IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 7643 of 2015 (E)

PETITIONER :

SUNIL KUMAR,
S/O.SANKARAPILLAI, LEKSHMI VILASAM,
PIDAVOOR P.O., PATHANAPURAM, KOLLAM.

BY ADV. SRI.PRASAD CHANDRAN

RESPONDENT(S):
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1. THE SECRETARY TO GOVERNMENT,
TRANSPORT (B) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN -695 039

2. THE JOINT REGIONAL TRANSPORT OFFICER,
PUNALUR, OFFICE OF THE SUB REGIONAL TRANSPORT OFFICE,
PUNALUR, PIN -691 331

3. THE DEPUTY THASILDHAR (REVENUE RECOVERY),
TALUK OFFICE, PATHANAPURAM, PIN -689 695

4. M.S.BASHEER,
SHERIN MANZIL, THEKKAMURIYIL, KARUNAGAPPALLY,
PIN -690 547

R1 TO R3 BY GOVERNMENT PLEADER SRI.SHYSON P. MANGUZHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 7643 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: **TRUE COPY OF THE AGREEMENT DATED 13.08.2010 IN RESPECT OF KL- 42/5087**

P2: **TRUE COPY OF THE MEMO DATED 24.09.2014 ISSUED TO THE PETITONER BY THE 2ND RESPONDENT**

P3: **TRUE COPY OF THE DEMAND NOTICE DATED 29.11.2014 ISSUED BY THE 3RD RESPONDENT.**

P4: **TRUE COPY OF THE CIRCULAR NO. 02/2015 OF ISSUED BY THE 1ST RESONDENT DATED 05.01.2015**

P5: **TRUE COPY OF THE AFFIDAVIT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 21.01.2015**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.S.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7643 OF 2015 (E)

Dated this the 11th day of March, 2015

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

The petitioner, who was faced with revenue recovery proceedings for recovery of motor vehicle tax dues for the period from 1.4.2010 to 31.12.2014, has approached this Court seeking the grant of installments to discharge the liability, as also for permission to proceed against the 4th respondent, who, according to the petitioner, is the person responsible for making the payment of motor vehicle tax in respect of the vehicle. It is the specific contention of the petitioner that, he had sold the vehicle to the 4th respondent in 2010 and therefore, the entire liability to motor vehicle tax would accrue to the 4th respondent. It is not in dispute, however, that as of now, the petitioner is shown as the registered owner of the vehicle in the files before the motor vehicle authorities.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that inasmuch as the petitioner is a registered owner of the vehicle on the files of the motor vehicle authorities, the demand of motor vehicle tax for the period from 1.4.2010 to 31.12.2014 against the petitioner cannot be said to be illegal. No doubt, the petitioner has a case that, since he had transferred the vehicle to the 4th respondent, the 4th respondent should be made liable for the tax that is demanded from the petitioner. Taking note of the said submission, and reserving the right of the petitioner to proceed against the 4th respondent for reimbursement of the tax paid by the petitioner on the said vehicle, if established, I dispose the writ petition with the following directions:

> (i) If the petitioner pays the amount demanded in Exts.P2 and P3 notices together with interest and other charges in ten equal and successive monthly installments commencing from 25.3.2015, then further proceedings for recovery shall not be pursued against the petitioner.
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> (ii) The petitioner is free to approach the 2nd respondent with an application for a One Time Settlement [OTS] scheme of the motor vehicle tax

dues demanded from him in accordance with the OTS scheme that is in force presently. If the petitioner succeeds in getting the benefits of the said scheme, then the liability to pay the amounts to the respondents, pursuant to this judgment, shall stand reduced accordingly.

(iii) If the petitioner is able to establish through adjudication proceedings that it is the 4th respondent, and not the petitioner, who was liable to pay tax for the period from 1.4.2010 to 31.12.2014, then it will be open to the petitioner to seek reimbursement of the amounts paid by him, consequent to this judgment, from the 4th respondent, through appropriate legal proceedings.

(iv) If the petitioner defaults in any of the conditions relating to payment made above, then he will lose the benefit of this judgment and the respondents will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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