IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2015

CORAM

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.7227 of 2015
and
M.P.No.1 of 2015

Sambandam Siva Textiles (P) Limited
rep.by its Director S.Devarajan
Kattuvepilaipatti
Seshanchavadi PO
Salem 636 111. ...Petitioner

vs

The Regional Transport Officer
Regional Transport Office
Attur. ...Respondent

Petition filed under Article 226 of the Constitution of India, praying this Court for the issuance of a Writ of certiorari to call for the records relating to the order No.46357/A3/2014 dated 20.01.2015 passed by the respondent.

For Petitioner : Mr.T.Padmanabhan

For Respondents : Mrs.M.E.Rani Selvam
Additional Government Pleader

ORDER

The petitioner has come forward with the above writ petition seeking to quash the order passed by the respondent dated 20.01.2015.

2. It is the case of the petitioner that the petitioner-firm is having one Swaraj Mazda private vehicle for the purpose of carrying and dropping their office staff by having valid permit. According to the petitioner the said permit is valid upto 28.12.2019. However, by the impugned order, the respondent has demanded a sum of Rs.17,232/-

towards additional tax for the above vehicle for the period from 01.04.2012 to 31.03.2013.

3. Learned counsel appearing for the petitioner submitted that the petitioner has paid the annual tax for the vehicle on 24.04.2012. However, the Government of Tamil Nadu has enhanced the tax per seat from Rs.150/- to Rs.500/- with effect from 01.04.2012, which was published in the Tamil Nadu Government Gazette only on 21.04.2012. Hence, the petitioner paid the difference in tax amount as early as 18.07.2012 before the demand has been raised by the respondent. Even then, the respondent by the impugned order dated 20.01.2015 has imposed penalty.

4. Learned counsel further submitted that there was no time limit prescribed in the Government order for payment of the difference in tax amount and the petitioner was not given any opportunity of hearing before imposing the penalty by way of the impugned order. He would also submit that the same has been imposed after a period of three years. Accordingly, he would pray for setting aside the impugned order passed by the respondent.

5. Learned Additional Government Pleader appearing for the respondent by relying upon the provisions of Section 8 and 15 of the Tamil Nadu Motor Vehicles Taxation Act submitted that it is a matter pertaining to Revenue and that they have got powers under Section 15A of the Act to recover the tax, which has escaped assessment. Accordingly, she would pray for the dismissal of the writ petition.

6. I have heard the submissions made on either side and perused the materials available on record.

7. A perusal of the impugned order would show that it is not an order passed by the respondent for escaped assessment. The petitioner, on its own volition has paid the difference in tax amount as per the Government Gazette issued on 21.04.2012, which was revised with effect from 01.04.2012 as early as 18.07.2012 even without a demand being raised by the respondent. When that being the position, the action of the respondent in imposing penalty, without affording an opportunity of hearing the petitioner, is incorrect. It is further seen that the petitioner has paid the difference in tax amount within a period of three months from the date of paying the original tax amount, which was paid on 24.04.2012. However, the respondent has imposed the penalty by way of the impugned order, after a period of three years.

8. When the respondent has stated that the petitioner has not given any reason for not paying the amount within the time and there is a delay of three months, equally, the respondent has also not given any valid reason for passing the impugned order of penalty after a period of three years.

9. For all the above stated reasons, the impugned order is liable to be set aside and accordingly, it is set aside. The matter is remitted back to the authority concerned for considering the case of the petitioner afresh after affording an opportunity of hearing the petitioner and also taking note of the fact that the petitioner on its own volition, without even a demand being made by the respondent, has paid the difference in tax amount.

10. With the above observation, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vj2

To

The Regional Transport Officer
Regional Transport Office
Attur.

1 CC to Mr.T.Padmanabhan, Advocate SR.No. 17380

1 CC to the Government Pleader, SR.No. 17338

W.P.No.7227 of 2015

VGI (CO)
PSI (10.04.2015)