BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.2175 of 2014
and M.P(MD)Nos.1 to 3 of 2014

Mrs.Angelin Selvaraj ... Petitioner

Vs.

The Regional Transport Officer,
Regional Transport Office,
Tirunelveli District (AT),
Tirunelveli 0 627 007. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari calling for the records relating to the proceedings of the impugned order dated 20.01.2014 in No.32496/A2/2013 on the file of the Respondent and quash the same.

For Petitioner :Mr.G.Prabhu Rajadurai
For Respondent :Mr.S.Angappan
Government Advocate

O R D E R

The writ petitioner seeks certiorari quashing order dated 20.01.2014 passed by the Regional Transport Officer (in short 'the impugned order').

2. The impugned order levies tax, penalty at 100% of the tax, fine and compounding charges. The proceedings relate to an Omni Bus bearing Registration No. TN-72-AJ-9777 purchased under a hire purchase agreement with the Tamilnadu Mercandile Bank. Admittedly, quarterly tax for the period ending 30.04.2013 was payable. The petitioner pleads that the vehicle suffered extensive repair and hence could not be plied on account of which he suffered heavy loss and could not comply with the required statutory payment of tax. The vehicle was seized on 14.06.2013. The State Transport Authorities by order dated 24.09.2013, after issuing show cause notice to the petitioner, have cancelled the contract carriage permit granted to the petitioner.

3. As far as the impugned order is concerned, there is no flaw as regards imposition of tax, fine and compounding charges and this is admitted by the petitioner. He only assails the imposition of penalty on the ground that he was not put to notice prior to such imposition.

4. The provisions of Section of the Tamilnadu Motor Vehicles Taxation Act, 1974, no doubt, provide for the imposition of penalty, but the quantification thereof is to range between 50% to 100% of the tax due.

5. I am of the view that prior to imposition of penalty the defaulter should have put on notice and a conclusion as regards percentage of penalty to be imposed, should have been taken by the Assessing Officer only after hearing the defaulter.

6. Though a counter has been filed by the respondent, it would only serve to support the contention of the petitioner to the effect that no prior show cause notice has been issued in regard to the penalty imposed.

7. In the light of the above, the imposition of penalty alone under order dated 20.01.2014 is quashed. The levy of tax, fine and compounding fee are left untouched.

8. This writ petition is disposed in the above terms. No costs. Consequently connected miscellaneous petition are closed.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

CM

To,
The Regional Transport Officer,
Regional Transport Office,
Tirunelveli District (AT),Tirunelveli 0 627 007.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-75767[F] dated 17/07/2019)

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