IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.17209 of 2013
and M.P.No.1 of 2013 & W.M.P.No.27615 of 2017

M.Krishnan ... Petitioner

Vs.

1. The State Transport Authority
   cum Transport Commissioner,
   Chepauk,
   Chennai – 600 005.

2. The Regional Transport Authoirty
   cum Licensing Officer,
   Salem East,
   Salem District.

3. The Regional Transport Officer,
   Salem, Salem District.

4. M/s.Apna Finance Corporation,
   PNR Towers, 2nd Floor,
   No.29, Kovai Road,
   Karur – 639 002.
   (R4 Impleaded as per order dated
   03.10.2013 in M.P. No.2 of 2013
   in W.P.No.17209 of 2013) ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order of the third respondent in Proc.No.2883/B3/2012 dated 15.05.2013 and quash the same.

For Petitioner : Mr.A.Mohamed Ismail

For Respondents
For R1 to R3 : Mr.N.Naveen Kumar
Government Advocate

ORDER

This writ petition has been filed challenging the order dated 15.05.2013 passed by the third respondent, thereby demanded to pay the arrears of the tax with due penalty to the value of Rs.12,60,000/-, for the bus bearing registration No.TN27F7979.

2. The petitioner owned all India tourist omni bus permit for the omni bus bearing registration No.TN27F7979. However, the petitioner could not operate the vehicle due to various reasons and sold out the same to one K.Rajaram on 17.01.1997. The purchaser also signed in the delivery note and also issued the same on 18.01.1997. Further, the said Rajaram availed loan from the private financier viz., fourth respondent herein and subsequently committed default. In the mean while, the petitioner and the said Rajaram had jointly applied for transfer

of permit in his name. While pending the request, the said Rajaram died on 09.02.1998 and the private financier viz., the fourth respondent herein had seized the vehicle for non payment of loan amount. It was also duly informed by the fourth respondent to the first respondent by the communication dated 01.04.1998. On receipt of the same, the third respondent called for the fourth respondent to pay the arrears tax by the communication dated 04.10.1999. However, the fourth respondent did not pay any tax.

3. While being so, the petitioner was once again served with demand notice to pay arrears of tax with penalty. It was challenged before this Court in W.P.No.34777 of 2012 and this Court directed the respondents to treat the demand notice as show cause notice and pass fresh order after hearing the petitioner, in accordance with law. Accordingly, now the petitioner was issued with demand notice thereby directing the petitioner to pay a sum of Rs.12,60,000/- with penalty, for the period from 30.06.1998 to 30.06.2000.

4. The second respondent filed counter and the learned Government Advocate submitted that though the petitioner had taken specific stand that the vehicle was sold out to one Rajaram, the permit was not transferred and the permit stands in the name of the petitioner alone. Thereafter, by an order dated 07.06.2000, the permit stands in the name of the petitioner was also cancelled. Therefore, the petitioner was demanded to pay a sum of Rs.12,60,000/- as tax and penalty arrears.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On perusal of the impugned order revealed that the tax payable by the petitioner to the tune of Rs.6,30,000/- and penalty due to the tune of Rs.6,30,000/- for the period from 30.06.1998 to 30.06.2000. Further as per the communication of the second respondent dated 05.05.1997, there was no arrears of tax upto 30.06.1997. Thereafter the vehicle was purchased by one Rajaram and he committed default in loan repayment. Therefore, the fourth respondent had seized the vehicle from the custody of the said Rajaram on 01.04.1998 itself. Therefore, the

vehicle was not in possession of the petitioner from the date of delivery i.e., 18.01.1997. Therefore, the demand notice as against the petitioner cannot be sustained and it is liable to be quashed.

7. In view of the above discussions, this Court finds infirmity and illegality in the impugned demand notice. Hence, the impugned demand notice dated 15.05.2013 issued by the third respondent in Proc.No.2883/B3/2012, is hereby quashed. The second respondent is at liberty to proceed as against the fourth respondent or the legal heirs of the deceased purchaser in accordance with law.

8. Accordingly, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

16.08.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts

G.K.ILANTHIRAIYAN. J,

rts

To

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cum Transport Commissioner,
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