(1998) 08 MAD CK 0139

In the Madras High Court

Case No : Writ Petition No''s. 10900 and 11528 of 1998

M. Chinnathambi APPELLANT

Vs

The Regional Transport Officer, Namakkal RESPONDENT

Date of Decision : 11-08-1998

Acts Referred:

Citation : (1998) 3 CTC 721

Hon'ble Judges : S. Jagadeesan, J

Bench : Single Bench

Advocate : Mr. Ganesan, for the Appellant; Mr. R. Thirugnasambandan, A.G.P., for the Respondent

Final Decision : Allowed

Judgement

1. By consent of both the counsel, the main writ petitions themselves are taken up for final disposal.

2. Both the petitioners have filed these writ petitions, seeking to quash the proceedings of the respondent, dated 21.7.1998 and 26.6.1998 respectively, demanding payment of composite tax from them in respect of their vehicles bearing Registration Nos. TN-04/A-4852 and TN-04/4446 covered under the national permits, which are valid upto 28.4.1999 and 9.1.2000 respectively.

3. The grievance of the petitioners is that they have paid the composite tax and got authorisations in respect of the other States as mentioned in their respective permits valid upto 27.4.1996 and 31.3.1997, but they could not renew the authorisations thereafter. Further, the petitioner in W.P.No. 10900 of 1998 has applied for the surrender of the permit on 31.12.1997. Without considering their applications for renewal, the respondent had demanded the composite tax along with penalty for the other States, for the relevant period.

4. Admittedly, when the petitioners had not renewed the authorisation and did not ply the vehicles in the other States after the expiry of the authorisations, it is not open to the respondent to issue notice to them demanding the payment of

composite tax. In fact, it has been held by R. Jayasimha Babu, J in R. Palaniappan Vs. The Regional Transport Officer and Others, has follows:

"Though the object of levying authorisation, fee appears to be merely to ensure collection of additional revenue to the State concerned by way of collecting authorisation fee even after the permit has been issued, nevertheless, the validity of the permit is made subject to the authorisation has to be obtained at intervals of not more than one year. Condition 48 incorporated in the permit also shows that the National Permit itself shall cease to be valid unless the vehicle is covered by a valid authorisation issued by the competent authority. If the permit ceases to be valid on account of the holder of the permit not applying for authorisation, the vehicle in respect of which the permit has been issued cannot be used in the other States, If the vehicle is not authorised for use in the other States and is not kept for use in any of those States, the peed for collecting tax payable in the other States mentioned in the permit does not arise. It has therefore, to be held that the petitioner is not able to pay composite tax for the period subsequent to 1.4.1990, in view of the fact that the vehicle was not covered by a valid authorisation."

The same view was followed by Subramani, J in the Judgment reported in V. Mohideen Pitchai v. The Regional Transport Officer, Tirunelveli, 1998 WLR 152.

5. Following the above Judgments. I am of the view that both the writ petitions have got to be allowed, directing the respondent not to insist the petitioners for the payment of composite tax in respect of their respective vehicles.

6. Accordingly both the writ petitions are allowed. No costs. The connected miscellaneous petitions are dismissed.

