IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.06.2020
CORAM
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
W.P.No.18909 of 2018
and
W.M.P.No.22294 of 2018

N.Sampath Kumar,
S./o.L.Nanjappa,
No.235, EWS-CPTB,
HUDCO House, Udayagiri,
Mysore. ... Petitioner

Vs.

1.The Deputy Transport Commissioner,
Coimbatore.

2.The Regional Transport Officer,
Ooty Post,
Nilgiris District.

3.The Motor Vehicle Inspector,
Thalaikunda Check Post,
Nilgiris District.

4.The Motor Vehicle Inspector,
Gudalur Check Post,
Nilgiris District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to accept Motor Vehicles tax for Tamil Nadu voluntarily tendered by the the petitioner in respect of vehicle KA550871 contract carriage in advance for 7 days or 30 days or 90 days use in Tamil Nadu in accordance with ninth schedule of the Tamil Nadu Motor Vehicles Taxation Act, 1974, in respect of the petitioner's vehicle.

For Petitioner : Mr.P.Vedavallee

For Respondents : Mr.S.N.Parthasarathi
Government Advocate

O R D E R

This writ petition has been filed for the issue of a Writ of Mandamus directing the respondents to accept the motor vehicle tax tendered by the petitioner in respect of his contract carriage vehicle.

2. The case of the petitioner is that he is a tour operator having a contract carriage issued by the Karnataka State Transport Authority, which is valid from 23.03.2017 upto 22.02.2022. Further, the case of the petitioner is that there is a choice given to the operators to pay the Tamil Nadu tax in advance for 7 days or for 30 days or for 90 days in accordance with the Ninth Schedule of the Tamil Nadu Motor Vehicles Taxation Act, 1974.

3. The grievance of the petitioner is that the respondents are insisting for collecting the 7 days tax as per the circular issued by the first respondent.

4. Heard Mr.P.Vedavallee, learned counsel appearing on behalf of the petitioner and Mr.S.N.Parthasarathi, learned Government Advocate appearing on behalf of the respondents.

5. The learned counsel appearing for the petitioner brought to the notice of this Court the order passed by this Court in a batch of writ petitions on 02.06.2016 and the relevant portion of the said order is extracted hereunder:

> "3. The learned counsel for the petitioners submitted that in the light of the decision of the Hon'ble Division Bench of this Court in W.P.No.22011 of 2012 etc. cases dated 04.04.2016 [Pondicherry Contract Carriage Owners' Association & Others Vs. State], the respondents cannot refuse to accept the quarterly tax and insist upon tax only for a week in respect of All India Permits and on account of which, there is an illegality being perpetuated.
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> 4. It is seen that the Hon'ble Division Bench allowed the writ petitions and held that 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 as against Clause

(c) therein covering contract carriages of omni buses, is ultra vires and unconstitutional.

5. In the light of the above decision, the petitioners have made out a prima facie case for grant of interim direction.

6. Accordingly, there will be a direction to the respondents and their officers to accept tax in advance to the State of Tamil Nadu from the petitioners either for 7 days or for 30 days or for the entire quarter as and when it is voluntarily tendered by the petitioners for using their vehicles in Tamil Nadu roads. The above direction shall be in force till the writ petitions are finally heard."

6. It is seen from the above order that a Division Bench of this Court has settled the law on this issue by holding that the respondent cannot refuse to accept the quarterly tax and insist for payment of tax only for a week in respect of All India Permits. The Division Bench has allowed the writ petitions by holding that 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, as against Clause (c) therein covering contract carriages of omni buses, is ultra vires and unconstitutional. This judgment was taken into account in a batch of writ petitions referred supra and this Court had directed the respondents to accept the tax in advance to the State of Tamil Nadu either for 7 days or for 30 days or for the entire quarter as and when it is voluntarily tendered by the respective owners of the vehicle. The above order will squarely apply to the present case also.

7.In view of the above, the respondents are directed to accept the tax in advance to the State of Tamil Nadu from the petitioner either for 7 days or for 30 days or for the entire quarter as and when it is voluntarily tendered by the petitioner for using his vehicle.

Resultantly, this writ petition is disposed of with the above direction. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

nsd

To

1.The Deputy Transport
Commissioner,
Coimbatore.

2.The Regional Transport Officer,
Ooty Post,
Nilgiris District.

3.The Motor Vehicle Inspector,
Thalaikunda Check Post,
Nilgiris District.

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