

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:01.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.17096 of 2016

M/s.Sethumeena Roadways
Rep.by its Proprietor
Mr.P.S.Sethuraman,
Office at 248, Kilpauk Garden Road,
Chennai-10.

..PETITIONER

Vs.

The Transport Commissioner
Transport Department
Ezhilagam, Chepauk
Chennai-600 005.

..RESPONDENT

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of mandamus to direct the Respondent to dispose of the representation dated 28.03.2016 submitted by the petitioner herein within a time frame fixed by this Court and take appropriate action in implementing the above notification dated 07.01.2016 by Ministry of Road Transport and Highways which was communicated by National Highways Authority of India in Circular No. NHAI/CO/03/2016 dated 06.02.2016 in granting tolerance upto five percent in the gross vehicle weight and safe axle weight as specified above may be allowed for the purpose of compliance to sub-section (3) of section 113 of the Motor Vehicles Act 1988 (59 of 1988).

For Petitioner : Mr.T.K.S.Gandhi

For Respondent : Mr.R.Lakshmi Narayanan
Addl.Govt. Pleader

O R D E R

Heard Mr.T.K.S.Gandhi, learned counsel appearing for the petitioner and Mr.R.Lakshmi Narayanan, learned Additional Government Pleader, accepting notice on behalf of the respondent and with the consent of learned counsel appearing on either side, this writ petition is taken up for final disposal.

2.The petitioner is a proprietor of a Transport Organisation, who owns fleet of vehicles and in this Writ Petition, he seek for issuance of a writ of mandamus to direct the respondent-Transport Commissioner to implement the Notification issued by the Ministry of Road, Transport and Highways dated 07.01.2016, which has been communicated by the National Highways Authority of India by Circular dated 06.02.2016 in Circular No.NHAI/ CO/03/2016.

3.The petitioner would state that though their concern own several Tipper Lorries which were registered before the concerned Regional Transport Officers and copies of the Registration Certificates have been filed in the typed set of papers, by relying upon the Notification issued by the Government of India dated 07.01.2016, submits that for the purpose of the said Notification, the tolerance upto 5% in the gross vehicle weight and safe axle weight as specified above may be allowed for the purpose of compliance of section 113(3) of the Motor Vehicles Act, 1988 [Act 59 of 1988]. Therefore, the petitioner seeks the benefit of such Notification, for which purpose, he made a representation to the respondent on 28.03.2016. In the said representation, while referring to the notification issued by the Government of India, the petitioner has requested permission to implement the same to their loading routine.

4.The representation given by the petitioner is to the Transport Commissioner and in my view, the Transport Commissioner would not be readily aware of the particulars with regard to the unladen weight of the vehicle, as those aspects have to be verified only by the Registering Authority before whom the vehicles have been registered.

5.Therefore, at the first instance, the petitioner has to approach the concerned Registering Authority by way of a representation, enclosing the necessary documents and it is for the concerned Registering Authority to take appropriate action on such representation and in this regard, the Registering Authority shall also call for appropriate clarification from the respondent-Transport Commissioner.

6.It is seen that all the vehicles owned by the petitioner for which representations have been made, were registered before the Registering Authority at Kumbakonam. Therefore, the petitioner is directed to give a representation to the said Registering Authority along with the copy of the order.

7.In the light of the above, liberty is given to the petitioner to submit representations to the concerned Registering Authority along with the copy of the order, who on receipt of the same, shall consider and pass appropriate orders on merits and in accordance with law and taking note

of the observations in the preceding paragraphs. The above direction be complied with by the concerned Registering Authority viz. Registering Authority at Kumbakonam, within a period of four weeks from the date of receipt of the representation along with a copy of this order.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is dismissed.
rpa

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Transport Commissioner
Transport Department, Ezhilagam,
Chepauk , Chennai-600 005.

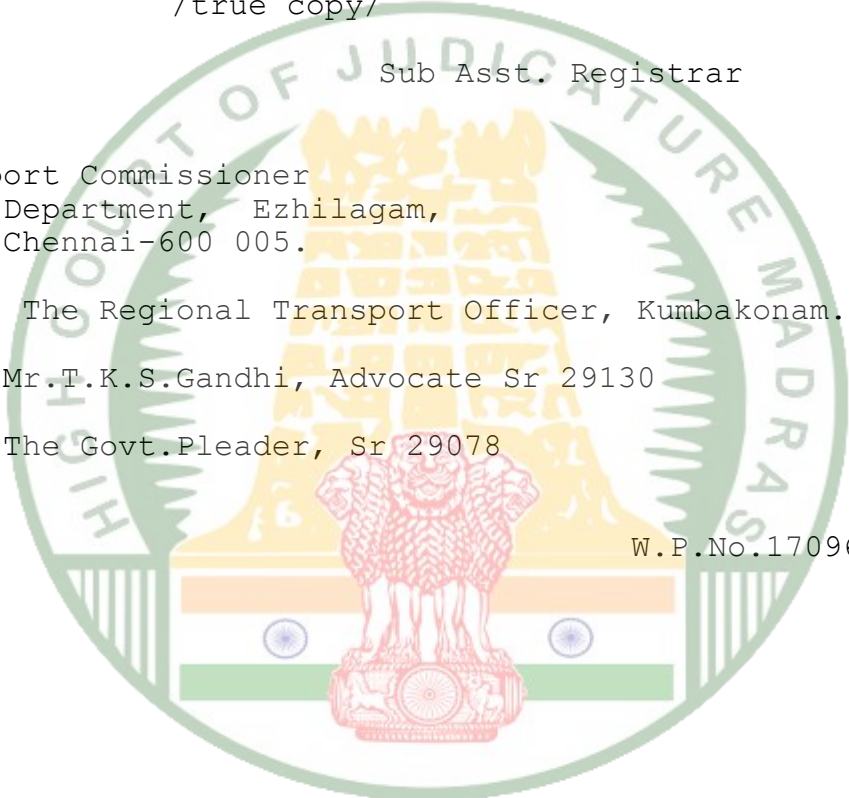
COPY TO :- The Regional Transport Officer, Kumbakonam.

+ 1 cc to Mr.T.K.S.Gandhi, Advocate Sr 29130

+ 1 cc to The Govt.Pleader, Sr 29078

KR/7/6/16

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