IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.09.2021

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.12137, 12138 & 10032 of 2016

P.V.Arunchandrakumar
.. Petitioner in W.P.Nos.12137 & 12138/2016

G.Raghupathy .. Petitioner in W.P.No.10032/2016

Vs

1.The Transport Commissioner,
Chepauk, Chennai - 05.

2.The Regional Transport Officer,
Red Hills Unit, Red Hills,
Chennai - 67.

3.The Motor Vehicle Inspector cum
Assistant Registering Authority,
Gummidipoondi Unit,
Thiruvallur District. .. Respondents in all WPs.

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the third respondent to register the petitioners vehicle without insisting exorbitant penalty tax for the temporary registered vehicles in TN12 TMP 5107, TN12 TMP 5650 and TN12 TMP 4883 respectively, without any due process of law.

For Petitioners : Mr.S.Sivakumar

For Respondents : Mr.V.Nanmaran
Government Advocate
..in all WPs.

COMMON ORDER

The orders passed by the third respondent in proceedings dated 24.03.2016, demanding the tax to be paid for extension of temporary registration, is under challenge in the present writ petitions.

2. The issue raised in respect of payment of tax on production of vehicle for permanent registration has been decided by this Court in W.P.No.25553 of 2014 dated 26.08.2021 and the relevant paragraphs are extracted hereunder:

> "2. The petitioner states that he is a Civil Contractor doing construction business and for his contract works, he purchased a cement mixer vehicle from Bangalore. The said vehicle was temporarily registered with RTO Bangalore central as KA-TR-MD-7869. The temporary registration was valid from 07.03.2014 to 05.04.2014. After body construction, the petitioner produced the vehicle before the respondent for permanent registration on 19.05.2014. The respondent instead of registering the vehicle sent a letter to the RTO Bangalore central to verify the temporary registration done at Bangalore is genuine or not. The RTO Bangalore on 28.07.2014 informed the respondent that the temporary registration done is a genuine one. Thereafter, the respondent demanded 2% life time tax. Thus, the petitioner is constrained to move the present Writ Petition. The 2% life time tax is imposed based on G.O.Ms.No.969 Home (Transport I) Department dated 16.10.2002. The said Government Order deals with the vehicles temporarily registered. However, the petitioner has not registered his vehicle temporarily within the State of Tamil Nadu. The temporary registration was done at Bangalore and the genuinity of such temporary registration was also verified by the Transport Authorities of the State of Tamil Nadu. Once the vehicle is presented for permanent registration, the tax applicable to the permanent registration alone is to be collected and therefore, the life time tax demanded which is applicable for temporary registration cannot be imposed on the petitioner. Thus, the demand itself is not in consonance with the provisions of the Act as well as in violation of the Government Order which was relied upon for the purpose of temporary registration.
>
> 3. In view of the fact that the petitioner has not presented his vehicle for temporary registration within the State of Tamil Nadu as such temporary registration was already done at Bangalore, the relief as its sought for is to be considered. Accordingly, the respondent has no authority to levy or collect 2% of life time tax for the purpose of registering the petitioner's construction equipment vehicle for permanent registration.

4. With these directions the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed."

3. In view of the fact that in these writ petitions also the petitioners have produced their vehicle for permanent registration and at that point of time, the impugned order has been passed and the facts and circumstances are also similar to that of the case cited supra.

4. This being the factum, the relief as such sought for in these writ petitions is to be considered. Accordingly, the respondent lacks authority to levy and collect 2% of life time tax for the purpose of registering the petitioners vehicle for permanent registration.

5. With these directions, the writ petitions stand allowed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Pns
To

1.The Transport Commissioner,
Chepauk, Chennai – 05.

2.The Regional Transport Officer,
Red Hills Unit, Red Hills,
Chennai – 67.

3.The Motor Vehicle Inspector cum
Assistant Registering Authority,
Gummidipoondi Unit,
Thiruvallur District.

W.P.Nos.12137, 12138 & 10032 of 2016

sj[co]
srg 12/10/2021