IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

MONDAY, THE 13TH DAY OF JULY 2026 / 22ND ASHADHA, 1948

WP(C) NO. 24420 OF 2025

PETITIONER:

CLEETUS.E.P., AGED 48 YEARS,
S/O.PAULOSE, ELUVATHINGAL HOUSE,
P.O.KOZHUKKULLY, THRISSUR, PIN – 680 751.

BY ADVS.
SRI.LINDONS C.DAVIS
SMT.E.U.DHANYA
SMT.CHINJU P. JOYIES
SHRI.VINAYAK MANOHARAN P.

RESPONDENTS:

1 STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT, MOTOR VEHICLES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN – 695 001.

2 DISTRICT COLLECTOR,
CIVIL STATION, AYYANTHOLE,
THRISSUR, PIN – 680 003.

3 REGIONAL TRANSPORT OFFICER,
SUB REGIONAL TRANSPORT OFFICE, CIVIL STATION,
THRISSUR, PIN – 680 003.

4 DEPUTY TAHSILDAR,
TALUK OFFICE, THRISSUR,CHEMBUKKAVU,
THRISSUR, PIN – 680 020.

5 VILLAGE OFFICER,
VILLAGE OFFICE, KOZHUKKULLY,KANNARA MOORKANIKARA ROAD, VEEMBIL, MOORKANIKKARA, THRISSUR,
PIN – 680 751.

SMT.SINDHU SANTHALINGAM, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13.07.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

"CR"

JUDGMENT

The petitioner is the owner of a vehicle (traveller TD 22 BS 3 with registration No.KL-08-BB-2050). The said vehicle was being used as a contract carriage. Ext.P1 is the certificate of registration dated 02.09.2013 and Ext.P2 is the contract carriage permit. On 16.09.2017, the vehicle of the petitioner met with an accident, when it was hit by a KSRTC bus. Ext.P3 is the FIR registered in connection with the accident.

2. According to the petitioner, the vehicle sustained serious damage, and it became totally unfit for using on the road. Therefore, the petitioner submitted Ext.P4 representation before the 3rd respondent RTO, highlighting these aspects. The case of the petitioner is that, since he had already intimated about the accident to the RTO as evidenced by Ext.P4, he should be exempted from tax and no further liability could be imposed upon the petitioner. However, the petitioner was issued with Ext.P5 demand notice dated 16.04.2025, where the petitioner is required to pay an amount of Rs.10,93,150/- for non payment of

the motor vehicle tax arrears. Consequent to Ext.P5, Ext.P6 revenue recovery notice was also issued. The petitioner had submitted Ext.P7 representation in response to the same, highlighting the unfit condition of the vehicle and the petitioner has also submitted the final report submitted by the Police after the investigation, along with Ext.P7. This writ petition is submitted by the petitioner, as the recovery proceedings were being pursued by the respondents despite the submission of the representation. The relief sought by the petitioner are as follows:

> "i) Issue a writ of Mandamus or any other Writ directing the 3rd respondent to consider and pass orders on Exhibit.P7 and till then further proceedings pursuant to Ext.P5 and P6 revenue recovery notices may keep in abeyance;
> ii) Issue a writ of certiorari or any other appropriate Writ order of direction for quashing the Ext.P5 and P6 as unjust, illegal and arbitrary;
> iii) To declare that the petitioner's vehicle with registration No. KL-08-BB-2050 which became a total loss on 16.09.2017 due to accident and unable to use on roads, is not liable for taxation from that date;

iv) to dispense with the production of translation of vernacular documents.”

3. I have heard Smt.E.U.Dhanya, learned counsel for the petitioner and Smt.Sindhu Santhalingam, learned Government Pleader for the respondents.

4. The specific case of the petitioner is that, immediately after the accident, the petitioner had submitted Ext.P4 representation before the Regional Transport Officer, Thrissur, intimating about the accident and also requesting for exemption from the tax. The petitioner also claimed to have submitted Ext.P7 representation during the month of October, 2024 as well. However, the learned Government Pleader upon instruction submitted that, the representation has not been received on the files of the RTO, Thrissur. Therefore, it was contended that, in the absence of the proper application submitted for exemption, the petitioner is not entitled to the relief sought for.

5. However, even though the petitioner failed to prove that Exts.P4 and P7 were submitted, the question that arises is whether, the petitioner can be mulcted with liability to pay the

tax even without providing an opportunity to establish that the vehicle was not in a position to be used on the road, consequent to the accident occurred on 16.09.2017. Ext.P3 is the FIR, which *prima facie* indicates that the vehicle was involved in the accident and it sustained very serious damages. As far as the liability to pay the tax under the Kerala Motor Taxation Act is concerned, the same is contemplated under Section 3 (1) of the Act thereof, where it is provided that, subject to the other provisions of this Act, on and from the date of commencement of this Act, a tax shall be levied on every motor vehicle ***used or kept for use in the State***, at the rate specified for such vehicle in the Schedule.

6. Thus, it is evident that, the liability could be imposed only if the vehicle is ***used or kept for use in the State***. Therefore, in cases where, it is possible for the registered owner of the vehicle to demonstrate that, the vehicle was completely unfit and beyond repair for using it on the road as on the date, consequent to the accident or for any other reasons, there cannot be any tax liability upon the said vehicle. In this

regard, it is to be noted that, even though in Ext.P5, the demand is made for the period from 01.04.2018 onwards, the same was issued only on 16.04.2025. Thus, the recovery proceedings have been initiated after about six years, and therefore, there is inaction on the part of the respondents as well, in taking necessary steps to recover the motor vehicle tax amount. Thus, it is a relevant aspect while considering the liability of the petitioner. Had a proper proceedings for recovery were initiated in time or any demand notice were issued immediately after the tax became due, it would have been an opportunity to the registered owner to get an alert with regard to the tax liability and the issue would have been resolved before the amount payable as tax arrears is escalated to a huge amount. Therefore, to some extent, that inaction and delay in initiating the revenue recovery proceedings also contributed to the accumulation of arrears.

7. Of course, it is true that there is statutory obligation upon every registered owner to ensure that the tax is paid in respect of the vehicle operated by the said person, as and when

the amount becomes due on every quarter of the year. However, this is a case, in which, the records produced before this Court, at least *prima facie* indicates that, the vehicle was involved in an accident, in which, it sustained serious damages, making it not roadworthy. It appears that the vehicle is now remaining in an abandoned condition. Therefore, the imposition of tax liability at the quarterly rates after the vehicle ceased to be used on the road or kept for use, as contemplated under section 3(1), due to serious damages sustained to it beyond repair, would be illogical, unjustifiable and irrational. However, in such cases, it must be possible for the registered owner to establish that, ever since the accident, the vehicle has remained as not roadworthy and, consequently, could neither be used on the road nor be kept for such use.

8. The contention of the learned Government Pleader with regard to the obligation of the petitioner to submit application by way of ‘G Form’ for getting exemption from the tax in advance, is a fact which is relevant to be considered. Rule 10 of the Kerala Motor Vehicle Taxation Rules, provide for

submission of such intimation in advance. However, the question is, whether, merely because of the reason that the petitioner failed to submit such an application in 'G Form', should the registered owner of the vehicle be mulcted with the liability, in cases where, the documents or the other materials clearly indicates that the vehicle is in a completely damaged condition on account of the accident. Considering the fact that, the liability to pay tax is on the use of the vehicle or for keeping the vehicle for use, the only conclusion possible is that, no tax liability could be imposed, in such cases where, the registered owner convincingly establishes before the authorities that, the vehicle was indeed not used or kept for use. The condition of the vehicle, in respect of which the tax becomes payable, is a fact which can be verified by the authorities concerned and in case the registered owner is able to demonstrate with proper documents and materials that, the vehicle sustained serious damage making it not roadworthy beyond repair, the tax need not be collected in respect of the period during which, the vehicle was remaining as not roadworthy. This is not because, the vehicle is liable to be exempted from payment of tax, but on the other hand, the vehicle was not used or kept for use, which constitute the incidence of tax and that event did not occur, during the relevent period. What is contemplated under rule 10, that prescribes for submission of an intimation of nonuse, is for an exemption from payment of tax for a temporary period, which is distinct from a situation where, the vehicle became unfit permanently due to the serious damage occurred to the vehicle due to accident or otherwise.

9. Therefore, I am of the view that, although the petitioner failed to establish that Exts.P4 and P7 representations were submitted by him as claimed in the writ petition, in view of the observations made above, an opportunity can be granted to the petitioner to demonstrate that the vehicle was in a completely dilapidated condition, since the date of accident that occurred on 16.09.2017. Any other view would cause serious injustice to the petitioner, particularly since, the purpose of the Kerala Motor Vehicle Taxation Act is to impose tax liability upon the vehicle which is used or kept for use on the

road. In this regard, it is to be noted that, in **Tarachand Logistic Solutions Limited v. State of Andhra Pradesh [2025 SCC OnLine SC 1851],** wherein the Apex Court observed as follows”

> “Motor vehicle tax is compensatory in nature. It has a direct nexus with the end use. The rationale for levy of motor vehicle tax is that a person who is using public infrastructure, such as, roads, highways etc. has to pay for such usage. Legislature has consciously used the expression ‘public place’ in Section 3. If a motor vehicle is not used in a ‘public place’ or not kept for use in a ‘public place’ then the person concerned is not deriving benefit from the public infrastructure; therefore, he should not be burdened with the motor vehicle tax for such period.”

10. Therefore, in respect of the vehicle which could not have been used on the road or kept for use during the period of assessment, no tax liability can be imposed and in such cases such vehicle should be exonerated from the liability of payment tax, where clear evidence is available to show that the vehicle was not roadworthy. This is because, in such cases, the taxable event did not occur pertaining the relevent period. Therefore, it

is for the motor vehicle authority concerned, to conduct an enquiry with respect to the same, to find out from the documents/materials produced/collected from the petitioner and through other sources.

11. While making the above observations, I am conscious of the fact that, there is a statutory obligation upon the petitioner/registered owner to intimate the authorities about unfit condition of the vehicle. However, the question to be considered, is whether, merely because of the failure in doing so, should the registered owners be held liable to pay motor vehicle tax, in respect of the vehicle that is not otherwise taxable on account of the lack of road worthiness of the vehicle. While considering the said question, the nature of the persons commonly affected due to the above stipulations are to be taken into account. From the analysis of the cases in large volumes that are coming up before this court touching upon this issue, it is noticed that, most of the persons who are imposed with such huge liabilities on account of failure to intimate about the condition of the vehicle or dismantling of the vehicle, for years

together, are ordinary people who operate the vehicle on their own, for earning their livelihood. Most of such vehicles are small transport vehicles, such as auto rickshaws, mini goods vehicle, stage/goods carriages etc. In the case of most of those persons, priorities before them, when a vehicle meets with an accident resulting in irretrievable damage or the vehicle is dismantled, would be somehow find out another vehicle to ensure that the source of livelihood is secured, without any break. In respect of a person, who is depending solely upon the income generated from the operation of one vehicle to feed himself and his family, no one can expect from him to ensure that, timely intimation of the condition of vehicle is given before the authorities, to claim exemption from tax. As mentioned above, at the relevant time, in all probabilities, he must running after all the pillars and posts, to find out the resources for arranging another means of livelihood and thus the first priority would be to ensure a regular income for the survival of him and his family and it cannot be to take steps to intimate the authorities with regard to the condition of the vehicle in compliance of the statutory requirements. Most of the times, the lack of awareness of the legal procedure escalates the above problem. This hard reality cannot be ignored, while enforcing the law on the principles that, ignorance of law cannot be an excuse. Although, such persons cannot be granted exemptions as such, at least an opportunity can be granted to them to prove that, the vehicle was not being used or kept for use during the relevant period. If such persons are able to establish by producing evidence to show that, the vehicle was not being used or kept for use, due to its lack of road worthiness owing the damages beyond repair, and that the vehicle itself is dismantled, they should be exonerated from payment of tax, since no taxable event occurred. It is true that equitable considerations are irrelevant in interpreting tax laws. But those laws, like all other laws have to be interpreted reasonably and in consonance with justice, as observed by the Apex Court in ***R.B. Jodha Mal Kuthiala v. CIT*, [(1971) 3 SCC 369].**

12. In such bonafide cases, imposing tax liability mechanically, merely because, the G Forms were not submitted

or the dismantling of the vehicle was not intimated, would not be in the best interest of justice. Such imposition of liability on a ground of mere procedural irregularity will vitiate the true spirit of justice to citizens. In several instances, the Apex Court as well as the High Courts exercising jurisdiction under Article 226 of the Constitution have consistently endeavoured to uphold the true spirit of justice, emphasizing that substantive justice must not be sacrificed at the altar of mere procedural technicalities. This is particularly because, the power conferred on the High Court under Articles 226 and 227 of the Constitution is to advance justice and not to thwart it **[*State of U.P.* v. *District Judge, Unnao* [(1984) 2 SCC 673] : (AIR 1984 SC 1401)]** . The very purpose of such Constitutional powers being conferred on the High Courts is to ensure that, no person is subjected to injustice. Therefore, the relevant consideration of the High Court while exercising such powers, must be not merely to interpret the law, but such powers should also be invoked in cases where, an injustice is caused to the people, while enforcing the law without focusing on the real purpose or spirit of that particular law and its objects, thereby harshly implementing the provisions, unmindful of the serious consequences thereof, on the people who committed minor violations of, or aberrations, in law. As far as the insistence on prior intimation of non-use of the vehicle is concerned, the same is more of a kind of procedural in nature, and substantive right or obligation is to ensure that, the vehicle, which is used or kept for use, is taxed properly and the same is not intended to tax a vehicle which is not used or not kept for use.

13. In ***Bhagwan Swaroop v. Mool Chand*, [(1983) 2 SCC 132],** the Honourable Supreme Court observed as follows:

> **"12.** It is no doubt true that a code of procedure "is designed to facilitate justice and further its ends and it is not a penal enactment for punishment and penalty and not a thing designed to trip people up". Procedural laws are no doubt devised and enacted for the purposes of advancing justice. Procedural laws, however, are also laws and are enacted to be obeyed and implemented. The laws of procedure by themselves do not create any impediment or obstruction in the matter of doing justice to the parties. On the other hand, the main purpose and

object of enacting procedural laws is to see that justice is done to the parties. In the absence of procedural laws regulating procedure as to dealing with any dispute between the parties, the cause of justice suffers and justice will be in a state of confusion and quandary. Difficulties arise when parties are at default in complying with the laws of procedure. As procedure is aptly described to be the hand-maid of justice, the court may in appropriate cases ignore or excuse a mere irregularity in the observance of the procedural law in the larger interest of justice. It is, however, always to be borne in mind that procedural laws are as valid as any other law and are enacted to be observed and have not been enacted merely to be brushed aside by the Court. **Justice means justice to the parties in any particular case and justice according to law.** If procedural laws are properly observed, as they should be observed, no problem arises for the court for considering whether any lapse in the observance of the procedural law needs to be excused or overlooked. As I have already observed depending on the facts and circumstances of a particular case in the larger interests of administration of justice the Court may and the Court in fact does, excuse or overlook a mere irregularity or a trivial breach in the

> observance of any procedural law for doing real and substantial justice to the parties and the Court passes proper orders which will serve the interests of justice best."

14. Although, the Goddess of the justice is blindfolded, that blindfold is not meant to avoid seeing the practical difficulties and hard realities faced by the common ordinary men, during the enforcement of law, but only intended to administer justice impartially, without any bias and any discrimination based on the caste, religion, financial status etc., of the person subjected to law. Having regard to the true spirit of justice, Justice V. R Krishna Iyer in ***Jasraj Inder Singh v. Hemraj Multanchand*, [(1977) 2 SCC 155] , articulated ;**

> "Justice is truth, is beauty and the strategy of healing injustice is discovery of the whole truth and harmonising human relations. Law's finest hour is not in meditating on abstractions but in being the delivery agent of full fairness. This divagation is justified by the need to remind ourselves **that the grammar of justice according to law is not little litigative solution of isolated problems but resolving the conflict in its wider bearings."**

In such circumstances, this writ petition is disposed of quashing Exts.P5 and P6, with a direction to the petitioner to submit a fresh representation before the 3rd respondent, by producing all the documents, including the FIR and final report submitted in Crime No.1137 of 2017 of Kodakara Police Station and also other documents to support the claim of the petitioner that, the vehicle is in a complete dilapidated condition, since the date of accident. Representations as referred to above, shall be submitted within a period of three weeks from the date of receipt of a copy of this judgment and thereupon, the 3rd respondent or any other competent officer shall conduct an inquiry with regard to the contentions of the petitioner, which may include physical inspection of the vehicle, and a decision thereon shall be taken within a period of two months. In case it is found that, the vehicle was in a dilapidated condition and could not be used on the road, the petitioner shall be entitled to get exemption from the date on which the vehicle became not roadworthy. Till such a decision is taken and subject to the condition of the petitioner submitting the representation referred to above within the time stipulated, coercive proceedings based on the demand of the motor vehicle tax in respect of vehicle bearing Reg.No.KL-08 BB 2050, shall be kept in abeyance.

Sd/-

ZIYAD RAHMAN A.A.

JUDGE

DG/14.7.26

APPENDIX OF WP(C) NO. 24420 OF 2025

PETITIONER EXHIBITS

Exhibit P1	A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF THE VEHICLE NO.KL08BB2050 IN FAVOUR OF PETITIONER, DATED 02.09.2013
Exhibit P2	A COPY OF THE CONTRACT CARRIAGE PERMIT OF THE PETITIONER'S VEHICLE ISSUED FROM THE REGIONAL TRANSPORT OFFICE
Exhibit P3	A COPY OF THE FIR NO.1137/2017 DATED 16.09.2017 ALONG WITH FIS
Exhibit P4	A COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE RTO, THRISSUR DATED 19.02.2018
Exhibit P5	A COPY OF THE REVENUE RECOVERY NOTICE IN FORM NO.1 WITH RRC NO.2025/2015/08 DATED 16.04.2025 ISSUED BY THE DEPUTY TAHSILDAR (RR), THRISSUR TALUK
Exhibit P6	A TRUE COPY OF THE REVENUE RECOVERY NOTICE IN FORM NO.10 WITH WITH RRC NO.2025/2015/08 DATED 16.04.2025 ISSUED BY THE DEPUTY TAHSILDAR, THRISSUR TALUK
Exhibit P7	A COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE RTO, THRISSUR DATED NIL.10.2024
Exhibit P8	A COPY OF THE JUDGMENT DATED 01.04.2025 IN WPC NO.13347/2025 OF THIS HON'BLE COURT
Exhibit P9	A COPY OF THE PHOTOGRAPHS OF THE PETITIONER'S VEHICLE.