2023 dated 21.04.2023 and quash the same as illegal and consequently direct the respondents to register the petitioner's new car namely TATA NEXON XE (Petrol) and to grant exemption of Tax to the Physically disabled as per G.O.Ms.No.3352 dated 29.12.1976 within a time period stipulated by this Court.

For Petitioner : Mr.R.Karunanidhi

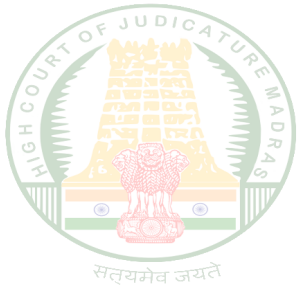
For Respondents : Mr.D.Ghandiraj
Special Government Pleader

W.P.(MD) No.13043 of 2023:-

Carunia Seelavathi

... Petitioner

/vs./



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- 1.The Union of India,
represented by its Secretary,
Department of Heavy Industry
Ministry of Heavy Industries and Public Enterprises,
Block No.14 CGO Complex,
Lodhi Road,
New Delhi 110 003.
- 2.The Union of India,
represented by its Secretary,
Department of Revenue,
Ministry of Finance,
North Block,
New Delhi 110 001.
- 3.The Union of India,
represented by its Secretary,
Department of Empowerment of Persons with Disabilities,
Ministry of Social Justice and Empowerment,
Antyodaya Bhawan,
New Delhi 110 003.
- 4.The Union of India,
represented by its under Secretary,
AEI Division Section
Department of Heavy Industry
Ministry of Heavy Industries and Public Enterprises,
No.428, Udyog Bhawan,
New Delhi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned email communication dated 04.05.2023 vide his proceedings in



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registration application MHI- 290423185541-6629 sent by the 4th respondent and quash the same as illegal and consequently for a direction, directing the respondent No.1 to extent the GST, Road Tax, Tool Tax and registration concession to the petitioner for purchasing a four wheeler (TATA NEXON XE-Car (Petrol) Derik Motors Private Limited) in the light of the orders passed by the Honble Court of Chief Commissioner for persons with Disabilities (Divyangjan) in Case No.12149/1141/2020 dated 01.12.2020.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.S.Ponsenthil Kumaran
Senior Panel Counsel

COMMON ORDER

The relief is sought for on the basis of the order passed by the Court of Chief Commissioner for Persons with Disabilities (Divyangjan) New Delhi in Case No.12149/1141/2020 dated 01.12.2020 and the order passed by this Court in W.P.(MD) No.20511 of 2021 dated 22.12.2021.

2.The petitioner, who is visually handicapped and who holds the unique disability identity card showing that she is a person with 100% physical impairment, has planned to purchase a car for her own use. She is dependent on a third person for her travels. Considering the fact that she is a lady and visually



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challenged, travelling in the taxis and autos in the present scenario is a scary choice for the petitioner. Therefore, she would try to take advantage of the Government Order in G.O.Ms.No.3352, Home (Transport-T) Department, dated 29.12.1976, which grants exemptions from payment of tax leviable under the Tamil Nadu Motor Vehicles Taxation Act, 1974 for the motor vehicles designed or adapted for the use of disabled persons. She has also relied upon the aforementioned case of the Court of Chief Commissioner for Persons with Disabilities (Divyangjan) as also the order of this Court in W.P.(MD) No.20511 of 2021 dated 22.12.2021. However, her request has been rejected by the authorities by stating that the vehicle of the petitioner would not undergo any change in its form and it cannot be considered as a adapted vehicle, which is the basis of the exemption. Like wise, the request for exemption of GST has been rejected with the one line order that the scheme is only for ortho/locomotory applicants.

3.Heard the learned counsels appearing on either side.

4.That the petitioner is a person suffering from a disability has not been denied by the respondents. In the order of the Court of the Chief Commissioner



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for Persons with Disabilities (Divyangjan) New Delhi, the Commissioner was dealing with cases of various kinds of disabilities, like locomotory, hearing impairment, visually handicapped etc. The Commission has held that a person suffering from complete blindness can never drive the vehicle by himself/herself, which is also the case of hearing impairment. The Commission went on to hold that the person who is visually challenged also belongs to the PwD category (Person with Disability) and the Commission had recommended that the Department of Heavy Industries, Ministry of Heavy Industries and Public Enterprises and Department of Revenue, Ministry of Finance, Union of India should make amendments to their rules to give concession with reference to GST, Road Tax, Toll Tax etc to all these persons. This recommendation of the Commission has been followed by the learned Judge of this Court in the order passed in W.P.(MD) No.20511 of 2021, wherein the learned Judge has relied upon this recommendation and directed the respondents to process the applications at the earliest. This Court on an earlier occasion was dealing with the cases of exemption in respect of the adapted vehicle adapted for the use of a physically challenged person. Relying upon Sections 2(1) and 52(1) of the Act, this Court had directed that the petitioner is entitled to the concession.



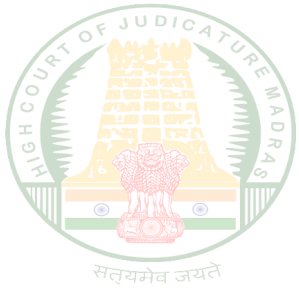
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5.Considering the recommendation of the Commission, which is a Commission specifically established for the disabled and taking into consideration the fact that today the visually challenged persons are having more opportunities of employment even in the Government sector and their commuting to the place of work becomes challenging, this Court is of the opinion that the exemption has to be granted to the petitioner and accordingly, the Writ Petitions are allowed. The authority concerned shall ensure that necessary orders exempting the petitioner from the motor vehicle's tax as well as the GST are passed within a period of four weeks from the date of receipt of a undertaking letter by the petitioner. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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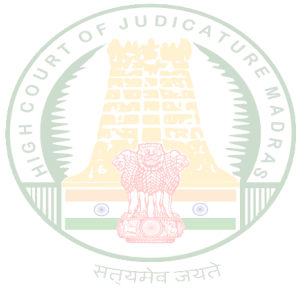
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VERDICTUM.IN



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P.T.ASHA, J.

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