

Chief Justice's Court

Case :- WRIT TAX No. - 1869 of 2024

Petitioner :- Ankur Vikram Singh

Respondent :- State of UP and 2 Others

Counsel for Petitioner :- Dhananjay Singh Yadav, Surendra Singh

Counsel for Respondent :- Nimai Dass, A.C.S.C.

Hon'ble Arun Bhansali,Chief Justice

Hon'ble Vikas Budhwar,J.

1. This writ petition has been filed by the petitioner seeking direction to the respondents to refund an amount of Rs.1,74,900/- to the petitioner realized under the head of 'Tax' in respect of his Hybrid Vehicle bearing registration No. UP-16 DL 0728.

2. Submissions have been made that the vehicle in question was purchased by the petitioner on 13.10.2022 from NOIDA, (U.P.) and an amount to the tune of Rs.1,74,900/- was paid as One Time Tax (OTT). The vehicle was registered on 18.10.2022.

3. Submissions have been made that the State has issued a notification dated 2.3.2023, Annexure-4 *inter alia* providing for an amendment in the U.P. Motor Vehicles Taxation Act, 1997 whereby on electric vehicles purchased and registered in the State of U.P. from the date of notification of the Uttar Pradesh Electric Vehicle Manufacturing and Mobility Policy, 2022 ('the Policy 2022'), tax was exempted and, therefore, the petitioner is entitled to the refund of the tax.

4. Learned counsel for the respondents made submissions that the language of the exemption notification is specific requiring the purchase and registration of the vehicle from the date of notification of the Policy, 2022 dated 14.10.2022 and as admittedly, the vehicle has been purchased prior to the said date i.e. on 13.10.2022, notification is not applicable and the petitioner is not entitled to the refund.

5. Learned counsel for the petitioner attempted to make submissions that as the vehicle was registered on 18.10.2022, even if the tax was paid/ vehicle was purchased on 13.10.2022, the petitioner is entitled to the refund.

6. We have considered the submissions made by learned counsel for the parties and have perused the material available on record.

7. The relevant portion of the notification dated 2.3.2022 *inter alia* reads as under:

“In the aforesaid notification, in place of the second proviso inserted in the aforesaid notification vide Notification No. 4/2020/578/XXX-4-2020-8(19)/2018TC dated 23.06.2020, the following proviso shall be substituted, namely :-

“Provided further the motor vehicles in Column no.2 against serial no. 1, 2 and 4 of the table shall be given 100 percent exemption of tax specified in Column no. (3), (4) and (5), for Electric Vehicles (EV) purchased and registered in Uttar Pradesh. The above exemption is applicable as follows:

(i) on any electric vehicle (EV) purchased and registered in the State of Uttar Pradesh from the date of notification of Uttar Pradesh Electric Vehicle Manufacturing and Mobility Policy, 2022, dated 14.10.2022 upto 13.10.2025.”

A perusal of the above would reveal that the conditions enumerated for the purpose of exemption are that the electric vehicle must have been purchased and registered in the State of U.P. from the date of notification of the Policy, 2022 dated 14.10.2022.

8. Admittedly, the vehicle in question has been purchased by the petitioner prior to the date of Policy, 2022, i.e. 13.10.2022 and tax itself has been paid as applicable on the said date and, therefore, it cannot be said that under the said Policy/Notification, the petitioner was entitled to the exemption as provided. Only on account of the fact that the vehicle was registered on 18.10.2022, i.e. after the date as indicated in the amendment, i.e. 14.10.2022, the petitioner cannot seek the refund from the respondents as the tax was paid prior to the date of the said Policy.

9. It has been laid down by Hon'ble Supreme Court in **Star Industries V. Commissioner of Customs (Imports), Raigad : (2016) 2 SCC 362** that the eligibility criteria laid down for exemption notification is required to be construed strictly.

10. In that view of the matter, no case for issuing direction for refund, as prayed for, is made out.

11. The petition is, therefore, dismissed.

Order Date :- 5.11.2024

RK/SL

(Vikas Budhwar, J)

(Arun Bhansali, CJ)