IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.14824 of 2024
and
W.M.P.Nos.16059, 16060 & 16061 of 2024

M/s.VKSS & Co,
Rep. by its Working Partner S.Kailai Eswaran,
36A, Therkkumedu,
Veeraganur Post,
Thalaivasal Taluk,
Salem District. .. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Transport Department,
Secretariat,
Chennai – 600 009.

2.The Regional Transport Officer,
Attur,
Salem District.

3.The Assistant Audit Officer,
Salem – 5. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the letter of the 3rd respondent issued in Na.Ka.No.10/A1/2024 dated 28.02.2024 and the consequential impugned order in Na.Ka.No.4930/A3/2024 dated 14.03.2024 on the file of the 2nd respondent and to quash the same and direct the 2nd respondent to register the vehicle of the petitioner viz. Construction Equipment Vehicle (TO1241N5120A) under licence for annual registration.

For Petitioner .. Mr.S.Doraiswamy

For R1 to R3 .. Mr.Haja Zazirudeen,
Additional Advocate General
Assisted by Mr.N.Naveenkumar,
Government Advocate.

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus, calling for the records relating to a letter of the 3rd respondent, the Assistant Audit Officer, Salem – 5, in Na.Ka.No.10/A1/2024 dated 28.02.2024 and the order in Na.Ka.No.4930/A3/2024 dated 14.03.2024 issued by the 2nd respondent, the Regional Transport Officer, Attur, Salem and to quash the same and direct the 2nd respondent to register the vehicle of the petitioner namely, Construction Equipment Vehicle bearing Reg. No.TO1241N5120A under licence for annual registration.

2.In the affidavit filed in support of the writ petition, the partner of the petitioner firm had stated that the petitioner had purchased a Construction Equipment Vehicle on 12.01.2024. The said vehicle is used for levelling the earth. It had been stated that the vendor had registered the vehicle temporarily and Temporary Certificate of Registration was issued by the Assistant Registering Authority, State Transport Department, Salem. The Temporary Registration Certificate was valid from 12.01.2024 to 11.07.2024. The petitioner approached the 2nd respondent for regular registration. Necessary application was also filed on 02.02.2024. It had been contended that the 2nd respondent had obtained views of the 3rd respondent whether the petitioner could pay the registration tax annually or whether a life time tax at the rate of 8% of the total cost of the vehicle should be charged and levied against the petitioner. The 3rd respondent had given a reply that only life time tax at the rate of 8% of the total cost of the vehicle should be levied as tax. Accordingly, the 2nd respondent had issued the impugned order dated 14.03.2024 that the petitioner should pay the life time tax. Aggrieved against the same, the present writ petition has been filed.

3.The learned counsel for the petitioner pointed the amendment brought into the Tamil Nadu Motor Vehicle Taxation Act, 1974 by Act 30 of 2023, which had been published in the Gazette on 07.11.2023. According to him, Section 4 of the Principal Act had been amended and the learned counsel had pointed out the amendment, which is as follows:

"5.Section 4 of the principal Act:-

(1) in sub-section (1-A),-

(a)for clause (a), the following clause shall be substituted, namely:-

"(a)in respect of the motor vehicles specified in Part – I of the Second Schedule, in Part – I of the Third Schedule, in Part – I of the Fifth Schedule, in Part – I of the Seventh Schedule, in Part – I of the Eight Schedule and in Part – I of the Tenth Schedule, at the time of its registration, a life time tax shall be paid at the rates specified therein, on a licence to be taken out for the life time of such vehicles;"

4.Thereafter, the learned counsel also placed reliance on the amendment which has been introduced in clause (c) to the Explanation, which is as follows:

"*After clause (c) and the Explanation thereunder, the following clause shall be added, namely:-*

"(d)in respect of construction equipment vehicles specified in the First Schedule, the tax shall be paid either annually at the rates specified therein or for the life time of such vehicles at the rate specified in Part I and of such old vehicles in Part II of the Tenth Schedule, on a licence to be taken out for such vehicles for that year or for the life time, as the case may be.";

5.Further reliance had been placed on the First Schedule and in Sl.No.8 for Construction Equipment Vehicle wherein, the annual tax had been determined at the rate of Rs.15,000/-.

6.The learned Additional Advocate General appearing for the respondents had pointed out the Tenth Schedule, which is as follows:

TENTH SCHEDULE
(See section 2(1) and 4(1)(d)
Construction Equipment Vehicles
Part – I
New Motor Vehicles

At the time of registration	*Rate of life tax (Per cent of the cost o the vehicle)*
	8 per cent.

7.The only issue is whether the petitioner could pay the annual tax or should be directed to pay the life time tax at the rate of 8% of the total cost of the vehicle.

8.In the counter affidavit filed on behalf of the 1st respondent, it had been reiterated that since the petitioner had purchased a new Construction Equipment Vehicle, the tax which is leviable is only life time tax at the rate of 8% of the total cost of the vehicle. However, it is contended on behalf of the petitioner that an option is given to the petitioner to pay either annual tax of Rs.15,000/- till the life time of the vehicle or pay the life time tax at 8% of the total cost of the vehicle. It had been contended that the petitioner had chosen to pay the annual tax and therefore, it had been contended that there cannot be an insistence that the petitioner should pay life time tax.

9.The amendment brought in the year 2023, specifies that for Construction Equipment Vehicle specified in the First Schedule, the tax shall be paid annual or life time at the rate specified in Part – I or for old vehicle in Part – II of the tenth schedule. Whether the Construction

Equipment Vehicles are old or new has not been stated in Clause (d). That classification being given in the Tenth Schedule wherein specifically rates had been given separately for new vehicles and old vehicles. In Part – I of the First Schedule, Serial No.8 relates to Construction Equipment Vehicle and an option is given that annual tax of Rs.15,000/- can be paid to the Government. Independent of this, in the Tenth Schedule, again Construction Equipment Vehicles had been given in accordance with Section 2(1) and 4(1)(d) of the Act and it had been stipulated that for new vehicle, 8% of the total cost of the vehicle should be determined at life time tax.

10.The manner in which the new vehicle has to be taxed, has to be stated in clear terms by the respondents herein. They had given two options. They have stated that either life time tax could be paid or Annual Tax could be paid.

11.The learned Additional Advocate General, however placed reliance on the opinion given by the 3rd respondent namely, the Assistant Audit Officer, Salem. The 3rd respondent had not examined Part – I of the First Schedule wherein, the Construction Equipment Vehicle is also mentioned as a vehicle for which annual tax can be paid. There has not been any examination on that particular aspect.

12.It would only be appropriate that the 3rd respondent also examines that particular aspect and then come to a satisfaction whether the annual tax could be paid by the petitioner. The nature of the vehicle had been given in the First Schedule. The same nature of vehicle has also been given in the Tenth Schedule. In the First Schedule, an option is given for payment of annual tax at Rs.15,000/-. In the Tenth Schedule, the lifetime tax has been indicated, but in Clause (d) which had been extracted above, an option had been given to pay tax either annually or lifetime.

13.Therefore, the impugned order is set aside and the matter is remitted back to the 2nd respondent to re-examine the entire issue in accordance with the schedule given in the amended Act and thereafter, come to a conclusion whether annual tax could be paid or only life time tax could be paid for the Construction Equipment Vehicle. The entire exercise may be reworked by the 2nd respondent within a period of three months from the date of receipt of a copy of this order.

14.In view of the above observations, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

12.12.2024

Index:Yes/No
Internet:Yes/No
smv

To

1.ThePrincipal Secretary to Government,
Transport Department,
Secretariat,
Chennai – 600 009.

2.The Regional Transport Officer,
Attur,
Salem District.

3.The Assistant Audit Officer,
Salem – 5.

C.V.KARTHIKEYAN, J.

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