IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 34088 of 2015 (I)

PETITIONER(S) :
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1. SALEENA K., AGED 47 YEARS,
   W/O.KUNJIKANNAN NAIR, 10/377, SUJALA MANDIRAM,
   VAZHAVATTA P.O., KALPETTA, WAYANAD DISTRICT, PIN-673 121.

2. MADHU,
   S/O.KRISHNANKUTTY PANIKKER, 10/518, JYOTHIR NILAYAM,
   KARANI P.O., KANIYAMBETTA, WAYANAD.

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

RESPONDENT(S) :
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1. REGIONAL TRANSPORT OFFICER,
   WAYANAD, KALPETTA-673 121.

2. REGIONAL TRANSPORT AUTHORITY,
   WAYANAD, KALPETTA-673 121,
   REPRESENTED BY ITS SECRETARY.

* ADDITIONAL R3 IMPLEADED

3. THE DEPUTY TRANSPORT COMMISSIONER,
   NORTH ZONE, KOZHIKODE.

* ADDITIONAL R3 IS SUO MOTU IMPLEADED AS PER JUDGMENT DATED 21.11.2015.

BY GOVERNMENT PLEADER SMT.LILLY.K.T

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 34088 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS :

P1: **TRUE COPY OF THE REGULAR STAGE CARRIAGE PERMIT IS BUS NO.KL-12B-5599 WHICH IS VALID UPTO 26/08/2013.**

P2: **TRUE COPY OF THE COMMON JUDGMENT MADE IN W.P.(C).NO.17476/2014 AND W.P.(C).NO.30001/2014 DATED 24/06/2015.**

P3: **TRUE COPY OF THE TAX TOKEN FOR RS.76,610/- ISSUED BY THE 1ST RESPONDENT ON 04/08/2015.**

P4: **TRUE COPY OF THE PROCEEDINGS DATED 29/10/2015 ISSUED BY THE 1ST RESPONDENT DEMANDING A SUM OF RS.1,71,952/-**

P5: **TRUE COPY OF THE REPRESENTATION DATED 05/07/2014 BEFORE THE 1ST RESPONDENT SEEKING EXEMPTION FROM PAYMENT OF TAX AT THE STAGE CARRIAGE RATE.**

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 34088 of 2015
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Dated this the 21st day of November, 2015

JUDGMENT

In the writ petition, the petitioner is aggrieved by Ext.P4 order of the Regional Transport Authority demanding substantial amounts by way of motor vehicle tax from the petitioner. It is the contention of the petitioner in the writ petition that the liability to motor vehicle tax in this case can only be as applicable to non-transport vehicle since the vehicle was remaining idle in the absence of a renewal of the permit. I find from the provisions of the Motor Vehicle Taxation Act that, against Ext.P4 order, the petitioner has an effective alternate remedy by way of an appeal before the Deputy Transport Commissioner. Under the circumstances, I am of the view that the petitioner should be relegated to the alternate remedy of filing an appeal before the Deputy Transport Commissioner. To enable the petitioner to pursue his appellate remedy, I direct that the recovery steps for recovery of amounts confirmed against the petitioner by Ext.P4 order, shall be kept in abeyance for a period of one month from the date of receipt of a copy of this judgment. It is also made clear that, if the petitioner files an appeal in terms of the Motor Vehicle Taxation Act before the Deputy Transport Commissioner, North Zone, Kozhikode, who I suo motu implead as the additional 3rd respondent in the writ petition, within two weeks from today, then the additional 3rd respondent shall consider the same on merits and pass orders thereon, within a period of one month thereafter. While passing orders in the appeal, the additional 3rd respondent shall also take note of the decision of this Court in Mini Dileep v. Regional Transport Officer **[2013 (3) KLT 97]**.

The writ petition disposed as above.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /21.11.15