IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :10.07.2019
CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No.41257 of 2005
and
W.P.M.P.No. 44302 of 2005

St. Paul Matriculation Higher Secondary School,
Rep. by its Correspondent,
Vellichandai, Palacode Taluk,
Dharmapuri District,
Pin Code - 636 808.
..Petitioner

vs

The Regional Transport Officer,
Dharmapuri - 5. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Certiorari, calling for the records relating to the impugned order passed by the respondent herein in Ku.Ka.No. 274641-Aa4-2005 dated 15.11.2005 and quash the same.

For Petitioner : Mr.Rajan
For Respondent : Mr.J.Ramesh
Additional Government Pleader

O R D E R

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent herein in Ku.Ka.No.27464-Aa4-2005 dated 15.11.2005 and to quash the same.

2. The case of the petitioner school is that they purchased a second hand bus bearing Registration No. TAD 1155 on 01.12.1999. Whilieso, the respondent passed an impugned order directing the petitioner school to pay the new tax as per the amendment act and therefore, the petitioner challenged the difference of tax amount sought by the respondent. However, the very same issue was covered by the Division Bench of this Court in a decision in batch of Writ Petitions in W.P.Nos. 19466 of 2003 etc., dated 15.11.2006, wherein Section 4 (1-A) (a)

introduced by the TNA Act 27 of 98 as amended by T.N.Act 13 of 2003 by substituting schedule III part I of the T.N.MV Taxation Act 1974 was challenged and the relevant paragraph No. 20, is extracted hereunder:

> "20. We find no merit in the contention advanced by the petitioner that by charging the same rate to the educational institution vehicles and the private service vehicles, the State has violated Article 14 of the Constitution. As observed by the Supreme Court in M.Krishnappan's case, cited supra, levy is a constitutional concept, whereas collection of a tax as well as incidence of tax comes within the statutory measure. The mode of collection or the incidence of tax cannot be the conclusive test to decide the nature of the levy. The nature of the levy is a concept different from the mode of collection of tax. Levy is a constitutional concept whereas mode of collection of tax is a statutory concept. They stand on different footings. Secondly, it is important to remember that a tax is generally imposed by reference to economic activities or transactions which exist in the real world. When an economic activity is to be valued, it is open to the law maker to take into account various factors including the paying capacity of the user, the value of the vehicle, the economic life of the vehicle etc. It is for the Legislature to decide on what objects to levy what rate of tax and it is not for the Courts to consider whether some other objects should have been taxed or whether a different rate should have been prescribed for the tax. It is also to be noted that the Legislature is competent to classify persons or properties into different categories and tax them differently, and if the classification thus made is rational, the taxing statute cannot be challenged merely because different rates of taxation are prescribed for different categories of persons or objects."

3. Though the petitioner challenged the amount of tax sought by the respondent, it appears that based on the Act, the respondent has issued the impugned order demanding differential tax from the petitioners. The said act was challenged before the

Division Bench of this Court and this Court upheld the validity of the Act. In view of the above, This Court cannot interfere with the impugned demand.

4. In view of the above decision, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

kmm

To

The Regional Transport Officer,
Dharmapuri District-5

+1cc to Government Pleader sr.58613

W.P.No. 41257 of 2005

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nr 24/09/2019