BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.08.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**
AND
THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

W.A.(MD)No.1513 of 2018
and
C.M.P(MD)No.10784 of 2018

1.The Joint Transport Commissioner,
Madurai Zone,
Opposite to Mattuthavani Bus Stand,
Puthukulam,
Madurai – 625 007.

2.The Regional Transport Officer,
Regional Transport Office, Dindigul,
Dindigul District.

3.The Motor Vehicle Inspector,
Unit Office Batlagundu,
Batlagundu,
Dindigul District.

4.The State, through
The Sub Inspector of Police,
Pattiveeranpatti Police Station,
Pattiveeranpatti,
Dindigul District.

: Appellants

Vs.

V.Vijayakannan

: Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order dated 12.10.2018 passed in W.P.(MD) No.21238 of 2018.

For Appellants	: Mr.M.Sarangan Addl. Govt. Pleader
For Respondent	: No appearance

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JUDGMENT

(Judgment of the Court was delivered by **P.VELMURUGAN, J.**)

Though notice has been served on the respondent and his name has also been printed in the cause list, none appears for him.

2. Heard the learned Additional Government Pleader appearing for the appellants.

3.The respondent has filed the writ petition seeking for issuance of a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned proceedings of the third appellant/third respondent in Detained Order No.A1001465 dated 20.09.2018 and quash the same and consequently, direct the appellants 3 and 4/respondents 3 and 4 to release the petitioner's vehicle in bearing Registration No.TN-57-BX-7113 on the basis of the petitioner's representation, dated 08.10.2018. The learned Single Judge allowed the writ petition by referring to Section 4 (i) (aa) of the Tamil Nadu Motor Vehicles Taxation (Amendment) Act, 2012, as if, the vehicle capacity is based on the seat capacity of the vehicle 4 + 1, whereas, the respondent's vehicle by name, Tourist Maxi Cap got seat capacity of 13. Therefore, as per the amended Act, 2012, Eighth Schedule was shown Sections 3, 4(1-A)(a) and (aaa) and the same was extracted hereunder:

EIGHTH SCHEDULE

[See sections 3, 4(1-A)(a) and (aaa)]

Part - I

New tourist maxi-cab, with a floor area of more than 6 square metre, which vehicle is permitted to carry more than seven persons but not more than thirteen persons including the driver.

At the time of registration	Rate of Tax
(i) If the cost of the vehicle does not exceed rupees 10 lakh	10 percent of the cost of vehicle
(ii) If the cost of the vehicle- exceeds rupees 10 lakh	15 per cent of the cost of vehicle

Explanation.—For the purpose of this Schedule, “cost of vehicle” means the cost of vehicle at the time of purchase, in such manner as may be prescribed.

4. The learned Single Judge quoting the wrong provision passed the order, which is impugned. As pointed out by the learned Additional Government Pleader that Section 4(1)(aa) is not applicable to the respondent's case and only eight schedule of the Amendment Act would only be applicable.

5. Therefore, the writ appeal is allowed and the order passed by the learned Single Judge is set aside. No costs. Consequently, connected miscellaneous petition is closed.

[P.V.,J.] **[K.K.R.K.,J.]**

skn **20.08.2024**

NCC : Yes/No
Index : Yes/No
Internet : Yes

P.VELMURUGAN, J.

and

K.K.RAMAKRISHNAN, J.

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