IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 17661 of 2016
and
W.M.P. No. 15351 of 2016

Sumathi Raajesh ...Petitioner

-vs-

The State Transport Authority,
Chepauk,
Chennai - 600 005. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondent and his subordinates to receive the motor vehicle tax in advance to the state of Tamil Nadu for 7 days / 30 days / entire quarter as and when voluntarily tendered by the Petitioner for using the vehicle bearing registration No. PY-01-CL-9199 to ply in Tamil Nadu road without obstruction.

For Petitioner : Mr. R.Srinivasalu for Mr. R.Natesan

For Respondent : Mr. N.Inbanathan,
Additional Government Pleader

O R D E R
(through video conference)

Heard Mr. R.Srinivasalu, Learned Counsel appearing for the Petitioner and Mr. N.Inbanathan, Learned Additional Government Pleader appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is brought to notice that the Division Bench of this Court in Pondicherry Contract Carriage Owners' Association -vs- State of Tamil Nadu [(2016) 4 MLJ 237] has declared the expression 'per entry' appearing along with the rate of tax

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indicated in the second column of the Ninth Schedule to the Tamil Nadu Motor Vehicles Taxation Act, 1974 (hereinafter referred to as the 'Act' for short), as against clause (c) therein covering contract carriages of omni buses as ultra vires and unconstitutional. The relevant statutory provision, for the sake of immediate reference, is extracted below:-

" NINTH SCHEDULE

(See sections 3 and 6)

Contract carriages in respect of which temporary licence is issued:-

....

(c) Omni bus including sleeper coach in respect of which permit is granted under sub-section (8) or (9) of section 88 of the Motor Vehicles Act, 1988:-

| | | |
|---|---|---|
| (i) | If the temporary licence is for the period not exceeding 7 days; | Rs. 600.00 per seat or berth per entry. |
| (ii) | If the temporary licence is for a period exceeding 7 days but not exceeding 30 days; | Rs. 1500.00 per seat of berth per entry. |
| (iii) | If the temporary licence is for a period exceeding 30 days but not exceeding 90 days; | Rs. 3500.00 per seat or berth per entry. |

The Petitioner, who owns omni bus bearing Registration No. PY 01 CL 9199 (hereinafter referred to as 'omni bus' for short) which is stated to be operated as a contract carriage in the State of Tamil Nadu, has filed this Writ Petition for directing the Respondent to receive motor vehicle tax for the said omni bus as and when voluntarily tendered by the Petitioner in advance for the period of a week or a month or a quarter depending on the validity of the permit.

3. It would necessarily follow as a natural consequence of the aforesaid authoritative pronouncement which holds the field that once the Petitioner has remitted the entire amount of tax due for the specified period and holds valid permit, the Respondent cannot require the Petitioner to pay further amount as tax for every entry of the said omni bus into the State of Tamil Nadu till the end of that period, and there shall be an order of restraint against the Respondent in that regard.

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In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions is closed. No costs.

s/d
Assistant Registrar

True Copy

Sub-Assistant Registrar

dm/vjt

To

The State Transport Authority,
Chepauk,
Chennai - 600 005.

+cc to Government Pleader, Advocate, SR.No.42481

W.P. No. 17661 of 2016

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