2026 INSC 43

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3352-3353 OF 2017

ULTRATECH CEMENT LTD. ...APPELLANT(S)

VERSUS

THE STATE OF GUJARAT & ORS. ...RESPONDENT(S)

WITH

CIVIL APPEAL NO. 3357 OF 2017
AND
CIVIL APPEAL NO. 3358 OF 2017

J U D G M E N T

PANKAJ MITHAL, J.

1. Heard Shri P. Chidambaram, senior counsel appearing for the appellant-Ultratech Cement Ltd. in Civil Appeal Nos.3352-3353/2017 and Shri Nakul Dewan, senior counsel appearing for the appellant in Civil Appeal Nos.3357 and

3358/2017. Shri K. Parameshwar, senior counsel has been heard in opposition on behalf of respondent-State of Gujarat.

2. All the aforesaid four civil appeals are based on similar facts and raises a common question of law, namely; whether Heavy Earth Moving Machinery or special services vehicles or any construction equipment vehicles such as Dumpers, Loaders, Excavators, Surface Miners, Dozers, Drills, Rock Breakers etc. are "motor vehicles" within the ambit of Section 2 (28) of the Motor Vehicles Act, 1988[1] and are liable to be taxed under the Gujarat Motor Vehicles Tax Act, 1958[2].

3. The Civil Appeal Nos.3352-3353/2017 are the leading appeals and, therefore, the necessary facts in respect of those appeals only are being narrated for the sake of convenience.

4. The appellant-Ultratech Cement Ltd. is a public limited company engaged in manufacturing and marketing of clinker and cement products. It has two cement plants known as Gujarat Cement Works and Narmada Cement Works in Gujarat. In connection with the manufacturing work at the

[1] *Hereinafter referred to as 'the Act'*
[2] *Hereinafter referred to as 'the Gujarat Tax Act'*

above two plants, it uses various Heavy Earth Moving Machinery/construction equipment or special services vehicle.

5. In Civil Appeal Nos.3352-3353/2017, the vehicles used are predominantly Dumpers and Loaders. In Civil Appeal No.3357/2017, the vehicles are Excavators and Surface Miners whereas in Civil Appeal No.3358/2017, the vehicles used are Dozers, Drillers, Rock Breakers, Excavators and Surface Miners.

6. The Regional Transport Officer, Bhuj, on 04.06.1996 issued a letter acknowledging that the Dumpers used by the appellants within the private premises do not require registration under the Act. However, later on the Transport Commissioner published a press advertisement in Gujarati Daily '*Sandesh*' on 20.11.1999, directing registration of all special service vehicles including Dumpers as is mandated by Section 39 of the Act and that the appellants are required to pay road tax on those vehicles under the Gujarat Tax Act.

7. Pursuant thereto, in January 2000, the Regional Transport Officer even conducted an inspection of the vehicles used by

the appellant and directed the appellant to get them registered and pay tax under the Gujarat Tax Act.

8. The appellant protested against it and replied to the Transport Commissioner on 02.02.2000 that these vehicles were not strictly "motor vehicles" as defined under Section 2 (28) of the Act and, therefore, they are neither required to be registered nor chargeable to tax under the Gujarat Tax Act. The Transport Commissioner refused to accept the plea taken by the appellant and insisted for the registration of vehicles and payment of road tax.

9. It may be worth noting that the vehicles so used by the appellants were not meant to be used "on-road". They were transported to the work premises of the appellant in a dismantled condition on trailers and were confined to use within the factory/enclosed premises.

10. M/s Bharat Earth Movers Limited, the manufacturers/suppliers of the said vehicles, certified by their letter dated 23.03.2000 that they have been manufacturing and supplying heavy duty Dumpers amongst other range of products for operating in mining/industrial

off-road activities. These products/vehicles that are manufactured and supplied by them are designed as vehicles of a special type to be adopted for use only in mining and industrial off-road operations and are not meant for use on-road. These products/vehicles are transported from their place on trailers to the destination and since these are meant for off-road operations, they do not issue any road worthiness certificate for the above products/vehicles.

11. A similar certificate was issued by M/s Hindustan Motors Limited on 17.03.2000 regarding the various models of Dumpers manufactured and supplied by them.

12. Even M/s Automotive Research Association of India also certified on 04.06.2004 that such Heavy Earth Moving Machineries are meant for off-road use and not on-road. These are carried from one location to another in the knocked down condition only on trailers or trucks.

13. These certificates were placed on record by the appellant-Ultratech Cement Ltd. and were not controverted by the respondent-State of Gujarat.

14. The Assistant Regional Transport Officer on 16.01.2002 again informed the appellant that the above vehicles/equipment used by it fall within the definition of "motor vehicles" and are liable for registration and payment of road tax. Subsequently, on 09.11.2006, the Regional Transport Officer issued a show cause notice demanding a sum of Rs.59,39,401/- towards registration fee, tax, arrears of tax along with 2 per cent interest and 25 per cent penalty with effect from the year 1999 when aforesaid vehicles/equipment were purchased by the appellant. The appellant, after multiple correspondence, were pressurized to get the said vehicles/equipment registered and to deposit a sum of Rs. 1.36 crores. The appellant got the vehicles registered and deposited Rs. 88.45 lakhs under protest.

15. In the above scenario, when the show cause notice was issued, the appellant approached the High Court of Gujarat for the quashing of aforesaid show cause notice dated 09.11.2006 and for the refund of the amount deposited by them. The High Court dismissed the petition by common judgment and order dated 15.07.2011 holding that the

vehicles/equipment used by the appellants particularly Dumpers were "motor vehicles" under the Act and are chargeable to tax.

16. It is against the aforesaid judgment and order of the High Court dated 15.07.2011 that the appellant is in appeal before this Court. The appellants in other connected appeals are also before this Court in a similar fashion. As said earlier, all these appeals give rise to a common question of law as framed previously hereinabove, therefore, we are dealing with all of them together on the basis of the facts contained in Civil Appeal Nos. 3352-3353/2017.

17. The primary submission on behalf of the appellants is that Entry 57 of List II of the Seventh Schedule of the Constitution of India permits taxation only of vehicles "suitable for use on roads", therefore, vehicles not used in public places or public roads or not suitable for use on roads are outside the purview of the definition of "motor vehicles" and are not chargeable to road tax. Secondly, it has been submitted that the manufacturer's specifications and the certificates of the experts on record clearly demonstrate that the vehicles in

question are off-road vehicles. The certificates and contentions have not been refuted by the State and the Court has simply ignored them by saying that the expert certificates and manufacturer's specifications are not material.

18. It has also been contended that the Ministry of Road Transport and Highways (MoRTH) *vide* circular dated 13.07.2020 expressly states that such vehicles as used by the appellants are "off-road equipment" and they do not qualify to be "motor vehicles" which may require registration.

19. Moreover, ***Bolani Ores Ltd. vs. State of Orissa***[3], squarely answers the question raised in these appeals wherein it has been held that the phrase "adapted for use upon roads" means vehicles which are suitable for plying on the roads and as such, vehicles and equipment not meant to be used on-roads are beyond taxation.

20. The aforesaid decision has been followed in ***Tarachand Logistic Solutions Limited vs. State of Andhra Pradesh & Ors.***[4]**,** wherein it has been held that vehicles operating

[3] (1974) 2 SCC 777
[4] 2025 SCC OnLine SC 1851

within closed premises and vehicles which do not derive benefit from public road infrastructure, are not taxable. Merely because the vehicles in question have been registered under the Act, the appellants are not estopped from challenging its liability to pay road tax on the said vehicle.

21. The case laws relied upon by the State or the High Court in holding otherwise are distinguishable and are not applicable.

22. In response to the arguments advanced on behalf of appellants as aforesaid, Shri K. Parameshwar, senior counsel appearing for the State of Gujarat submits that Section 3 (1) of the Gujarat Tax Act is the charging provision and it uses the word "all motor vehicles" and, therefore, any vehicle which falls within the ambit of "motor vehicles", whether meant for on-road or off-road use, is subject to payment of road tax. No distinction can be made between the vehicles on the basis of their use. The words "public place" or "public road" have not been used in Section 3 of the Gujarat Tax Act and are of no relevance.

23. The circular of the Ministry of Road Transport and Highways (MoRTH) dated 13.07.2020 has not been issued in exercise of

any rule making power under the Act. It is not relevant and is not binding as it cannot override the express provision of the statute. Moreover, the said circular operates prospectively and would not apply to the vehicles which have been purchased earlier.

24. The decision of ***Tarachand Logistic*** *(supra)* relied upon on behalf of appellants is of no help, rather, the decisions rendered by this Court in ***Chief General Manager, Jagannath Area & Ors. vs. State of Orissa & Anr.***[5] and ***State of Gujarat & Ors. vs. Akhil Gujarat Pravasi V.S. Mahamandal***[6] ***& Ors.,*** would prevail.

25. Before embarking upon the question of law i.e., whether heavy earth moving machinery or special service vehicle or any construction equipment vehicles are "motor vehicles" within the ambit of Section 2 (28) of the Act and are chargeable to tax under the Gujarat Tax Act, it would be necessary for us to refer to certain provisions of the Constitution of India, then to the charging Section of the

[5] (1996) 10 SCC 676
[6] (2004) 5 SCC 155

Gujarat Tax Act and then the definition of the "motor vehicle" as contained in the Act itself.

26. Article 265 of the Constitution of India clearly provides that tax shall not be levied or collected except by the authority of law. If we read the above Article in consonance with Entry 57 of List II of the Seventh Schedule of the Constitution, it would be evident that taxes can be imposed on vehicles which impliedly include "motor vehicle" suitable for use on roads.

27. Entry 57 of List II of Seventh Schedule of the Constitution reads as under:

> "57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tram-cars subject to the provisions of Entry 35 of List III."

28. Upon a conjoint reading of Article 265 and Entry 57 of List II of the Seventh Schedule of the Constitution, it is evident that the State is competent to levy and collect tax on vehicles i.e., motor vehicles if they are suitable for use on roads.

29. Section 3 of the Gujarat Tax Act provides for levying tax on motor vehicles. The relevant part of it stipulates as under:

> " 3. (1) Subject to the other provisions of this Act, on and from the 1st day of April 1958, 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, by notification in the Official Gazette, but not exceeding the maximum rates specified in the First, Second and Third Schedules:
>
> Provided that in the case of any motor vehicle (irrespective of whether they are specified in the First Schedule or the Second Schedule or Third Schedule kept by a dealer in, or manufacturer of, such vehicles, for the purpose of trade, there shall be levied and collected annually such amount of tax not exceeding Rs.5000 as the State Government may, by notification in the Official Gazette specify on those motor vehicles only which are permitted to be used on the roads in the manner prescribed by rules made under the Motor Vehicles Act, 1988:....."

30. The aforesaid charging Section contemplates to levy and collect tax on all motor vehicles either used or kept for use in the State. A plain reading of the aforesaid provision would reveal that tax can be levied and collected from all motor vehicles irrespective of the fact as to whether they are actually used or kept for use.

31. It may be pertinent to note that Entry 57 of List II of the Seventh Schedule of the Constitution permits imposition of tax on vehicles suitable for use on roads. Section 3 of the Gujarat Tax Act authorizes levy and collection of tax on all motor vehicles used or kept for use in the State without

specifying whether suitable for use on roads or not. It is on account of the conspicuous absence of the qualification "suitable for use on roads" in the Gujarat Tax Act that the vehicles used by the appellants which are said to be off-road vehicles are sought to be taxed. The Gujarat Tax Act cannot travel beyond Entry 57 of List II of Seventh Schedule of the Constitution of India so as to tax vehicles which are not suitable for being used on roads.

32. Now, the basic issue is: what is meant by "motor vehicle" or what are "motor vehicles".

33. The phrase "motor vehicle" has not been defined under the Gujarat Tax Act rather sub-Section (10) of Section 2 of the said Act provides that words and expressions not defined under the said Act shall have the same meaning as assigned to them under the Act.

34. Section 2 (10) is reproduced herein below:

> "2. In this Act, unless the context otherwise requires:-
> .....
>
> (10) other words and expressions used, but not defined, in this Act, shall have the meanings respectively assigned to them in the Motor Vehicles, 1988 or the rules made thereunder."

35. In view of the above provision of Section 2 (10) of the Act as motor vehicle has not been defined under the Gujarat Tax Act, it has to be assigned the same meaning as is contained in the Act.

36. The Act defines "motor vehicle" under Section 2 (28) of the Act. It reads as under:

> "**2. Definitions**-In this Act, unless the context otherwise requires.-
> .....
>
> (28) "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for the use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity or not exceeding twenty-five cubic centimeters;"

37. A simple and plain reading of the aforesaid provision would reveal that it is in two parts. The first part is inclusive and the second part is exclusive. The first part, in short, provides that a motor vehicle or a vehicle means any mechanically propelled vehicle which is adapted for use upon roads and

includes the chassis to which a body has not been attached and a trailer. So, the above part of the definition of motor vehicle is inclusive in nature. The second part provides for the exclusion of certain vehicles from the definition of the motor vehicle. It provides that motor vehicle does not include a vehicle running upon fixed rails **or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises.** It means that the legislature has consciously provided for the exclusion of the vehicles of the special kind which have been adapted for use only in a factory or any other enclosed premises from the definition of motor vehicle. In other words, though the term motor vehicle is wide enough but it expressly excludes some of the motor vehicles which are of special type and have been adapted for use only in factory or in any other enclosed premises from its ambit.

38. The vehicles in question used by the appellant are all in the nature of special vehicles as they are basically construction equipment vehicles which have been made suitable for use only in a factory and an enclosed premises rather than for

use on roads. These vehicles may be capable of being used on road but essentially, they are meant to be used as a special vehicle inside the enclosed premises or in the factory premises alone and not outside on the road. Even for reaching the factory premises, or the so-called enclosed premises they do not ply on road and are taken on tractors and trailers from the place of their manufacturing to the place of their deployment. The various certificates of the manufacturers and suppliers as well as those issued by the Automotive Research Association of India amply demonstrate that the aforesaid vehicles used by the appellant are special type of vehicles meant for use only within the factory premises or the enclosed premise. They are all off-road vehicles that do not ordinarily ply on roads. Since, they do not run on the roads, the manufacturers and suppliers do not even issue any certificate of road worthiness in respect of these vehicles. In short, the vehicles used by the appellants are special type of vehicles meant to be used as construction equipment vehicle within the enclosed premises and as such *ex-facie* stands excluded from the definition of the motor

vehicle as contained in Section 2 (28) of the Act, more particularly by virtue of the second part of the definition.

39. In view of the above, we can safely conclude that though the vehicles used by the appellant are "motor vehicles" within the first part of the definition under Section 2 (28) of the Act but they stand excluded from the definition of "motor vehicles" on account of their very nature of use and the place of the use by virtue of the second part of the definition.

40. There is another reason for excluding the above vehicles used by the appellant from the ambit of the motor vehicles. The Central Motor Vehicle Rules, 1989 framed under the Act *vide* Rule 2 (cab) defines "construction equipment vehicle" to mean rubber tyred, rubber padded or steel drum wheel mounted, self-propelled, excavator, loader, backhoe, compactor roller, dumper, motor grader, mobile crane, dozer, fork lift truck, self-loaded concrete mixture or any other construction vehicle or combination thereof designed for off-highway operations in mining, industrial undertaking, irrigation and general construction, modified and

manufactured with "on or off" or "on and off" highway capabilities.

41. In the light of the aforesaid definition, the vehicles used by the appellant though manufactured or modified for "on or off" or "on and off" highway capabilities are essentially construction equipment vehicles of special kind and are not simplicitor motor vehicles falling within the ambit of Section 2 (28) of the Act. They as such are special type of vehicles falling in the category of "construction equipment vehicles".

42. The charging Section i.e., Section 3 (1) of the Gujarat Tax Act itself provides that tax on all motor vehicles shall be levied and collected at the rate fixed by the State Government but not exceeding the maximum rate specified in the first, second and third Schedule of the Act. If we go to the first schedule to the Gujarat Tax Act, we find that against each type of motor vehicles maximum annual rate of tax has been specified. However, under Item (ii) of Item (f) under Item VI of the First Schedule, though we find mention of motor vehicles exceeding particular specification and/or any construction equipment vehicles but there is no corresponding rate of tax.

If the aforesaid entry in the Schedule I is read, it would demonstrate that the Schedule prescribes no rate of tax on construction equipment vehicles i.e., the vehicles as used by the appellant. Therefore, it can again be concluded that the vehicles used by the appellants are special type of vehicles which stand excluded from the definition of motor vehicles and, at the same time, being construction equipment vehicles, are not chargeable to tax. The Gujarat Tax Act itself does not provide for any rate of tax for collection of any tax from such vehicles.

43. It is for the above reason that the Ministry of Road Transport and Highways (MoRTH) had issued circular dated 13.07.2020 to clarify that vehicles as used by the appellants i.e., vehicles of special type or those used in construction activity, if are not being run on roads, do not qualify to be motor vehicles and regular registration. The said circular may not override the express provisions of law but nonetheless, is binding upon the departmental authorities as has been held in ***K.P. Varghese vs. ITO***[7] .

[7] (1981) 4 SCC 173

44. On a composite reading of Section 3 of the Gujarat Tax Act, the definition of motor vehicles under Section 2 (28) of the Act, the definition of construction equipment vehicles contained in Rule 2 (cab) of the Rules and Schedule I of the Gujarat Tax Act, it is crystal clear that the vehicles of the kind used by the appellant which are special vehicles i.e., construction equipment vehicles may be suitable for plying upon roads are essentially meant to be used in a factory or an enclosed premises and as such are not chargeable to tax under the Gujarat Tax Act. Even otherwise in view of the language employed in Entry 57 of List II of Seventh Schedule of the Constitution of India, no authority is authorized to levy or collect tax on vehicles which are not suitable for use on roads and have been designed for off-road use in factory or enclosed premises.

45. The view taken by us above finds full support from the three-Judge Bench decision of this Court ***Bolani Ores Ltd. vs. State of Orissa*** *(supra).* In the said case this Court was dealing with the definition of the motor vehicle as it existed in the Motor Vehicles Act of 1939 in reference to Bihar and

Orissa Motor Vehicles Taxation Act,1930. The "motor vehicle" was defined in Section 2(18) of the aforesaid Act which used the phrase "adapted for use upon roads". In the light of the said definition, this Court considered whether dumpers, rockers and tractairs are taxable under the Bihar and Orissa Motor Vehicles Taxation Act, 1930. This Court while considering the meaning of the words "adapted for use" observed that they must be construed as "suitable for use or in other words fit for use on road". This connotation was based upon Entry 57 of List II of the Seventh Schedule of the Constitution. It was held that in view of Entry 57 of List II of the Seventh Schedule of the Constitution, the power to impose tax on motor vehicles is regulatory and compensatory in nature and that the said power can be exercised to impose taxes on motor vehicles which use the roads in the State. This Court further observed that the vehicles such as dumpers, rockers and tractairs are though suitable for use on roads but in the light of the pleadings as they were used only within the enclosed premises specifically for the industrial purpose, they cannot be held liable for taxation. It was categorically

held that if a vehicle does not use the public roads, it cannot be taxed. It was also observed that if a vehicle merely moves from one place to another, it need not necessarily be a motor vehicle. It also holds that vehicles though registered under the Act as motor vehicles need not be subjected to tax if otherwise those vehicles do not ply on roads.

46. The vehicles used by the appellant undeniably are not used on roads and are not even kept for use on roads.

47. However, in the case of ***Natwar Parikh & Co. Ltd. vs. State of Karnataka & Ors.***[8] a three-Judge Bench of this Court without over ruling ***Bolani Ores Ltd.*** *(supra)* held that tractor-trailers used for transporting goods constitute a different category of "goods carriage" which requires permit under Section 66 of the Motor Vehicles Act. Therefore, in the absence of such a permit they are liable to tax under Section 3(2) of the Karnataka Motor Vehicles Taxation Act, 1957.

48. The aforesaid decision in the case of ***Natwar Parikh & Co. Ltd.*** *(supra)* has simply held that the "goods carriage" requires a permit under the Motor Vehicles Act and therefore,

[8] (2005) 7 SCC 364

they are "motor vehicles". However, it failed to consider whether the vehicles in question which are allegedly special type vehicles or construction equipment vehicles specially designed to be used in factory premises or in the enclosed premises and not on the public roads would be covered by motor vehicles. Therefore, the above decision has no application to the facts and circumstances of the present case.

49. A three-Judge Bench of this Court in ***Western Coalfields Limited vs. State of Maharashtra & Anr***.[9] simply referring to the earlier decisions of this Court in ***Natwar Parikh & Co. Ltd.*** *(supra)* held that excavators fall within the meaning of the definition of "motor vehicles" as contained in Section 2 (28) of the Act and therefore, would be liable for registration and payment of taxes.

50. Since, the decision in the case of ***Western Coalfields Limited*** *(supra)* is based upon ***Natwar Parikh & Co. Ltd.*** *(supra)* in holding that excavators fall within the meaning of definition of "motor vehicles" as contained in Section 2 (28)

[9] (2016) 11 SCC 613

of the Act and as such would be liable for registration and payment of tax but without going into the aspect whether such vehicles stands excluded from the definition of "motor vehicles" by virtue of second part of the definition contained under Section 2 (28) of the Act, it is of no use in the facts and circumstances of the case.

51. The decisions to the contrary cited at the Bar starting from ***Travancore Tea Estates Co. Ltd vs. State of Kerala & Ors.***[10]***, Union of India and Ors. vs. Chowgule and Co. Pvt. Ltd. & Ors.***[11]***, M/s Central Coal Fields Ltd. vs. State of Orissa & Ors.***[12]***, Chief General Manager, Jagannath Area & Ors.*** *(supra)****, Bose Abraham vs. State of Kerala & Anr.***[13]***, State of Gujarat & Ors.*** *(supra)* are all decisions of the different Division Benches of this Court. No doubt, they hold that vehicles used or kept for use on the public roads of the State are exigible to tax, and if they are not so used they can claim exemption but all these decisions fail to take into account the specific exclusion as contained in the second

[10] (1980) 3 SCC 619
[11] 1992 Supp (3) SCC 141
[12] 1992 Supp (3) SCC 133
[13] (2001) 3 SCC 157

part of Section 2 (28) of the Act which defines "motor vehicles". As stated earlier, the vehicles or the construction equipment vehicles used by the appellants are "motor vehicles" within the first part of the definition as contained in Section 2 (28) but they stand excluded by virtue of the second part of the said definition. This aspect of the matter has not been specifically considered by any of the above decisions. Moreover, all these decisions simply brushes aside ***Bolani Ores Ltd.*** (supra) without actually ruling it out on the ground that it relates to "motor vehicles" as defined under the old Act without realising that there was no material change between the definition of "motor vehicles" in the old or present Act.

52. If the principle laid down by the above decisions that vehicles either used or kept for use in the State irrespective of whether they are suitable for plying on roads or not or whether they are special type of vehicles meant to be used only in enclosed premises are subjected to tax is accepted, it will lead to an anomaly. It may be noted that aircrafts specially those belonging to Air Force are capable of landing on the highways and they can after taxing on the highway can also take-off

from there, and as such would be vehicles suitable for use on roads which will make them motor vehicles liable for registration under the Act and payment of road tax within the ambit of various State Acts. Similar would be the case with the tanks belonging to Army inasmuch as they are also suitable to ply on roads if necessary and keeping them for use within any State would attract their registration as motor vehicles liable to payment of tax. This cannot be the intention of the legislature in prescribing the definition of the motor vehicles under the Act and to impose tax thereupon. In this view of the matter, the principle laid down by the above decisions cannot be accepted and applied in an absolute form on all motor vehicles ignoring the distinction between normal motor vehicles and the motor vehicles of special kind such as heavy construction equipment or special type of vehicles which are meant to be used within a specified area and not on public roads.

53. One another decision in the case of ***Chairman, Rajasthan State Road Transport Corporation & Ors. vs. Santosh &***

Ors.[14] was cited. The said decision deals with the motorised cart *"Jugaad"* and it was held that it is a "motor vehicle" within the definition of Section 2 (28) of the Act and is exigible to road tax. The facts of the said case were quite distinct from the present case at hand in as much as in the said case the Court was only called upon to rule as to whether motorised cart *"Jugaad"* is a motor vehicle or not. The Court had not embarked upon to consider whether by virtue of its use it would stand excluded from the definition of the "motor vehicle". Therefore, the aforesaid decision is also of no use in the present case.

54. Contrary to the above, this Court recently in ***Tarachand Logistic Solutions Limited*** *(supra)* was called upon to decide whether the premises of Visakhapatnam Steel Plant, Andhra Pradesh, a corporate entity of Rashtriya Ispat Nigam Limited ('RINL') where the alleged special type vehicles were exclusively used constitute a "public place". This Court inter alia observed that if a motor vehicle is not used in a public place or is not kept for use in a public place and the person

[14] (2013) 7 SCC 94

concerned is not deriving any benefit from the public infrastructure, he should not be burdened with the motor vehicle tax.

55. In view of the aforesaid discussion specially considering the pleadings and the material on record, we are of the conclusive opinion that the vehicles used by the appellants are vehicles of special types, precisely construction equipment vehicles which are suitable and are meant for use for operation and use within the industrial area/factory premises/ defined enclosed premises and are not meant for use on roads or public roads. They are off-road equipments and as such stand excluded not only from the purview of the "motor vehicle" as defined under Section 2 (28) of the Act but also from tax as Entry 57 of List II of the Seventh Schedule of the Constitution only authorizes taxation of vehicles suitable for use on roads only. They are not even chargeable to road tax in view of Schedule I to Section 3 (1) of the Gujarat Tax Act which do not prescribes any tax for such kind of vehicles i.e., construction equipment vehicles. However, if any such kind of vehicles are found using roads, they would not be free from

the rigors of Section 2 (28) of the Act and Section 3 of the Gujarat Tax Act and may also be subject to proceedings for seizure and penalty in accordance with the law.

56. Accordingly, the impugned judgments and orders dated 15.07.2011 and 19.12.2012 passed by the High Court of Gujarat are set aside and the appeals are allowed with no order as to cost.

..... J.
(PANKAJ MITHAL)

..... J.
(PRASANNA B. VARALE)

NEW DELHI;
JANUARY 08, 2026.