IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.03.2015

CORAM:

The Honourable Mr. Justice S.VAIDYANATHAN

Writ Petition Nos.21109 & 13218 of 2014 &

M.P.Nos.1 of 2014

G.Arul Kumar .. Petitioner in WP No.21109 of 2014

G.Krishnakumar .. Petitioner in WP No.13218 of 2014

Vs.

The Government of Tamil Nadu,
Rep. by Secretary,
Transport Department,
Fort St.George, Secretariat,
Chennai-600 009.

The Transport Commissioner,
Office of the Transport Commissioner,
Govt.of Tamilnadu,
Chepauk, Chennai-600 005. ...1 and 2 Respondents in both the Writ petitions

The Regional Transport Authority,
Chennai (South),
No.47 & 49, Kaliamman Koil Street,
Sai Nagar, Virugambakkam,
Chennai-600 092. .. 3rd Respondent in W.P.13218/14

The Regional Transport Authority
Chennai (West)
No.1, Bharathidasan Colony
Mambalam taluk Office Complex
K.K. Nagar, Chennai-78 ...3rd Respondent in W.P.21109/14

Prayer: Writ Petition No.13218 of 2014 is filed under Article 226 of the Constitution of India, for the issuance of a writ of Mandamus, to forbear the third respondent from insisting on payment of life tax to the petitioner’s tourist vehicle bearing registration No.TN 10 AC 4858 Toyota Innova during the currency of the permit and accept the annual tax for the said vehicle for the year 2014-2015.

Writ Petition No.21109 of 2014 is filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, to call for the records relating to Letter No.D1/30670/2014, dated 27.5.2014, quash the same and consequently forbear the third respondent from insisting on payment of life tax to the petitioner's tourist vehicle bearing registration No.TN 09 BF 3820 Toyota Innova during the currency of the permit and accept the annual tax for the said vehicle.

For Petitioner : Mr.G.Vijayakumar in WP No.21109 of 2014
Mr.R.Srinivas in WP No.13218 of 2014

For Respondents : Mr.Gomathi Nayagam, AAG-III, Asst. by Mr.Dig Vijaya Pandian, AGP

COMMON ORDER

Aggrieved over the insistence of payment of life tax towards their vehicles bearing Nos. TN 10 AC 4858 and TN 09 BF 3820, the petitioners have come forward with the present Writ Petitions.

2. By Act 13 of 2012, Section 4(1-A) a of the Tamil Nadu Motor Vehicles Taxation Act 1974 has been amended, in and by which, in respect of the motor vehicles specified in Part-I of the Second Schedule, in Part-I of the Third Schedule, in Part-I of the Seventh Schedule and in Part-I of the Eighth Schedule, at the time of its registration, a life time tax shall be paid at the rates specified in Part-1 of the Second Schedule or in Part-I of the third Schedule or in Part-I of the Seventh Schedule or in Part-I of the Eighth Schedule, as the case may be, on a licence to be taken out for the life time of such vehicles; and in respect of the motor vehicles specified in Part-II of the Seventh Schedule, the registered owners of such vehicles shall pay life time tax at the rates specified therein either at the time of renewal of permit or during the currency of the existing permit. In cases where the registered owners of the motor vehicles opt to pay the life time tax during the currency of permit, they shall exercise their option before 31st day of March 2013 and shall pay the tax in either of the following manner:-

(i) in one lump sum after deducting the proportionate amount of tax already paid for the unutilized period of licence; or

(ii) in four equal annual instalments after deducting one-fourth of the proportionate amount of tax already paid for the unutilized period of licence in each such instalment.

3. In fact, challenging the validity of Sections 4 and 7 of the Tamil Nadu Motor Vehicles Taxation (Amendment) Act, 2012 (Act 13 of 2012) insofar as it relates to insistence of Lifetime Tax for

Transport vehicles covered under Part I and Part II of 7th Schedule and Part I of 8th Schedule, number of writ petitions had been filed by the various owners of Tourist Maxi Cab including the petitioners. This Court, by order, dated 30.10.2012 in W.P.Nos.15267 of 2012, etc., while dismissing the batch of Writ Petitions, has upheld the validity of Sections 4 and 7 of the Tamil Nadu Motor Vehicles Taxation (Amendment) Act, 2012 (Act 13 of 2012). Aggrieved by the same, the petitioners therein, have preferred appeals before the Hon'ble Apex Court and they were pending.

4. Be that as it may, now the grievance of the petitioner is that the third respondent has insisted upon them to switch over to life tax during the currency of permit and not accepting the annual tax. According to the learned counsel for the petitioners, switching over to payment of life tax is mandatory only at the time of renewal of permit and during the currency of the permit, the petitioners shall be permitted to pay annual tax. In support of their case, they relied upon a Circular No.19/2012, dated 6.8.2012 issued by the second respondent, in and by which, it has been specifically mentioned that switching over to life time tax for tourist motor cab is mandatory only at the time of renewal of permit. It is not in dispute that the petitioners have been paying the annual tax towards their vehicles till 2014 and the permit of their vehicles is valid till 1.11.2015 (WP 21109 of 2014) and 11.4.2016 (W.P.No.13218 of 2014).

5. A reading of the amendment Act 13/2012 of Tamil Nadu Motor Vehicles Taxation Act 1974, extracted above, it reveals that the registered owners of the vehicles which were specified in Part II of the Seventh Schedule were made to pay compulsorily life time tax at the rates specified therein, however, it may be either at the time of renewal of permit or during the currency of the existing permit. Therefore, the owners of the vehicles had two options that they can pay the life time tax either at the time of renewal of permit or during the currency of the existing permit. It is also revealed that in cases where the owners opt to pay the life time tax during the currency of permit, they have to exercise their option before 31st day of March, 2013 and should pay tax in one lumpsum or in four equal instalments. It is to be noted that the petitioners without exercising their option, had filed the writ petitions challenging the validity of amendment Act, which came to be dismissed by this Court upholding the validity of the amendment Act. Though as against the said order of this Court, appeals were preferred by the petitioners, it is to be noted that no interim stay was granted by the Hon'ble Apex Court. Therefore, now it has become mandatory for the petitioners to pay life time tax. However, taking note of the fact that since the petitioners had not exercised the option on or before 31.5.2013, it appears that they were insisted upon to pay life time tax by the authority without accepting to receive annual tax, which in my opinion, is unjustified. Admittedly, while making it mandatory for payment of life time tax by way of amendment Act 13 of 2012, the Government has clearly mentioned that such life time tax should be paid either at the time of renewal of permit or during the currency of the existing permit. It is no doubt true that the petitioners had not paid the life time tax during the currency of their existing

permit, then, it is implied that they have to mandatorily pay the life time tax at the time of renewal of permit. In fact, the Circular No.19/2012 issued by the second respondent, dated 6.8.2012 has also specifically clarified that switching over to life time tax for tourist motor cab is mandatory only at the time of renewal of permit.

6. For the above said reasons, I am of the view that the petitioners shall be permitted to pay annual tax instead of life time tax during currency of their permits. It is made clear that after expiry of their permit period, the petitioners shall pay life time tax.

7. Accordingly, these Writ Petitions are allowed, directing the third respondent to permit the petitioners to pay annual tax towards their tourist vehicles bearing Nos. TN 10 AC 4858 and TN 09 BF 3820 respectively without insisting upon payment of life time tax till the expiry of their permit period. However, it is made clear that since the petitioners have not opted to pay life time tax during the currency of their permits, while making payment of life time tax after expiry of their permits, they are not entitled for any deduction of proportionate amount of tax already paid by them by way of annual tax. No costs. Consequently, connected MPs are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

Suk

To

1. The Government of Tamil Nadu,
Rep. by Secretary,
Transport Department,
Fort St.George, Secretariat,
Chennai-600 009.

2. The Transport Commissioner,
Office of the Transport Commissioner,
Govt.of Tamilnadu,
Chepauk, Chennai-600 005.

3. The Regional Transport Authority,
Chennai (South),
No.47 & 49, Kaliamman Koil Street,
Sai Nagar, Virugambakkam,
Chennai-600 092.

4. The Regional Transport Authority
Chennai (West)
No.1, Bharathidasan Colony
Mambalam taluk Office Complex
K.K. Nagar, Chennai-78

1 CC TO Government Pleader, Sr. 12933
1 cc to Mr.R. Srinivas, Advocate, sr. 12696
1 cc to mr.G. Vijayakumar, Advocate, sr. 12697

W.P.NO.21109 & 12318 30443 OF 2014

AK (CO)

kk 19/3