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. 7690 of 2015 (I)

PETITIONER(S):

JAMINESAN P.R.,
S/O.RAGHAVAN,
PEENICKKAL HOUSE,
ALOOR DESOM AND P.O.,
VIA CHALKUDY,
THRISSUR 680683.

BY ADVS.SRI.M.H.HANIL KUMAR
SMT.M.R.JAYALATHA
SRI.M.R.DHANIL

RESPONDENT(S):

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1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
DEPARTMENT OF TAXES,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM,
PIN 680 001.

2. SUB REGIONAL TRANSPORT OFFICER,
IRINJALAKUDA,
THRISSUR DISTRICT,
PIN 680121.

3. BALAKRISHNAN T.M.,
S/O.MADHAVAN,
THENDANKAVIL,
MUNDATHIKODE P.O.,
THRISSUR DISTRICT,
PIN 680595.

R1 AND R2 BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

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

vmr.

WP(C).No. 7690 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 - A TRUE COPY OF THE AGREEMENT DATED 12-08-2002.

EXHBITI P2 - A TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER DATED 12-12-2014.

EXHBIIT P3 - A TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT DATED 3-3-2015.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 7690 of 2015 (I)

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Dated this the 11th day of March, 2015

JUDGMENT

The petitioner, who is faced with revenue recovery proceedings for recovery of motor vehicle tax dues for the period from 01.07.2007 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 3rd 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 3rd respondent in 2002 and therefore, the entire liability to motor vehicle tax would accrue to the 3rd 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.

3. 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 01.07.2007 to 31.12.2014, from the petitioner cannot be said to be illegal. No doubt, the petitioner has a case that, since he had transferred the vehicle to the 3rd respondent, the 3rd 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 3rd 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 Ext.P2 notice together with interest and other charges in three equal and successive monthly installments commencing from 27.3.2015, 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.
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> (iii) If the petitioner is able to establish through adjudication proceedings that it is the 3rd respondent, and not the petitioner, who was

liable to pay tax for the period from 01.07.2007 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 3rd 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/13/03/