IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.111 of 2024
and
W.M.P.No.116 of 2024

M/s. V.S.A.Group of Institution,
Rep. By its Chairman,
Dr.R.Malarvelzhi. ...Petitioner

Vs.

The Regional Transport Officer,
Salem South,
Salem – 636 010. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records relating to the impugned demand notice in Na.Ka.No18896/E2/2022 dated 10.05.2023 on the file of the respondent and to quash the same as arbitrary.

For Petitioner : Mr.L.Lakshmi Swaroopa

For Respondents : Mr.L.Balathandayutham
Special Government Pleader

Order

The challenge in this Writ Petition is to the demand notice dated 10.05.2023 issued by the respondent and to quash the same as arbitrary.

2. The facts of the case in short is as follows:-

i) The petitioner is a Group of Institutions represented by its Managing Trustee; that the petitioner owns four buses and permits for operation of the vehicles have also been obtained. The motor vehicle tax due to be paid by the petitioner for the vehicles have been regularly paid by the petitioner to the Government and there is no arrears. However, the petitioner received a demand notice from the respondent for a sum of Rs.5,73,760/- dated 10.05.2023, alleging that there has been a shortage in collection of tax for these vehicles for a period from 01.10.2012 to 31.03.2014. Aggrieved by the said impugned demand, the present Writ Petition is filed.

3. Mr.L.Lakshmi Swaroopa, the learned counsel appearing for the petitioner assailed the impugned demand by contending the same is barred by limitation. The learned counsel submitted that as per Section 15-A of the Tamil Nadu Vehicles Taxation Act, 1974, the Licensing Officer (respondent in this case) is supposed to initiate proceedings within a period of five years from the expiry of the period to which the tax relates. Thus, the learned counsel contended that in terms of the said provision, for recovery of alleged shortage in collection of tax for the period from 01.10.2012 to 31.03.2014, the respondent ought to have initiated proceedings on or before 31.03.2019, whereas, impugned demand has been issued on 10.05.2023. Therefore, the learned counsel contended that the impugned order is not sustainable as the same is barred by limitation.

4. Mr.L.Balathandayutham, learned Special Government Pleader for the respondent would submit that there was a delay in receiving the audit report, which has resulted in issuing the demand notice belatedly, however, as regards the said demand, several letters were issued to the petitioner as early as on on 06.01.2023, 27.01.2023 & 30.03.2023. However, he fairly submitted that, in any event, since there was a delay in issuing the demand notice, appropriate orders may be passed.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the present case, the issue is with regard to the impugned demand notice issued by the respondent dated 10.05.2023, wherein, it is alleged that there has been a shortage in collection of tax in respect of the vehicles owned by the petitioner for the period from 01.10.2012 to 31.04.2014, and the reason for such demand is that the vehicles are not entitled to be assessed to motor vehicle tax at concessional rates and that the deficiency in tax assessed and collected is being corrected as per the objections raised by the State Accountant General, Chennai.

6.1 It is the main contention of the learned counsel for the petitioner that the impugned demand is barred by limitation. In support of such contention, the learned counsel has drawn the attention of this Court to section 15-A of the Tamil Nadu Vehicles Taxation Act, 1974, which reads as follows:-

> " Where for any reason the whole any portion of the tax which payment would payment have been payable in respect of any vehicle under this Act for any period has not been paid, the licensing officer may at any time, within a period of five years, from the expiry of the period to which the tax relates, and after issuing a notice to the registered owner or the person having possession or control of the motor vehicle and making such inquiry as he may consider necessary, direct such owner or other person to pay the whole or any portion of such tax, which has not been paid."

6.2. Thus, on perusal of aforesaid section makes it clear that any tax due to be paid in respect of vehicle under this Act for any period has not been paid by the licensee, the Licensing Officer is entitled to issue notice towards recovery of the tax unpaid, provided, within a period of five years, from the expiry of the period,to which, the tax relates. Thus, in the case on hand, if the aforesaid provision is applied, the respondent herein is entitled to initiate proceedings on or before 31.03.2019, since, in the present case, the tax due relates to the period from 01.10.2012 to 31.03.2014. However, the respondent issued demand notice towards recovery of the tax due on on 10.05.2023.

6.3 Therefore, as rightly contended by the learned counsel for the petitioner the impugned demand is barred by limitation, inasmuch as, the impugned demand has been issued after a lapse of nine years, which is not in consonance with the time limit prescribed under the said Act. Hence, this Court is of the view that impugned demand raised by the respondent is totally time barred and in derogation of the mandatory time limit prescribed under the statute and therefore, the same has to be set aside.

7. In the result, the Writ Petition is allowed, the impugned order is quashed. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.09.2024

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Index : yes/no
Neutral Citation : yes/no

To
The Regional Transport Officer,
Salem South,
Salem – 636 010.

Krishnan Ramasamy,J.,

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W.P.No.111 of 2024

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