2025 INSC 1052

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 11188 OF 2025
(ARISING OUT OF SLP (CIVIL) NO. 1547 OF 2025)

M/S. TARACHAND LOGISTIC SOLUTIONS LIMITED **APPELLANT(S)**

VERSUS

STATE OF ANDHRA PRADESH & ORS. **RESPONDENT(S)**

J U D G M E N T

UJJAL BHUYAN, J.

Leave granted.

2. This appeal arises out of the judgment and order dated 19.12.2024 passed by the High Court of Andhra Pradesh at Amravati ('High Court' for short) in Writ Appeal No. 711/2023.

3. Facts of the case may be briefly noted.

4. Appellant is a company incorporated under the Companies Act, 1956. It is engaged in the business of providing logistic support since the year 1985, further diversifying its business activities into deployment of heavy lifting equipments required for infrastructure and construction projects. Appellant is the owner of various motor vehicles which are used as heavy lifting equipments.

5. Appellant was awarded a contract dated 17.11.2020 for handling and storage of iron and steel materials at central dispatch yard within Visakhapatnam Steel Plant, Andhra Pradesh, a corporate entity of Rashtriya Ispat Nigam Limited ('RINL').

6. Pursuant to the contract and consequential work order dated 19.01.2021, appellant deployed 36 numbers of motor vehicles bearing various registration numbers, details of which are mentioned in the paperbook, for plying within the central dispatch yard premises.

7. It may be mentioned that prior to the contract, appellant had duly paid the requisite tax for the aforesaid registered motor vehicles and had obtained fitness certificate, insurance certificate and pollution under control certificate as per requirement of the statutory provisions.

8. Upon allotment of the contract, appellant deployed the motor vehicles inside the central dispatch yard premises and with effect from 01.04.2021 all the motor vehicles stopped plying on the public roads as those were confined to within the central dispatch yard premises only. Appellant was under obligation to retain these vehicles within the premises till continuation of the contract period and not be used on public roads.

9. According to the appellant, the central dispatch yard is enclosed by compound walls and ingress and egress thereto is regulated through the gates where Central Industrial Security Force (CISF) personnel are deployed. No member of the public has any right to access the central dispatch yard. Only those persons who are authorized to

enter are given gate passes by the CISF to enter the premises of the central dispatch yard.

10. Appellant wrote to respondent No. 1 i.e. State of Andhra Pradesh represented by its Principal Secretary, Transport Department *vide* letters dated 07.12.2020 and 05.10.2021 intimating the state authority that the motor vehicles of the appellant used in the central dispatch yard premises belonging to Visakhapatnam Steel Plant of RINL were not being used on public roads and, therefore, requested for exemption from payment of motor vehicle tax for the period the vehicles were confined and used within the central dispatch yard premises. The aforesaid prayer was made in terms of Section 3 of The Andhra Pradesh Motor Vehicle Taxation Act, 1963 (briefly 'the A.P. Act, 1963' hereinafter).

11. Respondent No. 3 i.e. Regional Transport Officer, Gajuwaka did not pass any order on the request made by the appellant. On the contrary, the fourth respondent i.e. Motor Vehicle Inspector, Gajuwaka inspected the motor vehicles stationed in the central dispatch yard premises and,

thereafter, raised a demand of Rs. 7,37,960.00 against such motor vehicles on 16.11.2021. In addition, a further demand of Rs. 15,33,740.00 were raised against the other vehicles stationed in the said premises towards motor vehicle tax. Appellant paid the said amount of Rs. 7,37,960.00 and Rs. 15,33,740.00, totaling Rs. 22,71,700.00, towards motor vehicle tax under protest. It is stated that appellant was compelled to pay the amount demanded under protest as it was threatened with seizure of all the motor vehicles operating within the premises of the central dispatch yard of RINL. While making the payment, appellant stated that it reserved its liberty to seek exemption from payment of such tax under the A.P. Act, 1963.

12. On 25.02.2022, appellant wrote to the third respondent for refund of the amount paid under protest. However, there was no response.

13. At that stage, appellant filed a writ petition before the High Court being W.P. No. 6206 of 2022 which was disposed of *vide* order dated 26.04.2022 directing the

respondents to consider the prayer of the appellant expressed *vide* letters dated 07.12.2020 and 05.10.2021 for grant of exemption from payment of motor vehicle tax. Relevant portion of the order dated 26.04.2022 reads as under:

> 11. Accordingly, the Writ Petition is disposed of with a direction to the respondents to consider the representations of the petitioner dated 07.12.2020 and 05.10.2021 for grant of exemption from payment of tax. Needless to say, the 2nd respondent shall also permit the petitioner to produce all such material or evidence necessary to demonstrate that the vehicles of the petitioner have not been used or kept for use on the public roads in the State of Andhra Pradesh and shall pass an order, setting out reasons, after due opportunity of hearing being given to the petitioner.
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> 12. Thereupon, the respondents shall either refund or retain the amounts collected from the petitioner in accordance with the orders passed by the 2nd respondent. The said exercise is to be completed, within a period of eight weeks from the date of receipt of this order. No coercive steps shall be taken against the petitioner pending disposal of the said representations. There shall be no order as to costs.

14. In terms of the aforesaid order dated 26.04.2022, appellant submitted a representation dated 25.05.2022 to

respondent No. 3 seeking grant of exemption from payment of motor vehicle tax and for refund of Rs. 22,71,700.00 alongwith interest at the rate of 6 percent.

15. *Vide* order dated 14.06.2022, respondent No. 3 rejected the aforesaid representation of the appellant. View taken by respondent No. 3 is that RINL is a government company. Therefore, the premises of RINL falls within the definition of a 'public place' which fulfills the requirement of Section 3 of the A.P. Act, 1963.

16. Aggrieved by the aforesaid order of respondent No. 3 dated 14.06.2022, appellant preferred an appeal before the appellate authority i.e. respondent No. 2 (Deputy Transport Commissioner, Visakhapatnam) on 29.06.2022.

17. In the meanwhile, further demand was raised against the appellant on account of motor vehicle tax for the quarters from 01.04.2022 to 30.06.2022 and from 01.07.2022 till 20.09.2022. Appellant prayed for keeping in abeyance the demand during pendency of the appeal. However, appellate authority rejected the said prayer of the

appellant *vide* the order dated 27.08.2022 consequent whereupon, appellant paid a further sum of Rs. 11,77,890.00 under protest.

18. Thereafter, appellant filed W.P. No. 6206 of 2022 before the High Court assailing the order dated 14.06.2022 as well as the appellate order dated 27.08.2022. The writ petition was contested by the respondents by filing counter affidavit. Learned Single Judge *vide* the judgment and order dated 13.06.2023 allowed the writ petition by holding that appellant was plying its vehicles within the central dispatch yard which is not a 'public place'. Respondents were directed to refund the amount of Rs. 22,71,700.00 to the appellant.

19. Aggrieved by the aforesaid judgment and order of the learned Single Judge, respondents preferred a letters patent appeal before the Division Bench of the High Court which was registered as Writ Appeal No. 711 of 2023. *Vide* the judgment and order dated 19.12.2024, Division Bench allowed the writ appeal and set aside the judgment and order of the learned Single Judge.

20. It is against this judgment and order dated 19.12.2024 that the related Special Leave Petition (Civil) No. 1547 of 2025 came to be filed. On 24.01.2025, this Court while issuing notice, stayed the operation of the impugned judgment and order dated 19.12.2024 but clarified that appellant would not be entitled to enforce the directions of the learned Single Judge as contained in the judgment and order dated 13.06.2023.

21. Mr. Vijay Hansaria, learned senior counsel appearing for the appellant submits that the issue involved in this case is with regard to liability to pay motor vehicle tax under Section 3 of the A.P. Act, 1963. Referring to Section 3, he submits that on a plain reading thereof it is evident that a tax shall be levied on every motor vehicle if three situations are satisfied:

(i) the tax is on a motor vehicle;
(ii) the motor vehicle is used or kept for use;
(iii) in a public place in the State.

21.1. Mr. Hansaria submits that the expression 'in a public place' is not only descriptive but also qualifies and

limits both the words 'used' and 'kept for use'. Legislature has consciously fastened the liability to pay tax on a motor vehicle keeping in mind that it is being used or kept for use in a public place; liability to pay tax is not on ownership or registration. He, therefore, submits that merely keeping a vehicle for use in the State would not attract the liability to pay tax unless it is used or kept for use in a 'public place'.

21.2. Adverting to the expression 'kept for use, in a public place', learned senior counsel submits that it means meant for use or intended to be used in a 'public place'. The motor vehicle must be kept with the intention and purpose of using it in a 'public place'. Therefore, the primary determinant is the intention for which the motor vehicle is kept. Negatively put, it means that a motor vehicle which is not meant to be used or intended to be used in a 'public place' would not attract the tax liability under the A.P. Act, 1963.

21.3. He refers to Rule 12A of the Andhra Pradesh Motor Vehicles Taxation Rules, 1963 ('A.P. Rules, 1963' hereinafter) and submits that the said rule provides for the mechanism to

seek exemption from payment of tax in respect of motor vehicles kept for use. He submits that Rule 12A does not use the expression 'kept for use in a public place' but provides that a motor vehicle shall be deemed to be kept for use unless the registered owner of the motor vehicle or the person having possession or control of the motor vehicle gives intimation in writing to the licensing officer in advance that the motor vehicle shall not be used after expiry of the period for which tax has already been paid.

21.4. Further submission of learned senior counsel is that Rule 12A has to be read in conjunction with Section 3. Read together, there is no conflict between the two. However, if a view is taken that Rule 12A is in conflict with Section 3 then the A.P. Rules, 1963 being a subordinate piece of legislation cannot travel beyond the primary legislation. Therefore, the mandate of Section 3 will prevail over Rule 12A.

21.5. It is also submitted that the expression 'public place' is not defined under the A.P. Act, 1963 but is traceable to Section 2(34) of the Motor Vehicle Act, 1988 (briefly, 'the

M.V. Act' hereinafter). After referring to the above definition, learned senior counsel has taken us to the exemption application dated 07.12.2020 to contend that it is the clear case of the appellant that its motor vehicles are plying inside the operational area only i.e. within the enclosed premises of RINL, the corporate entity of Visakhapatnam Steel Plant. The central dispatch yard situated inside Visakhapatnam Steel Plant is evidently a restricted area where the public is not allowed entry without prior permission. The gates are guarded by CISF personnel. As such, central dispatch yard cannot be treated as or deemed to be a 'public place' as defined under Section 2(34) of the M.V. Act.

21.6. On a query by the Court, learned senior counsel submits that appellant is not seeking exemption from payment of tax for the entire period of registration of the vehicles; exemption has been sought only for the limited period when the vehicles were used exclusively within the enclosed premises of RINL which is not a 'public place'. He submits that the licensing authority dismissed the exemption application of the appellant taking a completely erroneous

view that since RINL is a government company, therefore, it is also a 'public place'. This view is wholly untenable and rightly interfered with by the learned Single Judge. Placing reliance on a decision of a three-Judge Bench of this Court in *Bolani Ores Limited Vs. State of Orissa*[1], learned senior counsel submits that learned Single Judge rightly held that the central dispatch yard of RINL does not constitute a 'public place' or a public road. Division Bench was not at all justified in reversing such decision of the learned Single Judge, that too, by erroneously placing reliance on a two-Judge Bench decision of this Court in *State of Gujarat Vs. Akhil Gujarat Pravasi V.S. Mahamandal*[2]. The issue regarding taxability of motor vehicles not being used or kept for use in a 'public place' was not an issue in that case. He submits that the interpretation given by the Division Bench would result in a wholly incongruous situation, expanding the scope of the tax much beyond what Section 3 contemplates.

[1] (1974) 2 SCC 777
[2] (2004) 5 SCC 155

21.7. Finally, learned senior counsel submits that the civil appeal may be allowed and the impugned judgment and order of the Division Bench may be set aside, thereby restoring the judgment and order of the learned Single Judge.

22. Learned State counsel Ms. Prerna Singh on the other hand submits that appellant owns 36 vehicles and provides logistical support to RINL on contractual basis. Appellant had paid quarterly road tax for its 36 vehicles up to March 31, 2021.

22.1. On 07.12.2020, appellant wrote to the Regional Transport Officer, Gajuwaka seeking exemption from payment of road tax for vehicles operating within RINL premises. Appellant again sought for exemption on 05.10.2021 contending that its vehicles would not be used in a public place, further contending that RINL premises was not a 'public place'.

22.2. When demand for tax and penalty was raised by the Regional Transport Officer, appellant paid the said amount.

22.3. Thereafter, appellant filed W.P. No. 6206 of 2022 before the High Court for setting aside the demand of tax. *Vide* order dated 26.04.2022, High Court directed the Regional Transport Officer to consider the request of the appellant. Pursuant thereto, a hearing was held whereafter the request of the petitioner was rejected by the Regional Transport Officer on 14.06.2022. It was held that appellant was using vehicles in a 'public place', receiving hiring charges from RINL. RINL being a government funded body was a 'public place'.

22.4. Appellant challenged the said order dated 14.06.2022 before the appellate authority. However, the appellate authority dismissed the appeal *vide* the order dated 27.08.2022 placing reliance on Rule 12A. It was held that Rule 12A requires complete non-use not merely non-use in a 'public place'.

22.5. This order came to be assailed by the appellant before the High Court in W.P. No.38285 of 2022 which was allowed by the learned Single Judge *vide* the judgment and

order dated 13.06.2023. Respondents were directed to refund the amount of Rs. 22,71,700.00 to the appellant on the ground that RINL premises was not a 'public place'.

22.6. Aggrieved thereby, respondents herein preferred W.A. No. 711 of 2023. Division Bench of the High Court was of the view that the decision of this Court in *Bolani Ores Limited* (supra) was distinguishable; rather, placed reliance on the decision of this Court in *Akhil Gujarat Pravasi V.S. Mahamandal* (supra). According to the Division Bench, liability to pay motor vehicle tax is not contingent on actual use. Rule 12A of the A.P. Rules, 1963 creates a presumption that a motor vehicle is 'kept for use' unless a written intimation of non-use is provided. Appellant failed to provide such intimation. Therefore, judgment and order of the learned Single Judge was reversed and the order levying tax and penalty was upheld.

22.7. Learned counsel for the State submits that the Division Bench of the High Court had rightly relied upon *Akhil Gujarat Pravasi V.S. Mahamandal* (supra). She submits that

actual use of public roads is not a condition precedent for the levy of motor vehicle tax. That apart, appellant had admitted that though its vehicles would ply within the RINL premises, it would incidentally use public roads outside the premises within a radius of a few meters. Appellant had been collecting hiring charges from RINL which included motor vehicle tax. This would indicate that the burden of tax had shifted to the consumer. Therefore, appellant would not be justified to seek exemption. Relying on the decision of this Court in *State of Kerala vs. Aravind Ramakant Modawdakar*[3], learned counsel submits that once a vehicle becomes liable for payment of tax, the extent of use by the vehicle is not a decisive factor for the purpose of levy of tax.

22.8. Learned counsel has placed heavy reliance on Rule 12A to contend that the said provision creates a presumption that a vehicle is deemed to be 'kept for use' and hence liable for tax. This presumption is only rebutted if and when the owner provides a written intimation of complete stoppage

[3] (1999) 7 SCC 400

before commencement of the next quarter. Appellant never submitted intimation of stoppage as required under Rule 12A.

22.9. Finally, learned State counsel submits that impugned judgment and order of the Division Bench has correctly decided the issue and, therefore, there is no scope for interference. The appeal being devoid of merit is liable to be dismissed.

23. Submissions made by learned counsel for the parties have received the due consideration of the Court. Also, all the decisions cited at the Bar have been considered.

24. At the outset, let us examine the relevant legal provisions. Entry 57 of List II covers the field of taxes on vehicles whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions of Entry 35 of List III, which is the concurrent list. Entry 35 of the said list covers the field of mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied.

25. The Andhra Pradesh Motor Vehicles Taxation Act, 1963, already referred to as the A.P. Act, 1963, is an Act to consolidate and amend the law relating to levy of a tax on motor vehicles in the State of Andhra Pradesh. Section 3 is the charging section. Heading of Section 3 is 'levy of tax on motor vehicles'. Sub-section (1) of Section 3 is relevant and the same reads thus:

> **Section 3: Levy of tax on motor vehicles:**
> (1) The Government may, by notification, from time to time, direct that a tax shall be levied on every motor vehicle used or kept for use, in a public place in the State.

25.1. From a reading of Section 3(1), it is evident that the government i.e. the State Government may by notification direct that a tax shall be levied on every motor vehicle used or kept for use in a 'public place' in the State. Focus of sub-section (1) of Section 3 is on the motor vehicle which is used or kept for use in a 'public place' in the State. We will deal with this aspect in a more detailed manner at a subsequent stage.

26. Section 4 deals with payment of tax and grant of licence. Sub-section (1)(b) of Section 4 entitles a person whose vehicle has not been used during the period for which the motor vehicle tax has been paid, to seek refund of the tax paid subject to such conditions as may be specified by the State Government by way of a notification. Sub-section (1)(b) of Section 4 is as follows:

> **4. Payment of tax and grant of licence:**
>
> 1(a) * * * * *
>
> (b) Where the tax for any motor vehicle has been paid for any quarter, half-year or year and the motor vehicle has not been used during the whole of that quarter, half-year or year or a continuous part thereof not being less than one month, a refund of the tax at such rates as may, from time to time, be notified by the Government, shall be payable subject to such conditions as may be specified in such notification.

27. Section 2 is the definition clause. Clause (j) of Section 2 says that words and expressions used but not defined in the A.P. Act, 1963 shall have the meanings assigned to them in the Motor Vehicles Act.

28. The expression 'public place' appearing in sub-section (1) of Section 3 of the A.P. Act, 1963 has not been defined. Therefore, in terms of Section 2(j), we will have to fall back upon the definition of 'public place' as provided in Section 2(34) of the Motor Vehicles Act, 1988 which defines 'public place' in the following manner:

> 'public place' means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage.

28.1. Thus, as per the aforesaid definition, 'public place' means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage.

29. This brings us to the A.P. Rules of 1963. In exercise of the powers conferred by Sections 2, 5, 6, 8, 11, 12 and 16 of the A.P. Act, 1963, the aforesaid rules have been framed. While Rule 12 deals with payment of tax and penalty, Rule

12A deals with liability for payment of tax in respect of motor vehicles kept for use. Since respondents have placed heavy reliance on Rule 12A, relevant portion thereof i.e. upto the first proviso is reproduced hereunder:

> **12A. Liability for payment of tax in respect of motor vehicles kept for use:**
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> For the purpose of Section 3 of the Act, a motor vehicle shall be deemed to be kept for use and is liable to tax unless the registered owner or the person having possession or control of the motor vehicle intimates in writing to the Licensing Officer before the commencement of the quarter for which tax is due that the motor vehicle shall not be used after expiry of the period for which tax has already been paid. The Licensing Officer shall on receipt of the intimation, acknowledge its receipt.
>
> Provided that in the case of non-transport vehicles, if the owner of the vehicle fails to submit the stoppage report within the period specified above but subsequently gives an affidavit with full details to the effect that the vehicle was not in existence or that it was already disposed of to another person and that he is no more in possession of it, or that the tax in respect of the vehicle was paid elsewhere in the same State or in some other State and as such he is not liable for payment of tax in the jurisdiction of that Licensing Officer or proves to the satisfaction of the Licensing

Officer that the vehicle has not been used, it may be deemed that the vehicle has not been kept for use.

29.1. As can be seen, Rule 12A is intended to give effect to Section 3. This is manifest from the opening words of Rule 12A that it is for the purpose of Section 3. That apart, what Rule 12A contemplates is that ordinarily the registered owner or the person having possession or control of a motor vehicle is bound to pay the motor vehicle tax with the exception that if he informs the Licensing Officer before commencement of the quarter for which tax is required to be paid that the motor vehicle in question shall not be used after expiry of the period for which the motor vehicle tax has been paid, then he will not be required to pay the tax after expiry of the said quarter. Therefore, mandate of Rule 12A is that if the registered owner etc. intimates the Licensing Officer that he is not going to operate the motor vehicle after expiry of the period for which he has paid the motor vehicle tax, he would not be required to pay the motor vehicle tax thereafter. We will examine the interplay between Section 3 and Rule 12A in more detail at a subsequent stage.

30. Let us now deal with the decisions referred to by the High Court and also cited at the bar.

31. The first case is that of *Bolani Ores Limited* (supra) in which a three-Judge Bench of this Court considered the question as to whether dumpers, rockers and tractors were motor vehicles within the meaning of the relevant state motor vehicles taxation acts and were accordingly taxable thereunder. It was in that context the Bench examined the meaning of the expression 'motor vehicle' in terms of Section 2(c) of the Bihar and Orissa Motor Vehicles Taxation Act, 1930, as amended, which had the same meaning as in the Motor Vehicles Act, 1939. The Bench also considered as to whether the subsequent amendment of the definition in Section 2(18) of the Motor Vehicles Act,1939 by the Motor Vehicles (Amendment) Act, 1956 would govern the definition of 'motor vehicle' for the purpose of the said Act. Section 6 of the aforesaid Act imposed on every motor vehicle a tax at the rate specified in the Second Schedule to the said Act. The question, therefore, was as to what would be a 'motor vehicle'

for the purpose of the Bihar and Orissa Motor Vehicles Taxation Act, 1930.

31.1. This Court also examined the definition of 'public place' as appearing in Section 2 (34) of the Motor Vehicles Act in view of Section 3 of the Bihar and Orissa Motor Vehicles Taxation Act which mandated that no person shall drive a motor vehicle in any 'public place' unless he holds an effective driving license issued to himself authorizing him to drive the vehicle and no person shall so drive a motor vehicle as a paid employee or shall so drive a transport vehicle unless his driving license specifically entitled him to do so. It was in the aforesaid context that this Court examined the meaning of the expression 'public place' and held as under:

> A 'motor vehicle' under Section 2(18) has been defined as "any mechanically propelled vehicle adapted for use upon road…." Having regard to the context of the definition of "public place" in Section 2(24) of the Act, the regulatory character of the Act, and the use of the word 'road' used in a public Act, road would mean a "public road" which word as already noticed has been used in the Andhra Pradesh (Andhra Area) Motor Vehicles Taxation

> Act. The word "public place" has been defined in Section 2(24) as meaning "a road, street, way or other place whether a thoroughfare or not, to which the public have a right of access". If the public have no right of access to any place which is not a road, street, way or thoroughfare it will not be a public place. A motor vehicle which is not adapted for use upon roads to which the public have no right of access is not a motor vehicle within the meaning of Section 2(18) of the Act.

31.2. This Court held that the words 'public place' would mean a road, street, way or other place whether a thoroughfare or not to which the public have a right of access. If the public have no right of access to any place which is not a road, street, way or thoroughfare it will not be a public place. Thus, the expression 'public place' would mean a road, street, way or other place whether a thoroughfare or not to which the public have a right of access. If the public have no right of access, it will not be a 'public place'. In the facts of that case it was found by the Bench that there was no public road within the leasehold premises. No member of the public was allowed to enter into the leasehold premises without due permission obtained beforehand. They had check gates on the

approach road to the leasehold area. All the machines were within the leasehold area and never outside it. However, it came on evidence that there was no fencing or barbed wire around the leasehold premises but this Court held that the mere fact that there was no fence or barbed wire was not conclusive that the leasehold premises were not enclosed premises. The evidence indicated that the public were not allowed to enter the leasehold area without prior permission. No unauthorized person had access to the leasehold area. Therefore, this Court held that dumpers and rockers though registrable under the Motor Vehicles Act were not taxable under the Bihar and Orissa Motor Vehicles Taxation Act, 1930 as long as they were working solely within the premises of the respective owners.

32. In *Travancore Tea Estates Co. Ltd. Vs. State of Kerala*[4], a Division Bench of this Court considered the question as to whether motor vehicles used or kept for use within the tea estates and not intended to be used on public

[4] (1980) 3 SCC 619

roads of the State would be liable to pay motor vehicle tax under the Kerala Motor Vehicles Taxation Act, 1963. According to the appellant, it had purchased the motor vehicles solely and exclusively for use in the tea estates and intended to be used only for agricultural purposes; those were not used nor kept for use in the State as contemplated under Section 3 of the aforesaid Act. Appellant had eight tea estates contiguous to each other. This Court agreed with the contention of the appellant that the tax was only exigible on vehicles used or kept for use on public roads. If the words 'used or kept for use' in the State are construed as used or kept for use on the public roads of the State, the said Act would be in conformity with the powers conferred on the State legislature under Entry 57 of List II. If the vehicles were suitable for use on public roads, they were liable to be taxed.

33. This brings us to the case of *Akhil Gujarat Pravasi V.S. Mahamandal* (supra) heavily relied upon by the respondents. In that case, the High Court of Gujarat declared Section 3A (1) and (2) of the Bombay Motor Vehicles Tax Act, 1958 and also Rule 5 of the Bombay Motor Vehicles Tax

Rules, 1959 *ultra vires* and those were accordingly struck down. Consequential mandamus was issued to the State authority not to recover any tax in pursuant thereto from the vehicles of the respondents (writ petitioners in the High Court) which were kept but were not being used.

33.1. Section 3(1) of the Bombay Motor Vehicles Tax Act declares that there shall be levied and collected on all motor vehicles used or kept for use in the State, a tax at the rates fixed by the State Government. Section 3A(1) and (2) of the aforesaid Act reads as under:

> 3-A. (1) On and from the 1st day of April, 1991, there shall be levied and collected on all omnibuses which are used or kept for use in the State exclusively as contract carriages (hereinafter in this section and sub-section (1-A) of Section 4 referred to as 'the designated omnibuses') a tax at the rates specified in the table below:
>
> TABLE
>
> | *Description of designated omnibuses* | *Annual rate of tax* |
> |---|---|

1. (*a*) Ordinary designated omnibuses permitted to be carried not more than twenty passengers.	Rs 2700 per passenger permitted to be carried.
(*b*) Ordinary designated omnibuses permitted to be carried more than twenty passengers.	Rs 4050 per passenger permitted to be carried.
2. (*a*) Luxury or tourist designated omnibuses permitted to be carried not more than twenty passengers.	Rs 4050 per passenger permitted to be carried.
(*b*) Luxury or tourist designated omnibuses permitted to be carried more than twenty passengers.	Rs 6000 per passenger permitted to be carried.

Provided that in the case of the designated omnibuses used solely for the purpose of transporting students of educational institutions in the State in connection with any of the activities of such educational institutions a tax shall be levied and collected under sub-section (1) of Section 3, and not under this sub-section.

(2)(*a*) The tax leviable under sub-section (1) shall be paid in advance by every registered owner or any person having possession or control

> of the designated omnibuses either annually at the annual rate specified in the table appearing in sub-section (1) or in monthly instalments of one-twelfth of the annual rate.
>
> (*b*) The annual payment of tax or the payment of monthly instalment of tax shall be made within such period and in such manner as may be prescribed.

33.2. In sum and substance what Section 3A(1) says is that there shall be levied and collected on all omnibuses which are used or kept for use in the State exclusively as contract carriages a tax at the rate specified in the table.

33.3. Rule 5 of the Bombay Motor Vehicles Tax Rules, 1959 as amended reads thus:

> 5. (1) A registered owner or any person who has possession or control of a motor vehicle in respect of which tax is paid in advance, not intending to use or keep for use such vehicle in the State and desiring to claim refund of tax on that account shall before the commencement of the period for which the refund of tax is to be claimed, make a declaration in Form NT for any specified period not exceeding beyond the period for which the tax is paid in advance to the taxation authority in whose

jurisdiction such vehicle is to be kept under non-use along with the certificate of taxation as well as certificate of fitness in case of transport vehicles and a fee of rupees ten:

Provided that where a vehicle is rendered incapable of being used or kept for use on account of an accident, mechanical defect or any other sufficient cause, which makes it impossible to give an advance declaration as aforesaid then such declaration shall be given within a period of seven days from the date of occurrence of such accident, mechanical defect or such other cause, either in person or by registered post acknowledgement due.

(2) If the taxation authority is satisfied that the motor vehicle, in respect of which a declaration in Form 'NT' has been made, has not been used, or kept for use for the whole or part of the period mentioned in the declaration, it shall certify that the motor vehicle has not been used or kept for use for the whole or part of such period as the case may be by making an endorsement in the certificate of taxation to that effect:

Provided that nothing contained in this sub-rule shall affect the right of the taxation authority to recover the tax and penalty due for the period of non-use so certified if, at any time, it is found that

the vehicle was actually used or kept for use in the State during such period.

* * *

(3) The declaration in Form 'NT' given under the proviso to sub-rule (1) shall be accompanied by the certificate of taxation and documentary evidence, if any, or any other proof evidencing such non-use of the vehicle and the period thereof. Where the appropriate taxation authority, on considering the evidence adduced, if any, and on making such inquiries as it deems fit, refuses to admit the declaration of non-use or to certify the period of non-use, it shall record in writing its reasons therefor and communicate to the applicant.

33.4. This Court noted that the main ground of challenge of the writ petitioners was that Section 3A mandated payment of tax in advance even though the vehicle may not at all be used. It was noted that the incidence of tax was on omnibuses which were used or kept for use in the State. Section 3A nowhere uses the expression 'used or kept for use on a public road' in the State. It was in that context this Court held that if a vehicle is used or is kept for use in the State it becomes liable for payment of tax, in which event the actual use or

quantum of use is not material. On the above reasoning this Court held that Section 3A and Rule 5 were *intra vires* and were perfectly valid.

34. Thus, the decision rendered in *Akhil Gujarat Pravasi V.S. Mahamandal* (supra) is on an entirely different issue; the challenge was to the constitutional validity of Section 3A of the Bombay Act and Rule 5 of the Bombay Rules where the expressions 'public place' or 'public road' are conspicuously absent. Whether a motor vehicle is used or kept for use in a 'public place' in the State and hence liable to pay motor vehicle tax was not an issue in *Akhil Gujarat Pravasi V.S. Mahamandal* (supra). On the contrary, the three-Judge Bench of this Court in *Bolani Ores Ltd.* (supra) has categorically held that if the public have no right of access to any place which is not a road, street, way or thoroughfare, it will not be a 'public place'. A motor vehicle which is not adopted for use upon roads to which the public have no right of access is not a motor vehicle. It was held that dumpers and rockers would not be taxable as long as those were working

solely within the private premises of the respective owners. *Bolani Ores Ltd.* (supra) is directly on the point in issue.

35. Reliance placed by the respondents upon *Aravind Ramakant Modawdakar* (supra) is also totally misconceived inasmuch as in that case, this Court held that once a vehicle becomes liable for payment of tax, the extent and quantum of use of the vehicle is not a decisive factor for the purpose of levy of tax. In the present case, that is not the issue. The question is as to whether the vehicles of the appellant are at all liable for payment of motor vehicle tax under Section 3 of the A.P. Act, 1963 during the period when those vehicles were used exclusively within the central dispatch yard of RINL?

36. Article 265 of the Constitution provides that no tax shall be levied or collected except by authority of law. Thus, what Article 265 contemplates is that:

(i) there must be a law;

(ii) that law must authorize levy of tax; and

(iii) the tax has to be levied or collected so authorized.

37. Levy of tax has to be explicit. There cannot be exaction of tax by implication or by following an interpretative process. It is trite law that the charging section is the core of a taxing statute. Generally speaking, a taxing statute has to be construed literally; this is more so in the case of a charging section. Rowlatte J. had expressed succinctly that in a taxing statute one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. Natural corollary to this is that a subject is not to be taxed unless the words of the relevant taxing statute unambiguously imposes the tax on him.

38. In *Commissioner of Customs Vs. Dilip Kumar*[5], this Court has held that insofar taxation statutes are concerned, Court has to apply strict rule of interpretation. Article 265 of the Constitution prohibits the State from extracting tax from the citizens without the authority of law. It is axiomatic that taxation statute has to be interpreted strictly because the

[5] (2018) 9 SCC 1

State at its whims and fancies cannot burden the citizens without the authority of law. In other words, when the competent legislature mandates taxing certain persons/ certain objects in certain circumstances, it cannot be expanded/interpreted to include those, which were not intended by the legislature.

39. Let us now turn to the facts of the present case.

40. Regional Transport Officer *vide* the order dated 14.06.2022 rejected the claim of the appellant. Appellant was directed to pay the due taxes at the earliest. Primary reason given for rejecting the claim of the appellant is as under:

> But, the petitioner himself informed that he is operating his vehicles in the premises of RINL, which is situated in the State of Andhra Pradesh. As per the contract between the petitioner and RINL, the petitioner is receiving hire charges, but he is not willing to pay motor vehicle tax that is due to the government.
>
> It is also to be noted that RINL, Visakhapathnam, is a government company established with government funds and it is also a public place, for that matter. It is to be noted that the other companies that are executing the contract at RINL, and operating their vehicles in

> the premises of RINL, are paying motor vehicles tax, for their vehicles. It is also to be noted the actual use or non-use of public roads cannot be a ground for escaping liability.
>
> Thus, it is established beyond reasonable doubt that the vehicles of the petitioner-owner, are under use in the State of Andhra Pradesh and hence, liable to pay applicable motor vehicles tax.

40.1. Thus, according to the Regional Transport Officer, appellant was operating his vehicles in the premises of RINL for which he was receiving hire charges. RINL is a government company established with government funds; and thus it is a 'public place'. Other companies executing the contract at RINL and operating their vehicles in the premises of RINL are paying motor vehicle tax for their vehicles. Actual use or non-use of public roads cannot be a ground for escaping tax liability. He held that vehicles of the appellant were being used in the State of Andhra Pradesh and hence liable to pay the applicable motor vehicle tax.

41. Appellate authority had affirmed the aforesaid view taken by the original authority. That apart, appellate authority was of the further view that appellant had been

operating its vehicles at the premises of Visakhapatnam Steel Plant during the relevant period. Rule 12A contemplates that motor vehicles shall not be used at all if exemption is sought. Registered owner had not filed the stoppage/non-use intimation to the Licensing Officer in terms of Rule 12A. Thus, the appellate authority relied upon Rule 12A to deny the claim of the appellant.

42. Learned Single Judge held that motor vehicles of the appellant were deployed within the central dispatch yard and with effect from 01.04.2021, all the motor vehicles stopped plying upon the public roads; those were being used exclusively for the purpose of executing the contract of the appellant without leaving the compound of the central dispatch yard. In such a scenario, the subject vehicles were not liable to be taxed and entitled to get exemption. As the central dispatch yard is a restricted area with members of the public not having access to enter the premises, such premises does not fall within the ambit of 'public place' under Section 2(34) of the Motor Vehicles Act. Relevant portion of the order of the learned Single Judge is extracted hereunder:

20. On a perusal of the affidavit filed by the petitioner and as well as material papers placed on record, it is clear that the subject motor vehicles were deployed to Central Deposit Yard premises and with effect from 01.04.2021, all the motor vehicles have stopped plying upon the public roads and were being used exclusively for the purpose of contract of the petitioner and were only plying inside the Central Deposit Yard but did not leave the compound of the Yard at any period of time. In such a case, the subject vehicles are not liable to be taxed and such vehicles are entitled to get exemption as contemplated in the Act. As the Central Deposit Yard is highly restricted area with no ordinary member of the public having any access to enter the premises, the definition of 'public place' under Section 2 (34) of the Act would not apply to the above said Yard.

21. Even this Court, earlier W.P.No.6206 of 2022 was disposed of by directing the respondents to consider the representation of the company dated 07.12.2020 and 05.10.2021 for grant of exemption from payment of tax upon the company producing all such material or evidence necessary to demonstrate that the vehicles of the company have not been used or kept for use on the public roads in the State of Andhra Pradesh, after giving due opportunity of hearing to the company, the respondents shall refund or retain the amount collected from the company thereafter.

> 22. In the present case, though the petitioner has submitted representations to the 3rd respondent on 25.05.2022 seeking for grant of exemption from payment of tax and refund of Rs.22,71,700/- along with interest @ 6%, which was rejected by the 3rd respondent vide order dated 14.06.2022 by stating that RINL is a Government company therefore falls within the definition of 'public place', which is admittedly contrary to the above referred findings given by the Hon'ble Apex Court, High Court of Bombay, High Court of Madras and High Court of Gujarat, the fact that the petitioner is plying the vehicles in the Central Deposit Yard premises itself proves that the premises does not fall under the definition of 'public place' as under Section 2 sub Section (34) of the Act.

43. Division Bench did not agree with the view taken by the learned Single Judge. Division Bench relied upon Rule 12A and held that the said provision deems a motor vehicle to be kept for use and thus liable to tax unless an intimation is given in writing by the owner/possessor or the person in control of the vehicle that the motor vehicle shall not be used after expiry of the period for which tax has already been paid. Division Bench held thus:

32. In our opinion, the view expressed by the learned Single Judge is not totally in consonance with the mandate and spirit of the judgment rendered in the case of ***Akhil Gujarat Pravasi*** (supra). This judgment specifically mandates that irrespective of whether a vehicle is in use or is not in use or is in use occasionally or for a short duration, the tax would be leviable. It has been held that there is a presumption that wherever a certificate of registration is current, it shall be deemed that such a vehicle is to be used or kept for use in the State.

33. In the instant case. Rule 12A of the Andhra Pradesh Motor Vehicle Taxation Rules, 1963, also envisages a deeming provision, which specifically provides that a motor vehicle shall be deemed to be kept for use and liable to tax unless the registered owner or a person having possession or control of the motor vehicle intimates in writing to the licensing authority before the commencement of the quarter for which the tax is due, that the motor vehicle shall not be used after expiry of the period for which the tax has already been paid.

34. On a conspectus of the constitutional provisions as contained in Entry 57 of List II of the Seventh Schedule, the judgments above and the provisions of the Act of 1963 and the Rules framed thereunder, it, therefore, is clear that the liability to pay tax, which is compensatory in character on account of the obligation

of the State to maintain the roads and to make such roads fit for user by all vehicle owners, who own vehicles, 'suitable for use on the roads' is not dependent upon the actual user of such roads.

35. In fact, Rule 12A of the Rules which is not specifically under challenge, deems a motor vehicle to be kept for use and liable to tax unless an intimation is given in writing by the owner/possessor or the person who controls the vehicle that the motor vehicle shall not be used after expiry of the period for which tax has already been paid.

36. The proviso to the said Rule 12A, however, further envisages that where an owner of a non-transport vehicle fails to submit the stoppage report but proves to the satisfaction of the licensing officer that the vehicle has been used, it may be deemed that the vehicle has not been kept for use. Rule 12A therefore envisages a 'stoppage report' or a 'non-use report' which cuts across the barriers of private and public spaces as regards user of such vehicles.

Thus, the argument that the user of the vehicles in a premises such as the CDY in the Visakhapatnam Steel Plant, which is not a public place, would entitle the petitioner to seek exemption from payment of tax. goes contrary to Rule 12A, which specifically envisages a total stoppage of the user of the vehicle liable to be taxed, in our opinion, is without merit.

44. From a conspectus of the pleadings, relevant legal provisions and judicial pronouncements, the core issue which calls for adjudication in the present appeal is whether the premises of Visakhapatnam Steel Plant where appellant's vehicles are exclusively used for handling and storage operations, constitute a 'public place' under the A.P. Act, 1963? Corollary to the above, is the issue as to whether such vehicles are liable to pay tax under Section 3 of the A.P. Act, 1963 or entitled to exemption therefrom?

45. We have already extracted Section 3 and Rule 12A. Section 3 is the charging provision. It authorizes the State Government to impose tax on motor vehicles. The taxable event under Section 3 is when a vehicle is used or kept for use in a 'public place' in the State. Therefore, the tax is on the user or intendment for use of motor vehicle in a 'public place'. Thus, if a vehicle is actually used in a 'public place' or kept in such a way that it is intended to be used in a 'public place' then the tax liability accrues. We have already noted that this Court in *Bolani Ores Limited* (supra) has held that when the members of the public are not allowed access inside an area

without prior permission and when there is check on ingress and egress to ensure that no unauthorized person have access to the premises, the same would be an enclosed premise and not a 'public place'.

46. Motor vehicle tax is compensatory in nature. It has a direct nexus with the end use. The rationale for levy of motor vehicle tax is that a person who is using public infrastructure, such as, roads, highways etc. has to pay for such usage. Legislature has consciously used the expression 'public place' in Section 3. If a motor vehicle is not used in a 'public place' or not kept for use in a 'public place' then the person concerned is not deriving benefit from the public infrastructure; therefore, he should not be burdened with the motor vehicle tax for such period.

47. Coming to Rule 12A, we find that there is omission of the expression 'public place' in the said rule. Opening words of the said rule are: 'for the purpose of Section 3 of the Act'. Thus, the purpose of Rule 12A is to give effect to Section 3. It is trite law that a rule cannot traverse beyond the scope and

ambit of the parent statute. Rule 12A has to be interpreted in such a way so as to be in sync with Section 3. Question is not of the motor vehicle being deemed to be kept for use and hence liable to tax. Requirement of law is that the motor vehicle should be used or kept for use in a 'public place'. When admittedly the motor vehicles of the appellant were confined for use within the RINL premises which is a closed area then question of the vehicles being used or kept for being used in a 'public place' does not arise. In the ultimate analysis, the core of the controversy lies in interpretation of Section 3. Rule 12A, as already discussed above, has to be read to give effect to the charging section. Therefore, the words appearing in Rule 12A i.e. 'a motor vehicle shall be deemed to be kept for use' has to be read as 'a motor vehicle deemed to be kept for use in a public place'.

48. Another way of looking at Rule 12A is that intimation in writing to the Licensing Officer would be required only when there is stoppage of user of the motor vehicle, be it in a 'public place' or in any other place. Such a requirement would therefore not be attracted in a case like the

present one where the contention is that the motor vehicles of the appellant were not being used or kept for use in a 'public place'.

49. That apart, there is the provision of Section 4(1)(b) which enables a person whose motor vehicle was not used during the period for which the motor vehicle tax has been paid to seek refund.

50. In the instant case, the motor vehicles in question were used or kept for use only within the restricted premises of RINL which is not a 'public place'. Therefore, the said vehicles are not liable to be taxed for the period the said vehicles were used or kept for use within the restricted premises of RINL. Argument of the respondent that appellant had not intimated non-use of the motor vehicles in terms of Rule 12A does not carry much persuasion in view of what we have discussed supra. Thus, even in the absence of any intimation in terms of Rule 12A, motor vehicles of the appellant cannot be subjected to motor vehicle tax for the period those were used or kept confined within the restricted premises of RINL.

51. For the reasons mentioned above, impugned judgment and order dated 19.12.2024 passed by the Division Bench of the High Court in Writ Appeal No. 711 of 2023 is set aside. Consequently, the judgment and order of the learned Single Judge dated 13.06.2023 passed in Writ Petition No. 38285 of 2022 is hereby restored. Appeal is accordingly allowed. However, there shall be no order as to cost.

.....J.
[MANOJ MISRA]

.....J.
[UJJAL BHUYAN]

NEW DELHI;
AUGUST 29, 2025.