IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2016

CORAM

THE HONOURABLE **MR.JUSTICE K.KALYANASUNDARAM**

W.P.Nos.3312 to 3316 of 2016
and
W.M.P.Nos.2716 to 2725 of 2016

S.R.S.Travels,
Rep. by its Prop. K.T.Rajashekar,
No.65, Jogaradoddi,
Bidadi Industrial Area,
Ramnagar Taluk,
Bangalore Rural District,
Karnataka. ... Petitioner
in all the writ petitions

Vs.

1.The Transport Commissioner,
Chepauk,
Chennai 600 005.

2.The Regional Transport Officer,
Hosur.

3.The Motor Vehicles Inspector,
Hosur Check Post,
Hosur.

4.The Regional Transport Officer,
Ooty.

5.The Motor Vehicles Inspector,
Gudalur Check Post,
Gudalur,
Ooty. ... Respondents
in all the writ petitions

Writ Petitions filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus to call for the records of the impugned Circular of the respondent in R.No.A3/64992/2014, dated 19.12.2014 and to quash the same and further direct the respondents herein to accept the Tax at par with the temporary permits for a period of 7 days or 30 days or 90 days in respect of the petitioner's Contract Carriage Omni Bus bearing Registration Nos.KA.42.6869, KA.42.9256, KA.42.9486, KA.42.9560 and KA.42.A.1001 as per the Ninth Schedule of the Tamil Nadu Motor Vehicles Taxation Act.

In all the Writ Petitions:

For Petitioner : Mr.S.Govindraman

For Respondents : Mr.A.Raja Peruma,
Government Advocate

COMMON ORDER

The petitioners, being the holder of Contract Carriage Omni Bus permits granted by the State of Karnataka in respect of vehicle Nos.KA.42.6869, KA.42.9256, KA.42.9486, KA.42.9560 and KA.42.A.1001 respectively, were plying their vehicles in the State of Tamil Nadu by obtaining special permits depending on the usage of vehicles in the State of Tamil Nadu for a period of 7 days or 30 days or 90 days. As they have to pay tax to the State of Tamil Nadu as contemplated under the provisions of Tamil Nadu Motor Vehicles Taxation Act, 1974 (in short "Act"), learned counsel appearing for the petitioner submitted that until 2012, the tax for other State Contract Carriage Vehicles were collected as per the first schedule of the Taxation Act depending upon the period of usage of the vehicles in the State of Tamil Nadu. Subsequently, in the year 2012, the State of Tamil Nadu brought an amendment to Sections 3, 4 and 6 of the Taxation Act, 2012, called as Act No.13 of 2012, and inserted Ninth Schedule, under which the tax has been prescribed for Contract Carriage Omni Buses from other State permits covered under Sub-Sections (8) or (9) of Section 88 of the Motor Vehicles Act, 1988, prescribed in Column (C) of Schedule Nine, which is as follows:-

(i) If the temporary licence is for a period not exceeding 7 days	Rs.600/- per seat or berth per entry
(ii) If the temporary licence is for a period exceeding 7 days, but not exceeding 30 days	Rs.1500/- per seat or berth per entry
(iii) If the temporary licence is for a period exceeding 30 days, but not exceeding 90 days	Rs.3,500/- per seat or berth per entry

Aggrieved by the above, members of the petitioner Association filed a writ petition in W.P.No.21011 of 2012 praying to declare the amendment as null and void, however, the same is pending before this Court. One another writ petition also filed in W.P.No.33581 of 2014 challenging the vires of Act 13 of 2012 and the same is also pending before this Court.

2. In the above said background, it is the grievance of the petitioners that this Court, in a similar and identical circumstances, by order dated 05.02.2015, made in W.P.No.2798 of 2015, disagreeing with the approach adopted by the respondent, held that the respondent has no authority to collect the tax to his whims and fancies. On that score, he sought for allowing the writ petitions.

3. Heard the learned Government Advocate appearing for the respondents.

4. In an earlier occasion, when a similar issue came up before this Court for consideration, this Court, by order dated 30.04.2015 in W.P.Nos.13378

to 13383 of 2015, has held as follows:

> *" 6. In the present case also, depending upon the temporary permit granted, the respondent is directed to collect one time tax as prescribed under ninth schedule, depending upon the period of permit. It is made clear that if the petitioner is granted 30 days permit, the tax should be collected for 30 days. If the temporary permit is granted for 90 days, it is needless to mention that the respondent shall collect the temporary tax for 90 days. For, there is no provision to restrict the licence period from 30 days to 7 days or lesser."*

By following the above said order, this Court directs the respondent to collect one time tax as prescribed under ninth schedule, depending upon the period of permit. It is made clear that if the petitioner is granted 30 days permit, the tax should be collected for 30 days and if it is for 90 days, then the respondent shall collect the tax for 90 days. Needless to mention that the respondent shall collect tax for a period of 30 days or 90 days as the case may be, since there is no provision to restrict the licence period from 30 days to 7 days or lesser.

5. With the above said direction, all the writ petitions stand disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

29.01.2016

cla

Index:yes/no
Internet:yes/no

To
1.The Transport Commissioner,
Chepauk,
Chennai 600 005.

2.The Regional Transport Officer,
Hosur.

3.The Motor Vehicles Inspector,
Hosur Check Post,
Hosur.

4.The Regional Transport Officer,
Ooty.

5.The Motor Vehicles Inspector,
Gudalur Check Post,
Gudalur,
Ooty.

K.KALYANASUNDARAM, J

cla

W.P.Nos.3312 to 3316 of 2016

29.01.2016