BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.28782 of 2024
and
W.M.P.(MD) No.24384 of 2024

P.Koodeswaran .. Petitioner

Vs.

1.The Commissioner,
State Transport Authority,
Chennai-600 032.

2.The Secretary,
Regional Transport Authority,
Madurai Central, Madurai. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records pertaining to the Impugned Order passed by the 1st Respondent vide his Proceedings in R.No.34249/A5/2024, dated 07.10.2024 and quash the same as illegal and for other reliefs.

For Petitioner	:	Mr.A.C.Asaithambi
For Respondents	:	Mr.R.Suresh Kumar Additional Government Pleader

ORDER

The impugned order had been passed by the State Transport Authority invoking the powers vested with him under Section 86 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act") cancelling the permit in respect of vehicle bearing No.TN75L6669 on the premise that the petitioner herein had failed to make good the tax.

2. It is to be noted that on 18.09.2024, the petitioner had been issued with a show cause notice by the Secretary, Regional Transport Authority, Madurai (Central) RTO (a) calling upon the petitioner to remit the tax with due penalty by means of a demand draft within seven days from the date of receipt of the memo; and (b) a show cause notice under Section 86(1) of the Motor Vehicles Act by the very same authority.

3. Pursuant to the notices issued, the petitioner had also remitted the tax on 30.09.2024, which has been substantiated by the production of tax receipt issued by the Department evidencing payment of such tax along with penalty. However, without taking into account the payment of such tax, the first respondent herein had cancelled the permit issued to the petitioner in respect of vehicle No.TN75L6669.

4. The show cause notices dated 18.09.2024 issued by the second respondent are without any authority, as the second respondent is not the permit issuing authority. Any action under Section 86 of the Act can only be initiated by the authority which had granted the permit. However, the first respondent, based upon the notices issued by the second respondent, without considering the payment of tax, had passed the order impugned by holding that the tax had not been paid by the petitioner.

5. In such view of the matter, the order impugned suffers from the vice of unreasonableness and arbitrariness and the same is accordingly, set aside and all the consequential proceedings are also set aside.

6. In fine, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

29.11.2024

Note: (i) Upload order copy by 29.11.2024
(ii) Issue order copy by 02.12.2024

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

abr

To

1.The Commissioner,
State Transport Authority,
Chennai-600 032.

2.The Secretary,
Regional Transport Authority,
Madurai Central, Madurai.

K.KUMARESH BABU, J.

abr

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