

The State Of Mysore vs Alexander Misquith, Etc. on 8 April, 1970

Equivalent citations: AIR1970SC1024, (1970)3SCC908, AIR 1970 SUPREME COURT 1024

Bench: J.C. Shah, K.S. Hegde

JUDGMENT

K.S. Hedge, J.

1. These appeals by special leave brought by the State of Mysore raise a common question of law. That question is whether the 1st promo to Section 3 of Madras Motor Vehicles (Taxation of Passengers and Goods) Act XVI of 1952 is valid. The High Court and the Courts below following certain earlier decisions of the High Courts of Mysore, Madras and Andhra Pradesh have held that that proviso is invalid and consequently the passenger transport operators who have been compelled to pay tax under Section 3 of the aforementioned Act are entitled to the refund of the tax paid by them.

2. The respondents in these appeals were passenger transport operators plying their buses in the District of South Kanara which district till November 1, 1950 was a part of the former State of Madras and thereafter became a part of the new State of Mysore. The State Legislature of Madras enacted Madras Motor Vehicles (Taxation of Passengers and Goods) Act XVI of 1952 and on the strength of the provisions of that Act levied and collected certain taxes from the operators. Thereafter the operators sued the State of Madras for refund of those taxes. After reorganization of the State in 1956, the State of Mysore was substituted for the State of Madras. As mentioned earlier the High Court as well as the Courts below have upheld the claims of the operators.

3. The question of law raised in these appeals has become academic, the impugned provision being no more in operation. The claims involved in these appeals are by no means substantial. They range between Rs. 852.25 P. and Rupees 2652.37 P. Hence we do not think that these are fit cases in which this Court should exercise its special and discretionary jurisdiction under Article 136 of the Constitution. For that reason we decline to go into the merits of the contentions advanced in these cases.

4. In the result these appeals fail and they are dismissed. The respondents are ex parte in these appeals; there will be no order as to costs in these appeals.