IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 35211 of 2014 (B)

PETITIONER:

JOHNY, S/O. OUSEPH, AGED 50 YEARS,
RESIDING AT MURIYAD, THRISSUR DISTRICT.

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

RESPONDENT(S):
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1. **THE DEPUTY TAHSILDAR (RR),**
   MUKUNDAPURAM TALUK,
   THRISSUR DISTRICT-680323.

2. **THE VILLAGE OFFICER,**
   MURIYAD VILLAGE, MUKUNDAPURAM TALUK,
   THRISSUR DISTRICT-680323.

3. **THE JOINT REGIONAL TRANSPORT OFFICER,**
   IRINJALAKKUDA, THRISSUR DISTRICT-680121.

BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 35211 of 2014 (B)

APPENDIX

PETITIONER(S)' EXHIBITS:

P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF CONTRACT CARRIAGE VEHICLE BEARING REGISTRATION NUMBER KL02 0 3020.

P2: TRUE COPY OF THE COUNTER FOIL EVIDENCING PAYMENT OF RS. 34750/- TOWARDS MOTOR VEHICLE TAX FOR THE VEHICLE MENTIONED IN EXT.P1 FOR THE PERIOD 1-7-2012 TO 31-3-2013.

P3: UNREADABLE ORIGINAL COPY OF THE NOTICE U/S. 7 OF THE REVENUE RECOVERY ACT HAVING FILE NO. 2014/15247/8/300 FOR RS. 142520/-

P4: UNREADABLE ORIGINAL COPY OF THE NOTICE U/S 7 OF THE REVENUE RECOVERY ACT HAVING FILE NO. 2014/57280/8 FOR RS. 18300/-

P5: UNREADABLE ORIGINAL COPY OF THE NOTICE U/S. 7 OF THE REVENUE RECOVERY ACT HAVING FILE NO. 2014/57292/8/300 FOR RS. 13570/-

P6: TRUE COPY OF THE JUDGMENT PASSED BY A DIVISION BENCH OF THIS HON'BLE COURT IN WA NO. 1506/2012 DATED 5-11-2012.

P7: TRUE COPY OF THE NOTIFICATION GO(P)NO.91/2014/TRAN DATED 29.12.2014 ISSUED BY THE GOVERNMENT OF KERALA, TRANSPORT(B) DEPARTMENT.

P8: TRUE COPY OF THE GUIDELINES ISSUED BY THE TRANSPORT COMMISSIONER AS CIRCULAR NO.2/2015.

RESPONDENT(S)' EXHIBITS:

ANNEXURE R3(A) : TRUE COPY OF THE GOVERNMENT ORDER G.O(P)NO.91/2014/TRAB, DATED 29.12.2014.

ANNEXURE R3(B) : TRUE COPY OF THE CIRCULAR NO.2/2015 ISSUED BY THE TRANSPORT COMMISSIONER DATED 5.1.2015.

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.35211 of 2014 (B)

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Dated this the 27th day of February, 2015

JUDGMENT

The petitioner has approached this Court challenging the revenue recovery proceedings initiated against him for recovery of differential motor vehicle tax for the period from 01.07.2012 to 31.03.2013.

2. It is the case of the petitioner that, he had already paid the tax in respect of the vehicle during the period in question and the differential amount demanded is without any basis whatsoever. He has produced Ext.P2 to show that the motor vehicle tax in respect of the vehicle for the period in question had already been paid.

3. In the writ petition, the petitioner is aggrieved by Exts.P3, P4 and P5 notices that have been served on him under the Revenue Recovery Act. The said notices are impugned inter alia on the ground that, there has been no liability fixed on the petitioner for proceeding against him under the Revenue Recovery Act through the aforesaid notices.

4. A counter affidavit and an additional statement have been filed on behalf of the 3rd respondent. In the counter affidavit, it is

pointed out that, the amount demanded by the petitioner through Exts.P3 to P5 notices represents the differential tax that is due in respect of the vehicle in question, based on a changed seating capacity that was noticed by the respondents. As regards the liability of the petitioner, it is also stated in the additional statement filed on behalf of the 3rd respondent that, although, the Government has come out with a scheme for One Time Settlement as evident from Annexures R3(a) and R3(b), the provisions of the said scheme will not be applicable in the case of the petitioner, since he is a person, who had already remitted tax during the immediately preceding five years in respect of the vehicle.

5. I have heard Sri. G.Hariharan, the learned counsel for the petitioner and Sri.Sudheesh Kumar, the learned Government Pleader on behalf of the respondents.

6. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I feel that the petitioner ought to be given an opportunity to approach the 3rd respondent with an application for consideration of his case under Annexures R3(a) and R3(b) scheme brought out by the Government for a settlement of dues. Accordingly, if the petitioner prefers an application before the 3rd respondent for the

benefit of the OTS scheme, within a period of two weeks from the date of receipt of a copy of this judgment, then, the 3rd respondent shall consider the same on merits and pass orders thereon within a period of one month thereafter, after hearing the petitioner.

7. It is made clear that, recovery steps pursuant to Exts.P3 to P5 shall be kept in abeyance till such time as orders are passed by the 3rd respondent as directed and communicated to the petitioner. I make it clear that, if the petitioner does not prefer the application within the time permitted, then, he will lose the benefit of this judgment and respondents will be free to continue the proceedings initiated against him under the Revenue Recovery Act from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/02/03/