IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

WP(C).No. 18842 of 2004 (R)

PETITIONER(S):

N.RAJESH, S/O. K.P. NATARAJAN,
MANAGING DIRECTOR, K.P.N.TOURS & TRAVELS
20/1 SWAMY COMPLEX, ALBERT VICTOR ROAD, KALASIPALAYAM
BANGALORE-2.

BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN HARIHARAN

RESPONDENT(S):
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1. **MOTOR VEHICLE INSPECTOR,**
   MOTOR VEHICLE CHECK POST, WALAYAR, PALAKKAD DIST.

2. **MOTOR VEHICLE INSPECTOR,**
   MOTOR VEHICLE CHECK POST, AMARAVILA
   THIRUVANANTHAPURAM DISTRICT.

3. **MOTOR VEHICLE INSPECTOR,**
   MANJESWARAM, KASARGODE DISTRICT.

4. **MOTOR VEHICLES INSPECTOR,**
   MOTOR VEHICLE CHECK POST, MUTHANGA, WAYANAD DIST.

BY SRI S.SUDHEESH KUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO.18842/2004

APPENDIX

PETITIONER'S EXHIBITS:

P1	:	COPY OF THE AUTHORIZATION RELATING TO VEHICLE NO.KA 05/AF 001 ISSUED BY THE STATE TRANSPORT AUTHORITY, BANGALORE DATED 16.06.2004
P2	:	COPYOF THE AUTHORIZATION RELATING TO VEHICLE NO.KA 05/AE 001, ISSUED BY THE STATE TRANSPORT AUTHORITY, BANGALORE 16.06.2004
P3	:	COPY OF THE INTERIM ORDER MADE IN WPC 12085/04 DATED 05.04.2004 BY THIS HON'BLE COURT

RESPONDENTS' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDRAN, J.

W.P.(C) No.18842 of 2004

Dated this the 21st day of May, 2015

JUDGMENT

The petitioner is the registered owner of contract carriages bearing Registration Nos.KA 05/AF 001 and KA 05/AE 001, which are covered by All India Permits issued by Karnataka State Road Transport Authority. Exts.P1 and P2 are the authorisation certificates issued by the Karnataka State Transport Authority which is valid throughout the States of Karnataka, Tamil Nadu and Kerala. According to the petitioners, both the vehicles mentioned in Exts.P1 and P2 are covered by All India Tourist Permit issued under Section 88 of the Motor Vehicles Act, 1988 and that the said vehicles are conducting regular trips to Kerala as well as Tamil Nadu and that these vehicles are being operated on paying quarterly tax in advance in the State of Kerala and Tamil Nadu.

2. The grievance of the petitioner is that the Motor Vehicles Inspector at Walayar, the 1st respondent herein, has instructed the crew members of the contract carriages operated

by the petitioner that the Transport Commissioner, Kerala has directed them to collect tax for each entry of the vehicle into the State with immediate effect and further threatened seizure of the vehicles if they do not pay tax for each entry. Aggrieved by the aforesaid stand taken by the Motor Vehicles Department, the petitioner and other similarly situated operators have approached this Court in O.P.No.8086/2002 and connected cases and by the judgment in **Balan v. State of Kerala [2004 (1) KLT 479],** this Court held that Contract Carriages having All India Tourist Permit operating Regular Inter State Service can pay the tax either monthly, bi-monthly or per quarter and not for each entry.

3. According to the petitioner, in view of the above dictum laid down by this Court, he is entitled to pay tax in advance for the contract carriages referred to in Exts.P1 and P2 for a quarter and being aggrieved by the refusal of the Motor Vehicles Inspector at the Motor Vehicle Check Post to do so, the petitioner has approached this Court in this writ petition seeking a writ of mandamus commanding the respondents to receive tax from the petitioner for the contract carriages referred to in Exts.P1 and P2 on remitting payment of tax for one quarter, one

month or 1/10th of a quarter depending on the usage. He also sought a writ of mandamus restraining the respondent from demanding tax for each entry into the State on payment of tax for the vehicles mentioned in Exts.P1 and P2 in advance.

4. By order dated 25.06.2004, this Court has granted an interim order directing the respondents to receive Motor Vehicle Tax offered by the petitioner in advance in one quarter without insisting for payment of 1/10th of the quarterly tax for every entry into the State of Kerala in respect of his vehicles mentioned in Exts.P1 and P2, which was thereafter extended for a period of three months.

In view of the judgment of this Court in **Balan's case** (supra), the petitioner is entitled for the relief prayed for in the writ petition. Therefore, the writ petition is allowed in terms of the judgment of this Court in **Balan's case** (supra).

SD/-
ANIL K. NARENDRAN,
JUDGE

JV