(2007) 09 MAD CK 0077

In the Madras High Court

Case No : Writ Petition No. 8922 of 2003

M. Savuthan		APPELLANT
	Vs	
The Regional Transport Officer		RESPONDENT

Date of Decision : 17-09-2007

Acts Referred:
Tamil Nadu Motor Vehicles Taxation Act, 1974 — Section 15A

Citation : (2007) 09 MAD CK 0077

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : A. Ganesan, for the Appellant; A. Arumugam, Additional Government, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—This petition is filed seeking for a writ of certiorari, calling for the records of the respondent in R. No. 74322/C-4/98,

dated 30.09.2002, and quash the same.

2. It is submitted by the petitioner that he is the owner of the vehicle bearing Registration No. TCS 2383, which was covered by the goods

carriage permit issued by the respondent and which was valid upto 12.10.1990. However, the said vehicle was not used on road since 1987, as it

had developed major repairs. The petitioner had also stated that the vehicle in question had been purchased under a Hire purchase agreement

entered into with the Tamil Nadu Industries Investment Corporation Limited, Dharmapuri. Since the petitioner could not repay the dues, the vehicle

had been seized on 01.01.1987 and it was under the custody of the Tamil Nadu Industries Investment Corporation Limited, Dharmapuri, till

12.10.1990. However, the vehicle had been detained in the Suramangalam Police

Station from 13.10.1990 to 15.02.2002. Whileso, the petitioner

had made an application for the issuance of the tax clearance certificate for the vehicle. The respondent instead of issuing the tax clearance

certificate had issued a demand notice, directing the petitioner to pay the tax arrears of Rs.48,240/- for the period from 01.09.1987 to

12.10.1990. The petitioner has filed the present writ petition, challenging the demand notice, dated 30.09.2002, issued by the respondent in R.

No. 74322/C-4/98, stating that it could not be issued by the respondent after five years from the date when the amount became due, as it is barred

by limitation as provided u/s 15-A of the Tamil Nadu Motor Vehicles Taxation Act, 1974. Further, the impugned notice had been challenged on

the ground that no personal hearing had been given to the petitioner before the impugned notice had been issued.

3. The learned Counsel appearing on behalf of the petitioner had relied on a decision of this Court made in T.R. Varadarajan Vs. The Regional

Transport Officer, , wherein it had been held that a demand for payment of tax made after a period of five years to which the tax relates, without

issuing prior notice and without conducting an enquiry, was in violation of Section 15-A of the Tamil Nadu Motor Vehicles Taxation Act, 1974.

4. In the counter affidavit filed by the respondent, it has been stated that the writ petitioner is the registered owner of the goods vehicle with

registration No. TCS 2383, covered under a public carrier permit which had expired on 07.05.1991. The tax that was due to be paid by the

petitioner, under the Tamil Nadu Motor Vehicles Taxation Act, 1974, had been paid only upto 30.06.1987. Thereafter, the petitioner had not paid

the tax for the said vehicle. However, the petitioner had been running the vehicle on public roads illegally even after the expiry of the grace period

for the payment of tax. When the said vehicle was proceeding from Perundurai to Kovai, with a load of 17 buffalows, the vehicle was checked by

the Motor Vehicles Inspector, Grade II, Gobichettipalayam, and a check report had been issued on 30.07.1987 for non-payment of tax. The

petitioner had been issued with a demand notice on 03.12.1987, which has been received by the petitioner on 15.12.1987. Since the

petitioner/permit holder had not paid the tax due for the vehicle, it was seized and kept in the police custody at the Suramangalam Police Station, on 13.10.1990, in Crime No. 1039 of 1990. Since the case had been disposed of in favour of the petitioner, the vehicle was handed over to him

on 15.02.2002. The petitioner had applied for the issuance of tax clearance certificate in respect of the said vehicle and therefore, a revised

demand notice had been issued to the petitioner on 30.09.2002, requesting him to pay the tax of Rs.16,080/- with the penalty of Rs.32,160/-,

amounting to Rs.48,240/-.

5. The learned Counsel appearing for the respondent had submitted that a demand notice, dated 03.12.1987, had been issued to the petitioner in

R.NO.84335/B3/87 and the same had been received by the petitioner on 15.12.1987. Thus, the demand notice had been issued to the petitioner

for the tax demand within a period of six months. Hence, the petitioner''s allegation that the demand notice was issued to him after five years is not

true. Since, the petitioner had not furnished his explanation for the demand notice, the question of conducting a personal hearing does not arise.

The demand notice, dated 30.09.2002, is only a revised demand notice and therefore, it is well within the time limit prescribed by Section 15-A of

the Tamil Nadu Motor Vehicles Taxation Act, 1974.

6. The learned Counsel appearing for the respondent had also submitted that the petitioner would be given an opportunity to represent his case

before final orders are passed with regard to payment of tax. Therefore, the petitioner cannot be aggrieved by the impugned demand notice, dated

30.09.2002.

7. In view of the submissions made by the learned Counsels appearing for the parties concerned, this Court is of the considered view that the

petitioner has not shown sufficient cause or reason to set aside the proceedings of the respondent in R. No. 74322/C-4/98, dated 30.09.2002, as

it is only a revised demand notice issued pursuant to the notice issued by the respondent on 03.12.1987, in R. No. 84335/B3/87, requesting the

petitioner to pay the tax due from him with regard to the goods vehicle with Registration No. TCS 2383. Further, the demand notice had been

issued by the respondent only because the petitioner had requested for a tax clearance certificate for the said vehicle. In such circumstances, the

limitation prescribed u/s 15-A of the Tamil Nadu Motor Vehicles Taxation, Act, 1974 cannot be applicable to the present case.

Hence, the writ petition stands dismissed. No costs.

