PETITIONER:
K.M. CHIKKAPUTTASWAMY ETC.

Vs.

RESPONDENT:
STATE OF ANDHRA PRADESH AND ORS.

DATE OF JUDGMENT23/04/1985

BENCH:
VENKATARAMIAH, E.S. (J)
BENCH:
VENKATARAMIAH, E.S. (J)
SEN, A.P. (J)

CITATION:
1985 AIR 956 1985 SCR (3) 890
1985 SCC (3) 387 1985 SCALE (1)1186

ACT:
Andhra Pradesh Motor Vehicles Taxation Act. 1963 s. 9 (1)-Inter State Bus Permits-Exemption from payment of tax-Withdrawal without issuing notification under section 9(1)(b)- Whether valid.
Motor Vehicles Act 1939 S. 63(3)-Inter-state agreements-Tax exemption-Withdrawn on the recommendation of Home Secretaries of two States-Whether recommendatory in nature-Acceptance by State Government-if necessary.

HEADNOTE:
The appellants were operating stage carriage services on inter-State routes between the States of Mysore and Andhra Pradesh The procedure envisaged counter-signature of permits in pursuance to the inter-State agreements entered into by the two States under s.63 (3) of the Motor Vehicles Act, 1939. On March 27, 1963 the Government of Andhra Pradesh issued a notification under s. 9 (1) of the Andhra Pradesh Motor Vehicles laxation Act, 1963 exempting from the payment of tax under the said Act of stage carriages registered in the State of Mysore and operating on routes which lie in both the State of Mysore and Andhra Pradesh. The appellants satisfied the conditions envisaged in the notification and were exempted from payment of Motor Vehicle tax.
On January 25, 1968 the State of Mysore published and approved a scheme under s. 68 of the Motor Vehicles Act. the scheme authorised the State Transport Undertaking in the State of Mysore to operate exclusively stage carriage services on certain routes and the said scheme came into force with effect from January 1, 1969. The scheme envisaged that the existing permit holders on the inter-State routes could continue to operate on such inter-State routes subject to the condition that their permits would be rendered ineffective on the over-lapping portions of the notified routes which lay within the State of Mysore. After the scheme came into force the question of renewal of countersignatures of certain stage carriages permits came up for consideration and the authorities in the State of Mysore declined to countersign the stage carriage
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permits. Consequently the operators in the State of Andhra

Pradesh could not continue to operate their services on the notified routes. On their representations a meeting of the Home Secretaries of the two States was held on November 7, 1969 and it was resolved that notwithstanding the inter-State Agreements, the ten routes which included the three routes on which the appellants were operating the stage carriage services should be deleted from the purview of the inter-State Agreements and that the Mysore State operators who were operating the services on inter-State routes would have to pay tax for plying the motor vehicles in the Andhra Pradesh from the quarter commencing from January 1, 1970.

No notification was, however, issued under s. 9 (1) of the Act cancelling the exemptions which had been granted earlier in respect of the motor vehicles which were operating on the inter-State routes including the motor vehicles of the appellants.

A demand was made by the officers in the State of Andhra Pradesh asking the appellants to pay tax under the Act with effect from January 1, 1970.

Being aggrieved by the notices of demand, the appellants filed Writ Petition under Article 226 questioning the validity of the notices of demand issued to them contending (i) that in the absence of a notification issued under Section 9 (1) (b) of the Act revoking the exemption which had been granted earlier, it was not open to the State of Andhra Pradesh or any of the officers functioning under the Act to demand payment of motor vehicles tax under the Act in respect of their motor vehicles, (ii) that the impugned notices of the demand issued by the authorities calling for payment of motor vehicles tax with effect from January 1. 1970 were invalid and unenforceable and (iii) that since the appellants had spent large sums of money on the business of running the stage carriage services on the routes in question, it was not open to the, State of Andhra Pradesh to withdraw the said concession unilaterally.

The High Court rejected the contentions and dismissed the Writ Petition holding that since it was not necessary to issue a notification under s. 9 ,(1) for granting the exemption from payment of tax payable under the Act, it was also not necessary to issue a notification under s. 9 (1) of the Act for withdrawing the exemption already granted and normally the demand made was sufficient to reimpose the tax payable under the Act. G

Allowing the appeals on the question whether the exemption granted by the Government of Andhra Pradesh from payment of tax by a notification dated March 27, 1963. issued under s. 9 (1) of the Andhra Pradesh Motor Vehicles Taxation Act 1963 in respect of motor vehicles operated on certain inter-State routes came to an end with effect from January 1, 1970, the Court,

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HELD: (1) The appellants were entitled to claim the exemption from payment of tax granted by the notification issued under s. 9 (1) of the Act during the relevant period. The judgment of the High Court in so far as it held that the appellants were not entitled to the exemption is set aside. The impugned notices of the demand are quashed. [904H; 905A B]

(2) Section 9 of the Act provided that the Government may by notification grant an exemption of the tax payable by any person or class of persons and lt may cancel or vary such exempting, reduction or other modification. [899D-E] (

(3) The expression 'notification' is defined in s. 2 (d) of the Act as a notification published in the Andhra

Pradesh Gazette. [892E]

(4) Once a notification is issued under s. 3 in respect of any motor vehicle, the tax becomes payable by the registered owner of the motor vehicle or any other person having possession or control thereof. Such a person can be exempted from payment of tax only by notification issued under s. 9 (1) of the Act.A notification issued under s. 9 being a statutory instrument can be cancelled or modified in the manner prescribed by the Act and in no other way. [899F-G]

(5) The State Government can grant exemption from payment of tax or cancel the exemption already granted only in accordance with s. 9 (1). That is the legislative mandate. [90OA-B]

(6) In the instant case, no notification was issued as provided by Cl. (b) of s. 9 (l) of the Act either cancelling or withdrawing or varying the exemption granted earlier by the notification issued under s. 9 (1). [900B]

(7) The agreement arrived at by the Home Secretaries on November 7, 1969 could not be considered as equivalent to an agreement entered into between the two States, unless and until both the Governments agreed to give effect to it and it was not effective on its own force- It was only recommendatory in character. (901B.C]

(8) A notification published in the Andhra Pradesh Gazette dated March 24th, 1971 under s. 63 (3A) of the Motor Vehicles Act 1939 indicated that the Government of Andhra Pradesh had not taken a firm decision on the question whether the routes in question should be de-recognised or excluded from the purview of the inter-State Agreements. By the said notification the State Government of Andhra Pradesh invited objections from persons who were effected to make their representations. This notification was cancelled and a second notification was issued on June 22, 1972 and this notification was also cancelled and a third notification containing similar proposals was issued on September 10, 1973. It clearly indicated that at no material point of time the routes in question had ceased to be recognised by either of the States. The

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contention that the motor vehicles in question were not within the purview of the notification issued under s. 9 (1) of the Act with effect from January 1, 1970 cannot be accepted. [901D-H: 902A-H: 903A-G]

(9) It was possible that the two States could have entered into inter State Agreement before March 2, 1970 without following the elaborate procedure prescribed under sub-s. (3A) of s. 63 of the Motor Vehicles Act 1939. The resolutions adopted at the meeting of Home Secretaries were not effected by both the State Governments and the order passed by the Government of Andhra Pradesh on December 29, 1969 unilaterally merely directed the Commissioner of Andhra Pradesh to takes further action. It is, however, not shown that before the said date when sub-s. 3 (A) of the s. 63 came into force any inter State Agreement concluded by both the State Governments on the aforesaid lines had come into existence. [904C-F]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos, 477 478 & 479 Of 1971.

From the Judgment and Order dated 28. 12. 1970 of the Andhra Pradsh High Court in Writ Petition No. 232, 233 and

234 of 1970.

B. R. L. Iyengar, S.S. Javali, Attar Singh and G. N. Rao for the Appellants.

T. V.S.N. Chari for the Respondent.

The Judgment of the Court was delivered. by

VENKATARAMIAM, J. The short question which arises for consideration in these appeals by certificate is whether the exemption granted by the Government of Andhra Pradesh from payment of tax by a notification dated March 27, 1963 issued under section 9(1) of the Andhra Pradesh Motor Vehicles Taxation Act, 1963 (Act No. 5 of 1963) (hereinafter referred to as 'the Act') in respect of the motor vehicles operated by the appellants on certain inter-State routes came to an end with effect from January 1,1970.

The brief facts which have led to these appeals are these. The appellant in Civil Appeal No. 477 of 1971 was operating a stage carriage service from the year 1965 under a permit granted by the Regional Transport Authority, Bangalore between Bangalore in the State of Mysore (now called the State of Karnataka) and Hindupur in the State of Andhra Pradesh. The said permit had been duly countersigned by the concerned Transport Authority in the State of

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Andhra Pradesh. The appellant in Civil Appeal No. 478 of 1971 was operating a stage carriage service between Bangalore in the State of Mysore and Kadiri in the State of Andhra Pradesh from 1963 by virtue of a permit issued by the Regional Transport Authority Ban galore and countersigned by the concerned Transport Authority in the State of Andhra Pradesh. Similarly, the appellant in Civil Appeal U No. 479 of 1971 was operating the stage carriage service between Tumkur in the State of Mysore and Tirupathi in the State of Andhra Pradesh under a permit issued by the Regional Transport Authority, Tumkur and countersigned by the appropriate Transport Authority in the State of Andhra Pradesh. The counter signatures of the three permits, referred to above, had been done pursuant to certain Inter-State agreements entered into between the State of Mysore and the State of Andhra Pradesh under section 63(3) of the Motor Vehicles Act, 1939. On March 27, 1963 the Government of Andhra Pradesh had issued a notification under section 9(1) of the Act, the relevant part of which read as follows:-

> "In exercise of the powers conferred by sub-section (1) of section 9 of the Andhra Pradesh Motor Vehicles Taxation Act, 1963 (Andhra Pradesh Act S of 1963), the Governor of Andhra Pradesh hereby exempts from payment of the tax leviable under the said Act, all stage carriages, contract carriages, public carriers, and private carriers, registered in the State of Mysore and operating on a route which lies in both the States of Mysore and Andhra Pradesh.
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> Provided that:-
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> i) the route is recognised by both the States to be such a route:
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> ii) every such motor vehicle is operating in accordance with the conditions of a permit granted as a result of an agreement arrived at between the two States,
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> iii) the tax leviable in respect of every such motor vehicle under any law for the time being in the State of Mysore has been paid in full in that state"

Since the motor vehicles used by the appellants satisfied the conditions mentioned in the above notification they came to be

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exempted from payment of the motor vehicles tax under the Act.

On January 25, 1968 the Government of the State of Mysore published an approved scheme under section 68-D of the Motor Vehicles Act, 1939 which was popularly known as the 'Kolar Scheme' authorising the State Transport Undertaking in the State of Mysore to operate exclusively state carriage services on certain routes and the said scheme came into force with effect from January 1,1969. The said scheme provided that the State Transport Undertaking of the State of Mysore would operate its services on all the routes covered by the said scheme to the complete exclusion of other persons. It however stated that the existing permit holders on the inter-State routes could continue to operate on such inter-State routes subject to the condition that their permits would be rendered ineffective on the overlapping portions of the notified routes which lay within the State of Mysore. The routes on which the appellants were running their stage carriage services being such inter-State routes the were also required to comply with the said condition. After the above scheme came into force, when the question of renewal of counter- signatures of certain stage carriage permits issued in favour of certain operators in the State of Andhra Pradesh who were operating stage carriage services from a place in the State of Andhra Pradesh to a place in the State of Mysore came up for consideration before the concerned Regional Transport Authorities in the State of Mysore, the said Regional Transport Authorities declined to countersign the said permits. Consequently, the Andhra Pradesh operators could not continue to operate their services on the notified routes. On the representation made by the said Andhra Pradesh operators a meeting of the Home Secretaries of the two States was held on November 7, 1969 to consider the questions arising out of the refusal of the Regional Transport Authorities in the State of Mysore to countersign the permits issued by the authorities in the Andhra Pradesh State and the imposition of the restrictions OD the operators on inter-State routes whose permits were still in force by the scheme which prohibited the picking up or setting down of passengers on the overlapping portions of the notified routes in the State of Mysore. At that meeting it was resolved interalia that notwithstanding the inter-State agreements, the ten routes mentioned in the resolution which included the three routes on which the appellants were operating their stage carriage services should be deleted from the purview of the inter-State agreements and that the
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Mysore operators who were operating their services on the said inter-State routes would have to pay tax for plying their motor vehicles in the Andhra Pradesh limits from the quarter commencing from January 1, 1970. It was further resolved that the existing permits issued by the Regional Transport Authorities in the State of Mysore, when they came up for renewal would not be countersigned by the Andhra Pradesh State Austerities and that the said permits would cease to be in force after the expiry of the period for which they had been issued. On receipt of the above recommendations made by the Home Secretaries, the Government of Andhra Pradesh passed an order on December 29, 1969, the relevant part of which read as follows:-

"ORDER:

The Government hereby ratify the conclusions arrived at the meeting held at Hyderabad on 7th

November, 1969 between the representatives of the Governments of Mysore and Andhra Pradesh in regard to the operation of road transport services on inter. State routes between the two States as appended to this order.

2. The Transport Commissioner is requested to take necessary further action in consultation with the Transport Commissioner, Mysore and report to the Government. the action taken".

No notification was, however, issued under section 9(1) of the Act cancelling the exemption which had been granted earlier in respect of the motor vehicles which were operating on certain inter State routes including the motor vehicles of the appellants demand was, however, made by the concerned officers in the State of Andhra Pradesh asking the appellants to pay tax under the Act with effect from January 1,1970. Aggrieved by the said notices of demand, the appellants filed writ petitions under Article 226 of the Constitution on the file of the High Court of Andhra Pradesh questioning the validity of the notices of demand issued to them. Some OF the operators in Andhra Pradesh, who were affected by the scheme published by the State of Mysore also filed writ petitions on the file of the High Court of Andhra Pradesh questioning the validity

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Of the scheme on various grounds with which we are not concerned in these cases. Those writ petitions were dismissed by the learned Single Judge of the High Court of Andhra Pradesh. The Andhra Pradesh operators who were aggrieved by the judgment of the learned Single Judge preferred writ appeals before the Division Bench of that High Court. Those writ appeals and the writ petitions filed by the appellants and some others were all heard by a Division Bench of the High Court and were disposed of by a common judgment on December 28, 1970. We are concerned in these cases only with the writ petitions filed by the appellants. The main ground urged on behalf of the appellants in their writ petitions was that in the absence of a notification issued under section 9(1) (b) of the Act revoking the exemption which had been granted earlier, it was not open to the State of Andhra Pradesh or any of its officers functioning under the Act to demand payment of motor vehicles tax under the Act in respect of their motor vehicles. The Division Bench of the High Court held that since it was not necessary to issue a notification under section 9(1) for granting the exemption from payment of tax payable under the Act, it was also not necessary to issue a notification under section 9(1) of the Act for withdrawing the exemption already granted under the Act and that therefore the demand made by the concerned officer was sufficient to reimpose the tax payable under the Act on the appellants. The High Court accordingly, dismissed the writ petitions filed by the appellants and on the applications made by the appellants issued certificates of fitness under Article 133(1),(b) of the Constitution to prefer appeals before this Court. These appeals are filed on the basis of the said certificates.

The appellants urged before the High Court two grounds in support of their contention that the impugned notices of demand issued by the authorities under the Act calling upon them to pay motor vehicle tax with effect from January 1, 1970 were invalid and unenforceable: (i) that the State Government, having granted exemption by a notification issued under section 9 (1) of the - Act, could not withdraw or revoke the exemption without issuing a notification under

section 9 (1) (b) of the Act; and (ii) that since the appellants had spent large sums on the business of running the stage carriage services on the routes in question on the basis of the representation made by the State of Andhra Pradesh that it would not levy tax under the Act in respect of those vehicles, it

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was not open to the State of Andhra Pradesh to withdraw the said concession unilaterally. The High Court rejected both these contentions. On the first contention, the High Court observed thus:

> "Even so, it was pointed out on behalf of the petitioners that the tax concession was originally given by a notification and there was no withdrawal of such concession by another notification. When a concession was given by a notification, it was argued, it could be withdrawn only by another notification. The learned counsel appearing for the Governments frankly admitted that there was no such notification withdrawing the concession, though the State of Andhra Pradesh issued a memo dated 15.1.1970 to all the Regional Transport Authorities informing them about the withdrawal of the concession. The important question of the matter is, however, whether the concession had to be withdrawn under a notification alone. What should be really examined is whether the granting of the concession itself was required by law to be done only by a notification. Learned counsel for the petitioners altogether failed to bring to our notice any such requirement of law. They could not point out any statutory provision or rule which required that a concession of this nature could be given only under a notification. Simply because the Government of Andhra Pradesh thought it necessary to issue a notification giving the permit holders tax concession though there was no legal requirement to issue a notification for that l;' purpose, it does not follow that withdrawal of the concession should also be by a notification. Thus, the argument based on the absence of a notification withdrawing the tax concession appears to us wholly untenable."

It is unfortunate that the High Court while deciding the above question overlooked the relevant provisions contained in Section 9 of the Act. Section 9 of the Act reads thus:

> "9.(1) The Government may, by notification.
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> (a) grant an exemption, make a reduction in the

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> rate or order other modification not involving an enhancement in the rate, of the tax payable-
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> (i) by any person or class of persons, or
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> (ii) in respect of any motor vehicle or class of motor vehicles or motor vehicles running in any particular area; and
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> (b) cancel or vary such exemption, reduction or other modification.
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> (2) Any notification issued under sub-section (1) shall be laid, as soon as may be after it is issued, on the table of the Legislative Assembly of the State while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions." (underlining by us)

Section 9 of the Act provides that the Government may by notification grant an exemption of the tax payable by any

person or class of persons and it may cancel or vary such exemption, reduction or other modification. Any notification issued under subsection (I) of section 9 of the Act either granting any exemption or cancelling it is required to be laid, as soon as may be after it is issued, on the table of the Legislative Assembly of the State. The expression 'notification' is defined by section 2 (d) of the Act as a notification published in the Andhra Pradesh Gazette. The State Government by section 3 of the Act is authorised to levy by issuing a notification tax on every motor vehicle used or kept for use in a public place in the State Andhra Pradesh. When once a notification is issued under section 3 of the Act in respect of any motor vehicle. the tax becomes payable by the registered owner of the motor vehicle or any other person having possession or control there of. Such person can be exempted from the payment of the tax so levied only by a notification issued under section 9 (1) of the Act.A notification issued under section 9 being a statutory instrument can be cancelled or modified in the manner prescribed by the Act and in no other way. It is significant that any notification issued under section 9(1) of the Act either granting exemption or cancelling or varying such exemption has got to be placed on the table of the Legisla
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tive Assembly. Both the notification issued under section 3 of the Act and the notification issued under section 9 (1) thereof fall within the meaning of the expression law' referred to in Article 265 of the Constitution. The State Government can grant exemption from payment of tax or cancel an exemption already granted only in accordance with section 9 (1) of the Act. That is the legislative mandate. In the instant case, admittedly no notification is issued as provided by clause (b) of section 9 (1) of the Act either cancelling or withdrawing or varying the exemption granted earlier by the notification issued under section 9 (1). The High Court erred in holding that the learned counsel for the appellants had not drawn its attention to any statutory provision or rule which provided that a concession of this nature could be given only under a notification.A mere perusal of the provisions of section 9 and the notification which is issued thereunder, would have made it very clear that no exemption from the payment of the tax due under the Act could be granted exempt by the issue of a notification. It is hazardous to depend on one' memory while construing a statutory provision and this case serves as a good illustration of this statement. Having held that it was not necessary to issue a notification for granting an exemption, the High Court misled itself into thinking that the issue of a notification for the purpose of withdrawing the concession already granted was also unnecessary. The reason given by the High Court for rejecting this contention of the appellants is, therefor wholly untenable.

Having realist the weakness of the ground on which the High Court had rejected the contention of the appellants in this regard, the learned counsel for the State Government raised a new ground before us in order to sustain the impugned notices of demand He contended that the exemption from payment of the tax leviable under the Act could be claimed by the appellants only so long as the routes on which they were operating their stage carriages continued to be recognised by both the States to be such routes, and in support of this contention he relied upon clause (i) of the proviso to the notification dated March 27, 1963 under which exemption had been granted. He argued that since at the meeting of the Home Secretaries held on November 7, 1969 it

had been agreed that the vehicles which were being operated by the Mysore operators would have to pay the tax to the State of Andhra Pradesh with effect from January 1, 1910, the notification granting exemption
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became inapplicable to the motor vehicles of the appellants with effect from the said date. In other words the contention urged on behalf of the State of Andhra Pradesh was that since the motor vehicles operated by the appellants ceased to answer the description of the motor vehicles to which the notification granting exemption applied, these appellants could not claim the benefit of it. On going through the records before us, we are of the view that this ground is equally unsustainable. The agreement arrived at by the Home Secretaries on November 7, 1969, could not be considered as equivalent to an agreement entered into between the two States, unless and until both the Governments agreed to give effect to it. It was not effective on its own force. It was only recommendatory in character. It is no doubt true that on December 29, 1969 the Government of Andhra Pradesh issued an order unilaterally stating that it had ratified the conclusions arrived at by the Home Secretaries at the meeting of November 7, 1969 in regard to the operation of road transport services on inter-State routes between the two States, but it is seen that by the very order the Government of Andhra Pradesh directed the Transport Commissioner Andhra Pradesh to take necessary further action in consultation with the Transport Commissioner, Mysore and to report to the Government the action taken by him. It is seen from a notification published by the Government of Andhra Pradesh in the Andhra Pradesh Gazette Part I Extraordinary dated May 24, 1971 under section 63 (3-A) of the Motor Vehicles Act, 1939 that the Government of Andhra Pradesh had not till then taken a firm decision on the question whether the routes in question should be de-recognised or excluded from the purview of inter-State agreements. The relevant part of that notification reads thus:-

"DRAFT AGREEMENT BETWEEN ANDHRA PRADESH AND MYSORE STATES RE: TRANSPORT BY MOTOR VEHICLES.

(G. O. Rt. No. 1189, Home (Transport I) Department, dt. 1st April, 1971)

NOTIFICATION

At the inter-State Conference held between the representatives of the Governments of Andhra Pradesh and Mysore States at Hyderabad on 7. 11. 1969 and
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11. 5. 1970, and at Bangalore on 6/7. 7. 1970, the outstanding issues between the two States w re discussed and it is proposed to enter into an inter-State agreement between Andhra Pradesh and Mysore State Governments on the fol lowing issues:-

Item No. 1 (a):-It is proposed to delete the undermentioned inter-State routes from the inter-State Agreement as it is not possible for the Andhra Pradesh State to implement the agreements due to the approved schemes of the Mysore State Road Transport Corporation:-

1. Tirupathi to Tumkur
2. Bellary to Manthralayam
3. Gorantla to Bangalore
4. Anantapur to T. B. Damsite
5. Hindupur to Bangalore.
6. Kadiri to Bangalore.

As a result of deletion of these routes from the

agreement the Andhra Pradesh authorities will not countersign the permits issued by the Mysore Authorities on these routes when they come up for renewal and counter signatures issued by both the States on these routes will lapse by efflux of time. The vehicles plying on these routes are not entitled for single point taxation as a result of deletion of these routes from the agreement with effect from 1.1. 1970-----

(Underlining by us)

From the portion of the notification extracted above, it is seen that even on May 24, 1971 the question of deletion of the routes between Tirupathi and Tumkur, Hindupur and Bangalore and Kadiri and Bangalore, from the purview of the inter-State agreement was still in the stage of a proposal. By the said notification the State Government of Andhra Pradesh had invited objections from persons who were effected by it, to make their re-

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presentations as can be seen from the last part of the said notification which reads thus;-

> "The above proposal is hereby published for information of persons likely to be affected thereby as required under section 63 (3-A) of the Motor Vehicles Act, 1939; and notice is hereby given that the proposal will be taken into consideration after the expiry of 30 days from the date of its publication in the Andhra Pradesh Gazette (both days inclusive) and that any objection or suggestion which may be received from any person with respect thereto, before the aforesaid time, will be considered by the Government of Andhra Pradesh, Objections and suggestion should be addressed to the Secretary to Government of Andhra Pradesh in the Home Department, Hyderabad in duplicate."

The records produced before us further disclose that the above notification issued under section 63 (3-A) of the Motor vehicles Act, 1939 was cancelled and a second notification containing fresh proposals was issued on June 22, 1972 and that the said second notification was cancelled and a third notification containing similar proposals was issued on September 10, 1973. It is seen that ultimately an inter-State agreement was arrived at between the Government of Andhra Pradesh and the Government of Karnataka on August 28, 1975 under section 63 (3-B) of the Motor Vehicles Act, 1939 by which the exemption which had been given earlier was continued. It is also not disputed that the permits issued in favour of the appellants, having been in the meanwhile countersigned when they came up for renewal by the concerned authorities in the State of Andhra Pradesh were in force at the time when the new inter-State agreement came into force and the appellants were eligible for the benefit of the exemption agreed upon by the two States. It is, therefore, clear that at no material point of time the routes in question had ceased to be recognised by either of the States. Hence, the submission that the motor vehicles in question were not within the purview of the notification issued under section 9 (1) of the Act with effect from January 1, 1970 cannot be accepted.

It was next urged that sub-section (3-A) of section 63 of the

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Motor Vehicles Act, 1939 which prescribed a detailed procedure for the purpose of concluding an inter-State agreement was introduced by way of an amendment with effect from March 2, 1970 by Act 56 of 1969 and before that date no such 1970 formality was required to be followed before

entering into any such agreement. It was enough that the two State Governments mutually agreed upon the terms of the agreement for purposes of the provsio to sub-section (3) of section 63 of the Motor Vehicles Act, 1963 as it stood then. In the above situation it was urged that the resolution passed by the Home Secretaries on November 7, 1969 and the order passed by the Government of Andhra Pradesh on December 29, 1969 ratifying the said resolutions were sufficient in the eye of law to treat the inter-State routes referred to therein as having been deleted from the purview of the earlier inter-state agreements. This argument does not carry the case of the Government of Andhra Pradesh any further. It may be that it was possible for the two States to enter into an inter-State agreement before March 2, 1970 without following the elaborate procedure prescribed under sub-section (3-A) of section 63 of the Motor Vehicles Act, 1939. But as already mentioned the resolutions adopted at the meeting of the Home Secretaries were not effective unless they were agreed upon by both the State Government later on and the order passed by the Government of Andhra Pradesh on December 19, 1969 unilaterally merely directed the Transport Commissioner of Andhra Pradesh to take further action after consulting the Transport Commissioner of the State of Mysore. It is not shown that before March 2, 1970 when sub-section (3-A) of section 63 of the Motor Vehicles Act, 1939 came into force any inter-State agreement concluded by both the State Governments on the lines
of the conclusions arrived at by the Home Secretaries had come into existence. Hence we do not find any substance in this contention too.

In view of the above, we do not consider it necessary to into the question whether the Government of Andhra Pradesh was precluded by the rule of promissory estoppel from issuing the impugned notices of demand.

After giving our anxious consideration to the whole case, we are of the view that the appellants were entitled to claim the exemption granted by the notification issued under section 9 (1) of the
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Act during the relevant period. In the result, the judgment of the High Court insofar as it held that the appellants were not entitled to the exemption from payment of tax during the relevant period, is liable to be set aside. We, accordingly, set aside the judgment of the High Court to the above extent. The impugned notices of demand are quashed. The Government of Andhra Pradesh is directed not to take any steps to recover the tax demanded by it from the appellants. The appeals are accordingly allowed. Having regard to the circumstances of the case, we make no order as to costs,

A. P. J. Appeals allowed.
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