

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 30TH DAY OF NOVEMBER 2018 / 9TH AGRAHAYANA, 1940

WP(C).No. 29571 of 2018

PETITIONER:

LINU, AGED 36 YEARS, S/O.GEORGE
LEKHA MANDIR, ULLOOR GARDENS 34, ULLOOR
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM.

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

RESPONDENTS:

- 1 STATE OF KERALA REPRESENTED BY THE PRINCIPAL
SECRETARY TO GOVERNMENT, TRANSPORT DEPARTMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
- 2 THE TRANSPORT COMMISSIONER
TRANS TOWER, VAZHUTHACAUD
THIRUVANANTHPURAM-695014.
- 3 THE JOINT REGIONAL TRANSPORT OFFICER
KAZHAKKOOTTAM, THIRUVANANTHAPURAM
DISTRICT, PIN-695582.
- 4 REGIONAL TRANSPORT OFFICER
KOLLAM-691001.

DR THUSHARA JAMES, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30.11.2018, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, a contract carriage operator and registered owner of a bus, assails the Exts.P9 and P10 memos demanding arrears of motor vehicle tax. The petitioner has filed the writ petition seeking the following reliefs:

i) issue a writ of mandamus or any other appropriate writ of order commanding the 3rd respondent to re-determine the tax liability of vehicle No.KL-02V-8643 taking note of the garaging of the vehicle as evidenced by Exhibit.P5 and P7 reports and taking note of the expiry of permit and fitness period of the vehicle for the period commencing from 01.07.2014 onwards.

ii) issue a writ of mandamus or any other appropriate writ or order restraining from the 3rd respondent from initiating any recovery steps pursuant to Exhibit.P9 and P10 demand notices pending consideration of the re-determination of tax liability on account of the mistakes committed in the said demand notices.”

2. The Department has joined the issue by filing a counter affidavit. It has set out the grounds justifying the Exts.P9 and P10. In this context, the Government Pleader has also pointed out that the petitioner has an efficacious appellate remedy against the Exts.P9 and P10 memos.

3. In response, the petitioner's counsel draws my attention to the corrections in the Exts.P9 and P10. According to him, those corrections have not been authenticated. If the authorities vouch for those corrections, then the petitioner can be sure of the demand against him. He further submits that the demanded tax quantified, the petitioner can as well exhaust his appellate remedies. The Government Pleader in turn submits, on instructions, that the corrected amounts mentioned in Exts.P9 and P10 are the accurate ones and there can be no dispute about it.

Under these circumstances, without adverting to the merits, I dispose of the Writ Petition, holding that the petitioner can avail himself the appellate remedy under Section 23 of the Kerala Motor Vehicle Taxation Act. As the petitioner has bonafide pursued this Writ Petition, if he files an appeal in two weeks, the appellate authority will exclude the period the petitioner spent before this Court from the limitation period.

Sd/-

DAMA SESHADRI NAIDU
JUDGE

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APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE REGISTRATION CERTIFICATE OF BUS NO.KL-02-V-8643.
EXHIBIT P2	TRUE COPY OF THE CONTRACT CARRIAGE PERMIT ISSUED TO THE VEHICLE MENTIONED IN EXHIBIT P1 BY THE SECRETARY, RTA, KAZHAKOOTTAM WHICH WAS VALID UP TO 30.7.2015
EXHIBIT P3	TRUE COPY OF THE FITNESS CERTIFICATE DATED 12.11.2013 ISSUED BY THE 3RD RESPONDENT RELATING TO THE VEHICLE MENTIONED IN EXHIBIT P1 WHICH WAS VALID UPTO 11.11.2014
EXHIBIT P4	TRUE COPY OF THE COMMUNICATION DATED 21.8.2015 SENT BY THE 3RD RESPONDENT ADDRESSED TO THE 4TH RESPONDENT.
EXHIBIT P5	TRUE COPY OF THE REPORT DATED 25.8.2018 SUBMITTED BY THE ASSISTANT MOTOR VEHICLE INSPECTOR, RT OFFICE KOLLAM TO THE 4TH RESPONDENT.
EXHIBIT P6	TRUE COPY OF THE COMMUNICATION DATED 16.8.2017 SENT BY THE 3RD RESPONDENT ADDRESSED TO THE 4TH RESPONDENT.
EXHIBIT P7	TRUE COPY OF THE REPORT DATED 29.8.2017 SUBMITTED BY THE AMVI, KOLLAM TO THE 4TH RESPONDENT.
EXHIBIT P8	TRUE COPY OF THE INTERIM ORDER WP(C) NO.17961/2018 DATED 01.06.2018
EXHIBIT P9	TRUE COPY OF THE DEMAND NOTICE DATED 14.2.2018 ISSUED BY THE 3RD RESPONDENT IN THE NAME OF THE PETITIONER DEMANDING A SUM OF RS.45,940/-
EXHIBIT P10	TRUE COPY OF THE DEMAND NOTICE DATED 14.3.2018 ISSUED BY THE 3RD RESPONDENT IN THE NAME OF THE PETITIONER DEMANDING A SUM OF RS.36,750/-

RESPONDENTS' EXHIBITS - NIL

// TRUE COPY //

P.A. TO JUDGE

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