



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

FRIDAY, THE 5<sup>TH</sup> DAY OF DECEMBER 2025 / 14TH AGRAHAYANA, 1947

WA NO. 1403 OF 2025

AGAINST THE JUDGMENT DATED 18.03.2025 IN WP(C) NO.35997 OF 2018  
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APPELLANT/PETITIONER IN WP(C) :

M/S.T P TRADING COMPANY,  
HAVING HEAD OFFICE AT DOOR NO.XXI/304-A, RAYONPURAM,  
PERUMBAVOOR, MUDICKAL, ERNAKULAM, REPRESENTED BY ITS  
AUTHORISED OFFICER N.R.VENKATRAMAN, PIN - 683543.

BY ADVS.  
SRI.MANU VYASAN PETER  
SRI.P.B.SUBRAMANYAN  
SRI.SABU GEORGE  
SMT.B.ANUSREE  
SMT.MEERA P.

RESPONDENTS/RESPONDENTS IN WP(C) :

- 1 THE TRANSPORT COMMISSIONER (KERALA STATE) ,  
OFFICE OF THE TRANSPORT COMMISSIONER, TRANS TOWER,  
VAZHUTHACAUD, THIRUVANANTHAPURAM -695014.
- 2 THE SUB-REGIONAL TRANSPORT OFFICER,  
PERUMBAVOOR, ERNAKULAM-683545.
- 3 THE ASSISTANT REGISTERING AUTHORITY,  
PUDUCHERY-673310.
- 4 THE DISTRICT COLLECTOR,  
OFFICE OF DISTRICT COLLECTOR, CIVIL STATION,  
KAKKANAD, ERNAKULAM-682030.
- 5 THE DEPUTY THAHASILDAR,  
KUNNATHUNADU TALUK, TALUK OFFICE,  
POOPANI ROAD, PERUMBAVOOR-683543.



6 THE VILLAGE OFFICER, CHELAMMATAM VILLAGE,  
KUNNATHUNADU TALUK, PERUMBAVOOR-683545.

BY DR.THUSHARA JAMES, SENIOR GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02.12.2025, THE COURT  
ON 05.12.2025 DELIVERED THE FOLLOWING:



## **J U D G M E N T**

### **Harisankar V. Menon, J.**

The appellant is stated to be engaged in the business of manufacturing and distribution of plywood and having branches across the country, including one at Kariakal, Puducherry. The appellant had purchased a car and got it registered in Puducherry, as evidenced by Ext.P2 registration certificate. The appellant states that Ext.P6 demand notice was issued by the 2<sup>nd</sup> respondent directing payment of tax under the Kerala Motor Vehicles Taxation Act, 1976, even when there was no permanent use of the vehicle in Kerala. In response to the notice, a reply was filed as evidenced by Ext.P7 and pursuant to the directions of this Court in W.P(C) No.14657 of 2018 dated 27.04.2018, the 2<sup>nd</sup> respondent considered the issue coming out with Ext.P8 notice dated 28.06.2018, directing payment of Rs.15,37,660/- towards tax. This is followed by the recovery notices at Exts.P10 and P11. The afore steps were challenged by instituting W.P(C) No.35997 of 2018, placing reliance on the tax invoice for the



vehicle in question issued by the dealer at Puducherry, registration obtained for the vehicle in question under the Motor Vehicles Act, 1988, from Puducherry and the registration obtained under the Central Goods and Services Tax Act, 2017, and the State Goods and Services Tax Act, 2017 from Puducherry to show that the appellant had permanent business interest there, on account of which the vehicle was being used there. A learned Single Judge of this Court, by the judgment dated 18.03.2025, having dismissed the writ petition, the appellant has instituted this intra-court appeal.

2. Heard Sri.P.B.Subramanyan, the learned counsel for the appellant, and Dr.Thushara James, the learned Senior Government Pleader for the respondents.

3. The short question arising for consideration in this appeal is as to the sustainability or otherwise of the findings contained in Ext.P8 issued by the 2<sup>nd</sup> respondent. Though considerable reliance has been placed by Sri.Subramanyan on the registration obtained by the appellant from



Puducherry under the GST Scheme, also relying on the returns filed under the afore statute in Puducherry, we notice that the returns were only NIL returns. Such NIL returns do not reflect any business being carried out by the appellant from Puducherry. This can only be used to show that the appellant is in the habit of complying with the statutory provisions by filing periodical returns. Therefore, we are of the opinion that much reliance cannot be placed on the additional documents produced before us in this appeal while evaluating the contention raised by the learned counsel. For the same reason, we are of the opinion that his prayer seeking a remand of the matter for further enquiry is liable to be rejected.

4. On the face of the afore finding, we also notice that in the demand notice, it has been categorically found that the notice issued by the 2<sup>nd</sup> respondent in the appellant's Puducherry address has been returned by the postal authorities with the endorsement "no such address". On the face of the afore, the fact that the notice sent to the



Perumbavoor address in Kerala is served on the appellant gains significance. Coupled with this, we also notice with reference to the counter affidavit filed before the learned Single Judge that the insurance for the vehicle in question was obtained from New India Insurance Company, Perumbavoor. So also, as many as 6 over speeding tickets have been issued by the Kerala Motor Vehicles Department on various dates as against the vehicle in question. At this juncture, we also notice the contention raised by the learned counsel that these over speeding tickets were not within a continuous period of 30 days and hence may not have much significance. However, this contention raised by the learned counsel requires only to be recorded and rejected based on the enquiry report produced along with the counter affidavit wherein it is categorically recorded that the vehicle in question was found in the residential premises of the partner of the appellant at the time of a surprise inspection on 17.03.2018. We notice that even on the face of the specific averments in the counter affidavit to the afore effect, no



reply affidavit has been filed by the writ petitioner. In our opinion, the onus shifts to the appellant herein to show that the vehicle was not being used in Kerala so as to attract tax under the Taxation statute.

5. On a totality of the facts and circumstances noticed as above, we are of the opinion that the proceedings initiated against the appellant herein cannot be found fault with.

6. We also notice the relevant provisions of the Motor Vehicles Act, 1988, as per which the liability accrues with respect to the use of the vehicle in the State of Kerala. Furthermore, a Division Bench of this Court in **Secretary, Transport Department, Thiruvananthapuram and Others v. Shibumon P.V. and Others [2020 (6) KLT 819]** has also found that with reference to the provisions of the Motor Vehicles Act, 1988, in cases of like nature, it has the power to cancel the registration provided under the Motor Vehicles Act, 1988. The learned Single Judge has also taken note of the contention raised by the learned Government Pleader with reference to this judgment, while rendering the



impugned judgment.

7. We are of the opinion that no valid reasons have been pointed out, warranting interference with reference to the impugned judgment of the learned Single Judge. Additional documents produced before us, as noticed earlier, would also not help the appellant since, when there is no business carried out in Puducherry, why the vehicle was being “used there” is the moot question for which no plausible explanation has been offered by the appellant herein.

Resultantly, we find no reason to entertain this appeal any further, and the same would stand dismissed.

Sd/-

**A.MUHAMED MUSTAQUE**

**JUDGE**

Sd/-

**HARISANKAR V. MENON**

**JUDGE**

In

APPENDIX OF WA NO. 1403 OF 2025

## APPELLANT'S ANNEXURES :

- ANNEXURE A TRUE COPY OF THE GSTR-1 FILED ON BEHALF OF THE APPELLANT FOR THE F.Y 2017-18.
- ANNEXURE B TRUE COPY OF THE GSTR-1 FILED ON BEHALF OF THE APPELLANT FOR THE F.Y 2018-19.
- ANNEXURE C TRUE COPY OF THE GSTR-3B FILED ON BEHALF OF THE APPELLANT FOR THE F.Y 2019-20.
- ANNEXURE D TRUE COPY OF THE GSTR-1 FILED ON BEHALF OF THE APPELLANT FOR THE F.Y 2020-21.
- ANNEXURE E TRUE COPY OF THE GSTR-1 FILED ON BEHALF OF THE APPELLANT FOR THE F.Y 2021-22.
- ANNEXURE F TRUE COPY OF THE GSTR-1 FILED ON BEHALF OF THE APPELLANT FOR THE F.Y 2022-23.
- ANNEXURE G TRUE COPY OF THE GSTR-3B FILED ON BEHALF OF THE APPELLANT FOR THE F.Y 2023-24.
- ANNEXURE H TRUE COPY OF THE GSTR-1 FILED ON BEHALF OF THE APPELLANT FOR THE F.Y 2024-25.
- ANNEXURE I TRUE COPY OF THE GSTR-1 FILED ON BEHALF OF THE APPELLANT FOR THE F.Y 2025-26