



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2016

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal (MD) No.40 of 2016

and

C.M.P (MD) Nos.320 and 321 of 2016

N.Rajendran

... Appellant

Vs.

1.The District Collector cum
Regional Transport Authority,
Madurai District,
Madurai.

2.The Regional Transport Officer,
Madurai (North),
Madurai.

3.The Regional Transport Officer,
Pudukottai,
Pudukottai District.

4.The Motor Vehicle Inspector Grade I,
Regional Transport Office
Pudukottai.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 29.12.2015 made in W.P.(MD)No.23581 of 2015.

Prayer in WP(MD). 23581/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a WRIT OF CERTIORARI calling for the records pertaining to the Impugned Demand Notice in Memo R.No...79391/A2/2015 dated 03.12.2015 passed by the 2nd Respondent and quash the same as illegal without Jurisdiction.

For Appellant

: Mr.A.C.Asaithambi

For Respondents

: Mr.B.Pugalendhi

(R1 to R4)

Special Government Pleader.

JUDGMENT

(Judgment of the Court was delivered by **V. RAMASUBRAMANIAN, J**)

The appellant whose writ petition challenging an order of the learned Judge has come up with the above appeal.



2. Heard Mr.A.C.Asaithambi, learned counsel for the appellant.

3. The appellant has four stage carriage permits to ply four mini buses within Madurai District. He also has one spare bus permit which he is supposed to operate when one of those four buses break down.

4. However, the officials of the Transport Department intercepted the spare bus and alleged that it was plying as a contract carriage from Madurai to Thanjavur. Therefore, by an order dated 03.12.2015, the authorities directed him to pay a tax amount of Rs.75,000/- calculated at the rate of Rs.3000/- per seat, per quarter, as per Clause 2 - Item II (b) of the First Schedule read with Section 11 of the Tamil Nadu Motor Vehicles Taxation Act, 1974. Challenging the said order, he filed a writ petition but the same was dismissed on the ground of availability of alternative remedy. Hence, the appellant is before us.

5. The main ground of attack is that the respondents have no jurisdiction. But as rightly observed by the learned Judge, the same is a point that can be taken before the appellate authority. The question of jurisdiction that the appellant raises does not go to the root of the matter. Hence, the refusal of the learned Judge to entertain a petition under Article 226 of the Constitution cannot be found fault with. Therefore, the writ appeal is dismissed. However, in view of the fact that the order impugned in the writ petition was dated 03.12.2015 and the appellant had come up with a writ petition within 30 days (on 22.12.2015) and the same was dismissed by an order dated 29.12.2015, the period from 22.12.2015 upto 07.01.2016, the date of issue of a copy of the order of the learned Judge requires to be excluded in the computation of the period of limitation. Moreover, the appellant immediately filed a writ appeal on 11.01.2016 and we have dismissed it today. Therefore, the period from 22.12.2015 upto the date of issue of a copy of this order shall stand excluded while computing the period of limitation. On the very day on which the appellant files an appeal, the appellate authority is directed to release the vehicle so that the vehicle does not suffer any damage, subject to the appeal being in order. Office is directed to return the original order that was filed along with the writ petition while issuing a copy of this order. No costs. Consequently, C.M.P(MD)Nos.320 and 321 of 2016 are closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/



1.The District Collector cum
Regional Transport Authority,
Madudrai District,
Madurai.

2.The Regional Transport Officer,
Madurai (North),
Madurai.

3.The Regional Transport Officer,
Pudukottai,
Pudukottai District.

4.The Motor Vehicle Inspector Grade I,
Regional Transport Office
Pudukottai.

5.The Section Officer,
ER & VR Section, Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.A.C.Asaithambi,Advocate Sr No.2094

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