

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.36961 of 2004

Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Salem
rep. by its Managing Director ... Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary to Govt.
Home (Transport) Department
Fort St. George
Chennai - 9
2. The Transport Commissioner
Chepauk, Chennai - 5
3. The Regional Transport Officer
Salem
... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the proceedings of the first respondent dated 03.02.2004 in Letter 2(D) No.63 and consequential order of the 3rd respondent dated 13.05.2004 in Letter No.47834/E3/2004 and quash the same.

For Petitioner : M/s.R.K.Gandhi

For Respondents : M/s.M.Lalitha
Government Advocate for R1 to R3

O R D E R

Heard Mr.R.K.Gandhi, learned counsel for the petitioner and Ms.M.Lalitha, learned Government Advocate appearing for the respondents.

2.The petitioner is the Tamil Nadu State Transport Corporation, Salem Division and they are aggrieved by the

communication sent by the first respondent and a consequential communication of the third respondent by which the first respondent clarified that 4% rebate is not applicable to the surcharge and Section 10(A) (1) and (2) of the Tamil Nadu Motor Vehicles Taxation Act, 1974 does not contemplate granting of rebate to the surcharge payable by the stage carriages.

3. According to the petitioner, they have paid the taxes in time and there is no late payment and the first respondent has overlooked the circular dated 13.09.1996 and the recommendations of the second respondent dated 22.10.2003. Further, the first respondent ought to have seen that the provisions of the Tamil Nadu Motor Vehicles Taxation Act and the rules prescribed thereunder relating to levy of tax mutandis mutandis will apply for surcharge.

4. This Court admitted the writ petition and ordered only notice in the stay petition.

5. Further, the learned counsel for the petitioner submits that as of now the provisions of payment of surcharge itself has been rescinded. By efflux of time and no useful purpose will be served in keeping the matter pending and it would be suffice to direct the first respondent to consider the petitioner's representation dated 04.06.2004, wherein they have sought for waiver. The period for which the waiver is sought is only from 01.04.2003 to 31.03.2004.

6. Accordingly, the first respondent is directed to consider the petitioner's representation dated 04.06.2004 and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. Till then, no action shall be taken against the petitioner for recovery of the amount due.

The writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa
To

1. The Secretary to Govt.
Home (Transport) Department
Fort St. George
Chennai - 9

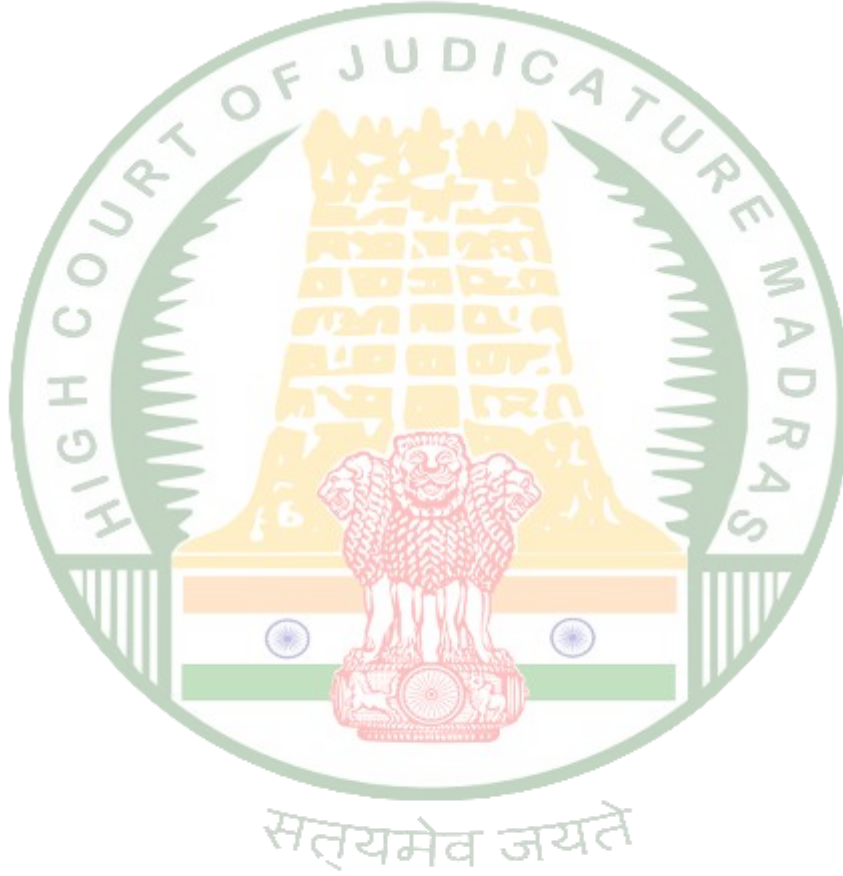
2. The Transport Commissioner
Chepauk, Chennai - 5

3. The Regional Transport Officer
Salem

+1cc to MR.R.K.Gandhi, Advocate SR.No.51856

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GN(08/08/2017)



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