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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.15378 & 16633 of 2021

and

W.MP.Nos.16265 to 16267, 17626 & 17627 of 2021

Rishi Ad Promoters, Rep.by it's Founder,
Kamaludheen Azad, S/o.A.A.H.Azad,
Having Office at No.189/1,
Abinaya Complex, Aladi Road Curved,
Kanmani Nagar, Vriddhachalam - 606 001.

.. Petitioner in both WPs

Versus

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai - 600 002.

.. Respondent in WP.No.15378 of 2021

The Managing Director,
Metropolitan Transport Corporation (Chennai) Limited,
Pallavan House, Anna Salai,
Chennai - 600 002.

.. Respondent in WP.No.16633 of 2021

Prayer in W.P.No.15378 of 2021: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the concerned records relating to the order No.02/13002/Advt.Rev/MTC/2021 dated 16.07.2021 and order No. 03/13003/Advt.Rev/MTC/2021 dated 16.07.2021 and order No. 04/13004/Advt.Rev/MTC/2021 dated 16.07.2021 passed by the respondent and quash the same and consequently directing the respondent to grant full waiver of license fees during Full Lockdown period and permit to pay the license fees only for the utilized buses during the partial lockdown period till the unnatural situation comes to an end and grant of 30 days grace period (permit to abstain from payment of license fee) from the date of completion of payment (10.03.2021).

Prayer in W.P.No.16633 of 2021: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of



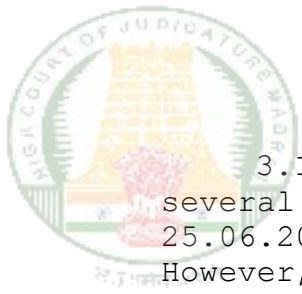
Certiorarified Mandamus calling for the concerned records relating to the order No.02/13002/Advt.Rev/MTC/2021 dated 28.07.2021 passed by the respondent and quash the same and consequently directing the respondent to grant full waiver of license fees during Full Lockdown period and permit to pay the license fees only for the utilized buses during the partial lockdown period till the unnatural situation comes to an end and grant of 30 days grace period (permit to abstain from payment of license fee) from the date of completion of payment (10.03.2021).

For Petitioner : Mr.S.N.Kirubananthan
for Mr.M.Gnanasekar in both WPs
For Respondents: Mr.M.Chidambaram in both WPs

COMMON ORDER

Challenging the orders dated 16.07.2021 and the consequential order dated 28.07.2021 passed by the respondent, the petitioner has come up with these writ petition. A consequential direction has also been sought to the respondent to grant full waiver of licence fees during full lock down period, permit the petitioner to pay the licence fees only for the utilized buses during the partial lock down period till the unnatural situation comes to an end and grant of 30 days grace period (permit to abstain from payment of licence fee) from the date of completion of payment (10.03.2021).

2.According to the petitioner, they are the Ads Promoter, having registered with the Ministry of Micro, Small and Medium Enterprises, Government of India vide certificate of registration dated 09.03.2017. While so, by orders dated 26.02.2021, the respondent issued licence to the petitioner for displaying advertisement on 500 buses, 630 buses and 400 buses vide three different tenders. Due to pandemic situation, the transport operation was suspended and the petitioner did not display any advertisement. However, they have to pay monthly licence fees. Hence, they submitted a representation dated 09.06.2021 to the respondent seeking permission to make licence fees only in respect of the buses where the advertisement is carried on. Following the same, the petitioner sent a reminder on 16.06.2021 to the respondent. Finding no response on the same, the petitioner preferred WP.No.13329 of 2021, which by order dated 25.06.2021, was disposed of, directing the respondent to consider the petitioner's representation dated 09.06.2021 and pass appropriate orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.



3. It is the further case of the petitioner that they made several representations along with a copy of the order dated 25.06.2021 passed in WP.No.13329 of 2021, to the respondent. However, without considering the said order, the respondent passed the orders dated 16.07.2021, directing the petitioner to pay the entire licence fees for the periods from April 2021 to July 2021, amounting to Rs.44,36,800/-, Rs.55,46,000/- and Rs.69,87,960/-, failing which the tender itself will be cancelled automatically. It was further informed that the extension of period of licence for May 2021 and June 2021, will be placed before the Board for consideration. Feeling aggrieved, the petitioner has come up with WP.No.15378 of 2021 to quash the said three orders dated 16.07.2021 and for consequential direction. During the pendency of the said writ petition, the respondent passed another order dated 28.07.2021, directing the petitioner to pay the total amount of Rs.1,68,70,760/- immediately, failing which, licence granted to them, will be cancelled, which is impugned in WP.No.16633 of 2021.

4. On 20.09.2021, when the writ petitions were taken up for consideration, the learned counsel for the petitioner submitted that without considering the factual realities and pandemic situation, the respondent mechanically rejected the petitioner's claim seeking waiver of the licence fees through the orders impugned herein. It is also submitted that taking note of the unnatural and abnormal situation, the State Transport Corporation (Kumbakonam) Ltd., Kumbakonam and State Transport Corporation (Madurai) Ltd., Dindigul, in the interest of MSMEs, granted concession with respect to the payment of licence fees, whereas in the case of the petitioner, the respondent directed them to pay the entire licence fees with GST for the periods from April 2021 to July 2021, failing which, tenders granted to them, will be cancelled, which is arbitrary and illegal. The learned counsel further submitted that the petitioner paid a sum of Rs.1.7 crores by way of security deposit, which is lying with the respondent. Stating so, the learned counsel prayed to set aside the orders impugned herein and issue appropriate direction to the respondent.

5. On the other hand, the learned counsel appearing for the respondent placing reliance on Annexure -II clause 9(vi) of the tender condition and clause 5(v) of the agreement, submitted that there is no provision for waiving or remission of license fee or for part payment or postponement of payment date under any circumstances and hence, no interference is required to the orders impugned herein, at the hands of this court. However, the learned counsel sought a short accommodation for filing a working sheet in respect of the licence fees payable by the petitioner during the pandemic period.



6. Accordingly, today, the learned counsel for the respondent produced a copy of the communication bearing No.02/13002/Advt.Rev./MTC/2021 dated 30.09.2021, wherein, the details with regard to the payment of licence fees payable by the petitioner during the lock down period in respect of three tenders, are furnished for perusal of this court. The relevant passage of the said communication is profitably extracted below:

"2.The total license fee for the three tenders (including lockdown period) is Rs.1,69,70,760/- (From April 2021 to July 2021)

.....

The lock down period in May 2021 is from 10.05.2021 to 31.05.2021 (22 days)

Sl. No.	Description	May'21 (10.05.21 to 31.05.21 - 22 days) License fee in Rs.	18% GST in Rs.	Total license fee for 22 days (incl. GST) in Rs.
1.	Display of Advertisement on 400 buses	6,67,097	1,20,077	7,87,174
2.	Display of Advertisement on 500 buses	8,33,871	1,50,097	9,83,968
3.	Display of Advertisement of 630 buses	10,50,677	1,89,122	12,39,799
	Total	25,51,645	4,89,296	30,10,941

The lock down period in June 2021 is from 01.06.2021 to 20.06.2021 (20 days)

Sl. No.	Description	June'21 (01.06.21 to 20.06.21 - 20 days) License fee in Rs.	18% GST in Rs.	Total license fee for 20 days (incl. GST) in Rs.
1.	Display of Advertisement on 400 buses	6,26,667	1,12,800	7,39,467



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Sl. No.	Description	June '21 (01.06.21 to 20.06.21 - 20 days) License fee in Rs.	18% GST in Rs.	Total license fee for 20 days (incl. GST) in Rs.
2.	Display of Advertisement on 500 buses	7,83,333	1,41,000	9,24,333
3.	Display of Advertisement of 630 buses	9,87,000	1,77,660	11,64,660
	Total	23,97,000	4,31,460	28,28,460

Thus, according to the learned counsel, taking note of the informations furnished by the respondent, this court may pass appropriate orders in these writ petitions.

7. Heard both sides and perused the materials placed before this court.

8. The aforesaid pleadings would disclose that the petitioner was granted licences numbering 3, for displaying advertisement on 500, 630 and 400 buses. The total licence fees payable by them for the period from April 2021 to July 2021 comes to Rs.1,69,70,780/-. Due to lockdown announced by the Government, the petitioner did not display any advertisement on the buses for 42 days and the licence fees payable for the lockdown period is Rs.58,39,401/-. Now, the respondent insisted the petitioner to pay the entire licence fees, by the orders impugned herein.

9. In the given factual matrix, this court, having regard to the circumstances under which the petitioner is due to pay the licence fees i.e., pandemic situation on account of covid-19 and also taking note of the fact that the petitioner has already paid Rs.1.7 crores by way of security deposit, which is lying with the respondent and other Transport Corporations granted some concession to the similarly placed companies, directs the respondent to consider the claim of the petitioner seeking waiver/reduction of the licence fees during the lockdown period and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order.



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10. Accordingly, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai - 600 002.
2. The Managing Director,
Metropolitan Transport Corporation (Chennai) Limited,
Pallavan House, Anna Salai,
Chennai - 600 002.

+2CCs to Mr.M.Chidambaram, Advocate, Sr.Nos.51098, 51099
+2CCs to Mr.M.Gnanasekar, Advocate, Sr.No.51133

W.P.Nos. 15378 & 16633 of 2021

KV (CO)
K.RK. (10.11.2021)