

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (T) No. 71 of 2017**

- M/s Kanker Contract Carrier a sole proprietorship firm through its sole Shri Navsharan Singh Garcha S/o Late Shri Pritam Singh Garcha, aged about 36 Years, R/o Kanker Roadways, Opp. Gandhi Udyan, Civil Lines, Raipur (Chhattisgarh).

---- Petitioner**Versus**

- State of Chhattisgarh, through Secretary, Department of Transport, Mahanadi Bhawan, Mantralaya, Naya Raipur (Chhattisgarh).

---- Respondent

For Petitioner	: Shri Neelabh Dubey, Advocate
For Respondent/State	: Shri Prafull N. Bharat, Additional A.G.

Hon'ble Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per Thottathil B. Radhakrishnan, Chief Justice****20.06.2017**

1. This writ petition is filed levying challenge against the substitution of an explanation in the C.G. Motoryan Karadhan Adhiniyam, 1991 (hereinafter referred to as, 'the Act') as per Motoryan Karadhan (Sanshodhan) Adhiniyam, 2012.
2. Hearing the learned counsel for the Petitioner and the learned Additional Advocate General, it is seen that the very same provision was challenged before this Court and it has been repealed through the order dated 13.03.2013 passed in Writ Petition (C) No.332 of 2013. The said judgment has been rendered holding that the impugned amendment is one which is not bad on any count of legislative incompetence. It has also been held that what has been done is not to make and issue

notification under Section 23 of the Act, but to make an amendment to the Act. The learned counsel for the Petitioner however submits that the said judgment appears founded on an erroneous assumption of facts regarding the rate of tax comparable to rate of fare. That by itself does not dissuade us from following the afore-noted judgment of this Court rendered by the Division Bench. We also record the submission of learned counsel for the Petitioner that the said judgment is pending consideration before the Hon'ble Supreme Court in the form of Special Leave Petition.

3. Having noted that the afore-noted order dated 13.03.2013 passed in Writ Petition (C) No.332 of 2013 is conclusive on the issues raised, this writ petition fails.
4. In the result, the writ petition is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge