IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

WA.No. 78 of 2015 () IN WP(C).26978/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 26978/2014 of HIGH COURT OF KERALA DATED 31-10-2014

APPELLANT(S)/WRIT PETITIONER:

P.A. GEORGE XAVIER
MANAGING PARTNER, NTA TRANSPORTS, HINA HOUSE
NTA CHAMBERS, PERUMANOOR JETTY ROAD, WELLINGTON ISLAND
COCHIN-682003, RESIDING AT PALLATHUPARAMBIL HOUSE
NAZARETH, KOCHI-682002.

BY ADVS.SRI.SHAJI THOMAS
SRI.T.V.VINU

RESPONDENT(S)/RESPONDENTS:
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1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF REVENUE
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.

2. DISTRICT COLLECTOR
ERNAKULAM, CIVIL STATION, KAKKANAD
KOCHI-682030.

3. DEPUTY TAHSILDAR(RR)
KOCHI TALUK, KOCHI-682001.

4. VILLAGE OFFICER
THOPPUMPADY VILLAGE OFFICE, THOPPUMPADY,
KOCHI-682006.

5. JOINT REGIONAL TRANSPORT OFFICER
SUB REGIONAL TRANSPORT OFFICE, MATTANCHERRY
KOCHI-682 005.

BY SRI.T.RAMPRASAD UNNI, SR.GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.
....
W.A.No.78 of 2015
....
Dated this the 19th day of January, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. We have heard the learned counsel for the appellant, quite in extenso.

2. The appellant/petitioner faced demand for recovery of motor vehicle tax. He took a stand that the vehicle was dismantled in 2011. However, there was no material to show that the dismantling was with prior permission of the Department. Though the appellant/petitioner stands to assert that requisite papers were presented, there is nothing to prove it. Under such circumstances, we do not find our way to interfere with the judgment of the learned single Judge refusing interference. More over, the learned single Judge has graciously granted the appellant installment facility, which also does not require further

modification, at our hands. This appeal, therefore, fails.

3. The learned counsel for the appellant, however, says that in the present situation, the Department is likely to raise claim of tax for subsequent years and that will become a perennial problem, and since the vehicle has already been dismantled, the appellant will be without any remedy, if the stand taken by the Department is that the appellant's vehicle cannot be treated as not dismantled merely because prior permission was not taken to dismantle it. We see this practical problem of the appellant and treat this as an extraordinary case and direct that if the appellant makes a representation to the Transport Commissioner, appropriate enquiry, as may be found necessary by the Commissioner, will be got conducted through competent subordinate authorities and the Commissioner will then decide as to whether the appellant could be excused from paying motor vehicle tax for the period subsequent to that covered by the demand impugned in this appeal and the writ petition.

In the result, subject to what is stated in the immediately preceding paragraph, this writ appeal is dismissed.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)

jg