IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.10419 OF 2016
AND
W.M.P.NOS.9182 & 9183 OF 2016

K.P.N.Rajesh ...Petitioner

Vs.

The Regional Transport Officer,
Tirupur-South ...Respondent

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the respondent relating to Na.Ka.No.2020/E1/2016 dated 04.02.2016 demanding difference of Motor Vehicles Tax with penalty of Rs.4,75,200/- in respect of the petitioner's vehicle No. PY-01-BY-3147 and to quash the same.

For Petitioner : Mr.K.Hariharan

For Respondent : Mr.C.Meera Arumugam,
Additional Government Pleader

O R D E R

The petitioner has challenged the impugned demand notice dated 04.02.2016 of the respondent, whereby, the respondent has demanded a sum of Rs.4,75,200/- under Section 15A of the Tamil Nadu Motor Vehicle Taxation Act, 1974, for the period between 25.05.2015 and 02.01.2016.

2. It is specific case of the petitioner that on 13.01.2016, the petitioner's omni bus was inspected and seized by the Motor Vehicle Inspector of the respondent office on the ground that the petitioner had increased the seating capacity from 24+1 to 36+1. Thereafter, the petitioner filed W.P.No.1898 of 2016 before this Court to direct the respondent to release the bus seized by the Motor Vehicle Inspector. This Court, by an order dated 27.01.2016, has directed the respondent to release the bus on filing of an affidavit of undertaking by the petitioner. The operative portion of the said order dated 27.01.2016 reads as under:-

> 8. It is a well settled proposition of law, that for violation of the permit conditions, the authorities concerned are entitled to take action as per the rules and regulations for cancellation of permit. It is also seen from section 207 of the Motor vehicles Act, that on production of relevant documents by the owner of the seized vehicle, it is the duty of the authority concerned, to consider the release of the said vehicle.
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> 9. Under the circumstances, the respondents are directed to release the vehicle of the petitioner, bearing No.PY-01-BY-3147 forthwith, on filing of an affidavit of undertaking by the petitioner, to the effect that he will produce the vehicle as and when required by the respondents, and will not alienate the same, without prior permission from the respondents; however, after verification of all the relevant documents produced by the petitioner. As far as violation of permit is concerned, it is open to the respondents to proceed against the petitioner in accordance with law.
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> 10. Writ Petition is disposed of accordingly. No costs.

3. Pursuant to the above direction of this Court, the respondent released the bus on 03.02.2016 and issued the impugned demand notice dated 04.02.2016 bearing reference Na.Ka.No.2020/E1/2016 demanding the aforesaid amount of Rs.4,75,200/- under Section 15A of the Tamil Nadu Motor Vehicle Taxation Act, 1974, for the period between 25.05.2015 and 02.01.2016. It is submitted that the respondent has assumed that the petitioner has made many trips and the amount has been demanded directly vide impugned demand notice dated 04.02.2016 contrary to Section 15A of the Act.

4. The learned counsel for the petitioner placed reliance on the decision of this Court in C.Ravindran Vs. Secretary, Regional Transport Authority, in W.P.No.22392 of 2016, dated 11.12.2019, where under somewhat similar circumstances, demand was quashed with consequential relief. He therefore submits that same order may be passed in this Writ Petition.

5. Opposing the prayer, the learned Additional Government Pleader appearing for the respondent submits that there is no merits in this Writ Petition and the above decision cited by the

learned counsel for the petitioner is to be distinguished on merits as facts are different in the present Writ Petition.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent. I have perused the order dated 11.12.2019 passed by this Court in W.P.No.22392 of 2016.

7. The impugned demand notice has been issued by the respondent confirming the demand without giving any opportunity to the petitioner to show cause as to why the amount should not be demanded from the petitioner. Considering the same, I am inclined to quash the impugned order and remit the case back to the respondent to pass a speaking order within a period of three months from the date of receipt of a copy of this order. It is made clear that before passing such order, the petitioner shall be heard.

8. The impugned demand notice which stands quashed in this order shall be treated as Show Cause Notice. The petitioner shall reply to the same within a period of thirty days from the date of receipt of a copy of this order. The petitioner shall co-operate with the respondent.

9. This Writ Petition is disposed with the above directions. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

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To

The Regional Transport Officer,
Tirupur-South

W.P.No.10419 of 2016 and
W.M.P.Nos.9182 & 9183 of 2016

GPL(CO)
RVM(14/07/2022)