IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 31.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30358 of 2016

S.Raji. .. Petitioner

Versus

The Regional Transport Officer,
Tiruvarur. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus forbearing the Respondent herein from demanding the authorisation Tax of Rs.17,600/- as authorisation fee vide A.Thi.Mu.No.21355/A2/16, dated 22.08.2016 for the period from 30.11.2015 to 30.11.2016 for accepting the surrender of National Permit in respect of Petitioner's Goods Carrier Lorry No. TN-50-J-8634.

For Petitioner : Mr. A.Ganesan
For Respondent : Mr. K.J.Sivakumar, GA

O R D E R

Heard Mr.A.Ganesan, learned counsel appearing for the petitioner and Mr.K.J.Sivakumar, learned Government Advocate, who accepts notice for the respondent. By consent of the learned Counsel appearing for both sides, the Writ Petition is taken up for final disposal, at the admission stage itself.

2. The petitioner was granted Goods Carriage National Permit by the respondent in respect of the vehicle bearing registration no. TN-50-J-8634. The permit was valid up to 30.11.2016 and the authorisation to ply throughout the territory of India was valid upto 30.11.2015. Since the vehicle did not go outside the State of Tamil Nadu, after 30.11.2015, the petitioner did not renew the authorisation beyond the said date. On account of the financial loss, the petitioner now decides to sell the vehicle and surrenders the permit and has approached the respondent by way of application dated 18.08.2016 and the said application has been returned by the respondent, with an endorsement that the petitioner has to pay the authorisation fee upto the date of surrender.

3. The petitioner's case is that, as the authorisation to ply the vehicle throughout the territory of India was not renewed beyond 30.11.2015, the question of demanding the authorisation fee, till the date of surrender, does not arise.

It is not disputed by the learned Government Advocate that this issue was considered by this court in several cases and one such case is, S.Jaganathan vs. The Regional Transport Officer, W.P.No.26068 of 2014, dated 30.10.2014. That apart, there is a circular issued by the Transport Commissioner in circular no.36/2001 dated 03.09.2001, wherein, among other things, it has been stated that there may not be any need to collect composite tax where the authorisation expired. In the said circular, all Regional Transport Officers, were requested to accept the surrender of permit and renewal of authorisation in respect of goods carriage covered by National permits, without insisting the proof of payment of tax and payment of composite tax if authorisation expired.

4. In the light of the above referred to decision and the circular of the Transport Commissioner, dated 03.09.2001, the impugned endorsement made by the respondent on the petitioner's application has to be held unsustainable. Accordingly, this writ petition is allowed and the impugned endorsement made by the respondent is set aside and the petitioner is directed to re-present the application, which shall be considered by the respondent, without insisting upon the payments of authorisation fee of Rs.16,500/- and fee of Rs.1,100/-. The above direction shall be complied within a period of three weeks from the date of receipt of copy of this order. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To
The Regional Transport Officer,
Tiruvarur.

+1 cc to Mr.A.Ganesan,advocate,sr.49888

+1 cc to Govt.Pleader,sr.49790.

rj(co)
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