RAJASTHAN HIGH COURT
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HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 4767/2025
CNR: RJHC020277002025 | URN: CW / 11862U / 2025

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Hero Motocorp Ltd., Having Its Registered Office At The Grand Plaza, Plot No.2, Nelson Mandela Road, Vasant Kunj, Phase Ii, New Delhi-110070 And Its Manufacturing Unit At Plot No. Sp 101-103, 108-109, Riico Industrial Area, Neemrana, Alwar - 301 705 (Rajasthan) Through Its Authorized Signatory Mr. Gaurav Sharma

----Petitioner

Versus

1. Union Of India, Through Secretary, Ministry Of Road, Transport And Highways, Transport Bhawan, 1, Parliament Street, New Delhi-110001
2. State Of Rajasthan, Through Principal Secretary, Transport Department, Government Of Rajasthan, Secretariat, Jaipur
3. Taxation Officer And District Transport Officer, Rto Office, Alwar, Rajasthan.

----Respondents

Connected With

D.B. Civil Writ Petition Nos. 16859/2018, 5934/2019, 2301/2020, 2536/2021, 9654/2021, 9608/2022, 10425/2023, 9189/2025, 11607/2026

For Petitioner(s)	:	Mr. Sudhir Gupta, Sr. Adv. Asst by Ms. Shweta Chauhan Mr. Rishi Agawal, Mr. Umang Gupta, Mr. Karnav Luthera, Mr. Ankit Banati and Mr. Rachit Somani
For Respondent(s)	:	Mr. Rajendra Prasad, AG Asst. by Mr. Anirudh Singh Shekhawat Ms. Harshita Thakral Mr. Janardhan Pandit Garge

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR
Judgment

Reportable

Reserved on: 03/11/2026

Pronounced on: 06/11/2026

Per: Arun Monga, J

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1. This bunch of writ petitions raises a common question. Whether the petitioner a manufacturer of motor vehicles who holds a valid trade certificate under Rule 33 of the Central Motor Vehicles Rules, 1989 ("Rules of 1989") bound to obtain temporary registration under Rule 4.2(1)(a) of the Rajasthan Motor Vehicles Rules, 1990 ("Rules of 1990") for every vehicle it sells to its dealers? And can the State recover a fee for each such vehicle on the footing that temporary registration was not obtained?

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2. The petitioner is M/s Hero MotoCorp Limited. It manufactures two wheelers at its plant at Neemrana, District Alwar. It questions a series of demands for temporary registration fee, raised year after year from 2014 to 2026. It also challenges Rule 4.2(1)(a) of the Rules of 1990 as *ultra vires* Sections 39, 43 and 65 of the Motor Vehicles Act, 1988 ("Act of 1988") and Rule 33 of the Rules of 1989. In the alternative, it prays that Rule 4.2(1)(a) be read down. The reading down sought is that manufacturers holding a trade certificate are not required to obtain temporary registration for vehicles sold or distributed to their dealers and sub dealers.

3. Similar facts and issues arise in all the ten petitions pertaining to demands from year 2014 to 2015 up to year 2025 to 2026, one petition each for every year. They were heard together. They are decided by this common judgment. Before we advert to the facts, it would be more expedient to have a bird’s eye view of the entire bunch of petition and as per the tabulation given herein below:

Sr.no.	CASE TITLE AND FINANCIAL YEAR	UNDER CHALLENGE
1.	CW/16859/2018 Hero motocorp v/s UOI (FY: 2014-16)	Under challenge is the constitutional validity of rule 4.2(1)(a) of the Rajasthan Motor Vehicles Rules, 1990, and also the demand notices for not obtaining temporary registration.

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2.	CW/5934/2019 (FY: 2017-18)	-- do --
3.	CW/2301/2020 (FY: 2018-19)	-- do --
4.	CW/2536/2021 (FY: 2019-2020)	-- do --
5.	CW/9654/2021 (FY: 2020-21)	-- do --
6.	CW/9608/2022 (FY: 2021-22)	-- do --
7.	CW/10425/2023 (FY: 2022-23)	-- do --
8.	CW/9189/2025 (FY: 2024-25)	-- do --
9.	CW/4767/2025 (FY: 2023-24)	-- do --
10.	CW/11607/2026 (FY: 2025-26)	-- do --

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4. For the sake of convenience, the facts and recitals are taken from Civil Writ Petition No. 16859/2018.

FACTS

5. The petitioner began production at Neemrana in June 2014. It sells its two wheelers throughout India through dealers and sub dealers. It says that the vehicles are carried from the factory to the dealers on trucks. They are not ridden or driven on any road on the way. It also makes institutional sales, for instance to the Defence and other Government departments. For those sales, it says, it obtains temporary registration on a without prejudice basis, because the institution is itself the end user.

6. On 28.02.2018, the Regional Transport Officer, Alwar (respondent No. 4) issued a notice to the petitioner. It alleged a breach of Rule 4.2

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of the Rules of 1990 for the years 2014 to 2016. It demanded Rs. 10,28,55,600/-. The petitioner says no calculation sheet and no basis for the figure were supplied.

7. In its detailed reply, petitioner said that as a manufacturer holding a valid trade certificate, it was exempt from registration, temporary or permanent, under Section 39 read with Rule 33.

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8. However, on 13.07.2018, respondent No. 4 confirmed the demand of Rs. 10,28,55,600/- for 2014 to 2016. On the same day, he raised a further demand of Rs. 19,30,90,800/- for 2016 to 2017. The petitioner says none of its objections was dealt with. Hence the instant petition.

9. Demands of the same kind followed for every later year. Each was challenged by a fresh petition. According to the State's affidavit, the demands from 2014 to 2015 up to 2025 to 2026 add up to Rs. 1,65,67,64,600/-.

10. Separately, by an order dated 28.02.2018, the petitioner was also assessed to tax of Rs. 1,01,56,438/- and penalty of Rs. 16,75,812/- under Section 4(1)(d) of the Rajasthan Motor Vehicles Taxation Act, 1951 ("Act of 1951"). That order is the subject of separate petitions. It is not in issue here.

11. Before we proceed further, let us briefly have a look at applicable provisions of law.

THE STATUTORY FRAMEWORK

The Motor Vehicles Act, 1988

12. Section 39 of the Act of 1988 reads as follows.

> *"39. Necessity for registration.*
>
> *No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner. Provided that nothing in this section shall apply to a*

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motor vehicle in possession of a dealer subject to such conditions as may be prescribed by the Central Government."

13. Section 40 casts on every owner the duty to have his vehicle registered by the registering authority where he resides or has his place of business. Section 43 provides for temporary registration. It reads as follows.

"43. Temporary registration.

(1) Notwithstanding anything contained in section 40 the owner of a motor vehicle may apply to any registering authority or other prescribed authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark.

(2) A registration made under this section shall be valid only for a period not exceeding one month, and shall not be renewable."

14. Section 64 confers the rule making power of the Central Government for Chapter IV. Section 65 confers the power on the State Government. It permits the State to make rules for carrying into effect the provisions of the Chapter "other than the matters specified in section 64". Two of its heads matter here. They read as follows.

"(f) the temporary registration of motor vehicles and the issue of temporary certificate of registration and marks;
(m) the exemption from the provisions of this Chapter and the conditions and fees for exemption, of motor vehicles in the possession of dealers;"

The Central Motor Vehicles Rules, 1989

15. Rule 33 of the Rules of 1989 prescribes the condition contemplated by the proviso to Section 39. It reads as follows.

"33. Condition for exemption from registration.

For the purpose of the proviso to section 39, a motor vehicle in the possession of a dealer or manufacturer of automobiles or automobile ancillaries or a test agency specified in rule 126 shall be exempted from the necessity of registration subject to the condition that he obtains a trade certificate from the registering authority having jurisdiction in the area in which the dealer or manufacturer of automobiles or automobile ancillaries or a test agency specified in rule 126 has his place of business in accordance with the provisions of this Chapter."

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16. Rule 41 lists the purposes for which the holder of a trade certificate may use a vehicle in a public place. Two of them are relevant. Clause (f) permits use "for proceeding to and returning from airport, railway station, wharf for or after being transported". Clause (g) permits use "for proceeding to or returning from an exhibition of motor vehicles or any place at which the vehicle is to be or has been offered for sale". Rule 42 provides that no holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent.

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The Rajasthan Motor Vehicles Rules, 1990

17. Rule 4.2 of the Rules of 1990, so far as relevant, reads as follows.

> *"4.2 Temporary Registration.*
>
> *(1) Application for temporary registration for any one of the following purposes shall be in Form 4.1.*
>
> *a. When any motor vehicle is sold or distributed by the manufacturer to his dealer or sub-dealer or its branch for resale within or outside the State;*
>
> *Explanation. Temporary registration issued to any such vehicle shall cease to be in force as soon as it reaches to the premises of the dealer or sub-dealer or its branch;"*

18. Sub rule (2) provides that the temporary certificate shall be issued on payment of the prescribed fee and shall ordinarily be valid for not more than one month. Rule 4.28 prescribes the fee for temporary registration. It is Rs. 500/- per month for a transport vehicle and Rs. 200/- per month for a non transport vehicle.

THE PLEADINGS AND THE STAND OF THE STATE

19. The pleadings went through two rounds. It is necessary to notice how the State's stand developed, because that stand decides much of this case.

20. In its reply to the writ petition (internal page No.6), the State described the effect of the proviso to Section 39 and Rule 33 in these words.

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> *"The provisions of the Act and Rules thus makes it clear that the dealers manufacturers of automobiles shall be exempt from the necessity of registration subject to the condition that the dealer or manufacturer obtains a trade certificate from the registering authority..."*

21. During the hearing on 23.09.2026, the petitioner complained of discrimination since similarly placed M/s Honda was not issued any notices for breach of Rule 4.2, and sought time to file an affidavit qua the same. Following order was passed:-

> *"1. At the fag end of arguments, Mr. Sudhir Gupta, learned Senior Counsel, under instructions from his briefing counsel, seeks short accommodation to file an additional affidavit in support of the bunch of petitioner which are being heard.*
> *2. Needful be done with an advance copy to the office of the learned Advocate General to enable the respondents to respond to the same, in case, they wish to file any further affidavit in response.*
> *3. This bunch of petitions be treated as part-heard.*
> *4. Post these matters on 30.09.2026."*

22. Apropos, by an additional affidavit dated 25.09.2026, it is deposed that Honda, which also manufactures two wheelers in Rajasthan and also sends its vehicles out on trucks, had never been asked for temporary registration fee. Only the petitioner had been singled out. Relevant thereof is as below:-

> *"3. It is also pertinent to submit that, to the best of the Petitioner's knowledge and understanding, no demand for Temporary Registration Certificate has been raised on Honda by the Respondent-State. This selective enforcement of Rule 4.2 further establishes that Respondent State's insistence on mandatory Temporary Registration Certificates on the Petitioner is therefore, arbitrary, discriminatory and legally unsustainable.*
> *4. I say that the above facts would reveal that Honda is similarly situated because:*
> *Both the Petitioner and Honda are Two-Wheeler manufacturers.*
> *(ii) Both the Petitioner and Honda have their factory/manufacturing facility in State of Rajasthan.*
> *(iii) Both the Petitioner and Honda transport the vehicles to their distribution channels through lorries, and admittedly the vehicles so manufacture, do not touch the public road at any time.*
> *(iv) Both the Petitioner and Honda have been issued demands for not having obtained Trade Certificate for the vehicles manufactured by them in the State of Rajasthan. These Trade Certificate demands are under challenge before this Hon'ble Court.*
> *(v) Similar to the petitioner, it is Honda's case that they do not require a Trade Certificate for the vehicles manufactured by them and kept in their possession, as they are not driven or plied in the State of Rajasthan.*
> *5. Therefore, it is apparent that, while a demand for not obtaining Trade Certificate has been issued to both the Petitioner and Honda. However, no demand for Temporary Registration Certificate in respect of the above, has been issued to Honda despite it being similarly situated with the Petitioner and the Respondent-State has only singled out the Petitioner by arbitrarily*

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raising demand(s) for the Temporary Registration Certificates under Rule 4.2 of the Rajasthan Motor Vehicle Rules"

23. The State answered the above position by a counter additional affidavit dated 29.09.2026 sworn by the Regional Transport Officer, Alwar. It said that Honda Motorcycles and Scooters India Private Limited obtained trade certificates for two wheelers on 21.03.2016. It said that Honda Cars India Private Limited obtained them for light motor vehicles on 06.05.2014. Both had been renewed from time to time. It then said the following.

"since M/s Honda Company is having a valid Trade Certificate, no demand towards temporary registration certificate fee is raised against it."

24. Qua the petitioner herein (M/s Hero), it went further and said the following.

"if the petitioner company obtains a trade certificate in terms of provisions of rule 33 of the Central Motor Vehicle Rules, 1989, the requirement of a temporary registration certificate will not be applicable on the petitioner company from the date of obtaining the trade certificate."

25. As for the petitioner, the State admitted that it had indeed obtained Trade Certificates Nos. RJ-02-TC-0596 to RJ-02-TC-0605 on 15.02.2016, valid for one year. However, it said that these were never renewed and so became inoperative. On that footing alone, it said, the petitioner was liable to pay temporary registration fee.

26. Not to be outdone, the petitioner further filed a sur-rejoinder affidavit dated 14.10.2026 along with certain documents *inter alia* stating the position to be as below:

"10. That the sole justification offered by the Respondent-State in the Counter for not raising any demand for Temporary Registration Certificate ("TRC") fee on Honda Motorcycle & Scooter India Pvt. Ltd. and Honda Cars India Ltd. (together, "Honda"), while raising such demands year after year on the Petitioner, is that:
a. Honda holds valid Trade Certificates obtained under Rule 33 of the Central Motor Vehicles Rules, 1989 ("CMV Rules"), as amended by notification dated 14.09.2022, through the new Trade Module of the Vahan 4.0 Portal implemented in the State of Rajasthan from 15.06.2023 (paras 2, 3 and 5 of the Counter); and
b. the Petitioner, after its Trade Certificates No. RJ-02-TC-0596 to RJ-02-TC-0605 dated 15.02.2016 were not renewed, "neither applied for nor obtained any trade certificate".

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11. The Respondent-State has further stated on oath, in para 6 of the Counter, that if the Petitioner obtains a Trade Certificate in terms of Rule 33 of the CMV Rules, the requirement of a temporary registration certificate "will not be applicable on the petitioner company from the date of obtaining the trade certificate".

12. I say that Honda is not at all differently placed than the Petitioner, inasmuch as, Petitioner also had a Trade Certificate issued in its name on 04.08.2016 being RJ14TC1045 which was valid till 03.08.2024 as same was renewed from time to time. Like Honda, pursuant to the 2022 amendment and introduction of the new Trade Module Vehicle 4.0 Portal in the State of Rajasthan from 15.6.2023, the petitioner company too obtained the Trade Certificate under New Trade Module Vehicle 4.0 Portal, in terms of Rule 33 of the Central Motor Vehicle Rules, 1989. The relevant Trade Certificate was obtained bearing No. RJ14A0153TC dated 19.07.2024 which is valid till 17.07.2029. Consequently, if Honda can import vehicles on the basis of the Trademark Certificate under the new process without a temporary registration certificate and the temporary registration certificate fee is not payable by them, then on same basis, the Petitioner would also be entitled to same exemption.

13. The Trade Certificates under Form 17 on the Vahan portal, as shared by the Respondent-State, are issued under Rule 35 of CMVR. These are issued to legalize the movement and use of unregistered motor vehicles on public roads for specific trade activities such as testing, demonstration, or exhibitions without requiring full vehicle registration beforehand. The specific purpose has to be identified by way of an application to be submitted in Form 16. As per Rule 35, the authority is then to assign in respect of each certificate a trade registration mark consisting of the registration mark referred to in the notification made under sub-section (6) of section 41 and followed by two letters and a number containing not more than three digits for each vehicle. These are then stamped on the relevant vehicles."

(emphasis is ours)

27. The petitioner thus met the assertion of having subsisting Trade Certificate in its sur rejoinder affidavit. It stated on oath that the trade certificates had been duly renewed. It placed the proof of renewal on record with that affidavit. It also asserted that it is "admittedly in possession" of a trade certificate issued by the competent authority under Rule 33. The State filed nothing in answer. It placed no material to the contrary on record. Nor did it dispute the renewal at the hearing.

28. The aforesaid thus reflects that willy-nilly both the parties have unwittingly indulged in two rounds of pleadings; first, when the writ petition was filed, followed by written statement and rejoinder. Thereafter, additional affidavit followed by counter additional affidavit and sur-rejoinder affidavit.

29. Be that as it may, for our own clarity and in order to have better appreciation of the collective position that emerges from the pleadings,

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we would first prefer to crystallize that it is State's candid stand that the provisions of the Act and Rules make it clear that the dealers/ manufacturers of automobiles shall be exempt from the necessity of registration subject to the condition that the dealer or manufacturer obtains a trade certificate from the registering authority.

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30. In the aforesaid backdrop, we have heard the rival contentions and gone through the entire record.

RIVAL SUBMISSIONS

On behalf of the petitioner

31. Mr. Sudhir Gupta, learned Senior Counsel, assisted by Ms. Shweta Chauhan, learned Advocate made the following submissions.

32. First, the petitioner holds a valid trade certificate. The State itself accepts that a manufacturer holding a trade certificate is exempt from registration. On the State's own showing, no fee can be demanded.

33. Second, the proviso to Section 39, read with Rule 33, exempts a manufacturer holding a trade certificate from the necessity of registration of every kind. Temporary registration under Section 43 is an option given to an owner. A manufacturer who sells to dealers for resale is not the owner who must register. Registration is a post sale event. Reliance was placed on **Commissioner of Commercial Taxes vs K.T.C. Automobiles**[1].

34. Third, Rule 4.2(1)(a), if it is to be read as compelling a manufacturer to take temporary registration and pay a fee for every vehicle, then it goes beyond Sections 43 and 65. A delegate cannot impose a fiscal burden that the parent statute does not authorise. Reliance was placed on **Ahmedabad Urban Development Authority**

1 (2016) 4 SCC 82.

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vs Sharadkumar Jayantikumar Pasawalla[2] and **Bimal Chandra Banerjee vs State of Madhya Pradesh**[3], among other decisions.

35. Fourth, the State has no power to collect the fee for vehicles sold outside Rajasthan.

36. Fifth, the petitioner and Honda are similarly placed in every respect. Treating them differently offends Article 14 of Constitution of India.

37. Lastly, the demands were raised without a proper show cause notice and without disclosing how they were computed.

On behalf of the State

38. Senior Advocate Mr. Rajendra Prasad, learned Advocate General, assisted by Mr. Anirudh Singh Shekhawat, learned Advocate made the following submissions.

39. First, Section 39 is a prohibition. The duty to register flows from Section 40, which binds every owner. Section 43 is an exception to Section 40. Under Section 65(2)(f), the State may make rules for temporary registration. Until Rules 53A to 53C were inserted in the Rules of 1989 with effect from 01.04.2021, the Rules of 1990 held the field.

40. Second, the word "may" in Section 43 is not decisive. Reliance was placed on **State of Uttar Pradesh vs Joginder Singh**[4]. An owner in possession of a vehicle must hold registration under Section 40 or Section 43.

41. Third, Rule 33 relates only to the proviso to Section 39. Rule 42 forbids delivery to a purchaser without registration. Reliance was placed on K.T.C. Automobiles and on paragraphs 7 and 9 of **Tata Motors Limited vs State of Jharkhand**[5].

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2 (1992) 3 SCC 285.
3 (1970) 2 SCC 467.
4 AIR 1963 SC 1618.
5 2020 (15) SCC 438.

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42. Fourth, Section 177 of the Act of 1988 prescribes a penalty for breach of the Act or the rules. The demand, being limited to the fee lost to the revenue, is within that penalty.

43. Fifth, the petitioner's trade certificates had lapsed, so the petitioner cannot claim parity with Honda. There is no discrimination.

44. Lastly, the petitioner was duly heard, so there is no breach of natural justice, as alleged. Petition be thus dismissed, it was urged.

QUESTIONS FOR DETERMINATION

45. On the pleadings and the arguments, three questions arise.

46. **Question I.** Is a manufacturer who holds a valid trade certificate under Rule 33 of the Rules of 1989 mandatorily required, by Rule 4.2(1)(a) of the Rules of 1990, to obtain temporary registration for vehicles it sells or distributes to its dealers, sub dealers or branches? Is any fee under Rule 4.28 payable for such vehicles?

47. **Question II.** Did the petitioner hold a valid trade certificate during the relevant period? Is it entitled to be treated at par with Honda?

48. If Question I is answered in favour of the petitioner, the challenge to the *vires* of Rule 4.2(1)(a) need not be decided. Nor would there be any need to adjudicate other issues raised in the petition and/in course of arguments. We shall proceed to render our opinion being mindful of that, in the same seriatim in which the above questions have been framed by recording our reasons and discussions thereof in the succeeding part.

QUESTION I. TRADE CERTIFICATE AND TEMPORARY REGISTRATION

The scheme of the Central law

49. Section 39 forbids driving an unregistered vehicle in any public place or in any other place. Its proviso lifts that bar for a motor vehicle

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in the possession of a dealer, subject to conditions prescribed by the Central Government. Rule 33 is that prescription. It covers a dealer and a manufacturer as well. It says that the vehicle "shall be exempted from the necessity of registration" if the holder obtains a trade certificate.

50. Three things follow from the language. First, the exemption is from "the necessity of registration". The words are not qualified. Temporary registration under Section 43 is registration under the same Chapter IV. Nothing in Rule 33 confines the exemption to permanent registration. Second, the exemption is tied to possession by the trader. It lasts as long as the vehicle remains in his possession in the course of business. Third, the condition is one only, namely obtain a trade certificate. Once it is fulfilled, the Central law asks for nothing more.

51. The Supreme Court has explained this scheme in **Tata Motors Limited (*supra*)**. In fact, the learned Advocate General relied on the very paragraphs, which in our view effectively answers the question. Hon'ble the Supreme Court held as under:-

> *"In case a dealer or a manufacturer is not having trade certificate, in order to drive the motor vehicle during the period it remains with him, he is supposed to get the vehicle registered for a temporary period. This temporary registration is to be done as per the provisions contained in Section 43 of the MV Act." (Para-7, per SCC)*

52. The Supreme Court also spoke of the occasions when a vehicle in the hands of a manufacturer is brought on the road, including "when it goes for delivery from the manufacturer's factory to the dealer's showroom". It then said the following:-

> *"Since, a vehicle cannot be brought on road and be driven without any valid registration, the MV Act contemplates two situations to meet such contingencies. It provides for temporary registration under Section 43 of the MV Act. Another option is given to those manufacturers or dealers who obtain trade certificates from the registering authority and in such a case as per Rule 33 of the Motor Vehicle Rules, manufacturers or dealers are exempted from the necessity of registration."*

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53. The law is therefore plain. Temporary registration and a trade certificate are two alternative routes. Temporary registration is the route for a manufacturer who has no trade certificate. A manufacturer who holds a trade certificate is "exempted from the necessity of registration". He does not need temporary registration as well. The State's construction would turn two alternatives into a double requirement. Ratio of Tata Motors Limited does not permit that.

The movement from factory to dealer is covered by the trade certificate

54. The Explanation to Rule 4.2(1) shows the purpose of clause (a). It says that the temporary registration ceases to be in force "as soon as it reaches to the premises of the dealer or sub-dealer or its branch". Clause (a) is therefore concerned only with the journey of the vehicle from the manufacturer to the dealer.

55. That journey is exactly what the trade certificate already covers. Rule 41(g) allows the holder to use a vehicle for proceeding to "any place at which the vehicle is to be or has been offered for sale". Rule 41(f) allows its use for proceeding to and from a railway station or wharf "for or after being transported". A dealer's premises is the place where the vehicle is to be offered for sale. To insist on temporary registration for the same journey would require the holder to pay twice for one dispensation. We feel that the Rules of 1990 cannot be read in this manner to produce that result as sought to be achieved by the State.

Rule 42 of the Central Motor Vehicles Rules, 1989

56. The learned Advocate General also relied on Rule 42 of the Rules of 1989. That rule forbids the holder of a trade certificate to deliver a vehicle "to a purchaser" without registration. However, the dealer to whom a manufacturer sends a vehicle is not such a purchaser. Rule

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4.2(1)(a) itself describes the vehicle as sold or distributed to the dealer "for resale". The dealer holds it as stock in trade. He is himself within the proviso to Section 39 and Rule 33.

57. **K.T.C. Automobiles (*supra*)** supports our this reading of the Rules, *ibid*. It does not detract from it. The Supreme Court there accepted that registration of a motor vehicle "is a post-sale event". It is to be applied for by or on behalf of the owner whose name is to go into the registration. The Supreme Court in turn also quoted its earlier decision in **Association of Registration Plates vs Union of India**[6], as under:-

> *"Therefore, until the motor vehicle has been sold to a person by a dealer, the registering authority would not come into the picture and there is no occasion for assigning it a registration mark."*

58. Registration is thus linked to the sale to the end user. It is not linked to the movement of stock between manufacturer and dealer. Rule 42 fits that scheme. It bites when the vehicle is delivered to the purchaser. It does not bite when a manufacturer holding a trade certificate sends stock to a dealer for resale.

Rule 4.2(1)(a) must be read with the Central law

59. Rule 4.2 was made by the State Government under Section 65. That section permits rules only on matters "other than the matters specified in section 64". The conditions for the dealer's exemption from registration were prescribed by the Central Government under the proviso to Section 39. The State's power under Section 65(2)(f) to provide for temporary registration must be exercised consistently with that Central exemption. It cannot be used to cut it down as in contradiction thereof.

60. Even otherwise, a rule of this kind [Rule 4.2 (1) (a)] must also be read strictly when it is the source of a fee. In **Ahmedabad Urban**

6 (2004) 5 SCC 364.

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Development Authority (*supra*), the Supreme Court said that "such power of imposition of tax and/or fee by delegated authority must be very specific and there is no scope of implied authority for imposition of such tax or fee". In **Bimal Chandra Banerjee (*supra*)**, the Court said that a rule making authority "has no plenary power" and "has to act within the limits of the power granted to it".

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61. Read in this light, the two sets of rules sit together without conflict. Rule 4.2(1)(a) operates where the manufacturer does not hold a trade certificate. It has no application where the manufacturer holds a valid trade certificate under Rule 33. That is also how the State itself has understood and applied the rule in the case of Honda. Thus, it is the very basis on which it has not charged Honda. It is what its own affidavit says and shall also equally apply to the petitioner, it provided, of course, holds a trade certificate.

62. The decision in **Joginder Singh (*supra*)** does not affect this. The question here is not whether temporary registration is mandatory for an owner who holds no exemption. The question is whether a person whom the Central law expressly exempts from the necessity of registration can be made to obtain it all the same? As already noted by us, that question is answered by Rule 33 and by Tata Motors Limited.

Answer to Question I

63. We thus answer Question I framed by us as follows. A manufacturer who holds a valid trade certificate under Rule 33 of the Rules of 1989 is exempt from the necessity of registration, temporary or permanent, for vehicles in its possession in the course of its business. Rule 4.2(1)(a) of the Rules of 1990 does not mandate such a manufacturer to obtain temporary registration for vehicles it sells or distributes to its dealers, sub dealers or branches. No fee under Rule 4.28 is, therefore, payable for such vehicles.

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QUESTION II. THE PETITIONER'S TRADE CERTIFICATE AND PARITY WITH HONDA

Whether the petitioner held a valid trade certificate

64. The State's case against the petitioner rests on a single fact. It says the trade certificates issued on 15.02.2016 were never renewed. That fact has been displaced on the record. Let us see how.

65. In its sur rejoinder affidavit, the petitioner stated on oath that the certificates were duly renewed. It placed the proof of renewal on record. It also asserted that it is "admittedly in possession" of a trade certificate issued by the competent authority under Rule 33. The State did not controvert any of this. It filed no further affidavit. It placed no material to the contrary. At the hearing, the renewal was not disputed.

66. A statement on oath, supported by documents and left wholly unanswered, must be accepted, especially, when there are adverse consequences, civil and criminal, in case the same is deliberately false or based on any fabricated document. The registering authority is the State's own officer who has issued trade certificate to petitioner. If the renewals thereof were not genuine, the State's records would have shown it. Nothing of the kind has been shown. We therefore hold that the petitioner held valid trade certificates under Rule 33, duly renewed, at all material times.

Parity with Honda

67. Once this finding is reached, the petitioner and Honda stand on the same footing. Both manufacture motor vehicles in Rajasthan. Both send them to their dealers on trucks. Both hold trade certificates under Rule 33, renewed from time to time. The State says, in terms, that it raises no demand of temporary registration fee against Honda because Honda holds a valid trade certificate. That reason applies with equal force to the petitioner.

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68. Article 14 forbids the State to treat equals unequally. A rule that the State applies to one manufacturer, it must apply to another who is in the same position. There is no intelligible differentia between the petitioner and Honda that could justify the demands against the petitioner. The only difference the State put forward was the supposed lapse of the petitioner's certificates. That difference does not exist.

69. The State's own affidavit throws light on the earlier period too. According to it, Honda Motorcycles and Scooters India Private Limited, the Honda two wheeler company, obtained its trade certificate only on 21.03.2016. Yet the State has not shown that any demand of temporary registration fee was ever raised against it, for that period or any other. The petitioner's statement on oath that no such demand was raised against Honda stands uncontroverted. The petitioner obtained its own certificates on 15.02.2016, a little earlier than the Honda two wheeler company. Equal treatment means the petitioner cannot be charged for a period for which a similarly placed manufacturer has not been charged.

70. Pertinently, there is another aspect of the matter which we would like to note here i.e., the State seems to be blowing hot and cold in the same breath. The State has also proceeded against the petitioner under Section 4(1)(d) of the Act of 1951. That charge is laid on manufacturers in respect of vehicles held "under the authorisation of a trade certificate granted or deemed to be granted". Having treated the petitioner as within the trade certificate scheme for the purpose of that tax, the State cannot treat it as outside the scheme for the purpose of this fee. It cannot approbate and reprobate.

Answer to Question II

71. Now, we answer Question II as follows. The petitioner held valid trade certificates under Rule 33 of the Rules of 1989, duly renewed, during the relevant period. It is entitled to be treated at par with Honda.

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The State's own stand, that no temporary registration fee is payable by a manufacturer holding a valid trade certificate, applies to the petitioner in full.

72. The petitioner also challenged the *vires* of Rule 4.2(1)(a). It also urged that the State cannot collect the fee for vehicles sold outside Rajasthan. Our answer to Question I is a construction of Rule 4.2(1)(a) that harmonises it with Rule 33. It grants, in substance, the alternative relief prayed for. It is therefore neither necessary nor proper to pronounce on the *vires* of the rule or on its reach to vehicles sold outside the State. Both questions are left open.

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CONCLUSIONS

73. Our conclusions may be summarised as follows.

74. A manufacturer holding a valid trade certificate under Rule 33 of the Rules of 1989 is exempt from the necessity of registration, temporary or permanent, for vehicles in its possession in the course of its business. Temporary registration under Section 43 and a trade certificate under Rule 33 are alternatives, as the Supreme Court has explained in Tata Motors Limited.

75. Rule 4.2(1)(a) of the Rules of 1990 applies only where the manufacturer does not hold a valid trade certificate. No fee under Rule 4.28 is payable by a manufacturer holding such a certificate for vehicles sold or distributed to its dealers, sub dealers or branches. This is also the State's own stand on affidavit.

76. The petitioner held valid trade certificates, duly renewed, during the relevant period. The State has not shown otherwise. The petitioner is entitled to the same treatment as Honda, against whom no such demand has been raised.

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77. The demands cannot be saved by Section 177 of the Act of 1988. The petitions are not barred by the petitions concerning the tax under the Act of 1951.

ORDER

78. For the reasons recorded above, we pass the following order.

(i) The writ petitions are allowed.

(ii) It is declared that a manufacturer of motor vehicles holding a valid trade certificate under Rule 33 of the Central Motor Vehicles Rules, 1989 is not required, by Rule 4.2(1)(a) of the Rajasthan Motor Vehicles Rules, 1990, to obtain temporary registration for motor vehicles sold or distributed by it to its dealers, sub dealers or branches. No fee under Rule 4.28 of the Rules of 1990 is payable for such vehicles.

(iii) It is held that the petitioner held valid trade certificates under Rule 33 of the Rules of 1989 during the relevant period. It shall be treated at par with Honda Motorcycles and Scooters India Private Limited and Honda Cars India Private Limited in the matter of temporary registration fee.

(iv) The notice dated 28.02.2018, the demand notices dated 13.07.2018 for the years 2014 to 2016 and 2016 to 2017, and all the demands of temporary registration fee impugned in the connected petitions, are quashed. Such prohibitory relief for future seems unusual.

(v) The demand of temporary registration fee rests on the same footing. The respondents shall withdraw it in the light of this judgment.

(vi) If any amount has been recovered from the petitioner towards any of the said demands, it shall be refunded within eight weeks from the date of receipt of a certified copy of this judgment.

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(vii) The respondents shall not raise any demand of temporary registration fee against the petitioner for vehicles sold or distributed to its dealers, sub dealers or branches, for any period in which the petitioner holds a valid trade certificate under Rule 33 of the Rules of 1989.

(viii) Nothing in this judgment shall affect the proceedings concerning the tax under Section 4(1)(d) of the Act of 1951, which shall be decided on their own merits.

(ix) There shall be no order as to costs.

(x) A copy of this judgment shall be placed in each of the connected files.

79. All the writ petitions stand disposed of in the above terms. Pending applications, if any, also stand disposed of.

(ASHUTOSH KUMAR),J **(ARUN MONGA),J**

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