IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 22494 of 2013 (J)

PETITIONER(S)/PETITIONER :

SIDHARTHAN
S/O. RAMANKUTTY, KOLANGARAPARAMBIL HOUSE
P.O.PERAMANGALAM, THRISSUR.

BY ADV. SRI.I.DINESH MENON

RESPONDENT(S)/RESPONDENTS :

1. REGIONAL TRANSPORT OFFICER/TAXATION OFFICER
PALAKKAD.-678001

2. THE DISTRICT EXECUTIVE OFFICER
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD
PALAKKAD.-678001

3. RADHAKRISHNAN,
S/O. NARAYANAN NAIR, NECHULLY HOUSE, ARIYUR
MANNARKKAD.-678001

BY ADV. SRI.G.HARIHARAN
BY ADV. SRI.PRAVEEN.H.
BY GOVERNMENT PLEADER SRI.T.J. MICHAEL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 22494 of 2013 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : TRUE COPY OF THE PERMIT OF KL-8/AH 2727.

P2 : TRUE COPY OF THE RC BOOK OF KL-8/AH 2727.

P3 : TRUE COPY OF THE REQUEST DTD.26.8.2013.

P4 : TRUE COPY OF THE ORDER IN WPC NO.15188/13 DTD.17.6.2013.

//True Copy//

P.A. To Judge

K.VINOD CHANDRAN, J
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W.P.(C).No. 22494 of 2013
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Dated 5th January, 2015
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JUDGMENT

The petitioner is aggrieved with the proceedings taken under the Motor Transport Workers Welfare Fund Act, 1985 (Kerala) [for short 'the Act'] for realization of amounts due under the Act with respect to a vehicle owned by the petitioner.

2. The admitted facts are that, the petitioner purchased a vehicle bearing registration No.KL-8 AH 2727 on 18.02.2012. The petitioner would contend that, his liability to Welfare Fund dues under the Act would commence only from that date and he ought to be issued with a clearance certificate on satisfaction of dues to facilitate payment of road tax.

3. The issue is no longer *res integra* since this Court has already held, against the petitioner's contentions in **Ummar v. Joint Regional Transport**

Officer (2014 (4) KLT 358). This Court noticed the introduction of Sections 8A, 10(1) & 10(2) in the 1985 Act on 07.06.2005. The transfer of the vehicle in the name of the petitioner herein having been effected after the said date, ie, on 18.02.2012, definitely the charge on the vehicle created by Section 10(2) would require satisfaction of the prior dues also for issuance of a clearance certificate under Section 8A.

4. The learned counsel for the petitioners would however, urge that, the liability cast on the petitioners would, in any event, be only subsequent to 2005 since any prior dues will be that of the earlier registered owner. That however, would be a wrong understanding of the afore cited decision. In **Ummar** (supra) the rigour of the amendment brought into the Act of 1985, was held to have absolved any prior transferee from the earlier liability. Hence, if the transfer had been effected prior to the amendment, then necessarily no charge could be found on the vehicle nor could a clearance certificate be

insisted. However, when the amendment was brought into force as on that date, there would be a charge created on the vehicle for all dues under the Act and satisfaction of the same would be a requirement for issuance of clearance certificate under Section 8A.

In the above circumstances, following the decision of this Court, the writ petition would stand dismissed.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

//True Copy//

P.A. To Judge