IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2020

CORAM

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

W.P. No. 17830 of 2016
and
W.M.P. No. 15511 of 2016

D.Maran ...Petitioner

-vs-

1. The State of Tamil Nadu,
   Rep. by its Secretary to Government,
   Home (Transport) Department,
   Chennai.

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

3. The Motor Vehicles Inspector,
   Multi-purpose Check Post,
   Zuzuwadi, Hosur,
   Krishnagiri District.

4. The Motor Vehicle Inspector,
   Multipurpose Check Post,
   K.G. Chavadi,
   Coimbatore.

5. The Motor Vehicle Inspector,
   Multipurpose Check Post,
   Kalakaveli,
   Nagercoil.

6. The Motor Vehicle Inspector,
   Multipurpose Check Post,
   Tiruchidrambalam, Tindivanam.

7. The Motor Vehicle Inspector,
   Multipurpose Check Post,
   Poonamallee,
   Chennai.

8. The Motor Vehicle Inspector,
   Multipurpose Check Post,
   Gummidipoondi.

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9. The Motor Vehicle Inspector,
   Multipurpose Check Post,
   Kumili.

10. The Motor Vehicle Inspector,
    Multipurpose Check Post,
    Sengottai. ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the Respondents from collecting Motor Vehicle Tax per entry in respect of Petitioner's contract carriage bearing Registration No. PY-01/CD-8889, when once the motor vehicles tax as prescribed in the Schedule has been paid for a week or a month or a quarter depending on the validity of the permit.

For Petitioner : Mrs. Radha Gopalan
For Respondents : Mr. N.Inbanathan,
Additional Government Pleader

O R D E R
(through video conference)

Heard Mrs. Radha Gopalan, Learned Counsel for the Petitioner and Mr. N.Inbanathan, Learned Additional Government Pleader appearing for the Respondents 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 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:-

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| | | |
|---|---|---|
| (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 CD 8889 (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 forbearing the Respondents from collecting motor vehicle tax for the said omni bus after the prescribed tax has been paid 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 Respondents 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 Respondents in that regard.

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

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vjt

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To

1. The Secretary to the Government of the Tamil Nadu,
   Home (Transport) Department,
   Chennai.

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

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3. The Motor Vehicles Inspector,
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+1cc to M/s.S.Radha Gopalan, Advocate, S.R.No.42441
+1cc to the Government Pleader, S.R.No.42486

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