IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WA.No. 6 of 2015 () IN WP(C).32550/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 32550/2014 of HIGH COURT OF KERALA DATED 04-12-2014

APPELLANT(S)/PETITIONER :

M/S. MALABAR COLLEGE OF ENGINEERING & TECHNOLOGY,
PALLUR P.O., DESAMANGALAM, WADAKKANCHERY,
THRISSUR-679 532
REPRESENTED BY ITS CHAIRMAN K.S.HAMZA.

BY ADV. DR.K.P.PRADEEP

RESPONDENT(S)/RESPONDENTS IN WPC :
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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF MOTOR VEHICLES, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2. JOINT REGIONAL TRANSPORT OFFICER,
SUB REGIONAL TRANSPORT OFFICE, WADAKKANCHERY,
THRISSUR-680 582.

3. ADDITIONAL REGISTERING AUTHORITY,
SUB REGIONAL TRANSPORT OFFICE, WADAKKANCHERY,
THRISSUR-680 582.

4. THE DEPUTY TAHSILDAR (RR),
TALUK OFFICE, THALAPPILLY, THRISSUR.

R BY Dr.SEBASTIAN CHAMPAPPILLY, GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DG

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

W.A.No.6 of 2015

Dated this the 7th day of January, 2015

<u>J U D G M E N T</u>

<u>Thottathil B.Radhakrishnan, J.</u>

1. Heard the learned counsel for the appellant and the learned special Government Pleader for Department of Commercial Taxes.

2. This writ appeal is by the owner of a motor vehicle. The claim raised was that the tax paid under the Kerala Motor Vehicle Taxation Act, 1976 is excessive and, therefore, the petitioner was entitled to be refunded the amount paid in excess. The term 'purchase value' under the Act was interpreted by the High Court as the value of the vehicle without the VAT component being added to determine tax payable under the Kerala Motor Vehicle Taxation Act, 1976. The Division Bench affirmed that view. Later, may be because amounts would have already been collected treating the purchase value to be included in the tax paid

under the KVAT Act, the legislature in its wisdom amended the definition clause in the Kerala Motor Vehicle Taxation Act, 1976, amending the definition of the term 'purchase value' with retrospective effect. That being so, the petitioner's case has no legs to stand. In this view of the matter, notwithstanding the fact that the learned single Judge noted that there is enormous delay in instituting the writ petition, we find no ground to interfere on its merits as well.

3. Though the learned counsel for the appellant submitted that there are fair grounds to have a re-consideration of the ratio laid by the Division Bench in **Fathima Shirin v. Joint RTO [2013(3) KLT 945]**, we are not impressed. We say this not because of the correctness or otherwise of that precedent. But, because the writ petition, as held by the learned single Judge, was delayed for more than one year after issuance of Exhibit P14 and the discussion in that regard having been exercised by the learned single Judge by refusing to entertain the writ petition, we see no ground to interfere with that in exercise of appellate jurisdiction under Section

5 of the High Court Act. However, the installment facility extended through the impugned judgment will operate from the 15th of January, 2015.

In the result, this appeal is dismissed in limine.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(K.HARILAL, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG