



W.P.(MD) No.6721 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.6721 of 2024

and

W.M.P.(MD)No.6235 of 2024

S.Vijay

... Petitioner

Vs.

1.The Secretary,
Regional Transport Officer,
Regional Transport Office,
Tenkasi.

2.D.Rajan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari, calling for the entire records pertaining to the impugned notice sent by the respondent as Na.Ka.No.37937/E1/23, dated 31.10.2023, and quash the same as illegal.

For Petitioner : Mr.K.Ganesamoorthi

For R1 : Mr.S.P.Maharajan
Special Government Pleader



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ORDER

WEB COPY This Writ Petition has been filed for issuance of a Writ of Certiorari, calling for the entire records pertaining to the impugned notice sent by the first respondent in Na.Ka.No.37937/E1/23, dated 31.10.2023, and quash the same as illegal.

2. The petitioner has purchased a vehicle bearing Registration No.TN-85-F-5252 from the second respondent on 23.05.2023. It appears that on 16.09.2022, the vehicle was issued with the check report for carrying goods in excess of the permitted quantity.

3. It is the case of the petitioner that he is the *bona fide* purchaser of the vehicle and therefore, he cannot be fastened with the liability incurred by the second respondent on 16.09.2022. It is submitted that the petitioner is not liable to pay the fine and therefore, the petitioner sent a reply to the first respondent by stating that he cannot be held liable for the lapses committed by the second respondent.

4. The first respondent, by communication dated 05.02.2024, bearing Reference No.Na.Ka.No.4127/A1/2024, has said that the vehicle



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was inspected on 16.09.2022 by the Motor Vehicle Inspector Grade-I, Tirunelveli at Deputy Transport Commissioner's Office, Tirunelveli and the said inspection report was received by the first respondent only on 30.10.2023 and he blocked it on his computerized portal on 02.11.2023.

5. The learned Special Government Pleader for the first respondent submitted that the petitioner is liable to pay fine in terms of the Tamil Nadu Motor Vehicle Taxation Act, 1974 [hereinafter referred to as "the Act"].

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the first respondent.

7. The fine that was imposed on the second respondent on 16.09.2022 for overloading the vehicle, cannot be collected from the petitioner, merely because the petitioner purchased the vehicle without notice to the above said proceedings initiated against the second respondent. Section 7 of the Tamil Nadu Motor Vehicle Taxation Act, 1974 will not apply as it applies only qua tax that is payable under the



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provisions of the Act and not to fine imposed for overloading. Section 7

of the Act reads as under:-

"7. Liability to payment of tax by persons in succeeding to the ownership possession or control of motor vehicles.-

If the tax leviable in respect of any motor vehicle remains unpaid by any person liable for the payment thereof and such person, before paying the tax, has transferred the ownership of such vehicle or has ceased to be possession or control of such vehicle, the person to whom the ownership of the vehicle has been transferred or the person who is in possession or control of such vehicle, shall be liable to pay the said tax;

Provided that nothing contained in this section shall be deemed to affect the liability to pay the said tax of the person who has transferred the ownership or has ceased to be in possession or control of such vehicle."

8. Considering the above, this Writ Petition stands allowed with liberty to the first respondent to initiate appropriate proceedings against the second respondent to recover the amount from him. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
smn2
Note:- Issue order copy on 10.04.2024.

08.04.2024



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To
WEB COPY

The Secretary,
Regional Transport Officer,
Regional Transport Office,
Tenkasi.



WEB COPY



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C.SARAVANAN, J.

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