BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.04.2019**

CORAM
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
W.P.(MD).No.10545 of 2019

Tvl.Abi Associates,
rep., by its Proprietor,
3rd Floor, Padma Tower,
43, Covai Road,
Karur 639 002 ... Petitioner

-vs-

1) The State Transport Authority,
Transport Department,
Ezhilagam,
Chennai.

2) The Regional Transport Officer,
The Regional Transport Office,
Madurai (South).

3) A.Venkatesan ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the 2nd respondent herein to release the Omni Bus bearing registration No. TN58 AH 6217 on receipt of the outstanding tax arrears of Rs.6,22,000/- and consequently direct the 1st respondent to re-issue permit in favour of the petitioner.

For Petitioner: Mr.P.Gunasekar Muthiah

For RR 1 & 2 : Mr.N.Shanmugaselvam,
Additional Government Pleader

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O R D E R

The instant writ petition has been filed for a Mandamus to direct the second respondent to release the omni bus bearing registration No. TN58 AH 6217 on receipt of the outstanding tax arrear of Rs.6,22,000/- and consequently direct the 1st respondent to re-issue permit in favour of the petitioner.

2. It is the case of the petitioner that the third respondent has availed loan from them and the aforesaid vehicle has been hypothecated by the third respondent in favour of the petitioner. It is their case that the third respondent committed default in repayment of loan to the petitioner. Apart from default in repayment of loan, the third respondent has also not paid the road tax payable to the first and second respondents for the aforesaid vehicle.

3. The second respondent by his letter dated 26.07.2018 has intimated the petitioner, who is the Financier that a sum of Rs.6,00,000/- as tax arrears is payable for the aforesaid vehicle. The petitioner by his representation dated 01.02.2019 to the second respondent has intimated their willingness to pay a sum of Rs.6,22,000/- as tax arrears which is payable by the third respondent, on condition that the aforesaid vehicle is returned to them. But despite the receipt of the said representation, till date, there is no response from the first and second respondents. In such circumstances, the instant writ petition has been filed.

4. Heard Mr.P.Gunasekar Muthiah, learned counsel for the petitioner and Mr.N.Shanmugaselvam, learned counsel for the respondents 1 and 2.

5. As seen from the letter dated 26.07.2018 sent by the second respondent, the petitioner is the Financier for the Omni bus bearing Reg No. TN58 AH 6217. Admittedly, the third respondent, who is the borrower had not paid the road tax for the aforesaid vehicle to the second respondent and a sum of Rs.6,22,000/- is payable by the third respondent as road tax arrears to the second respondent as seen from the representation dated 01.02.2019 sent by the petitioner to the second respondent. Further, as seen from the letter dated 26.07.2018 sent by the second respondent to the petitioner, it can be confirmed that the petitioner is the Financier for the aforesaid vehicle. The petitioner, in his affidavit, filed in support of the writ petition has expressed his willingness to pay the road tax arrears for the aforesaid vehicle as demanded by the second respondent, on condition that the aforesaid vehicle is returned to the petitioner. It is also evidenced in the letter dated 01.02.2019 sent by the petitioner to the second respondent.

6. In view of the above, this Court is of the considered view that no useful purpose will be served if the aforesaid vehicle is allowed to be retained by the second respondent. Instead, the second respondent will have to be directed to return the vehicle to the petitioner if the petitioner satisfies all the requirements as per the Motor Vehicles Act, 1988.

7. In the result, the second respondent is directed to release the Omni bus bearing Reg No.TN 58 AH 6217 within a period of two (02) weeks from the date of receipt of a copy of this order, on receipt of the entire outstanding tax arrears as well as other

charges admitted in accordance with law, satisfying the second respondent with supporting documents to establish that they are the Financier for the vehicle and the third respondent is the borrower, who has defaulted in the repayment of loan, within a period of two (02) weeks from the date of receipt of a copy of this order. With the aforesaid directions, the **Writ Petition is disposed of.** No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS II)

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To

1) The State Transport Authority,
Transport Department,
Ezhilagam,
Chennai.

2) The Regional Transport Officer,
The Regional Transport Office,
Madurai (South).

1 CC to M/s.P.GUNASEKAR, Advocate (SR-63284[F] dated 27/04/2019)

Order made in
W.P.(MD).No.10545 of 2019

27.04.2019

DS/ /SAR- (30.04.2019) 3P 4C