

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.17865 of 2016 &
WMP No.15558 of 2016

The Branch Manager
Tamilnadu State Transport Corporation (Salem) Ltd,
Thirupattur Depot, Thirupattur. [PETITIONER
]

Vs

The Secretary
Regional Transport Authority
Vellore 9. [RESPONDENT]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of a Writ Of Certiorarified mandamus to call for the records of the respondent in R.No.5491/A3/16, dated 28.01.2016, returning the application for the stoppage of the bus bearing No.TN29 N 1554 and the consequential show cause notice/demand Notice R.No.20440/A1/2016 dated 28.03.2016, and to quash the same as illegal and consequently direct the respondent to accept the application submitted by the petitioner dated 19.04.2016, for stoppage of the vehicle without any further condition and to refund the Tax paid for the period from 01.12.2015 to 31.12.2016.

For Petitioner : Mr.P.Paramasiva Doss

For Respondent : Mr.A.Zakkir Hussain
Government Advocate

O R D E R

Heard Mr.P.Paramasiva Doss, learned counsel for the petitioner and Mr.A.Zakkir Hussain, learned Government Advocate for the respondent. With the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for final disposal.

2.The petitioner is the Tamil Nadu State Transport Corporation (Salem) Limited and they have come forward with this Writ Petition, challenging the demand issued by the respondent calling upon them to pay the tax in the quarter ending 31.03.2016, in respect of the Stage Carriage Permit granted to them for the vehicle TN 29 N 1554.

3.The petitioner's case is that the vehicle has been stopped from 30.11.2015, since the vehicle was in such a bad condition and the petitioner Corporation decided to condemn the vehicle.

4.It is true that the Application was filed only on 28.01.2016. Therefore, the issue to be considered is, as whether the vehicle was actually stopped from 30.11.2015. If it is established that the vehicle had been stopped, then the respondent cannot take a hyper technical stand and state that merely because the Application was given later, the Corporation is liable to pay the quarterly tax for the period ending 31.03.2016. In the Application submitted by the petitioner, the Regional Transport Officer, has made an endorsement on 28.01.2016, while returning the Application. In the said written endorsement, the Regional Transport Officer accepted the fact that the vehicle has been stopped from 30.11.2015.

5.In such circumstances, the petitioner cannot be non-suited merely on the ground that their Application was submitted on 28.01.2016. This observation is made considering the peculiar facts and circumstances of the case and taking note of the fact that the petitioner is a State owned Transport Corporation. However, this observation cannot be treated as a precedent for any other case. While on this issue the Court is inclined to point out that the Transport Corporation are not in a position to even to comply with the interim orders granted, where this Court has directed to pay wages to the employees under section 17-B of the Industrial Disputes Act, 1947. Further, the Transport Corporation is not able to pay pension to the retired employees, who have worked for the Corporation for over thirty years and they have approached this Court and sought payment of pension in instalments.

6.Thus, considering the peculiar facts and circumstances of the case and taking note of the fact that the Regional Transport Officer has accepted that vehicle was stopped from 30.11.2015, the Writ Petition is allowed, demand is quashed and the endorsement made by the Regional Transport Authority for returning the Application, is set aside and the Application is directed to be re-presented by the petitioner Corporation and if Application is re-presented, the

same shall be approved by the Regional Transport Officer. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpa

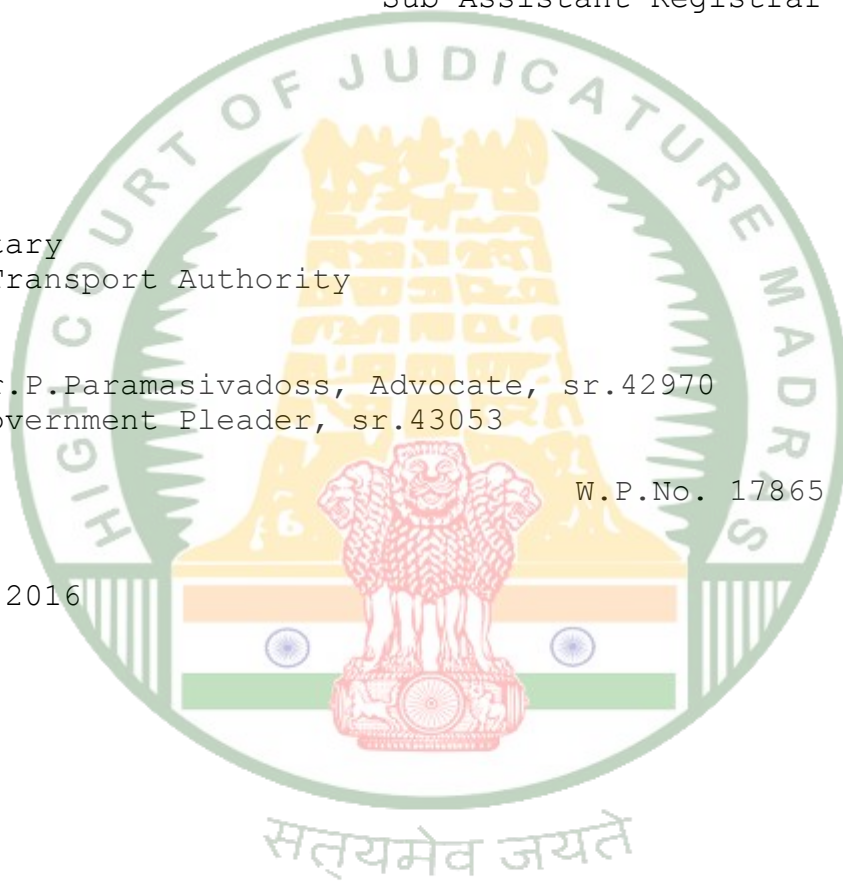
To

The Secretary
Regional Transport Authority
Vellore 9.

1 cc to Mr.P.Paramasivadoss, Advocate, sr.42970
1 cc to Government Pleader, sr.43053

W.P.No. 17865 of 2016

bvr co
kra 16.08.2016



WEB COPY