

**(1994) 01 SC CK 0126**

**Supreme Court of India**

**Case No:** Civil Appeal Nos. Of 1994

P. Nageswara Rao and Others

APPELLANT

Vs

Government of A.P. and Another

RESPONDENT

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**Date of Decision:** Jan. 31, 1994

**Citation:** (1995) 3 SCC 108 Supp

**Hon'ble Judges:** N. Venkatachala, J; K. Ramaswamy, J

**Bench:** Division Bench

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

1. LEAVE granted.

2. HEARD learned counsel. These appeals arise from the common judgment dated 30/7/1993 of a division bench of the A. P. High court in Writ Petition No. 6901 and connected writ petitions including Writ Petition No. 6637 of 1993. The government of A. P., exercising its power under Section 3 of the A. P. Motor Vehicles Taxation Act (Amendment Act 11 of 1992, for short "the Act", imposed taxes on stage carriages and contract carriages at varied rates through GOMs No. 75, dated 27/4/1993. The impost was upheld by the said common judgment. Special Leave Petition No. 13086 of 1993 filed by one of the writ petitioners, aggrieved against the said common judgment of the High court, when came up for hearing on 3/9/1993 before this bench, we dismissed it after hearing the counsel. When the present Special Leave Petitions directed against the same judgment of the High court were placed before another bench of this court, they were ordered to be posted before this bench for disposal. Thus these SLP"s have come up before us for preliminary hearing.

3. The only argument which was not advanced before us when we dismissed the Special Leave Petition earlier but which has now impressed us is that of the State government lacking in power under the Act to issue the notification to collect the tax from a retrospective date, namely, 1/4/1993, even though that notification was

made effective only from 27/4/1993. We shall consider and decide the argument, which relates to competence of the State government.

4. ADMITTEDLY, the notification dated 27/4/1993 contained in the aforesaid GO expressly mentions that the tax imposed would be effective on and from 27/4/1993. Therefore, the government in issuing the GO imposing tax liability on the stage carriages or contract carriages, of paying enhanced rates as quarterly tax, has made the order effective from 27/4/1993. Though Shri Sitaramiah, the learned Senior Counsel for the State, contended that in normal practice the quarter begins from 1/4/1993 and the High court, therefore, had rightly held that the order would be effective from 1/4/1993, we find it difficult to accede to that contention. When the government order itself expressly mentions that the liability to pay the tax operates on and from 27/4/1993, its operation cannot be preponed to an earlier date by placing such construction on the order. The High court, therefore, was not right in its conclusion that the liability to pay enhanced motor vehicles tax commenced from 1/4/1993, inasmuch as the GO cannot be construed as having given retrospective operation to it. In fact, retrospective effect could not have been given by the State government to the notification as it was not vested with such power. Hence, the common judgment of the High court under the present appeals has to be held to be bad to the limited extent, it has said that the tax imposed under the notification impugned before it was liable to be paid from a date prior to 27/ 4/1993. The appeals are, therefore, allowed to the said limited extent only, while the common judgment of the High court in other respects stands undisturbed.