IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.16775 & 16776 of 2013
and
W.M.P.Nos.1 & 1 of 2013

Sukumar ... Petitioner in W.P.No.16775 of 2013

S.Alfred ... Petitioner in W.P.No.16776 of 2013

vs.

1.Regional Transport Officer,
Transport Department,
Salem (West).

2.Motor Vehicles Inspector,
Grade I,
Transport Department,
Salem West. ... Respondents in both W.Ps.

Prayer in W.P.No.16775 of 2013: Writ Petition is filed under Article 226 of the Constitution of India, writ of Certiorarified Mandamus, to call for the records relating to the impugned notice of the first respondent in Na.Ka.No.8619/C3/2012 dated 06.06.2013 relating to the petitioner and bus bearing the registration No. TN 27 J 5400 and quash the same and direct the first respondent herein to conduct an enquiry, ascertain the fact and the liability as per section 7 of the Tamilnadu Motor Vehicles Taxation Act in accordance with and as directed in the common order and Judgment dated 20.02.2013 of the Division Bench of this Court in Writ Appeal Nos.1442 and 1443 of 2011.

Prayer in W.P.No.16776 of 2013: Writ Petition is filed under Article 226 of the Constitution of India, writ of Certiorarified Mandamus, to call for the records relating to the impugned notice of the first respondent in Na.Ka.No.8619/C3/2012 dated 06.06.2013 relating to the petitioner and bus bearing the registration No. TN 27 J 4707 and quash the same and direct the first respondent herein to conduct an enquiry, ascertain the fact and the liability as per section 7 of the Tamilnadu Motor Vehicles Taxation Act in accordance with and as directed in the common order and Judgment dated 20.02.2013 of the Division Bench of this Court in Writ Appeal Nos.1442 and 1443 of 2011.

For Petitioners (in both W.ps) : Mr.A.Satyaseelan

For Respondents (in both W.Ps) : Mr.R.P.Prathap Singh Government Advocate

COMMON ORDER

By this common order, both the writ petitions are being disposed. This is the 2nd round of writ petitions on the subject. Both the petitioners were the owners of bus bearing registration No.T.N. 27-J 5400 and TN. 27 J 4707 respectively. The petitioners had obtained all India permit at the time of registration of the respective vehicles.

2.It is the contention of the respective petitioners that they had sold the bus to one Krishnan of Salem on 16.4.1998 who inturn transferred the buses to one Sheik Abdullah. It is the contention of the petitioners that the said Sheik Abdullah signed agreements dated 30.03.2001 with the petitioners undertaking not only to transfer the registration but also permit to his name. He also undertook to pay and discharge all the tax liability under the provisions of the Tamil Nadu Motor Vehicle Taxation Act, 1974.

3.Since the said Sheik Abdullah failed to transfer the registration and the permit the petitioners were issued with notice has demanding arrears of tax under the provisions of the Tamil Nadu Motor Vehicles Taxation Act, 1974. The demands were challenged by the respective petitioners before this court in W.P.No. 16563-64 of 2004.

4.These writ petitions were disposed by a common order dated 12.3.2008 directing the respondents to collect tax from the said Sheik Abdullah. Though the said Sheik Abdullah was represented by a counsel, it appears no meaningful submissions were made before the learned single judge who passed the order in the above writ petitions. After considering the Section 7 of the Tamil Nadu Motor Vehicles Taxation Act, 1974, the learned single judge directed the respondents herein to recover the tax from the said Sheik Abdullah.

5.Aggrieved by the said order, the said Sheik Abdullah filed WA.No. 1442 and 1443 of 2011 before a Division Bench of this Court. The Honourable Division Bench of this Court by its order dated 20.02.2013 remitted the case back to the respondents herein to pass a fresh order after issuing notice not only to the petitioner's herein but also to the said Sheik Abdullah considering the bonafide shown by the said Sheik Abdullah by depositing 50% of the amount demanded and considering the fact that the vehicles had been seized.

6.While disposing the appeal, the court also directed the respondents to consider the question of possession apart from applicability of section 7 of the Tamil Nadu Motor Vehicles Taxation Act, 1974 and complete the exercise within a period of eight weeks from the date of receipt of the said order. Under these circumstances, the respondents have issued notices dated 15.4.2013 followed by another demand/reminder dated 6.6.2013.

7.I have heard the learned counsel for the petitioners and the respondent. The order that has been issued to the petitioners are non-speaking orders. They have straightaway demanded amounts from the petitioners even though the respondent was directed to consider the representation of the petitioners and the said Shaik Abdullah and pass appropriate orders.

8.Since the respective demand notices have been issued without proper compliance of the order dated 20.2.2013 of the Division Bench of this Court in W.A.Nos 1442-43 of 2011, I am inclined to quash the impugned demand notices and remit the cases back to the respondent to pass a fresh order on merits after discussing the liability of the petitioners and that of the said Sheik Abdullah.

9. The 1^{st} respondent is therefore requested to pass an appropriate order in the respective cases within a period of 30 days from date of receipt of this order, strictly in compliance of the directions of the division bench in its order dated 20.2.2003. These writ petitions stand allowed with the above observation. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar

/true copy/
Sub Asst. Registrar

jas/kkd

To
1.The Regional Transport Officer,
Transport Department,
Salem (West).

2.The Motor Vehicles Inspector,
Grade I,
Transport Department,
Salem West.

+1 cc to M/s.K.Kuppusamy Advocate sr7166
+1 cc to Government Pleader sr7236

rr(co)
aa13/05/2020