IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

WP(C).No. 2172 of 2008 (H)

PETITIONER(S):

V.PRADEEP KUMAR, S/O.A.P.BALAN,
RESIDING AT PEEDIKAKANDI HOUSE, POST KOTTAYAMPOYIL,
TELLICHERRY TALUK, KANNUR DISTRICT.

BY ADV. SRI.CIBI THOMAS

RESPONDENT(S):
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1. **THE SECRETARY LABOUR AND REHABILITATION DEPARTMENT, THIRUVANANTHAPURAM.**

2. **THE DISTRICT EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT WORKERS WELFARE, FUND BOARD, KANNUR.**

3. **THE CHIEF EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT WORKERS WELFARE, FUND BOARD, KOLLAM.**

* **ADDITIONAL R4 & R5 IMPLEADED**

4. **THE JOINT REGIONAL TRANSPORT OFFICER, KANNUR.**

5. **THE JOINT REGIONAL TRANSPORT OFFICER, KOZHIKODE.**

* **THE ADDITIONAL RESPONDENTS 4 AND 5 ARE IMPLEADED AS PER ORDER DTD.10.7.2008 IN IA.3522/2008.**

R1, R4 & R5 BY GOVERNMENT PLEADER SRI.T.J.MICHAEL
R2 & R3 BY ADV. SRI.NAVEEN T., SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 2172 of 2008 (H)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE SALE AGREEMENT DATED 13.2.1999.

EXT.P2: TRUE COPY OF THE REGISTRATION PARTICULARS SHOWING THE OWNERSHIP DATED 14.12.2007.

EXT.P3: TRUE COPY OF THE PROVISIONAL DETERMINATION ORDER DTD.31.3.2003.

EXT.P4: TRUE COPY OF THE NOTICE DTD.31.3.2003.

EXT.P5: TRUE COPY OF THE JUDGMENT IN WP(C) 11540/2004 DTD.1.4.2004.

EXT.P6: TRUE COPY OF THE FINAL DETERMINATION ORDER DTD.17.6.2003.

EXT.P7: TRUE COPY OF THE ORDER DTD.15.9.2004.

EXT.P8: TRUE COPY OF THE COMMON ORDER IN APPEAL'S NO.10860/04 & NO.26597/04 DTD.18.10.2007.

EXT.P9: TRUE COPY OF THE REGISTRATION PARTICULARS OF VEHICLE NO. KLZ 7684.

EXT.P10: TRUE COPY OF THE REGISTRATION PARTICULARS OF VEHICLE NO. KRD 4062.

EXT.P11: TRUE COPY OF THE REGISTRATION PARTICULARS OF VEHICLE NO. KL 13/D 3162.

EXT.P12: TRUE COPY OF THE REGISTRATION PARTICULARS OF VEHICLE NO. KL 13/F 6562.

EXT.P13: TRUE COPY OF THE RECEIPT DTD.17.8.2004.

EXT.P14: TRUE COPY OF THE RECEIPT DTD.17.1.2006.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. Vinod Chandran, J.

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W.P.(C)No.2172 of 2008

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Dated this the 3rd day of February, 2015.

JUDGMENT

1. Petitioner has challenged the final determination order at Exts.P6 and P7, which are affirmed in appeal at Ext.P8. Petitioner's contention is that, the assessment has been made on the deposition of one Gopalakrishnan, who is said to have been employed under the petitioner. There is no enquiry conducted by the assessing authority, is the contention raised. At the outset, it is to be noticed that, the petitioner does not have a case that, he was not issued with notice. A reading of Exts.P6 and P7 would indicate that, despite notice, the petitioner did not appear before the assessing authority.
2. Ext.P6 was with respect to the period 1998-2002, specifically with respect to three vehicles, KL-13/A 462, KL-13/H 5842 and KL-13/D 3167. Petitioner, on the basis of Ext.P2, would take a contention

that, KL-13/A 462 was sold by the petitioner. However, the registration, even according to Ext.P2, has been changed only on 17.12.2001 and the period assessed in Ext.P6, is prior to such sale. With respect to Ext.P7, that was for the period 2002-03 and definitely, the petitioner could not have been assessed for the vehicle, KL-13/A 462, which is transferred in 2001, as per Ext.P2.

3. However, despite the three vehicles being mentioned in both the orders, only one employee is seen assessed for the various periods. Hence, the vehicles definitely would have been in the ownership of the petitioner for different periods and the very same person would have been employed in all the said vehicles.

4. Petitioner has an additional contention with respect to Exts.P10 and P12, which are stated to be motor cycles. However, the vehicles indicated therein, having registration No.KRD 4062 and KL-13/F 6562, were only mentioned in the determination orders as belonging

to the petitioner. No assessment as such was carried out with respect to the said vehicles. In such circumstances, Exts.P10 and P12 would be of no consequence to consider the sustainability of the determination order. This Court does not find any reason to interfere with the determination order nor the appellate order. Writ petition would stand dismissed.

5. However, on the petitioner approaching the authorities for instalments, the petitioner shall be granted time to remit the welfare fund contribution in six equal monthly instalments. The authority shall quantify the dues as on 25.2.2015 and issue a statement of accounts, in accordance with which the instalments shall be paid. The 1st instalment shall be paid on or before 1.3.2015 and thereafter; the due date of instalments falling on the 1st of each succeeding month. If default is committed in two consecutive instalments, then the recovery proceedings shall revive and continue. On the

satisfaction of the dues as per the statement, the authority shall give a statement of the future interest from 25.2.2015 and the same shall be settled as the 7th instalment. While calculating the amounts outstanding, the amount already remitted by the petitioner shall be given credit to.

Writ petition is disposed off.

K. Vinod Chandran, Judge.

sl.