(2004) 09 MAD CK 0150

In the Madras High Court

Case No : Writ Petition No. 9163 of 1997

V.L.B. Trust — APPELLANT

Vs

The Regional Transport Officer and The Accountant General — RESPONDENT

Date of Decision : 22-09-2004

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2005) WritLR 715

Hon'ble Judges : F.M. Ibbrahim Kalifulla, J

Bench : Single Bench

Advocate : K. Hariharan, for the Appellant; G.H. Varadarajan, AGP, for the Respondent

Final Decision : Allowed

Judgement

F.M. Ibbrahim Kalifulla, J.—The challenge in this writ petition is to the order of the first respondent dated 17.4.97 in R.No.20822/A1/97, in and by which, the first respondent has made a demand of Rs.12,950/- by way of the balance motor vehicle tax payable by the petitioner along with 100% penalty, in all, a sum of Rs.25,900/-. The said determination has been made for the period 1.4.1994 to 31.3.1996. In the impugned order, it is merely stated that from the communication of the Accountant General (Audit), the second respondent herein, dated 21.2.97, the collection of Rs.2,000/- as annual tax was contrary to the provisions of the Motor Vehicles Act and that the tax should have been levied on the basis of Rs.50/- per seat. It was on that footing, the claim came to be made by the first respondent in the impugned order.

2. Mr.Hariharan, learned counsel for the petitioner, pointed out that u/s 66(3)(h) of the Motor Vehicles Act, as it stood thus, it was stipulated that the vehicles owned by educational institutions need not secure a permit as provided u/s 66(1) of the said Act, that the said exemption u/s 66(3)(h) came to be deleted by Act 27 of 2000 with effect from 14.11.1994 and thereby, the petitioner, which is an educational institution and who owns the vehicle bearing Registration

No.TMV-1610 is supported by valid permit after the deletion of clause (h) to sub-section 3 of Section 66, in which event the tax liability of the petitioner will have to be worked out based on the provision of the Tamil Nadu Motor Vehicles Taxation Act. As far as the rate of tax is concerned, the same has been prescribed in the First schedule of the Tamil Nadu Motor Vehicles Taxation Act.

3. Classification 8(a) of the I Schedule deals with the quantum of tax payable by the vehicles owned by educational institutions. As far as classification 6(A) is concerned, it is stipulated that motor vehicles weighing more than 3000 kgs. unladen and owned by educational institutions in respect of which private transport vehicle permit is not required under the Motor Vehicles Act, there should be payment of Rs.2,000/- by way of annual tax. Having regard to the deletion of clause (h) to sub-section 3 of Section 66, since holding of a permit is imperative even in respect of educational institutions, the above said classification 6(A) will have no application. However, under classification 8(a), it is mentioned that motor vehicles other than those liable to tax under the foregoing provision of that schedule, weighing more than 3000 kgs. unladen and covered by private transport vehicle permit and those in respect of which private service vehicles permit is required under the Motor Vehicles Act, if such vehicles are owned by educational institutions (educational institution bus), the quarterly tax payable has been fixed at a sum of Rs.500/-.

4. Therefore, there can be no two opinion that in the case on hand, since the petitioner is an educational institution and the bus used by the petitioner for carrying its students and teaching staff in the course of its administration is covered by a valid permit obtained under the provisions of the Motor Vehicles Act, Classification 8(a) would apply and therefore, the payment of tax made by the petitioner at a sum of Rs.2,250/- for the period 1.4.1994 to 31.3.1995 would be in order and for the period 1.4.1995 to 31.3.1996, the petitioner would be liable to pay a sum of Rs.2,000/- by way of tax for the whole year at the rate of Rs.500/- per quarter. The present demand of the first respondent for any sum beyond the rate of Rs.500/- per quarter for the above said period cannot, therefore, be maintained. Inasmuch as the petitioner had paid in respect of vehicle No.TMV-1610 for the period 1.4.1994 to 31.3.1995 a sum of Rs.2,250/-, there can be no further demand on the petitioner for that period. As far as the period from 1.4.1995 to 31.3.1996 is concerned, if the petitioner had not already paid at the rate of Rs.500/- per quarter, it is open to the first respondent to make a demand in accordance with Classification 8(a) of the First Schedule to the Tamil Nadu Motor Vehicles Taxation Act with whatever penalty the petitioner is liable to pay. If the petitioner had already paid the tax for the said period in accordance with Classification 8(a), the petitioner shall produce necessary proof for such payment and the first respondent shall accept the same in the event of production of such proof.

5. Accordingly, the writ petition stands allowed with the above observations. No costs.

