IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24343 of 2022
and
W.M.P.Nos.23342 of 2022 and W.M.P.No.18483 of 2023

M/s.PNK SRT Travels,
Represented by its Partner
K.Sivaraj,
S/o.P.N.Krishnasamy Gounder,
No.372, Dharapuram Road,
Tirupur - 641 604. ... Petitioner

Vs.

1.The State Transport Authority,
Chepauk, Chennai - 600 005.

2.The Joint Commissioner (Rules),
Office of the Transport Commissioner,
Chepauk, Chennai - 600 005.

3.The Regional Transport Officer,
Regional Transport Office,
Tirupur (North), Tirupur District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent in R.No.28729/A5/2022 dated 12.08.2022 and quash the same and direct the respondents to accept the surrender applications dated 29.12.2021 and 31.03.2022 for surrendering the petitioner's permits in respect of the vehicles bearing Reg.Nos.TN-39-BE-7878, TN-39-BE-7997 and TN-39-BF-7777 and issue the Nil Tax Clearance Certificate for the periods from 01-10-2021 to 30-09-2022 for the aforesaid vehicles.

For Petitioner : Mr.S.Sarath Kumar

For Respondents : Mr.M.Rajendran
Additional Government Pleader

ORDER

The petitioner aggrieved by the impugned order dated 12.08.2022 passed by the second respondent in R.No.28729/A5/2022.

2. By the impugned order dated 12.08.2022 bearing R.No.28729/A5/2022, the second respondent refused to accept the surrender applications dated 29.12.2021 and 31.03.2022 of the petitioner for surrendering the petitioner's permits in respect of the vehicles bearing Reg.Nos.TN-39-BE-7878, TN-39-BE-7997 and TN-39-BF-7777.

3. The operative portion of the impugned order reads as under:-

"During the personal hearing the Advocates Thiru.A.Ganesan and Thiru.R.Srinivasalu has appeared on behalf of the petitioner and submitted that the written submission of the petitioner (Permit Holder). On perusal of which, it is noticed that the petitioner has requested of issue of Tax Clearance Certificate without insisting the tax for the vehicles TN-39-BE-7878, TN-39-BE-7997 and TN-39-BF-7777."

3A. The details of the vehicles and tax dues are as follows:-

Vehicle No.	*Permit Validity*	*Date of Submission of ACC*	*Tax Paid upto*	*Tax Nil Assessed for the period from*	*Tax due for the Q.E*
1	2	3	4	5	6
TN-39-BF-7777	17.12.2024	29.12.2021	31.03.2020	01.04.2020 to 30.09.2021 vide R.No.A4/22545 /2020 dated 03.11.2021 of STA	31.12.2021
TN-39-BE-7878	10.09.2022	04.04.2022	31.03.2020	01.04.2020 to 30.09.2021 vide R.No.A4/22542 /2020 dated 03.11.2021 of STA	31.12.2021, 31.03.2022 and 30.06.2022
TN-39-BE-7997	10.09.2022	04.04.2022	31.03.2020	01.04.2020 to 30.09.2021 vide R.No.A4/22543 /2020 dated 03.11.2021 of STA	31.12.2021, 31.03.2022 and 30.06.2022

The petitioner made a request on 04.08.2022 with the second respondent for waiver of tax which was returned.

4. The petitioner has earlier approached this Court to direct the respondents to consider and pass appropriate orders on the surrender application in W.P.No.10960 of 2022. Even before the order could be passed on the writ petition, the second respondent has passed the rejection order on 08.04.2022.

5. Considering the fact that the order had been passed without hearing the petitioner, Court had disposed the writ petition by directing the respondents to pass fresh orders on merits within a period of four weeks from the date of receipt of the order, which is impugned order of the second respondent.

6. The learned counsel for the petitioner submits that the third respondent has also given a Certificate/Inspection of the Contract Carriages (Omni Buses) of the petitioner confirming that the vehicles had not plied between 01.10.2021 and 28.03.2022, which has been ignored by the second respondent while passing the impugned order.

7. That apart, the petitioner has also filed application for exemption on various dates. The respondents have neither considered the application filed for surrender of permit on 29.12.2021 nor the application filed by the petitioner for waiver of tax. It is further submitted that the buses are in dilapidated condition and therefore, the petitioner cannot run the buses under the provisions of the Motor Vehicles Act, 1988.

8. The learned Additional Government Pleader for the respondents submits that the application filed only on 29.12.2021 seeking surrender of permit for the period between 01.10.2021 and 30.09.2022. It is therefore submitted that there is no case made out for interfering with the impugned order.

9. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

10. The petitioner is a Managing Partner of the Contract Carriage Vehicles (Omni Buses). The permits issued by the State Transport Authority (STA), Chennai, were valid for the respective vehicles as detailed below:-

Sl.No.	***Vehicle Registration No.***	***Permit valid up to***
1	TN-39-BE-7878	100922
2	TN-39-BE-7997	100922
3	TN-39-BF-7777	17/12/24

11. As far as the first two buses are concerned, the learned counsel for the petitioner would submit that the issue is no longer *res integra* and it is covered by the decision of this Court in W.P.No.14498 of 2022 dated 29.08.2022, wherein, this Court has held as under:-

"......

10.Considering the fact that the permits of the respective vehicles have lapsed and considering the fact that the tax has been assessed as "Nil" from 01.04.2021 to 30.09.2021, the question of forcing the petitioner to pay the tax for the period from 01.10.2021 to 31.12.2021 or thereafter does not arise.

11.Considering the same, I am inclined to allow this Writ Petition. Therefore, the first respondent is directed to issue suitable direction to the second respondent to cancel the tax endorsement in the Registration Certificates of the respective vehicles bearing Registration Nos.TN-69-AH-3335 and TN-69-AH-3555, within a period of four weeks from the date of receipt of a copy of this order."

12. As far as the third bus is concerned viz., the vehicle bearing Registration No.TN-39-BF-7777, the petitioner had given a stoppage application and an application surrender of permit on 29.12.2021, followed by a reminder dated 31.03.2022. Despite the same, the impugned order was passed by the second respondent and therefore, the petitioner has approached this Court.

13. A reading of the impugned order, the content of which has been extracted above indicates that there is no application of mind by the respondents.

14. That apart, the Fitness Certificate of the vehicles had expired on the following dates:-

Sl.No.	***Vehicle No.***	***Date of expiry of Fitness Certificate***
1	TN-39-BF-7777	01.08.2020
2	TN-39-BE-7878	31.07.2020
3	TN-39-BE-7997	19.09.2020

15. These are the aspects, which ought to have been considered by the respondents before proceeding to demand tax from the petitioner for the entire period after the initial exemption was granted up to 30.09.2021 due to outbreak of Covid-19 pandemic.

16. Under these circumstances, the impugned order is set aside and the case is remitted back to the respondents to pass a final order within a period of forty five (45) days from the date of receipt of a copy of this order.

17. The respondents shall keep in mind the period of expiry of the Fitness Certificate while passing appropriate orders, before confirming any demand on the petitioner.

18. This Writ Petition is disposed of with the above observations. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

13.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To

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C.SARAVANAN, J.

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