IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2017

CORAM

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.36300 of 2002

Thirukumaran Infrastructure P. Ltd.,
rep. By its Managing Director
Ravindran
...Petitioner

-Vs-

The Regional Transport Officer,
Kanyakumari. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the respondent in Se.Mu.No.11795/A1/02, dated 23.07.2002, quash the same.

For Petitioner : Mr.S.Y.Masood
For Respondent : Mr.A.Zakir Hussian, GA

O R D E R

The prayer sought for in this writ petition is for a writ of Certiorari calling for the records of the respondent in proceedings No. Se.Mu.No.11795/A1/02, dated 23.07.2002 and quash the same.

2.I have heard Mr.S.Y.Masood, learned counsel for the petitioner and Mr.A.Zakir Hussain, learned Government Advocate appearing for the respondent.

3. The petitioner claims that it is the owner of the goods vehicle (lorry) with Registration No.TN-74-Z-9628 and the said vehicle was purchased in the year 2000. The respondent issued registration certificate on 04.05.2000. The validity of the permit issued to the said vehicle was only up to 07.05.2005.

4.The petitioner however claimed that it had been regularly paying road tax for the said vehicle and due to ill health of the Managing Director of the petitioner, the road tax was not paid for the quarter from April 2002. In view of the non payment of the road tax, the vehicle was impounded by the respondent on 15.07.2002 without notice to the petitioner and the vehicle was taken away and kept in police custody.

5. It is further claimed by the petitioner that after discharge from the hospital, the tax was paid on 02.08.2002 for a sum of Rs.2,929/-. Further, the respondent has cancelled the licence/permit through the impugned order dated 23.07.2002. Challenging the same, the present writ petition has been filed.

6.Mr.A.Zakir Hussain, learned Government Advocate has produced the written instructions dated 22.11.2002, issued by the respondent where the following has been given:

> One Thiru. P. Ravindran, Managing Director, M/s. Thirukumaran, Infrastructure Pvt. Ltd., East Street, Padmanapuram, Thuckalay is the owner of the Goods Vehicle TN-74-Z-9628 and the vehicle was issued with Goods Carriage permit valid upto 07.05.2005. The tax in respect of the Goods Vehicle has not been paid from 01.04.2002. The stoppage of the said vehicle has also not been informed with due fee as per rule 254 of T.N.M.V.Rules 1989. A show-cause notice to remit the tax and penalty and calling for explanation why the permit should not be cancelled was also sent in this office memo.10504/A1/02, dated 06.06.2002. Even though the permit holder has received the memo on 22.06.2002, he has neither remitted the tax nor sent any explanation. Hence, it was construed that he is no longer in need of the permit and hence the permit of the vehicle was cancelled by the R.T.A., Kanniyakumari District w.e.f. 30.06.2002. It is against this orders this appeal is preferred."

7.Mr.A.Zakir Hussain, learned Government Advocate would further states that, road tax was not paid for the quarter from April 2002 by the petitioner, therefore, a notice was issued on 22.06.2002 to the petitioner, which was received by the petitioner and despite the same, neither the petitioner had responded to the said notice nor it came forward to pay the road tax which was due. Moreover, since the permit was admittedly lapsed on 07.05.2005 itself and the road tax was also not paid, the authorities had impounded, as the vehicle could not be permitted to ply on road without permit as well as without having paid the road tax. Therefore, the impugned order, impounding the said vehicle has been issued, based on the aforesaid factual matrix and therefore, the same cannot be found fault with.

8. However, the learned counsel for the petitioner by relying upon the averments made in the affidavit filed in support of the writ petition submits that, the petitioner has subsequently paid the road tax for the quarter from April 2002 on 02.08.2002.

9. I have heard the learned counsel on both sides and perused the materials placed before this court.

10.Though it was claimed by the petitioner through the affidavit averments that belatedly it had paid the tax for the quarter from April 2002, on 02.08.2002, it was ascertained by the respondent through the written instructions dated 22.11.2002 that the petitioner had not come forward to pay the road tax inspite of notice having been issued and received by it on 22.06.2002. The said assertion made by the respondent through his instructions dated 22.11.2002 has already been extracted herein above.

11. Since the respondent has maintained that the petitioner has neither paid the road tax in compliance of the notice issued to them nor it come forward to report that the vehicle has been stopped from plying in public road, the action taken by the respondent through the impugned order, as has been rightly pointed out by the learned Government Advocate, cannot be faulted with.

12. Though it was claimed through the affidavit that the tax was belatedly paid on 02.08.2002, no proof has been filed by the petitioner before this court except the affidavit averments, when the said averments has been stoutly denied by the respondent counsel based on the written instructions, it cannot be presumed that the petitioner had paid the tax, though belatedly.

13. In view of the above factual background, this Court finds no infirmity or illegality in the order impugned passed by the respondent. Hence, no interference is required from this Court on the said impugned order. Accordingly, the writ petition fails and hence, dismissed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

smi

To

1. The Regional Transport Officer,
   Kannyakumari.

+1 CC to Govt. Pleader sr 86360.

W.P.No.36300 of 2002

SP(27/12/2017)