IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.20717 of 2014
Date of Decision: 11.3.2015

The Jind Vandana Co-operative Transport Society Ltd. Jind and others

…..Petitioners

versus

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR. S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. H.S.Sawhney, Sr. Advocate with Mr. Raj Kaushik, Advocate for the petitioners.

Ms. Mamta Singla Talwar, AAG Haryana.

S.J. VAZIFDAR, ACTING CHIEF JUSTICE: (Oral)

1. The petitioners have challenged the following communication addressed by the Finance Department, Govt. of Haryana to Principal Secretary to Govt. Haryana, Transport Department.

> "Finance Department observes that the cost of a road-worthy bus ranges from 5.00 lacs to 12.00 lacs. Nobody can afford to keep an expensive asset like a bus idle without utilizing. It is, therefore, be presumed that every registered commercial vehicle was being used for commercial purposes. As such, no exemption from road tax is justified. Such exemption can be considered only in the situations like bus having met with an accident and for that reason being detained by police etc. the plea of the bus owners/permit holders that they did not operate the bus cannot be accepted. It is also observed that the recommendations of the RTA Jind that these buses did not operate, it not supported by any proof. In such circumstances, the proposal of the Administrative Department is declined."
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> A.D's both files bearing No.705 and 709 dated 21.08.2014 are returned herewith in original."

2. The petitioners had earlier been granted exemption under the Punjab Motor Vehicles Taxation Act, 1924 and the Rules made thereunder of the year 1925. The

petitioners contend that the communication is illegal on various grounds.

3. It is not necessary to quash or set aside the communication as we do not consider it to be an order at all. It appears to be only an advisory, suggestion and at the highest the view of the Finance Department. The same can never be binding on any Authority much less any adjudicatory Authority. It was not even contended that any Tribunal or Authority under the Act would be bound by the views expressed therein. It would always be open to the respondents to raise contentions in accordance with what is stated in the impugned communication. It would be equally open to the petitioners to contend otherwise. The Authority deciding any dispute would be bound to consider the submissions on their own merits without being bound in any manner by the impugned communication.

4. The respondents contend, however, that an order has now been passed under Section 17 (3)(4) of The Haryana Motor Vehicles Taxation Act, 2013. We do not wish to express any opinion regarding the validity of the order as that is a separate cause of action. The petitioners must adopt independent proceedings to challenge the same.

5. The petition is accordingly disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

11.3.2015
Meenu

(G.S.SANDHAWALIA)
JUDGE