

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.35174 of 2016 &
WMP No.30285 of 2016

K.Aruloli

.. Petitioner

..Vs..

1.The Transport Commissioner
Transport Department
Ezhilagam, Chepuak,
Chennai 600 005.

2.The Regional Transport Officer
Regional Transport Office
Paranur Village, Chennai Highway
Chengalpet - 603 002.

3.The Assistant Registration Officer
Regional Transport Office
Chengalpet.

.. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records from the Office of the third respondent and quash the impugned order passed by the third respondent herein dated 03.08.2016 in Na.Ka.No.33194/A2/2016.

For Petitioner : Mr.Baskar

For Respondents : Mr.K.J.Shivakumar
Government Advocate

O R D E R

Heard Mr.Baskar, learned counsel for the petitioner and Mr.K.J.Shivakumar, learned Government Advocate accepting notice on behalf of the respondents and also heard Mr.Suresh Kumar, Regional Transport Officer/R2, who is present in Court. With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for disposal.

2.The petitioner has come forward with this Writ Petition challenging the order passed by the third respondent dated 03.08.2016.

3.The petitioner's contention is that at the time when the petitioner purchased the Harvester, he has paid a sum of Rs.292/- towards Tax for the period from 18.11.2009 to 17.11.2010 and that was the tax amount which has to be collected from the petitioner while issuing the duplicate Registration Certificate.

4.This Court first called upon the second respondent to demonstrate as to whether the petitioner's vehicle is entitled for exemption, as it was represented that the Tractors and Tractor Trailer are given exemptions.

5.Today, Mr.Suresh Kumar, Regional Transport Officer/second respondent is present in Court and produced the Original Exemption Register from payment of tax and from which it is seen that only for the Tractors, exemptions have been granted and not to Harvester. The Screen Shot of the report of the vehicles also have been produced, which show that the concerned vehicle owners have paid the annual tax as fixed for their Harvesters. Thus, it is clear that the vehicle in question does not enjoy exemption as on date.

6.Therefore, the petitioner has to necessarily pay the tax as demanded by the respondents. The respondents have given a Calculation Sheet, from which it is seen that the total amount payable by the petitioner is Rs.71,600/-, which includes penalty and fine.

8.The learned counsel for the petitioner submitted that the penalty should not be imposed on the petitioner.

9.However, this submission is not tenable because penalty is automatic and statutory. However, considering the fact that the amount of Rs.292/- was collected as yearly tax for the period from 18.11.2009 to 17.11.2010, this Court is inclined to grant relief to the petitioner in respect of demand of tax for the period from 01.04.2010 to 31.03.2011 alone. Therefore, from the

total payment due, the respondents should deduct Rs.3,500/- as well as Rs.875/- towards penalty and Rs.50/- towards penalty and the total amount payable by the petitioner is Rs.66,575/- [Rs.71,000/- (-) Rs.4425= Rs.66,575/-].

10.The learned counsel for the petitioner submitted that reasonable time may be granted to the petitioner to pay the amount.

11.The petitioner is granted four weeks time to pay the above mentioned amount of Rs.66,575/-. If the said amount is paid, the respondents shall issue the Duplicate Registration Certificate to the petitioner.

The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

rpa

To

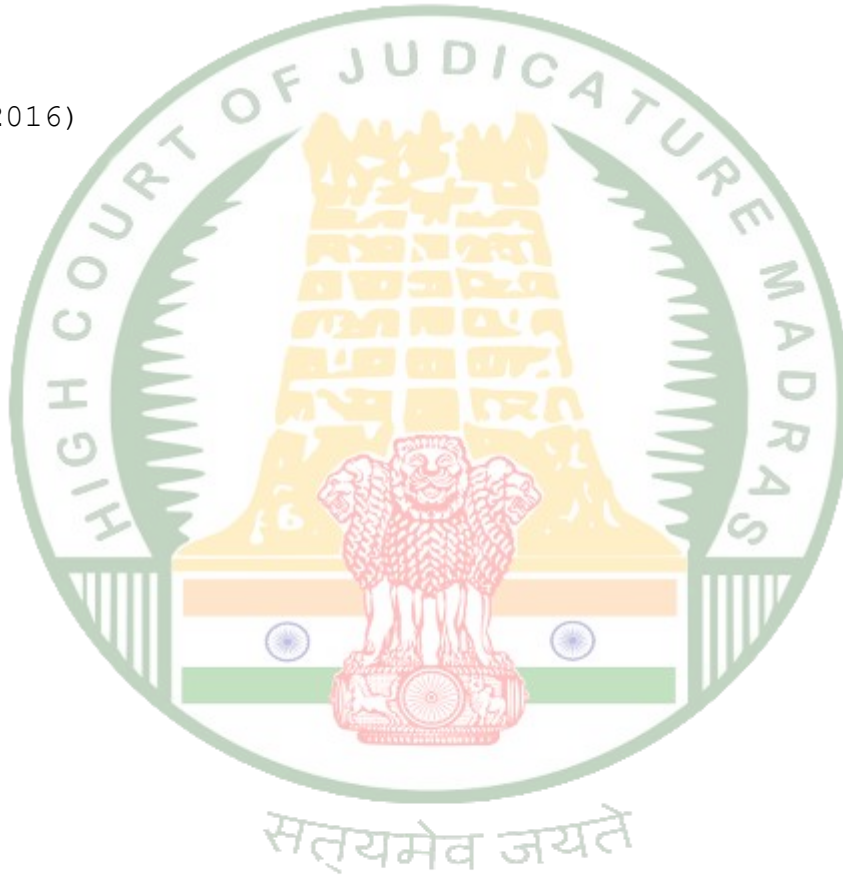
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+1cc to Mr.Kumar and Baskar, Advocate, S.R.No.68130
+1cc to the Government Pleader, S.R.No.69169

W.P.No.35174 of 2016

SR(CO)
MA(28/12/2016)



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