IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.15128 to 15138 of 2015

S.R.S.Travels
Proprietor K.T.Rajasekar
No.65, Jogara Doddi
Bidadi Industrial Area
Ramanagara District .. Petitioner in W.P.Nos.15128, 15129, 15130,
Karnakata 15132, 15133, 15136 & 15138 of 2015

M.Sangeetha .. Petitioner in W.P.Nos.15131 & 15137 of 2015

N.P.Prabhu Raj .. Petitioner in W.P.Nos.15134 & 15135 of 2015

-vs-

The Transport Commissioner
Chepauk, Chennai .. Respondent in all the writ petitions

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the impugned circular of the respondent in R.No.A3/64992/2014 dated 19.12.2014, quash the same and further direct to accept the motor vehicles tax at par with the temporary permits for a period of 7 days or 30 days or 90 days in respect of the petitioners' contract carriage omni buses bearing Registration Nos.KA-42-9775, KA-42-A-1006, KA-42-8844, PY-01-CE-2165, KA-42-9559, KA-42-9024, KL-70-A-5199, KL-09-AA-2255, KA-42-9558, PY-01-CE-2164 & KA-42-8843 respectively, as per the Ninth Schedule of the Tamil Nadu Motor Vehicles Taxation Act.

For Petitioners :: Mr.S.Govindraman

For Respondent :: Mr.R.Lakshmi Narayanan
Government Pleader (Transport)

ORDER

These eleven writ petitions have been filed seeking a common prayer for issuance of a writ of certiorarified mandamus, to call for the records of the impugned circular dated 19.12.2014 passed by the respondent in R.No.A3/64992/2014, to quash the same with a further direction to the respondent to accept the motor vehicles tax at par with the temporary permits for a period of 7 days or 30 days or 90 days in respect of the petitioners' contract carriage omni buses bearing Registration Nos.KA-42-9775, KA-42-A-1006, KA-42-8844, PY-01-CE-2165, KA-42-9559, KA-42-9024, KL-70-A-5199, KL-09-AA-2255, KA-42-9558, PY-01-CE-2164 & KA-42-8843 respectively, as per the Ninth Schedule of the Tamil Nadu Motor Vehicles Taxation Act.

2. Mr.S.Govindraman, learned counsel for the petitioners in all matters submitted that the petitioners are the holders of contract carriage omni bus permits issued by Karnataka State, Union Territory of Puducherry and Kerala State respectively. By holding the permits issued by the respective State or Union Territory, they were plying their vehicles in the State of Tamil Nadu after obtaining special permits depending upon the usage of the vehicles in the State of Tamil Nadu for a period of 7 days, sometimes for 30 days or even for 90 days and for such usage, they are liable to pay tax to the State of Tamil Nadu as contemplated under the provisions of the Tamil Nadu Motor Vehicles Taxation Act, 1974 (hereinafter called as the ''Taxation Act''). Until 2012, the tax for other State contract carriage vehicles were collected as per the first schedule of the Taxation Act depending upon the period of usage of vehicles in the State of Tamil Nadu, however, in the very same year, the State of Tamil Nadu brought an amendment in the Taxation Act under Sections 3, 4 and 6 and inserted the same under the ninth schedule. In addition thereto, the tax has been prescribed for contract carriage omni buses from other State permits covered under Section 88(8) and 88(9) of the Motor Vehicles Act, 1988 prescribed in column (c) of the ninth schedule, as follows:-

(i)	If the temporary licence is for a period not exceeding 7 days	Rs.600.00 per seat or berth per entry
(ii)	If the temporary licence is for a period exceeding 7 days, but not exceeding 30 days	Rs.1,500.00 per seat or berth per entry
(iii)	If the temporary licence is for a period exceeding 30 days, but not exceeding 90 days	Rs.3,500.00 per seat or berth per entry

In view of the aforesaid amendment to the Taxation Act inserting ninth schedule, the members of the petitioner-Association or the petitioners, as the case may be, are liable to pay tax for each and every entry, as the tax is per entry into the State of Tamil Nadu. Aggrieved by the said amendment, Writ Petition No.22011 of 2012 was moved before this Court seeking a declaration to declare the amendment as null and void and the said writ petition is pending consideration. One another Writ Petition No.33581 of 2014 challenging the vires of Act 13 of 2012 is also pending consideration. In the meanwhile, the respondent issued a circular to his subordinates in R.No.A3/64992/2014 dated 19.12.2014 by making a reference to the evasion and collection of tax by his officials at Poonamallee check post and on that basis instructions were issued to his subordinates that the tax should be paid for other State vehicles only at border check post. One another instruction was also given to his subordinates that even if the special permits of other State vehicles are valid for more than 7 days, an enquiry should be made with the passengers and on the statement of passengers the officials had any doubt, the tax should be collected for a period of 7 days only. Under this background, similar writ petitions came to be filed stating that when the petitioners therein were are all holders of contract carriage omni bus permits issued by Union Territory of Puducherry for a period of 7 days or 30 days or 90 days, as the case may be, the respondent cannot issue the circular to his subordinates not to accept the tax for more than 7 days, although the petitioners were having permits valid even for 30 days or 90 days. Agreeing with the grievance of the petitioners that they would be put to great prejudice, this Court in W.P.Nos.13378 to 13383 of 2015 by order dated 30.4.2015 issued a direction to the respondent to collect tax as prescribed under the ninth schedule depending upon the validity of permit i.e., for 7 days or 30 days or 90 days without restricting the period to 7 days or lesser period. In the present writ petitions, since the petitioners are all the holders of contract carriage omni bus permits issued by Karnataka State, Union Territory of Puducherry and Kerala State respectively, he prayed for a similar direction in these cases also.

3. Mr.R.Lakshmi Narayanan, learned Additional Government Pleader takes notice on behalf of the respondent.

4. This Court, while considering a similar prayer in W.P.Nos.13378 to 13383 of 2015, by order dated 30.4.2015, issued a direction to the respondent to collect one time tax as prescribed under the ninth schedule and the relevant portion of the said order reads as under:-

> ''6. In the present case also, depending upon the temporary permit granted, the respondent is directed to collect one time tax as prescribed under ninth schedule, depending upon the period of permit. It is made clear that if the petitioner is granted 30 days permit, the tax should be collected for 30 days. If the temporary permit is granted for 90 days, it is needless to mention that the respondent shall collect the temporary tax for 90 days. For, there is no provision to restrict the licence period from 30 days to 7 days or lesser.''

5. In view of the above order, these writ petitions are also disposed of on similar lines by directing the respondent to collect

one time tax, as prescribed under the ninth schedule, depending upon the period of permit, from the petitioners. It is made clear that if the petitioners are granted 30 days permit, the tax should be collected for 30 days. If the temporary permit is granted for 90 days, it is needless to mention that the respondent shall collect the temporary tax for 90 days only, because there is no provision to restrict the licence period from 30 days to 7 days or lesser period. Consequently, M.P.Nos.1 & 2 of 2015 are closed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

ss

To

The Transport Commissioner
Chepauk, Chennai

11 ccs to M/s. S. Govindaraman, Advocate, Sr. 26765
1 cc to Government Pleader, sr. 26866

W.P.Nos.15128 to 15138 of 2015

NM (CO)
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