IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

WP(C).No. 33905 of 2014 (K)

PETITIONER(S)/PETITIONER:

MURALEERAJAN AGED 54 YEARS
S/O.THEYYAN, UTTUKALATHIL HOUSE, KADALUNDI
KOZHIKODE DIST

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S)/RESPONDENT:

THE REGISTERING AUTHORITY/REGIONAL TRANSPORT OFFICER
KOZHIKODE-PIN-673001

BY GOVERNMENT PLEADER SRI. BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 33905 of 2014 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 :- TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE BEARING REGISTRATION NO KL 11AA/4897

P2 :- TRUE COPY OF THE PROCEEDINGS OF THE RESPONDENT DTD 9/8/2014

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 33905 of 2014

Dated this the 19th day of January, 2015

J U D G M E N T

The petitioner is aggrieved with the non consideration of an application for change of categorisation of the vehicle from LMV Ambulance to LMV Contract Carriage. The petitioner purchased a vehicle having registration No.KL-11AA/4897, which was used as an Ambulance and registered as such. However, the petitioner intents to use the same as a contract carriage and has also provided 9 + 1 seats in the vehicle, is the contention.

2. The learned Government Pleader, on instruction, submits that the objection raised by the Registering Authority is only with respect to the tax liability of the vehicle, which should be that of a vehicle having seating capacity of 12. The specific contention is raised, since the prototype of the vehicle, which was got approved by the

Automobile Research Association of India (ARAI), by the manufacturer, indicates that the vehicle is one having a seating capacity of 12. The issue with respect to tax liability is no longer *res integra* and is covered by the judgment of a Division Bench of this Court reported in **Musthaffa v. Assistant Motor Vehicle Inspector - 2014(1) KLT 575**.

3. In such circumstances, on the petitioner giving an undertaking to pay the tax and also paying the tax at the rate applicable to 12 seater vehicles, definitely the Registering Authority has to consider the application for change in categorisation and the same would have to be allowed, if there is no other legal impediment. The petitioner is directed to pay the tax as of now, on the basis of computation as a 12 seater vehicle, within a period of two weeks from today and the respondent shall consider the application within two weeks thereafter. On the classification being changed, definitely the application for

permit as contract carriage shall also be considered expeditiously.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE

jjj