BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.23093 of 2022
and
W.M.P.(MD)Nos.17187 and 17188 of 2022

V.Muhilvannan ... Petitioner

Vs.

1. The State Transport Appellate Tribunal,
   City Civil Campus,
   Chennai.

2. The Transport Commissioner,
   Office of the Transport Commissioner,
   Chepauk,
   Chennai – 600 005.

3. The Regional Transport Officer,
   Madurai South,
   Madurai.

4. The Motor Vehicle Inspector Grade-I,
   Office of the Regional Transport Office,
   Madurai North,
   Madurai. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st Respondent vide his proceedings in R.No.901 of 2022, dated 15.09.2022 and quash the same as illegal and consequently direct the 1st Respondent to restore and number the Revision Petition filed by the Petitioner on 18.08.2022 against the order of the 2nd Respondent dated 04.04.2022 as per the order of this Hon'ble Court in W.P.(MD)No.9096 of 2022 and proceed further in accordance with law.

For Petitioner	:	Mr.A.C.Asaithambi
For Respondents	:	Mr.T.Amjadkhan Government Advocate

O R D E R

This Writ Petition is filed challenging the impugned order passed by the 1st Respondent vide proceedings in R.No.901 of 2022, dated 15.09.2022 and to direct the 1st Respondent to restore and number the Revision Petition filed by the Petitioner on 18.08.2022 against the order of the 2nd Respondent dated 04.04.2022 as per the order of this Court in W.P.(MD)No.9096 of 2022 and proceed further in accordance with law, this Writ Petition has been filed.

2. It is submitted that the Petitioner is the owner of the contract carriage bearing Registration No.TN 66 B 4477, which is covered by permits issued by the State Transport Authority, Chennai. Due to pandemic, the Petitioner stopped plying the vehicle from 30.04.2021 and had informed about the stoppage and had submitted the necessary application for permission to stop the vehicle within the prescribed time along with appropriate fees.

3. It is seen that the 1st Respondent Tribunal has rejected the Petitioner's application challenging the order of the 2nd Respondent, whereby, the request for stoppage of contract carriage / vehicle from 01.10.2021 to 31.03.2022 was rejected on the ground that the same could not be considered, with further instructions directed the Petitioner to remit the tax from the period from 01.10.2021 to 31.03.2022 with penalty. The application of the Petitioner was rejected by the Tribunal on the premise that Section 20A of the Tamil Nadu Motor Vehicles Taxation Act, 1974 provides for remission of tax and any appeals against the order of the Licensing Officer regarding payment of tax lies to Deputy Commissioner as per Rule

10A of the Tamil Nadu Motor Vehicles Taxation Rules, 1974. The relevant portion of the order is extracted hereunder:

> *"It is seen that separate authorities are earmarked for dealing with tax matters under law. Section 20A of the Tamil Nadu Motor Vehicles Taxation Act, 1974 provides for remission of tax and any appeals against the order of licensing officer regarding payment of tax lies to Deputy Commissioner as per Rule 10A of the Tami Nadu Motor Vehicles Rules, 1974; further as per Section 20C of the Tamil Nadu Motor Vehicles Taxation Act, 1974 and with Rule 18 of the Tamil Nadu Motor Vehicles Taxation Rules 1974, the State Transport Commissioner is the Revisional Authority under the Tamil Nadu Motor Vehicles Taxation Act, 1974. As per Rule 19 of the Tamil Nadu Motor Vehicles Taxation Rules 1974, all application for exemption or concessional rate of tax and waiver of tax or penalty shall be sent to the Secretary to Government, Fort St.George, Madras through the Regional Transport Authority and the Transport Commissioner, Madras. Therefore, this Tribunal has no jurisdiction to entertain the above petition in R.No. 901 of 2022."*

4. It is submitted by the learned counsel for the Petitioner that the question that has been raised relates to the correctness / legality of stoppage of permit which has been rejected on the premise that the Petitioner has failed to comply with Rule 172(6) of the Tami Nadu Motor Vehicles Rules, 1989 which provides for method and manner, in which, stoppage of permit may be ordered. The remission of taxes is only a consequence of the refusal to accede to the request for stoppage of contract carriage / vehicle. It is further submitted that insofar as the stoppage of permit, the remedy lies only before the Tribunal and the question of levy of penalty or otherwise would arise only if the rejection of stoppage of permit is affirmed by the Tribunal.

5. To the contrary, it is submitted by the learned Government Advocate for the Respondents that the impugned order has an impact on the tax liability in terms of Tamil Nadu Motor Vehicles Taxation Act, 1974 read with the Tamil Nadu Motor Vehicles Taxation Rules, 1974 and thus, the rejection by the Tribunal is in order.

6. It is relevant to extract the proceedings dated 04.04.2022 passed by the 1st Respondent as under:

> *".....Since, the above application does not comes under the purview of 172(6) of the Tamil Nadu Motor Vehicles Rules and also the in circumstances that the Government has allowed for operation of Public Transport, the request for the stoppage of the vehicle from 01.10.2021 to 31.03.2022 could not be considered and further instructed to remit the tax for the period from 01.10.2021 to 31.03.2022 with due penalty."*

A reading of the last portion of the proceedings, would show that it is a composite order rejecting the application for stoppage of vehicle permit on the premise that the application does not come under the purview of Rule 172(6) of the Tamil Nadu Motor Vehicles Rules for the period 01.10.2021 to 31.03.2022 while also instructing to remit the tax for the period from 01.10.2021 to 31.03.2022 with due penalty. While the Respondents would submit any grievance insofar as taxation are concerned, the remedy is only under the Tamil Nadu Motor Vehicles Rules. However, this being a composite order and the challenge being primarily on rejection of the Petitioner's request for stoppage of the vehicle permit, the Tribunal may not be right in rejecting the Petitioner's application against the said order, insofar as the petition relating to stoppage of vehicle.

7. In the circumstances, the Tribunal is directed to examine the correctness of rejection of stoppage of vehicle permit independent of the consequence of taxes, if the same is otherwise amenable to the jurisdiction of the Tribunal. If the Petitioner is aggrieved by proceedings dated 04.04.2022 insofar as instruction to remit tax along with penalty for the period 01.10.2021 to 31.03.2022 is concerned, he can challenge the same before the appropriate forum in terms and in compliance with the Motor Vehicles Rules, 1989.

8. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.11.2022

Index : Yes / No
Speaking Order : Yes / No
vji

To

1. The State Transport Appellate Tribunal,
   City Civil Campus, Chennai.

2. The Transport Commissioner,
   Office of the Transport Commissioner,
   Chepauk, Chennai – 600 005.

3. The Regional Transport Officer,
   Madurai South, Madurai.

4. The Motor Vehicle Inspector Grade-I,
   Office of the Regional Transport Office,
   Madurai North, Madurai.

MOHAMMED SHAFFIQ, J.

vji

W.P.(MD)No.23093 of 2022
and
W.M.P.(MD)Nos.17187 and 17188 of 2022

21.11.2022