

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

TUESDAY, THE 16TH DAY OF JULY 2019 / 25TH ASHADHA, 1941

WP(C).No.33231 of 2018

PETITIONER/S:

SABU JOHNY
AGED 45 YEARS
MANAGING DIRECTOR,
M/S. EVM PREMIUM CARS INDIA PVT. LTD.,
DEEDI BUILDINGS, POORNANKUPPAM MAIN ROAD,
PONDICHERRY-605007.
HAVING PERMANENT RESIDENCE AT FLAT NO. 3D,
ORCHID COURTS APARTMENTS, PANCHAVADI,
VYTILLA P.O., ERNAKULAM.

BY SR.ADV.SRI BECHU KURIAN THOMAS
SRI.PAUL JACOB (P)
SRI.LEO LUKOSE

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF TRANSPORT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
- 2 THE REGIONAL TRANSPORT OFFICER,
REGIONAL TRANSPORT OFFICE, CIVIL STATION,
KAKKANAD, ERNAKULAM ,PIN-682030.

SR. ADV. N VENKITARAMAN
ADV. AKHIL SURESH
SPL.G.P. SRI.PRAVINDRANATH
SPL. G.P. SRI P.N. SANTHOSH KUMAR
DR.THUSHARA JAMES, GP
SMT.M.M. JASMIN GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16.07.2019, ALONG WITH WP(C).1824/2018, WP(C).11585/2018,
WP(C).20193/2018. WP(C).21595/2018. WP(C).24482/2018.

W.P.(C) Nos33231/2018 &
conn.cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

TUESDAY, THE 16TH DAY OF JULY 2019 / 25TH ASHADHA, 1941

WP(C).No.1824 of 2018

PETITIONER/S:

M.ANANTHAN, S/O.LATE KRISHNA PILLAI
AGED 66 YEARS, KRISHNA KRIPA, THEKKUMBAGAM,
THRIPUNITHARA, ERNAKULAM.

BY SR.ADV. BECHU KURIAN THOMAS
ADV. SRI.J.ABHILASH

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY,MOTOR VEHICLES
DEPARTMENT, SECRETARIAT,THIRUVANANTHAPURAM -
695 001.
- 2 THE TRANSPORT COMMISSIONER
TRANSPORT COMMISSIONERATE,
VAZHUTHACAUD,THIRUVANANTHAPURAM ~ 695 014.
- 3 JOINT REGIONAL TRANSPORT OFFICER
MINI CIVIL STATION, CHANGANASSERY,KOTTAYAM
DISTRICT -686 101.

W.P.(C) Nos33231/2018 &
conn.cases

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4 **MOTOR VEHICLE INSPECTOR
SUB REGIONAL TRANSPORT OFFICE, THRIPUNITHURA
~682 301.**

ADDL. 5 **THE ASSISTANT REGISTRAR, MOTOR VEHICLES
DEPARTMENT, PUDUCHERRY 605 001**

IMPLEADED AS PER ORDER DATED 16.7.2019 IN IA 1/2019

**BY ADV. GOVERNMENT PLEADER
SR. ADV. N VENKITARAMAN
ADV. AKHIL SURESH
SPL.G.P. SRI.P.RAVINDRANATH
SPL. G.P. SRI P.N. SANTHOSH KUMAR
DR.THUSHARA JAMES, GP
SMT.M.M. JASMIN GP**

OTHER PRESENT :

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16.07.2019, ALONG WITH WP(C).25170/2018, WP(C).24482/2018,
WP(C).29183/2018, WP(C).33231/2018, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:**

W.P.(C) Nos33231/2018 &
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

TUESDAY, THE 16TH DAY OF JULY 2019 / 25TH ASHADHA, 1941

WP(C).No.11585 of 2018

PETITIONER/S:

AKHIL AHSAN MARAKKAT SHAIK
M.P.K. TRADERS, MMC NO. V/114-A,MAHE.

BY ADV. SRI.P.DEEPAK

RESPONDENT/S:

- 1 THE TRANSPORT COMMISSIONER
OFFICE OF THE TRANSPORT COMMISSIONER, TRANS
TOWER, VAZHUTHACAUD, THIRUVANANTHAPURAM-695014.
- 2 THE REGIONAL TRANSPORT OFFICER
(TAXATION OFFICER), KOZHIKODE - 673 020.
- 3 THE ASSISTANT REGISTERING AUTHORITY
MAHE- 673 310.

**W.P.(C) Nos33231/2018 &
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**BY ADV. GOVERNMENT PLEADER
SR. ADV. N VENKITARAMAN
ADV. AKHIL SURESH
SPL.G.P. SRI.P.RAVINDRANATH
SPL. G.P. SRI P.N. SANTHOSH KUMAR
DR.THUSHARA JAMES, GP
SMT.M.M. JASMIN GP**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16.07.2019, ALONG WITH WP(C).20193/2018, WP(C).21595/2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

TUESDAY, THE 16TH DAY OF JULY 2019 / 25TH ASHADHA, 1941

WP(C).No.20193 of 2018

PETITIONER/S:

SHIBUMON P.V S/O. BHASKARAN
AGED 38 YEARS,
PEEDOMCHERINJATHIL, THYKULAM.P.O.,
PEROOR, KOTTAYAM DISTRICT.

BY ADV. SRI.PAUL K.VARGHESE

RESPONDENT/S:

- 1 THE SECRETARY
TRANSPORT DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
- 2 THE REGIONAL TRANSPORT OFFICER
KOTTAYAM DISTRICT - 686 002.
- 3 THE ASSISTANT REGISTERING AUTHORITY
PONDICHERRY - 605 004.
- 4 THE REGISTERING AUTHORITY
PONDICHERRY, MAHI- 673 310. (IMPLEADED AS PER
ORDER DATED 7.11.2018 IN IA 1/2018)

**W.P.(C) Nos33231/2018 &
conn.cases**

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**BY ADV. GOVERNMENT PLEADER
SR. ADV. N VENKITARAMAN
ADV. AKHIL SURESH
SPL.G.P. SRI.P.RAVINDRANATH
SPL. G.P. SRI P.N. SANTHOSH KUMAR
DR.THUSHARA JAMES, GP
SMT.M.M. JASMIN GP**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16.07.2019, ALONG WITH WP(C) .21595/2018, WP(C) .11585/2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

TUESDAY, THE 16TH DAY OF JULY 2019 / 25TH ASHADHA, 1941

WP(C).No.21595 of 2018

PETITIONER/S:

SURESH LAL D.B
AGED 61 YEARS
S/O.DAMODARAN, PLAVILA VEEDU,ALENCHERY, YEROOR
(POST) EROOR, KOLLAM, KERALA

BY ADV. SRI.K.R.SUNIL

RESPONDENT/S:

- 1 THE STATE TRANSPORT COMMISSIONER
TRANS TOWER, VAZHUTHACADU, THIRUVANANTHAPURAM-
695 014
- 2 THE DEPUTY TRANSPORT COMMISSIONER
SOUTH ZONE, THIRUVANANTHAPURAM.
- 3 THE JOINT REGIONAL TRANSPORT OFFICER
(TAXATION OFFICER, PUNALUR.
- 4 THE ASSISTANT REGISTERING AUTHORITY
PUDUCHERRY- 605 001

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conn.cases**

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**BY ADV. GOVERNMENT PLEADER
SR. ADV. N VENKITARAMAN
ADV. AKHIL SURESH
SPL.G.P. SRI.P.RAVINDRANATH
SPL. G.P. SRI P.N. SANTHOSH KUMAR
DR.THUSHARA JAMES, GP
SMT.M.M. JASMIN GP**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16.07.2019, ALONG WITH WP(C).20193/2018, WP(C).11585/2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

TUESDAY, THE 16TH DAY OF JULY 2019 / 25TH ASHADHA, 1941

WP(C).No.24482 of 2018

PETITIONER/S:

K.A.JOSEPH
AGED 66 YEARS
KANDATHIL HOUSE, ANIKKADU PO, KOTTAYAM-686503.

BY ADVS.
SRI.G.BHAGAVAT SINGH
SRI.ANWIN SHAJ

RESPONDENT/S:

- 1 THE DISTRICT COLLECTOR
KOTTAYAM-682002.
- 2 THE TAHASILDAR RR
KOTTAYAM TALUK, KOTTAYAM-682002.
- 3 THE DEPUTY TAHASILDAR
KOTTAYAM TALUK, KOTTAYAM-682002.
- 4 THE REGIONAL TRANSPORT OFFICER
KOTTAYAM, CIVIL STATION, KOTTAYAM-682002.

W.P.(C) Nos33231/2018 &
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- 5 THE COMMISSIONER OF TRANSPORT
KERALA, OFFICE OF THE TRANSPORT
COMMISSIONER, THIRUVANANTHAPURAM-695014.
- 6 ADDL.R6 THE REGISTERING AUTHORITY
PUDUCHERRY, OFFICE OF THE MOTOR VEHICLE
REGISTERING AUTHORITY, PUDUCHERRY-605005.
(ADDL.R6 IS IMPEADED AS PER ORDER DATED
07/11/2018 IN IA.02/2018)

BY ADV. GOVERNMENT PLEADER
SR. ADV. N VENKITARAMAN
ADV. AKHIL SURESH
SPL.G.P. SRI.PRAVINDRANATH
SPL. G.P. SRI P.N. SANTHOSH KUMAR
DR.THUSHARA JAMES, GP
SMT.M.M. JASMIN GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16.07.2019, ALONG WITH WP(C).1824/2018, WP(C).25170/2018,
WP(C).29183/2018, WP(C).33231/2018, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

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conn.cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

TUESDAY, THE 16TH DAY OF JULY 2019 / 25TH ASHADHA, 1941

WP(C).No.25170 of 2018

PETITIONER/S:

PAPER EXIM PVT. LTD.
REP. BY ITS MANAGING DIRECTOR ASHOK KUMAR
BHARTIA,S/O.GAURI SHANKAR BHARTIA, AGED 55
YEARS,4A 1 RDS AVENUE ONE, NEAR PASSPORT
OFFICE,PANAMPILLY NAGAR, ERNAKULAM, PIN - 682
036,HAVING BRANCH OFFICE AT 1ST FLOOR,
NO.17,PERIYAPALAYATHAMMAN KOIL STREET,LAKSHMI
NAGAR EXTN., LAWSPET,PONDICHERRY, PIN - 605
008.

BY ADVS.
DR.SEBASTIAN CHAMPAPPILLY
DR.ABRAHAM P.MEACHINKARA
SRI.GEORGE CLEETUS
SRI.P.A.SAINUDEEN

RESPONDENT/S:

1 SECRETARY TO GOVERNMENT
TRANSPORT DEPARTMENT,GOVERNMENT
SECRETARIAT,THIRUVANANTHAPURAM - 695 001.

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**2 THE TRANSPORT COMMISSIONER
TRANS TOWER, VAZHUTHACAU, THIRUVANANTHAPURAM -
695 014.**

**3 THE REGIONAL TRANSPORT OFFICER AND THE
REGISTERING AUTHORITY
OFFICE OF THE REGIONAL TRANSPORT OFFICER, 2ND
FLOOR, CIVIL STATION, PALAKKAD, COCHIN - 682
030.**

**ADDL 4 THE REGIONAL TRANSPORT OFFICER, (RTO) OFFICE OF THE
RTO, 100 FEET ROAD, BHARATIDASAN NAGAR,
MUDALIARPET, PUDUCHERRY, PIN 605 004**

IMPLEADED AS PER ORDER DATED 16.07.2019 IN IA 1/2018

**BY ADV. GOVERNMENT PLEADER
SR. ADV. N VENKITARAMAN
ADV. AKHIL SURESH
SPL.G.P. SRI.P.RAVINDRANATH
SPL. G.P. SRI P.N. SANTHOSH KUMAR
DR.THUSHARA JAMES, GP
SMT.M.M. JASMIN GP**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16.07.2019, ALONG WITH WP(C).1824/2018, WP(C).24482/2018,
WP(C).29183/2018, WP(C).33231/2018, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:**

W.P.(C) Nos33231/2018 &
conn.cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

TUESDAY, THE 16TH DAY OF JULY 2019 / 25TH ASHADHA, 1941

WP(C).No.29183 of 2018

PETITIONER/S:

ADATTIL MOHAMMED
AGED 64 YEARS
MANAGING PARTNER, CLASSY,
THE ANTIQUE DESIGNED FURNITURE A
PARTNERSHIP CONCERN WITH ITS BRANCH OFFICE AT
NO.105, 1 E.C.R. MAIN ROAD,
CHINNAKALAPET,
PUDUCHERRY, PIN-605014.

BY ADVS.
SRI.M.AJAY
SRI.K.R.RAJKUMAR

RESPONDENT/S:

1 THE STATE OF KERALA
(REPRESENTED BY SECRETARY TO GOVERNMENT,
TRANSPORT DEPARTMENT),
THE SECRETARIAT,
THIRUVANANTHAPURAM-695001.

W.P.(C) Nos33231/2018 &
conn.cases

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- 2 THE TRANSPORT COMMISSIONER
OFFICE OF THE TRANSPORT COMMISSIONER,
2ND FLOOR, TRANS TOWER,
THYCAUD P.O. ,
THIRUVANANTHAPURAM-695014.
- 3 THE STATE POLICE CHIEF AND DIRECTOR GENERAL OF
POLICE
POLICE HEADQUARTERS,
THIRUVANANTHPURAM-695010.
- 4 THE JOINT REGIONAL TRANSPORT OFFICER
SUB REGIONAL TRANSPORT OFFICE,
MINI CIVIL STATION,
TIRUR,
MALAPPURAM DISTRICT.
- 5 ADDL. R5 THE ASSISTANT REGISTERING AUTHORITY
RTO OFFICE, 100 FEET ROAD, OPPOSITE BUS STOP,
MUDALIARPET, PUDUCHERRY, PIN - 605004. (ADDL.R5
IMPLEADED AS PER ORDER DATED 14/11/2018 IN
IA.NO.01/2018)

SR. ADV. N VENKITARAMAN
ADV. AKHIL SURESH
SPL.G.P. SRI.P.RAVINDRANATH
SPL. G.P. SRI P.N. SANTHOSH KUMAR
DR.THUSHARA JAMES, GP
SMT.M.M. JASMIN GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16.07.2019, ALONG WITH WP(C).1824/2018, WP(C).25170/2018,
WP(C).24482/2018, WP(C).33231/2018, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

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J U D G M E N T

[WP(C) 33231/2018 ,WP(C) .1824/2018
,WP(C) .11585/2018 ,WP(C) .20193/2018
,WP(C) .21595/2018 ,WP(C) .24482/2018
,WP(C) .25170/2018 ,WP(C) .29183/2018]

Heard Sri Bechu Kurian, the learned Senior Counsel and Sri M.Ajay, Sri Bhagavat Singh, Dr.Sebastian Champappilly the learned counsel for the petitioners and Mr. N.Venkitaraman, the learned Senior Counsel for the respondents.

2. The learned counsel appearing for the parties, keeping in view the similarity of writ prayers in this batch of writ petitions, have treated WP(C) Nos.33231, 29183, 24482, 25170 and 1824 of 2018 as the lead Writ Petitions, referred to the pleadings and documents in these writ petitions and canvassed their respective prayers. The learned counsel Sri Bechu Kurian, appearing for the petitioner in WPC No.33231 of 2018, Mr.M.Ajay, Mr.Bhagavath Singh and Dr.Sebastian Champappilly, the learned counsel for the

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conn.cases**

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petitioner in WPC No.29183 of 2018 and other two cases have made detailed arguments, and the other counsel appearing in companion writ petitions have adopted their arguments. The counsel have further stated that the consideration and reference to pleadings in the writ petitions referred *supra* would be sufficient for disposing of WPC No.33231 of 2018 and the companion batch of writ petitions.

3. In the instant batch of writ petitions, the issues for consideration arise under Entries 57 and 35 of List II and III of Seventh Schedule of Constitution of India, the Motor Vehicles Act, 1988 (for short 'Act 1988'), The Central Motor Vehicles Rules, 1989 (for short 'Rules 1989'), the Kerala Motor Vehicles Taxation Act, 1976 (for short 'Act 1976') and the Kerala Motor Vehicles Rules (for short the 'Rules 1989').

WP(C) No.29183 of 2018

4. Adattil Muhammed/the petitioner prays for a writ of

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certiorari to quash Ext.P9 notice dated 4.12.2017, Ext.P11 Circular dated 22.11.2017 and Ext.P14 order dated 6.8.2018 as illegal and unconstitutional. The petitioner prays for the relief of declaration that vehicle bearing No.PY-01/CR 50 owned by the petitioner under Ext.P8 Registration Certificate is not liable for tax under Section 3 of Act 1976 and also that Vehicle No.PY-01/CR 50 is not required to be registered in the State of Kerala under Chapter IV of Act 1988. The petitioner prays for a mandamus restraining respondents 2 to 4 in the writ petition and all subordinate officers of Transport and Police Departments from interfering with the plying of Vehicle PY-01/CR 50 in State of Kerala on the ground that the vehicle tax allegedly due and payable under Act 1976 is not paid or remitted to State of Kerala.

4.1 The petitioner is the Managing partner of a partnership firm "M/s Classy, The Antique Designed Furniture, Branch Office at No.105, 1 E.C.R. Main Road, Chinnakalapet, Puducherry PIN

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605014.” (for short 'the firm'). The petitioner claims that the firm has a branch office in Puducherry. The firm for running the branch office, under Ext.P1 lease deed dated 8.9.2017 had taken on lease a shop bearing No.627, shop room Nos.2 and 3, Vazhudavur Road, Puducherry. The registration certificate issued under Shops and Establishment Act is evidenced as Ext.P2. The petitioner purchased a BMW motor car from M/s Platino Classic Limited, Kochi with billing address as Classy, The Antique Designed Furniture, (Room No.627, Shop Nos.2 and 3), Vazhudavur Road, Puducherry, Puduchery, the invoice is marked as Ext.P3. The vehicle covered by Ext.P3 is registered by the Assistant Registering Authority, Puduchery as PY-01 CR 50 under Ext.P4. The petitioner, compelled by business planning and to keep pace with progressing business, shifted the place of business of the firm to premises bearing No.105, ECR Main Road, Chinnakalapet, Puducherry. The petitioner received Ext.P9 notice from the office of fifth

**W.P.(C) Nos33231/2018 &
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respondent. Ext.P9 notice is sent to the residential address of the petitioner in Kottakkal, Kerala. The purport of Ext.P9 notice is that PY-01/CR-50 is used or kept for use in the State of Kerala for more than thirty days without intimating registering authority under Section 49 of the Act 1988 and Rule 99 of Rules 1989. Ext.P9 notice further states that the petitioner, a resident of Hill View Residency, Thekkumpuram, Kottakkal, Kerala, ought to have, under Section 40 of Act, 1988 registered PY-01/CR 50 in the office of RTO, Malappuram instead of registering PY-01/CR 50 in the office of ARO, Puducherry. The motor vehicle tax payable on PY-01/CR 50 ought to have been paid only under the provisions of Act 1976. The temporary registration as well as registration in Ext.P4 are shrouded by false and forged documents showing address of residence or place of business in Puducherry, though the petitioner is a normal resident of Kerala. The registration of vehicle in Ext.P4, by reference to alleged forged documents, is penal in nature and

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punishable under Section 44 IPC. The commissions or omissions noticed in this behalf against petitioner are punishable under Section 206 of Act 1988. Ext.P9 notice therefore called upon the petitioner to produce Ext.P4 registration certificate and documents in proof of residence or business at Puducherry. The petitioner was required to submit his reply on or before 15.12.2017.

4.2 The petitioner alleges that Ext.P9 notice is unfounded, baseless and unsustainable in law and fact. Ext.P9 or the tenor demeans and damages the reputation of petitioner. The petitioner, by denying each one of the allegations in Ext.P9 notice, submitted reply, Ext.P10, dated 12.1.2018. The gist of the reply reads thus:

"I received notice from the RTO to appear before the JRTO along with the documents of the vehicle No.PY-01 CR 50. On that day, I was in Ayurveda treatment. I have produced the medical certificates.

Now, after treatment, I appeared before the office on 12.1.2018.

Our establishment Classy The Antique Designed Furniture is at Kottakkal and Ernakulam for the last ten years. Steps are taken to open marketing offices at various places. One of our office is at No.105, ECR main Road, Chinnakalapet, near Sai

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Baba Temple, Puducherry.

In proof of the said address, we are submitting GST registration certificate, electricity bill, Municipality Building Ownership Certificate etc.

The said vehicle is mostly used in Puducherry and Bangalore. I have not committed any tax evasion with respect to the said vehicle. "

The Transport Commissioner, Thiruvananthapuram, issued Ext.P11 circular calling upon his subordinate officers to take action against non-State registered vehicles plying in State of Kerala. Ext.P11 circular dated 22.11.2017 reads thus:

"...Section 40 of the Motor Vehicles Act, 1988 provides that subject to the provisions of Secs.42,43 and 60 every owner of a motor Vehicle shall cause the vehicle to be registered by a registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept. Section 49 provides that if there is changes of address/place of business of the owner of the motor vehicle within thirty days of such change apply to the new registering authority. Rule 59 of the Rules 1989 provides that such application shall be in Form 33 with RC and proof of address. Section 47 provides that where a motor vehicle registered in one State has been kept in another State for a period exceeding twelve months the owner of the vehicle shall apply to the Registering Authority along with RC and another document specified therein within whose jurisdiction the vehicle then is for the assignment of a new registration mark. Rule 54 of the Rules 1989 provides that such application shall be made in Form 27 along with NOC in Form

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28 and prescribed fee within a period of thirty days from the date of expiry of twelve months. As regards levy of tax, Section 3 of Act 1976 specifically empowers the State to levy the same on every motor vehicle used or kept for use in the State at the rate specified for such vehicles in the Schedule.

..Based on the above provisions the following instructions are issued with immediate effect:

1. All Regional Transport Officers are directed to constitute a team of officers under RTO check the other State registered vehicles plying in their jurisdiction especially Puducherry registered and issue notice to vehicle owner, if defaulted vehicle owner is willing to pay tax by registering the motor vehicle in Kerala. Tax shall be collected accordingly and registration effected. Direction shall be issued to vehicle owners to produce NOC from Original Registering Authorities and if the vehicle owner is out of station notice shall be posted on his/her residence and further action initiated under the Act and Rules.
2. In every DTC office a team of officers-MVI, AMVI, SS and one Clerk from DTC office- under RTO shall be constituted with immediate effect and they shall collect the details of vehicles permanently plying in Kerala but registered in Puducherry.
3. Sri Joy MVI, Nodal Officer, SSG shall collect the details of all such vehicles-Hypothecation Insurance and all the details available in the National Register-and forward the same to DTCs.
4. The RTO (Enforcement) Team constituted shall sort out such vehicles plying in their jurisdiction and conduct necessary enquiry and checking. The details of continuous use/plying of Puducherry registered vehicles in

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Kerala shall be collected by the RTO (Enforcement) Team from vehicle dealers and service centers located in the State. If any violation of rules is detected the same shall be forwarded to concerned RTO/Jt.RTO for further necessary action. The RTO (Enforcement) Team is also entrusted to consolidate the follow up action taken in this regard by all Registering Authorities in their jurisdiction.

5. If the Puducherry registered vehicles are found plying regularly in Kerala violating rules concerned, RTO will initiate necessary action. If the temporary registration is taken in Kerala on a fake address by forgery (Section 463 IPC) or making false document (Section 464 IPC) or using as genuine a forged document (Section 471 IPC) steps shall be taken to forward a report to police authorities concerned.

4.3 The petitioner filed WP(C) No.13888 of 2018 challenging the enquiry into registration of subject vehicle in Puducherry etc. and this Court by order dated 13.4.2018 disposed of the writ petition by the following order:

“Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the fourth respondent to take a decision on Ext.P10 reply sent by the petitioner to Ext.P9 notice, after affording the petitioner an opportunity of hearing. This shall be done within ten days from the date of receipt of a copy of this judgment. Needless to say that until orders are passed as directed above, further proceedings for realization of the amounts due in respect of the vehicle shall be deferred. The petitioner shall appear before the fourth

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respondent for hearing on 25.4.2018.”

4.4 Thereafter Ext.P13 additional reply was given by petitioner, resulting in Ext.P14 order dated 6.8.2018 made by the fourth respondent. The operative portion of the order dated 6.8.2018 reads as follows:

“The Registered Owner had appeared for personnel hearing on 2.8.2018 and he had failed to produce any substantiating evidence to prove the given address is genuine. As per questionnaire filed by him has properly as are not Puduchery address proof and also he had failed to produce Ration card, Passport or Adhar card for supporting to establish his given address proof at Puduchery. The lease deed made only on 16.11.2017 between AJ Hashif, S/o Abdul Jabbar Residing at No.105, I ECR Main Road, Chinnakalapet, Near Baba Temple Pondichery 605014 after the vehicle registration at Puduchery and also the GST registration certificate issued from 17.9.2017, it is just before the Registration of vehicle for evading higher rate of Kerala State road tax. An enquiry was conducted through Asst. Motor vehicle Inspector of this office regarding the usage of this vehicle at Kerala vide reference 6th cited. It is revealed that this vehicle is kept in and used in Kerala State permanently and also the vehicle had violated speed regulation rules in Kerala State Roads several times as per report of Kerala Police Hi-tech cell and Motor Vehicles Dept. Camera surveillance system. It is also enough evidence showing that the vehicle has been using here in Kerala State. The vehicle had registered after submitting fabricated address proof at Puduchery for evading road tax of Kerala state. In registration certificate the permanent address shown as Managing Partner, Hill View, Thokkampara, Kottakkal,

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Malappuram which is under the jurisdiction of this office. The hypothecation agreement is held with HDFC Bank, Nadakavu, Calicut and also insurance issued from Kerala State. He did not produce any proof to establish the genuineness of the address proof in which the vehicle had registered at Puduchery so far.

It is clear that Section 40 of MV Act that every owner of a Motor vehicle shall cause the vehicle to be registered by a registering authority in whose jurisdiction he has the residence or place of business where the normally kept "In the above circumstances it is clear that the vehicle registered at Puduchery using fabricated address with an intention to use at Kerala State permanently by evading road tax which is comparatively higher at Kerala. Hence Sri Adattil Muhammed, Hill View, Thokkampara, Kottakkal, Malappuram are liable to remit tax as per section 3 of Kerala Motor Vehicle Taxation Act, 1976.

The price of the vehicle found as Rs.6525530/- and required tax to be remitted as per schedule is Rs.1400814. Hence he is directed to remit the total tax Rs.1400814/- (Fourteen lakh and eight hundred and fourteen only) at SRT0, Thirur within 15 days on receipt of this letter." (emphasis added)

Hence the writ petition.

4.5 The petitioner challenges Exts.P9, P11 and P14 as completely illegal, arbitrary and beyond the jurisdiction of the respondents, in trying to regulate the place where registration for subject vehicle is to take place or calling upon the petitioner to pay vehicle tax under Act 1976 as well. The petitioner challenges

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impugned exhibits as unconstitutional. The grounds raised in the writ petition or the contentions urged by the counsel for petitioner, are substantially same, for ensuring brevity, the grounds and the arguments are adverted to little later in this judgment.

WP(C) No.33231 of 2018

5. Sabu Johny, Managing Director of M/s EVM Premier Cars India Pvt. Ltd. is the petitioner. The petitioner prays for a writ declaring Section 3(6) of Act 1976 as *ultravires*, 'Act 1976' and to quash Ext.P3 notice as illegal and beyond the jurisdiction of respondents. The petitioner, consequent to the above reliefs prays for a declaration that PY-01-CR 5500 is not required to be registered in the State of Kerala or pay vehicle tax under Act 1976.

5.1 M/s EVM Premium Cars India Pvt. Ltd., is a company dealing with sale of premium cars in a few different places in India, including the Union Territory of Puducherry. M/s EVM Premium Cars India Pvt.Ltd., it is averred has a functional branch at

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Puducherry. Ext.P1 is the certificate issued by the Labour Officer under the Puducherry Shops and Establishment Rules, 1964 in favour of M/s EVM Premier Cars India Pvt. Ltd. The petitioner purchased a luxury car Porsche 718 (Boxster) Model under Ext.P2. The petitioner claims that Porsche 718 (Boxster) is purchased for use as a demo or trial car by the company not only for use in Puducherry but also at other places where the company has showrooms. Under Ext.P2 dated 4.10.2017, by referring to or in addition to such other documents which were filed before the Asst.Registering Authority, Puducherry, Porsche 718 Boxster was registered as PY-01 CR 5500 under Chapter IV of Act 1988. The petitioner alleges that Ext.P2 evidences registration of the vehicle and also payment of vehicle tax under the Puducherry Vehicle Taxation Act, 1967. The vehicle undertakes errands between Puducherry and Ernakulam, and at a given point of time the vehicle neither is used nor kept for use in Kerala continuously for more

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than 12 months, much less for thirty days. Therefore, the case of petitioner, as a matter of fact, is that the vehicle bearing No.PY-01-CR 5500 is fully compliant with the legal requirements of both registration and payment of vehicle tax and the vehicle should not be subjected to check inspection etc. While matters stood thus, the petitioner received Ext.P3 notice dated 16.1.2018. The petitioner has given Ext.P4 reply. The gist of the reply reads thus:

“The company is still operational and is functioning in Puducherry and has not ceased to operate. The Porsche car bearing Reg.No.PY-01-CR/5500 was purchased and registered in Puducherry in the name of the company for the company having its registered office at Puducherry. The vehicle was used as a demo/trial car for potential customers and was not used for any personal purposes. The allegation in the show cause notice that temporary registration was obtained by submitting forged documents in relation to the address of residence or place of business in Puducherry and that the registration of the vehicle in Puducherry has been made on the basis of such forged documents and the supplementary statements contained in the reference notice are contrary to facts and are denied. The company or anyone authorized to act for and on behalf of the company have not acted in any illegal manner or committed any action or omission or offence punishable under any law or in contravention to any provisions of law.”

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5.2 The petitioner while challenging vires of Section 3(6) challenges ancillary steps viz. issue of show cause notice etc. initiated by the respondents. The legal grounds raised by the petitioner read thus:

5.3 Section 3(6) of the Act 1976 seeks to impose one time tax on owners registered outside the State. It is to be noted that as per Sec 47 of Act 1988 the time for keeping a vehicle registered in other States is 12 months, but as per the Taxation laws the same is 30 days. Therefore Section 3(6) of Act 1976 which contemplates 30 days, is repugnant to the Central Act i.e. the Act 1988. Section 3(6) of Act 1976 being repugnant to Act 1976 is thus void and illegal.

5.4 Section 40 of Act 1988 requires the owner of a motor vehicle to register the vehicle in a place where he has residence or place of business, and where the vehicle is normally kept. Section 46 in tune with Article 19(1)(d) of the Constitution of India, provides that a motor vehicle registered in any State should not be required

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to be registered elsewhere in India and that a registration certificate issued shall be effective throughout India. Therefore it is impermissible to compel a petitioner to obtain fresh registration or to remit motor tax in the State.

5.5 The use of the words "used" or "kept for use" in the State cannot be interpreted or constructed to mean that the State Government is empowered to impose tax as per Act 1976 the moment a vehicle is kept in the State. Levy and imposition of tax can only be under authority of law. The levy and imposition of tax on a vehicle already registered is without authority of law, and is unconstitutional. In any event, Act 1976 will apply only to vehicles registered in Kerala but not to non-State registered vehicles. Petitioner's vehicle has not been registered in Kerala, no tax for the alleged stay in Kerala can be demanded or imposed. Likewise no coercive action could be taken by respondents against the petitioner Hence Ext.P3 is illegal and without jurisdiction.

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W.P.(C) No.24482/2018

6. K.A. Joseph, the petitioner, claims to have business in the State of Kerala, Puducherry and Tamil Nadu. The petitioner, it is stated, owns and possesses more than twelve cars, including Audi, BMW, Renault Duster and other premium brand cars in Kottayam, Kerala. These vehicles are stated to have been registered and kept in State of Kerala. The petitioner under Ext.P1 invoice purchased a Mercedes Benz Car exclusively meant for use in the States of Tamil Nadu and Puducherry. The vehicle purchased under Ext.P1 invoice is registered in the Unnion Territory of Puducherry with registration no.PY-01-CP-0167. The petitioner, under Ext.P4 sale agreement dated 04.12.2017, agreed to sell Mercedes Benz Car purchased under Ext.P1 invoice to a third party. Under Ext.P5 show cause notice dated 11.12.2017 the fourth respondent called upon petitioner to show cause why action should not be taken as the subject vehicle is registered under the permanent address No.16, Pallavan Street J.V.S.

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Nagar, Nellithope, Puducherry 605 005 but used or kept for use in the State of Kerala. Ext.P5 in purported exercise of power under section 40 of the Motor Vehicles Act 1988, calls upon the petitioner to produce all the original documents to prove the address, validity or registration certificate, invoice of vehicle and related documents within seven days from the date of receipt of the said notice. The petitioner received Ext.P8 notice calling upon the petitioner to deposit vehicle tax within seven days from the date of receipt of Ext.P8 notice. The petitioner through Ext.P9 reply denied with vehemence the obligation on him to register the vehicle or pay vehicle tax in Kerala and disputed the allegations levelled against him in notice, and through Ext.P8 stated the reasons, why the petitioner is not under any obligation to pay the vehicle tax demanded through Exts.P5 and P8. Fourth respondent issued Ext.P10 calling upon the petitioner to pay a sum of Rs.12,34,011/- towards motor vehicle tax. The operative portion of Ext.P10 reads

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as follows:

“For the above reasons, the address for registration of the vehicle at Puducherry is found to be incorrect. As per Section 40 of the Motor Vehicles Act, the petitioner is liable to pay tax from the date of registration of the said vehicle at Puducherry, i.e., 31.01.2017. As per the invoice the cost of the vehicle is Rs.61,70,051/-. Hence the tax of the said vehicle, i.e., Rs.12,34,011/- being 20% of the cost, and equivalent tax along with interest is to be deposited in cash/DD within seven days or Revenue Recovery steps shall be initiated.”

6.1 The petitioner was further called upon through Ext.P19 order as follows:

“5. If the Puducherry registered Vehicles are found plying regularly in Kerala violating rules, concerned RTO will initiate necessary action. If the temporary registration is taken in Kerala on a fake address by forgery (section 463 IPC) or making false document (section 464 IPC) or using as genuine a forged document (Section 471 IPC), steps shall be taken to forward a report to police authorities concerned.”

6.2 The case of petitioner is that the petitioner did not ply the vehicle contrary to Act 1988 or Act 1976. The subject vehicle is not with the petitioner. The petitioner has not contravened any of the provisions under Chapter IV of Act 1988 or Section 3 of Act 1976. The petitioner hence prays for setting aside Exts.P8, P10 and

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all the consequential proceedings initiated including Ext.P19. Apart from the above objections, it is stated that upon the sale of vehicle PY-01-CP-0167, the petitioner is not obliged to pay any amount towards vehicle tax under Act 1976. The petitioner canvasses same legal grounds, which are stated in the batch of writ petitions.

W.P.(C) No. 25170/2018

7. Paper Exim Pvt. Ltd. is the petitioner. The petitioner in terms of the resolution dated 19.08.2017 (Ext.P2) and upon entering into rental agreement dated 07.09.2017 (Ext.P3) started business in Puducherry. Petitioner has GST registration in Puducherry as evidenced by Ext.P4. The petitioner purchased a BMW car under Ext.P5 invoice dated 09.09.2017 and registered on 04.10.2017 with the Assistant Registering Authority Puducherry under Ext.P6 vide PY-01-CR-1110. The third respondent issued Ext.P7 notice dated 13.11.2017 calling upon the petitioner to produce the certificate of registration of vehicle No.PY-01-CR-1110, and proof of address of

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petitioner for verification by the Transport Department. Ext.P7 notice is served on the petitioner Company at RDS, Avenue One, Near Passport Office, Panampilly Nagar, Ernakulam, Kerala. The petitioner replied through Ext.P8 to the show cause notice Ext.P7 and disputed petitioner's obligation or duty to register in State of Kerala under Act 1988 or pay tax under Act 1976. The third respondent issued Exts.P9 and P11 and finally called upon the petitioner to get the subject vehicle registered under Section 40 of Act 1988 in State of Kerala. The petitioner is called upon to pay one time tax under Act 1976. The petitioner disputes and denies any obligation, much less a legal obligation, to get the subject vehicle registered with the Transport Department, State of Kerala/respondents herein and also pay vehicle tax under Act 1976. Hence the writ petition.

WPC No.1824 of 2018

8. Anandan, S/o late Krishna Pillai, aged 66 years, Krishna

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Kripa, Thekkumbagam, Thripunithura, Ernakulam is the petitioner—a citizen of India—but does business in Sulthanate of Oman. The petitioner states that he has business interests in the States of Kerala and Tamilnadu. The petitioner is the owner of 2011 model Benz 350 CDIL motor car with registration No.PY-01-BL-707. Ext.P1 is the registration certificate issued under Act 1988 by the Assistant Registrar Officer, Puducherry. The fourth respondent, through Ext.P2 show cause notice dated 5.11.2017 called upon the petitioner to appear before the fourth respondent to explain or reply to the allegations referred to in Ext.P2 notice. The gist of the allegations in Ext.P2 notice is that the petitioner under Ext.P1, in contravention of Sections 40 and 49 of Act 1988, registered the vehicle in Puducherry and plying the vehicle in State of Kerala particularly without paying vehicle tax. The documents relied on by the petitioner for the registration of vehicle in Puducherry are either false or forged. The fourth respondent from the information he

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possesses about the use of vehicle, the place of stay of petitioner and also for verification whether the vehicle which ought to have been registered in State of Kerala is registered in Unnion Territory of Puducherry and whether vehicle tax payable under Act 1976 is evaded, proposed to conduct enquiry against use of vehicle without propriety.

8.1 The case of the petitioner is that the petitioner is entitled or free to register the vehicle according to his choice, subject however to complying with the requirements of Section 40 of Act 1988. It is stated that no exception to Ext.P1 registration completed in Unnion Territory of Puducherry could be taken, as the procedure followed for registration is fully compliant with the requirements of law. The show cause notice is illegal and amounts to arbitrary exercise of jurisdiction or power under Act 1988 and Act 1976. The petitioner asserts that he is not under obligation to pay one time tax on PY-01-BL-707 under Act 1976. The legal grounds raised in

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support of the above circumstances are similar to the grounds raised in the other writ petitions. The petitioner prays for the following reliefs:

i) issue a writ of certiorari calling for the records leading to Exts.P2 and P3 and to quash the original of the same;

ii) issue a writ of mandamus or any other appropriate writ, order or direction commanding and compelling respondents herein not to interfere with the operation of the vehicle bearing No.PY/01/BL/0707 of the petitioner in the State of Kerala.

iii) to declare that the respondents herein cannot take action against the petitioner on the allegation that Ext.P1 registration certificate was obtained by using forged documents, until and unless Ext.P1 is suspended or cancelled by the issuing authority in Puducherry.

iv) to declare that Section 3(6) of the Kerala Motor Vehicle Taxation Law is unconstitutional and ultra virus to the Constitution of India

v) to issue such other writ, order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case."

9. The respondents filed counter affidavit and the reply/objections against the writ averments/prayers are summarised thus:

The petitioner (W.P.(C) No.1824/2018) is the registered owner of vehicle no.PY-01-BL-707. The permanent address in the Registration

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Certificate is shown at Changanassery in Kottayam District. Reckoning evasion of tax the Department initiated proceedings against the petitioner. Ext.P2 notice was issued calling upon the petitioner to produce the certificate of registration and proof of address of petitioner within seven days. Ext.P3 show-cause notice was issued for obtaining registration on forged documents and thereby defrauding the State exchequer in payment of vehicle tax. The petitioner did not appear in person or responded to the notices. On enquiry by the respondents or their subordinate officers it was noted that the vehicle was plying in the State for more than twelve months, which is evidenced by the check report, produced as Ext.R3(a). Pursuant to the report (Ext.R3(b)) of Motor Vehicle Inspector, raised demand towards vehicle tax amount to Rs.15,80,000/-, being 20% of purchase value, was issued in Ext.R3(c). Hence the respondents pray that there is no merit in the writ petition and the writ may be dismissed.

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WPC 25170/2018

9.1 On receipt of report of that registration of premium motor cars at Puducherry is undertaken for escaping payment of applicable rate of road tax in Kerala, the Motor Vehicles Department prepared a list of such vehicles for enquiry. The Enquiry Officer with regard to vehicle no.PY-01-CR-1110 referring to inspection dt. 22.01.2018 reported that the vehicle is owned by Ashok Kumar Bharatheeya, residing at Flat No.4A, RDS Avenue One, Near Passport Office, Panampilly Nagar, Kochi, and the vehicle is permanently used in Kerala. Hence notice demanding one-time tax applicable in State of Kerala was issued to petitioner. The petitioner had earlier approached this Court and the Court through judgment dated 21.03.2018 in W.P.(C) No.9752/2018 directed respondent to consider the explanation after hearing him and till such time further proceedings pursuant to demand notice was deferred.

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9.2 The petitioner was heard and documents verified. But the authority was not satisfied to accept the reply that the petitioner has existing business at Puducherry and vehicle is used in that area. Hence the claim of the petitioner was rejected and directed the petitioner to remit the tax in Kerala for permanent use of vehicle in Kerala.

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9.3 The petitioner is a registered owner of vehicle No.PY-01-BL-707 with permanent address in Changanassery, Kottayam District. On noticing evasion of vehicle tax under Act 1976, the Department issued notice to produce certificate of registration and documents relied on by petitioner for address verification. The petitioner did not respond, the Motor Vehicle Inspector conducted enquiry and found that the vehicle was plying in the State of Kerala for more than twelve months. In proof of such conclusion that the Department produced the check report to reveal that the vehicle has

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been penalised for over speeding within the State on fourteen occasions on various dates, marked as Ext.P3(a). The copy of the report of the Motor Vehicle Inspector is produced as Ext.P3(b). A demand for Rs.15,80,000/- was made, being 20% of the purchase value of the vehicle is produced as Ext.P3(c). The petitioner though claims to have business at various places, does not refer to any business at the Union Territory of Puducherry. It is further stated that once the vehicle is plying in the State for more than twelve months, such use or keeping for use casts an automatic liability on the owner to obtain a new registration mark in State of Kerala. The petitioner since is reluctant to furnish the relevant details as sought for, it is clear that attempt is made to evade the payment of tax in the State of Kerala. Hence the writ petition is without merit and liable to be dismissed.

WPC No.24484 of 2018

9.4 The Transport Commissioner, Thiruvananthapuram noted

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that luxury vehicles are still being registered in Puducherry with fake temporary/permanent residential or business address and vehicles are plying or kept for use in the State of Kerala in violation of the provisions under Act 1988 and Act, 1976 in order to avoid tax payment in State of Kerala at the time of registration which is higher than the rate in Puducherry.

9.5 The petitioner is the owner of vehicle No.PY-01-CP-0167 registered with the address Joseph K.A., 16, Pallavan Street, JVS Nagar, Nellithope, Puducherry. A registered letter [Ext.R4(a)] sent to the petitioner returned with the endorsement 'no such addressee'. The authorities sent Exts.R4(b) and R4(c) show cause notices to petitioner on omissions noted in the registration and payment of vehicle tax. The reply given by petitioner was not sufficient for the proof of genuineness of the address given with Puducherry.

9.6 It is submitted that the motor vehicle inspector conducted an enquiry and tax demand of Rs.12,34,011/- (20% of

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the purchase price) vide Exts.R4(d) and R4(e). The respondents have referred to *Automobile Transport Limited Rajasthan v State of Rajasthan*¹, *Bolani Ores Ltd. V State of Orissa*² and *State of Tamil Nadu v M.Krishnappan*³ in support of their stand that the action impugned in the writ petition is within their duty and function under Act 1988 and Act 1976.

9.7 The writ petitions are not maintainable in law or on facts and the writs are liable to be dismissed with costs.

10. The writ petitioners, in the cause title, admittedly have shown their place of residence/business in State of Kerala. The petitioners on account of business/avocation, claim to have residence/business in a neighbouring State or abroad. The common pleading in the batch of writ petitions is that the petitioners have got the respective vehicles registered in Puducherry under Chapter IV of Act 1988 and paid vehicle tax under Pondicherry Motor

1 AIR 1962, SC 1406

2 1974(2) SC 777

3 2005(4) SCC 53

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Vehicles Taxation Act, 1967. The kernel of allegation against petitioners is that the high end luxury vehicles are, firstly, used or kept for use in the State of Kerala. Secondly, the petitioners since are permanent residents of Kerala should have registered the subject vehicles in State of Kerala. These omissions since shrouded by fraud etc. are enquired into resulting in orders calling upon the petitioners to firstly register the subject vehicles in State of Kerala and pay vehicle tax under Act 1976. The case of petitioners is that the use or keeping for use the Puducherry registered vehicles in State of Kerala by petitioner *per se* does not authorise the respondents herein (a) to call upon the petitioners by reference to their permanent address of residence/business in the State of Kerala to register the vehicles already registered in Puducherry under Chapter IV of Act, 1988 and/or pay life tax under Act 1976. The petitioners also dispute, as a fact, that a circumstance obligating petitioners to pay any amount towards vehicle tax has arisen under Act 1976. In other words, for

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the journey or errands into State of Kerala or using or keeping for use the vehicle does not obligate petitioners to pay vehicle tax.

10.1 The show-cause notices impugned in the writ petitions are pre-meditated, the enquiry conducted to decide the issue is lopsided and the orders impugned are illegal, without jurisdiction and unconstitutional. The petitioner in W.P.(C) No.33231/2019 challenges validity of Section 3(6) of Act 1976.

10.2 Without prejudice to the above substantial grounds of challenge, the petitioners complain against application of amended Annexure III to schedule of Act 1976, retrospectively, i.e. to cases if at all liability to pay vehicle tax is established for use or keeping for use prior to 1.4.2018. The levy ought to be contemporaneous but the amendment to Annexure III has no retrospective effect.

10.3 It is also urged that the exemption granted in SRO No.878/75 relieves the vehicles registered outside State of Kerala from paying vehicle tax. The sum total of petitioners' case is that the

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vehicles bearing Puducherry registration have right to ply on the roads of Kerala State without re-registration under Chapter IV of Act 1988 paying vehicle tax under Act, 1976.

11. The prayers in the batch of Writ Petitions are categorised as under:

a) Section 3(6) of the Act 1976 is challenged as unconstitutional and ultravires Act 1976.

b) Show cause notices issued for alleged illegal or fraudulent registration in Puducherry and proposing vehicle tax under Act, 1976 on petitioners is illegal and without jurisdiction.

(c) Orders directing registration of vehicles within the respective jurisdiction where the petitioners are residing in the State of Kerala and also directing payment of one time tax under Act 1976 as illegal, contrary to Act1988 and Act 1976.

(d) Recovery proceedings initiated against petitioner for the alleged one time tax due on the vehicles statedly used and kept for use in Kerala is illegal and beyond the jurisdiction of respondents.

12. Sri Bechu Kurian, Sri.M.Ajay, Dr.Sebastian Champappilly and Sri G Bhagavath Singh have made detailed

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submissions in support of the writ prayers and have supplemented the oral arguments with written submissions as well. The arguments of learned counsel, by and large, center around a few common points which, in fact, deal with the common issues on hand. Therefore, the contentions are stated as follows:

(I) Writ Petitions filed challenging show cause notices are maintainable in as much as the show cause notice impugned in the writ petitions is without jurisdiction, pre-determined or pre-meditated, issued merely to bring the petitioner under compulsion to register the subject vehicle in the State of Kerala and also pay the motor vehicle tax under Act 1976.

(II) The vehicles already registered in the Unnion Territory of Puducherry, for the purposes stated in the show cause notices/orders impugned in writ petitions, are not amenable to the jurisdiction of respondents herein, i.e. officers of State of Kerala and therefore, a notice issued for any purpose including enquiry is

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illegal and beyond the jurisdiction of respondents.

(III) The registration of a vehicle anywhere in India, under Act 1988 and payment of vehicle tax at the place of registration in the case on hand, i.e. Puducherry are intrinsically connected to the dual aspects viz. Registration of vehicle and payment of One time tax. The vehicle so registered and vehicle tax paid is eligible to ply not only in the State where the vehicle is registered, but in other States of India including State of Kerala without further or additional vehicle tax liability on these vehicles for Act 1988 is a central enactment made in terms of Entry 35 of List III which deals with registration of vehicles and principles of taxes on vehicles.

(IV) Sections 39, 40, 41, 46, 47 and 49 of Chapter IV of Act 1988 deal with registration of vehicles and once the vehicle is duly registered, further registration or reregistration of vehicle in any other State does not arise, except for purposes stated in Secs.47 and 49. Chapter IV of Act 1988 confers discretion on the owners of

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vehicles for registration at a place of their choice and the liberty includes both permanent and temporary residence or place of business.

(V) The registration of vehicle is *sine qua non* for payment of motor vehicle tax. Therefore, one time tax needs to be paid at the time of registration of vehicles and in the instant writ petitions one time tax has already been paid in the Union Territory of Puducherry. Therefore, the respondents cannot, for the purpose of Act 1976, levy one time tax again on the subject vehicles. The payment of tax in the State of Kerala arises only in the event of re-registration of the vehicle and not when the vehicle enters State of Kerala for short visits. In other words the vehicle is not used or kept for use in Kerala to attract any incidence under Section 3(1) of Act 1976.

(VI) The words in Section 3(1) of the Act 1976, viz. 'used' or 'kept for use' in 1976 Act are inextricably linked with registration of

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motor vehicle. In the instant writ petitions, the vehicles since are registered in Unnion Territory of Puducherry, the words 'used' or 'kept for use' are interpreted on the basis of the broad principles laid down in Act 1988 read with Entry 35 of list-3 and Sections 40, 46 and 47 of Act 1988.

(VII) A person is under obligation to re-register in the State of Kerala, if he uses or keeps the vehicle for use for more than 12 months in State of Kerala.

(VIII) The words 'used' or 'kept for use' in Section 3(1) of Act 1976 shall be interpreted to mean that a vehicle is used or kept for use for more than 12 months which necessitates re-registration or payment of one time tax under Act 1976.

(IX) Section 3(6) of Act 1976 introduced through Kerala Finance Act, 2015 is unconstitutional, as Section 3(6) restricts or impinges a few rights conferred on the registered owner of a vehicle, by sections 39, 40, 41, 46, 47 and 49 of Act 1988.

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(X) Section 3(6) of the Act does not provide for incidence of tax, levy or collection of tax on a vehicle which stays beyond 30 days upon entering State of Kerala at specified rates in Annexure-III of schedule.

(XI) The word 'non-transport vehicle' in section 3(6) suffers from ambiguity and therefore levy of tax on non-State registered vehicles is unconstitutional and illegal.

(XII) The levy and demand of life tax or proportionate life tax is contrary to SRO No.878/75 issued under Section 22 of Act 1976.

(XIII) Without prejudice to the above contentions the petitioners alternatively contend that the respondents can give effect to amended section 3(6) of Act 1976, if the vehicle is used or kept for use contrary to Sec.3(6) subsequent to 1.4.2018. The violation is traced to a date prior to 1.4.2018, the penal consequences as applicable at the relevant point of time are attracted but not payment of tax as per amended Annexure-III.

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(XIV) The impugned show cause notices/decisions of the respondents are driven by Circular No.C-1/14189/TC/2011 dated 22.11.2017 and hence amount to exercising jurisdiction as per the directions issued by the Commissioner and there is no independent application of mind or discretion.

(XV) The impugned show cause notices/orders are unconstitutional and restrict the fundamental right of choice of petitioners' residence, business and free movement.

(XVI) The orders passed against the petitioners either determining tax liability or calling upon the petitioner to register vehicles in State of Kerala are perverse, the conclusions recorded therein are based on material collected behind the back of the petitioners and the enquiry conducted by the respective registering authorities is perfunctory, lopsided and hence are liable to be set aside.

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13. Sri N.Venkataraman, the learned Senior counsel appearing for respondents has argued the following points.

(i) The description of petitioners in most of the writ petitions shows that the petitioners are residents of State of Kerala. Writ Petition is not filed by a non-resident of State of Kerala impugning the action of the respondents. This explains the reasons viz. residents of Kerala for the sake of registration are showing their residence/business in Puducherry, getting the vehicles registered and paying token tax in Puducherry and by referring to payment of such token tax, vehicle tax legitimately payable in State of Kerala is evaded.

(ii) The petitioners with a view to evade legally payable vehicle tax for using the roads of State of Kerala, on the strength of forged and created documents, showing the residence or place of business in Union Territory of Puducherry, completed registration of vehicles in Union Territory of Puducherry. Fraud vitiates everything. Therefore the Transport Department of State of Kerala, through the respondents herein, is discharging the functions, power and duty conferred on them by Act 1988 and Act 1976. The

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enquiry is not into all the vehicles registered in Puducherry, but only on those vehicles which are being used or kept for use in State of Kerala. The subject vehicles are within the territorial limits of State of Kerala. The respondents are enquiring into alleged commissions or omissions of petitioners and upon due enquiry and recovering the vehicle tax legitimately due and payable in State of Kerala.

(iii) The respondents have jurisdiction under Act 1988 and Act 1976, to verify validity of registration effected in Puducherry and verify all the documents of vehicles plying, used and kept for use in State of Kerala. Fraud vitiates everything, the scheme adopted by the owners of high end or luxury vehicles is to merely evade payment of vehicle tax legitimately due to State of Kerala. The petitioners are not entitled to use or keep the vehicles for use in State of Kerala, on payment of nominal vehicle tax in Unnion Territory of Puducherry.

(iv) The subject vehicles are of high value or luxurious premium vehicles registered in Unnion Territory of Puducherry. The motor vehicles tax payable in Unnion Territory of Puducherry is slab rate at Rs.1,00,000/- on

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vehicles which cost more than Rs.20,00,000/-. Whereas under Act 1976, the vehicle tax payable is 20% of the value of the vehicle. The registration of vehicles in Puducherry is a dubious design implemented for evasion of tax payable under Act 1976 to State of Kerala. These are jurisdictional circumstances and the consequence of misuse of registration is occasioning in State of Kerala, therefore the officers of State of Kerala are jurisdictionally entitled to enquire into these omissions or commissions by petitioners. The show cause notice or resultant order is well within the jurisdiction of Transport Department of State of Kerala and legal.

(v) The Motor Vehicles Act 1988 was enacted by the Parliament in terms of Entry 35 of List II, Kerala Motor Vehicles Taxation Act, 1976 was enacted by the State legislature in terms of Entry 57 of List II. Act 1988 Chapter IV of Act 1988 deals with registration of vehicles and does not deal with vehicle tax payable by the owner. The tax obligation in State of Kerala arises under Act 1976. The respective enactments operate in parallel spheres *vis-à-vis* a vehicle and do not overlap in any manner or Act 1988 provides guiding principles on taxing power of State

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Legislature.

(vi) Section 39 of Act 1988 is mandatory and prohibits any person from driving any motor vehicle and also that no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place unless the vehicle is registered in accordance with Chapter IV of Act 1988 unless or otherwise the registration certificate is either cancelled or suspended. Therefore, the permanent registration or temporary registration of a vehicle is absolutely mandatory to enable a vehicle to come out of the showroom and driven on road, public place etc. The registration of a vehicle satisfies one of the limbs of statutory obligations viz. under Sections 39, 40 and 41 of Act 1988 but not the tax liability under Act 1976.

(vii) The *sine quo non* requirement of registration of a vehicle is a gate pass to enable the vehicle to come onto a road. The registration fee paid for registration is not to be confused with vehicle tax payable under Section 3 of Act 1976. Sections 40 and 41 provides for, where and how registration is made. Section 47 deals with a few contingencies where the vehicle is so kept in a State other

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than where it is registered and obligates for taking registration at the place where the vehicle so kept i.e. at a place other than where the vehicle is registered. Section 49 deals with change of residence or place of business warranting reregistration of the vehicle corresponding to the place where the vehicle is used or kept for use. Chapter III of Central Motor Vehicle Rules 1989 deals with registration of motor vehicles. Form 20 under Rule 47 is the statutory form used for applying for registration of a vehicle. Rule 81 deals with the fees payable for the registration of a vehicle. Rule 59 of Rules 1989 deals with change of residence. Form-33 is the statutory form under which change of address is intimated. Therefore, registration upon completion satisfies the mandate of Act 1988 and nothing else. At the relevant stage of this judgment to the extent required these Forms are excerpted for appreciating the rival contentions of both sides.

(viii) Therefore, keeping in view the purport and scope of legislative competence of Entries 57 and 35 of Lists III and II respectively and the enactments viz. Act 1988 and Act 1976, independent but complementary to each other in the

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sense the registration enables the vehicle to come on to road etc. and therefore, 'used' or 'kept for use', obligates payment of vehicle tax under Act 1976.

(ix) Act 1976 comes within the fold of Entry 57 and is well within the legislative competence of state legislature to impose tax on vehicles used or kept for use. Vehicle tax is levied by the State on every motor vehicle used or kept for use in the State. Section 40 of Act 1988 provides for where registration made, and the words in Section 40 viz. kept normally have bearing both for registration and vehicle tax. Therefore the registration is made where the vehicle is normally kept and likewise vehicle tax is paid at the place where it is used and kept for use. In other words there could not be two different places, one for Sec.40 of Act 1988 and another for Sec.3 of Act 1976, as in the present batch of cases where registration is effected in Puducherry, but vehicle is used in State of Kerala without corresponding vehicle tax liability.

(x) There is no conflict between Chapter IV of Act 1988 and Section 3, particularly, section 3(6) of Act 1976. The petitioners, if fail to satisfactorily show to the notices issued

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by the respondents that the respective vehicles are not used or kept for use in the State of Kerala the petitioners are under obligation to pay vehicle tax under Act 1976. The luxury vehicles or, for that matter, any non-transport vehicle does not have absolute right to ply in the State of Kerala without paying applicable vehicle tax under Act 1976. The thirty days' period stipulated in Section 3(6) of Act 1976 protects the reasonable free movement of a vehicle from one State to another State. The levy and the demand of vehicle tax on a vehicle arises, when the vehicle is used or kept for use beyond thirty days. The construction or interpretation of Act 1988 and Act 1976, now canvassed by the petitioners, if is accepted by the Court, then Entry 57 of list II is fully enjoyed by one State or Union Territory where lowest vehicle tax is prescribed and rest of the States in the country, including State of Kerala, will have to maintain roads without collecting compensatory or regulatory tax from the user of the roads laid and maintained by the State.

(xi) Replying to the challenge made against orders impugned in the writ petition, he contends that firstly no ground attracting the writ of certiorari jurisdiction is made

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out and alternatively if procedural deviations pointed out by petitioners are accepted, even then the orders ought not to be interdicted on merits, but the matter remitted for reconsideration afresh by the respondents.

(xii) The exemption claimed by reference to S.R.O No.878/75 under Section 22 is untenable, firstly, entitlement to exemption is verified as a fact before exemption is granted to a person in terms thereof and secondly, keeping in view the effective date of Act 1976 subsequent amendments to section 3(1) or insertion of provisos; amendment to sec. 3(6) the exemption lost its functional efficacy and is in direct conflict with Sec.3(6) of the Act. Exemption refers to quarterly tax whereas non-transport vehicles are now required to pay tax as per Annexure III to Schedule, which is dependant on life tax payable by a vehicle as per its category. The exemption granted in SRO No.878/75 being a product of delegated legislation could not be read as, in any way overriding the mandate of Section 3 of Act, 1976.

14. The circumstances stated or contentions urged by the

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learned counsel appearing for either side would lead to four principal objects on which the whole controversy revolves. The objects are Public Place or any other Place/road; Vehicle Registration and Vehicle Tax.

15. Section 2(34) defines “public place” as a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage.

15.1 The usual characteristics of a road are a road leads from one place to another and road has the function of serving as a means of access from one place to another; an ordinary line of communication between different places used by travellers on foot, by vehicles, horses, etc. The petitioners who have registered the subject vehicles in Puducherry are allegedly using the roads of Kerala for commuting from one place to another place and the authorities are presuming that the vehicles are used or kept for use

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in the State and that if the use is beyond 30 days, are insisting on registration of vehicles in the State of Kerala and calling upon payment of one time tax under Act 1976.

16. As per Section 2(28) 'motor vehicle' or 'vehicle' means any mechanically propelled vehicle adopted for use upon roads whether power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adopted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding 25 cubic centimetres.

16.1 Sec.2(47) of Act 1988 defines Transport Vehicle as a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle.

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16.2 Section 3(6) of Act 1976 refers to non-transport vehicles registered in any state other than State of Kerala. Therefore, the argument of respondents is that the vehicles not coming within the definition of Sec.2(47) come within the perview of Sec.3(6) of Act 1976 and there is no ambiguity.

17. This Court finds it useful to preface the following introduction before actually embarking upon considering the contentions put forward by the learned counsel appearing for both parties. In considering the instant issues this Court is slow to embark upon unnecessary, wide or general enquiry into each one of the arguments canvassed by the parties, in as much as the Courts adjudge only concrete cases/issues and do not indulge in pronouncing on abstract theoretical principles. Such course of deciding real issue in other words is called the process of empiric adjudication. This Court, therefore, confines its decision as far as reasonably practicable and necessary, within the limits of the

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controversy between the parties. (See *Sukhdev v Bhagatram*⁴). Further this Court keeps in perspective the dictum of Apex Court in *H.M.Trivedi v V.B.Raju*⁵, that the Courts do not adjudicate upon a constitutional question unless it is absolutely necessary to do so for disposal of the case in hand. Likewise to the great extent possible and required, I prefer not to multiply reference to the reported judgments, particularly, on axiomatic principles of law or *ratio decidendi*.

18. With the above preface on the issues for consideration, this Court now proceeds to first determine the true nature, object and scope of Act, 1988 as well as Act 1976 and thereafter decides vires of Section 3(6) of Act 1976 if a controversy subsists. This Court, before taking up the question of constitutionality or ultra vires argument against section 3(6) of the Act, would first interpret the applicable provisions in these two

4 AIR 1975 SC 1331

5 (1974) 3 SCC 415

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enactments, the area in which the respective enactments operate, their purport etc. For the above said purpose it is legitimate to take into consideration factors such as the history of legislation, the purpose thereof, the surrounding circumstances in the history of legislation or amendments introduced from time to time, the mischief which is intended to be suppressed and the remedy for such mischief provided through legislation. All the more this approach is warranted where the court is interpreting the laws made by the Parliament and the State legislature. The court looks at the substance of law rather than the form in which the provision is projected by the parties.

19. The petitioners have raised a few substantial grounds against the impugned orders made by the respondents and have incidentally attempted to persuade this Court to look at the ambiguity in Section 3(6), and also that the abuse of power is writ large in the impugned action. These arguments stand on a different

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footing viz. one testing the legality of orders impugned in the writ petition and another vires of Sec.3(6). Therefore this argument does not assist the petitioners against their principal challenge, viz. that the petitioners are not coming under the tax liability of Act 1976, raised in the writ petition.

20. It is well established that the possibility of abuse of a statute otherwise valid does not implore any invalidity as held by Apex Court in *Union of India v Elphinstne Spn. & Wvg.Co.Ltd.*⁶ Conversely a statute which is invalid as being unreasonable cannot be saved because it is being administered in a reasonable manner. See *Collector of Customs, Madras v Nathella Sampathu Chetty*⁷. Therefore the writ prayers depend on consideration of the issues framed as under:

A) Whether Section 3(6) of Act 1976 is valid, constitutional or repugnant to section 40, 47 and 49 of

⁶ 2001(4) SCC 139

⁷ AIR 1962 SC 316

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Act 1988 and/or ultra vires Act, 1976.

B) A vehicle registered outside State of Kerala whether is exempt from payment of vehicle tax in State of Kerala or required to pay vehicle tax, if so, when the levy or incidence of tax arises under Act 1976.

C) Whether the registration of a vehicle under Chapter IV of 1988 and payment of vehicle tax in any other state relieve the petitioners from the tax liability under Act 1976.

D) Whether the show cause notices/orders/recovery proceedings in respective writ petitions, are valid, legal and are in consonance with the Act 1988 and Act 1976.

Consideration

21. After perusing the record, written submission etc., this Court notices that a simple *lis* interpreting applicable sections which have bearing on the rights and obligations of a registered vehicle *vis-à-vis* public place/road would determine the issues on hand. For the said purpose, this Court prefers to walk the path of interpretation of relevant provisions in Act 1988 and Act 1976 and

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would arrive at a conclusion to find out whether these two enactments, one made by the Parliament and another made by the State legislature operate parallelly and the rights and privileges of a registered vehicle in one state and payment of vehicle tax in that state, whether extend the rights beyond the boundaries of the State where the vehicle is registered and tax paid. These two enactments in their application or operation whether overlap with one another or is in any way inconsistent with the guiding principles enacted by the Parliament.

Act 1988

22. Entry 35 of List III reads thus: "Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied". Act 1988 is a legislation made by the Parliament under Entry 35 of List III to consolidate and amend the law relating to motor vehicles. (emphasis added)

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23. The short title, extent and commencement of Act, 1988 reads that the Act may be called Motor Vehicles Act, 1988 and applies to whole of India and came into operation with effect from 1.7.1989. The statement of objects and reasons of Act 1988 reads thus:

Statement of objects and Reasons. - The motor vehicles Act, 1939 (4 of 1939), consolidates and amends the law relating to motor vehicles. This has been amended several times to keep it up to date. The need was, however, felt that this Act should, now inter alia, take into account also changes in the road transport technology, pattern of passenger and freight movements, developments, of the road network in the country and particularly the improved techniques in the motor vehicles management. 2. Various Committees, like, National Transport Policy Committee, National Police Commission, Road Safety Committee, Low Powered Two - Wheelers Committee, as also the Law Commission have gone into different aspects of road transport. They have recommended updating, simplification and rationalization of this law. Several Members of Parliament have also urged for comprehensive review of the Motor Vehicles Act, 1939, to make it relevant to the modern - day requirements. 3. A Working Group was, therefore, constituted in January, 1984 to review all the provisions of the Motor Vehicles Act, 1939 and to submit draft proposals for a comprehensive legislation to replace the existing Act. This Working Group took into account the suggestions and recommendations earlier made by various bodies and institutions like Central Institute of Road Transport (CIRT), Automotive Research Association of India (ARAI), and other transport organisations including, the manufacturers and the

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general public, Besides, obtaining comments of State Governments on the recommendations of the Working Group, these were discussed in a specially convened meeting of Transport Ministers of all States and Union territories. Some of the more important modifications so suggested related for taking care of - 2 (a) the fast increasing number of both commercial vehicles and personal vehicles in the country ; (b) the need for encouraging adoption of higher technology in automotive sector; (c) the greater flow of passenger and freight with the least impediments so that islands of isolation are not created leading to regional or local imbalances; (d) concern for road safety standards, and pollution-control measures, standards for transportation of hazardous and explosive materials; (e) simplification of procedure and policy liberalization's for private sector operations in the road transport field ; and (f) need for effective ways of tracking down traffic offenders.

24. The Court is dealing with obligation of non-transport vehicles registered in Puducherry, and allegedly kept in State of Kerala without discharging corresponding tax obligation under Sec.3. Heading of Chapter IV of Act 1988 reads as "Registration of Motor Vehicles" and deals with the registration of vehicles. Stated in common parlance, Chapter IV provides for the compulsory registration, place, mode and manner of registration of all vehicles

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defined by Section 2(28) of Act 1988. The prescription of Section 39⁸ is that no person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this chapter and that the certificate of registration of the vehicle has not been suspended or cancelled. Section 39 further prescribes that no person shall drive any motor vehicle unless the vehicle carries registration mark displayed in the prescribed manner. Therefore the prescription or prohibition under Sec.39 is that unless a motor vehicle is registered, it shall not be driven in any public place or any other place and no owner of motor vehicle causes or permits the vehicle to be driven in any public place or in any other place unless it is registered in

8 **Sec.39. Necessity for registration.**- No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner:

Provided that nothing in this section shall apply to a motor vehicle in possession of a dealer subject to such conditions as may be prescribed by the Central Government.

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accordance with chapter IV. Section 40⁹ deals with the place where registration of vehicle could be carried out and completed. According to Section 40 every owner of a motor vehicle shall cause the vehicle to be registered by a registering authority in whose jurisdiction the vehicle owner has the residence or place of business, where the vehicle is normally kept. Section 40 operates subject to Section 42, 43 and 60. In the present case the issue does not arise under Sections 42, 43 and 60, therefore the effect of these sections is not adverted to while considering scope and ambit of Sec.40. Literally interpreted, section 40 provides for or deals with place of registration as follows:

the owner of a vehicle shall cause the vehicle to be registered, by a registering authority in whose jurisdiction the owner has the residence or the place of business, and where the vehicle is normally kept.

⁹ **40. Registration, where to be made.** - Subject to the provisions of section 42, section 43 and section 60, every owner of a motor vehicle shall cause the vehicle to be registered by a registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept.

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20.1 Section 40 without any scope for ambiguity provides both for choice of registration and at the same time the words "normally kept" regulate the choice of owner of vehicle while registering the vehicle under Chapter IV. The purpose or rigour of Sec.40 is easily discussable viz. the vehicle is registered where the vehicle is normally kept.

20.2 Rule 4¹⁰ of Central Rules, 1989 deals with annexures accompanying application for registration, such as correctness of address and age of the applicant. Rule 47 deals with application for registration of motor vehicles and the application is

10 **4.Evidence as to the correctness of address and age** - Every applicant for the issue of a licence under this Chapter shall produce as evidence of his address and age, any one or more of the following documents in original or relevant extracts thereof duly self attested, namely:-
1-A. Aadhaar Card,
2. Electoral Roll,
3. Life Insurance Policy,
4. Passport,
6. Pay slip issued by any office of the Central Government or a State Government or a local body,
8. School certificate,
9. Birth certificate,
10. Certificate granted by a registered medical practitioner not below the rank of a Civil Surgeon, as to the age of the applicant,
11. Any other document or documents as may be prescribed by the State Government under clause (k) of section 28
12. Proof of legal presence in India in addition to proof of residence in case of foreigners:
Provided that where the applicant is not able to produce any of the above mentioned documents for sufficient reason, the licensing authority may accept any affidavit sworn by the applicant before an Executive Magistrate, or a First Class Judicial Magistrate or a Notary Public as evidence of age and address.

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made in Form 20 before the registering authority, and is accompanied by proof of address by enclosing one of the documents referred to in the Rule 4.

20.3 Form 20 assists in understanding the literal meaning of Section 40 of Act 1988 and particularly the words used therein viz cause the vehicle to be registered by a registering authority in whose jurisdiction he i.e, owner has the residence or place of business where the vehicle is normally kept. (emphasis added)

Form 20

(See Rule 47)

APPLICATION FOR REGISTRATION OF A MOTOR VEHICLE

(To be made in duplicate if the vehicle is held under an agreement of Hire-Purchase/Lease/Hypothecation and duplicate copy with the endorsement of the Registering Authority to be returned to the Financier simultaneously on Registration of motor vehicle)

To

The Licensing Authority,
.....
.....

1. Full name of the person to be
registered as Registered owner
Son/wife/daughter of

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2.Age of the person to be registered
as registered owner

3. Permanent Address
(Electoral Roll/Life Insurance
Policy/Passport/Pay slip issued
by any office of the central
Government/state Government
or a local body/Any other document
or documents as may be
prescribed by the State Government/
Affidavit sworn before an Executive
Magistrate or a First Class
Judicial Magistrate or a Notary
Public to be enclosed)

4. Temporary address/Official address, if any

5. Duration of stay at the present address (emphasis added)

6. PAN Number (Optional) :

7. Place of birth :

.....

.....

34. I have paid the prescribed fee of rupees.....

The owner can register the vehicle where his permanent address is or temporary address but the choice of registering authority is decided where the vehicle is normally kept. As in a few cases in this batch of writ petitions the principal place of business or residence of petitioners therein is in Kerala and branch office is stated in

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Puducherry. In such cases the vehicle, if is registered in Puducherry the presumption is that the vehicle is normally kept in Puducherry.

21. Sub Section (1) of Section 41 prescribes that an application is accompanied by such fee as may be prescribed by the Central Government. Section 41 deals with how the registration is made. Rule 81 deals with fees charged under the provisions of this Chapter, and be as specified in the Table below:

"81. Fees.- The fees which shall be charged under the provisions of this Chapter shall be as specified in the Table below: Provided that the States may levy additional amounts to cover the cost of automation and technology utilized for conducting the testing or providing value added services.

TABLE

Sl.No.	Purpose	Amount	Rule	Section
-(1)	-(2)	-(3)	-(4)	-(5)
1	****			
2	****			
3	****			
4	Issue or renewal of certificate of registration and assignment of new registration mark:		47(1)	
	(a) Invalid Carriage		52(1)	
	(b) Motor cycle	Fifty rupees	54(1)	
	(c) Three wheeler/Quadricycle/ Light Motor	Three hundred	76(1)	
			and	

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Vehicles:	rupees	78(1)
" i) Non transport;"	Six hundred rupees	
" ii) Transport"	One thousand rupees	
(d) Medium goods vehicle	One thousand rupees	
(e) Medium passenger motor vehicle	One thousand rupees	
(f) Heavy goods vehicle	One thousand and five hundred rupees	
(g) Heavy passenger motor vehicle	One thousand and five hundred rupees	
(h) Imported motor vehicle	Five thousand rupees	
(i) Imported motor cycle	Two thousand and five hundred rupees	
(j) Any other vehicle not mentioned above	Three thousand rupees	

Note 1: Additional fee of two hundred rupees shall be levied if the certificate of registration is a smart card type issued or renewed in Form 23A

Note 2: In case of delay in applying for renewal of certificate of registration, an additional fee of three hundred rupees for delay of every month or part thereof in respect of motor cycles and five hundred rupees for delay of every month or part thereof in respect of other classes of non-transport vehicles shall be levied.

5	****	
15	****	

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Provided that the States may levy fee lower than the amount specified in the table and may also levy additional amounts to cover the cost of automation and technology utilized for conducting the testing or providing value added services.

21.1 The combined reading of Sec.41 and Rules 81 r/w Table in vogue goes to show that the registration fee takes care of commensurate services rendered by the Registering Authority for registering a vehicle. The levy is in the nature of fee and also nominal. Therefore upon completing registration by paying prescribed fee for registration the owner of a vehicle complies with the mandate of Sec.39 of Act 1988 and is not entitled to claim a right beyond the confines of Sec.39. The registration certificate authorises the owner to drive or cause to drive the vehicle in a public place or any other place/Road etc.

22. Section 47¹¹ deals with a situation when a motor vehicle

¹¹ 47. Assignment of new registration mark on removal to another State.—

(1) When a motor vehicle registered in one State has been kept in another State, for a period exceeding twelve months, the owner of the vehicle shall, within such period and in such form containing such particulars as may be prescribed by the Central Government, apply to the registering authority, within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and shall present the certificate of registration to that registering authority:

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registered in a state has been kept in another state for a period exceeding 12 months. The owner of the vehicle shall within such period and in such form with such particulars as prescribed by the Central Government apply to the registering authority within whose jurisdiction the vehicle is kept for the assignment of a new registration mark and shall present the certificate of registration to the registering authority. Section 47 fastens an obligation or a duty on the owner of a vehicle already in one state, who kept such vehicle for 12 months in another state to take registration at the place where the vehicle is kept. The words which have bearing in comprehending when the obligation to seek change of registration arises are "has been kept". Further, the legal duty is on the registered

Provided that an application under this sub-section shall be accompanied—

- (i) by the no objection certificate obtained under section 48, or
- (ii) in a case where no such certificate has been obtained, by—
 - (a) the receipt obtained under sub-section (2) of section 48; or
 - (b) the postal acknowledgment received by the owner of the vehicle if he has sent an application in this behalf by registered post acknowledgment due to the registering authority referred to in section 48, together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted:

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owner to get the registration changed to the area where the vehicle is kept and used normally. The non-State registered vehicle if is kept for twelve months, as alleged in this case i.e., in State of Kerala, then the obligation to register the vehicle where it is kept as per Section 40 arises and the owner of vehicle then ensures consistency between registration and use of vehicle. This is treated re-registration of vehicle at the place where the vehicle is kept. The object of section 47 as could be culled out from literal construction is that due to change in place of use i.e. other than the place where the vehicle is registered, the owner of vehicle is under obligation to get the vehicle registered at the place where the vehicle is kept. The guiding circumstance is or words are "has been kept in another state for a period exceeding twelve months. Section 49¹² deals with change of

12 **49. Change of residence or place of business.** - (1) If the owner of a motor vehicle ceases to reside or have his place of business at the address recorded in the certificate of registration of the vehicle, he shall, within thirty days of any such change of address, intimate in such form accompanied by such documents as may be prescribed by the Central Government, his new address, to the registering authority by which the certificate of registration was issued, or, if the new address is within the jurisdiction of another registering authority, to that other registering authority, and shall at the same time forward the certificate of registration to the registering authority, or, as the case may be, to the

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residence or place of business. The legal duty fastened by Section 49 on the owner of a registered vehicle is that when the owner of a motor vehicle ceases to reside or ceases to have his place of business at the address recorded in the certificate of registration of the vehicle, which address again is relatable to the voluntary details furnished by the registered owner in form 20 of Rules 1989, the

other registering authority in order that the new address may be entered therein.

(2) If the owner of a motor vehicle fails to intimate his new address to the concerned registering authority within the period specified in sub-section (1), the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 177, such amount not exceeding one hundred rupees as may be prescribed under sub section (4),

Provided that action under section 177 shall be taken against the owner where he fails to pay the said amount.

(3) Where a person has paid the amount under sub-section (2), no action shall be taken against him under section 177.

(4) For the purposes of sub-section (2), a State Government may prescribe different amounts having regard to the period of delay in intimating his new address.

(5) On receipt of intimation under sub-section (1), the registering authority may, after making such verification as it may think fit, cause the new address to be entered in the certificate of registration.

(6) A registering authority other than the original registering authority making any such entry shall communicate the altered address to the original registering authority.

(7) Nothing in sub-section (1) shall apply where the change of the address recorded in the certificate of registration is due to a temporary absence not intended to exceed six months in duration or where the motor vehicle is neither used nor removed from the address recorded in the certificate of registration.

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owner intimates in such forum accompanied by such document as prescribed by the Central Government addressed to the registering authority by which the certificate of registration was issued or if the new address is within the jurisdiction of another registering authority to that other registering authority and shall forward the certificate of registration to the registering authority or to the other registering authority, as the case may be, in order that the new address may be entered therein. Section 49 applies to a case where the owner of a vehicle registered under the Act, firstly, ceases to reside or ceases to have his place of business at the address recorded in the registration certificate within the jurisdiction of the registering authority if happens to be the same authority and if the registering authority is an officer other than the officer who has registered at the first instance, to such authority. Sec.49 mandates time limit of thirty days from the time the owner ceases to reside or have his place of business at the address given in the certificate. By

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a plain reading, section 49 cannot be understood as encompassing cases where a person continues to reside or have the place of business at the address shown in the registration certificate but keeps the vehicle within the jurisdiction of another registering authority within the same State or a registering authority in another State. In this batch of writ petitions the allegations against petitioners are that a case coming either under Section 47 or Section 49 is attracted and therefore get the vehicles registered in State of Kerala. Sections 47 and 49 have no application to the independent obligation fastened on a vehicle by Act 1976. Section 47 or Section 49 as understood by this Court, have nothing to do with any of the independent obligations under Act 1976.

23. Section 55¹³ deals with the cancellation of

13 **55. Cancellation of registration. – (1)*****

(2) The registering authority shall, if it is the original registering authority, cancel the registration and the certificate of registration, or, if it is not, shall forward the report and the certificate of registration to the original registering authority and that authority shall cancel the registration.

(3) Any registering authority may order the examination of a motor vehicle within its jurisdiction by such authority as the State Government may by order appoint and, if upon such examination and after giving the owner an opportunity to make any representation he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), it is satisfied that the vehicle is in such a condition that it is incapable of being used or its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may cancel the registration.

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registration. Briefly stated cancellation of registration certificate arises among other circumstances (a) motor vehicle is destroyed or permanently rendered incapable of use (b) upon examination of vehicle, and such examination disclosing that the vehicle cannot be used or usage of vehicle would constitute danger to public (c) motor vehicle has been permanently removed from India, (d) Where registration is obtained on the basis of documents which were or by misrepresentation of facts.

23.1 Power of cancellation of registration certificate is conferred both on the registering authority who registered the

(4) If a registering authority is satisfied that a motor vehicle has been permanently removed out of India, the registering authority shall cancel the registration.

(5) If a registering authority is satisfied that the registration of a motor vehicle has been obtained on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of registration, the registering authority shall after giving the owner an opportunity to make such representation as he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), and for reasons to be recorded in writing, cancel the registration.

(6) A registering authority cancelling the registration of a motor vehicle under section 54 or under this section shall communicate such fact in writing to the owner of the vehicle, and the owner of the vehicle shall forthwith surrender to that authority the certificate of registration of the vehicle.

(7) A registering authority making an order of cancellation under section 54 or under this section shall, if it is the original registering authority, cancel the certificate of registration and the entry relating to the vehicle in its records, and, if it is not the original registering authority, forward the certificate of registration to that authority, and that authority shall cancel the certificate of registration and the entry relating to the motor vehicle in its records.

(8) The expression "original registering authority" in this section and in section 41,49,50,51,52,53 and 54 means the registering authority in whose records the registration of the vehicle is recorded.

(9) In this section "certificate of registration" includes a certificate of registration renewed under the provisions of this Act.

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vehicle and also on any other registering authority. The petitioners contend, without admitting the circumstances stated against them, that the case on hand comes under Section 55(5), therefore the registering authority competent to cancel the registration is the authority as stated in Section 55(8) but not the respondents herein. There is clear distinction between cases falling under Section 55(3) and Section 55(5) i.e., alleged misrepresentation, fraud etc. In cases falling under Section 55(5) the Registering Authority, Puducherry is competent to examine but not the respondents herein. It may be noticed that the choicest expression in Sub-section (3) and Sub-section (5) is any registering authority and a registering authority respectively. The cases on hand do not come under Section 55(3) of Act 1988. But are admittedly under Section 55(5) of Act 1988. Hence, the respondents by referring to alleged commissions and omissions noticed in getting vehicle registered and those commissions and omissions fall under Sub-section (5), could not

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have assumed jurisdiction of any registering authority stated in Sub-section (3) and cancel existing registration or direct registration of vehicle in State of Keral. Therefore the argument of petitioners that cancellation of registration of vehicles or direction to register vehicle in State of Kerala is tenable and correct.

23.2 The circumstance of Sub-Section (5) if are established even then the authority who issued the registration certificate gives opportunity to the vehicle owner and for reasons recorded in writing cancels the registration. Therefore the assumption of jurisdiction in the manner impugned in the writ petitions under Sections 47 and 49 by respondents is arbitrary and beyond their jurisdiction. The direction now issued by the impugned orders may result in individual hardship to *bona fide* user of vehicle in both the States. This statement is explained by elaborating that the orders impugned in the writ petitions if are obeyed by the owners and subsequently the owners/petitioners use or keep the vehicles for

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use in Puducherry, then the allegation pointed out by respondents herein could be raised by the other State Transport Authorities. Then a *bona fide* user of vehicle using the vehicle in more than one State may be required to frequently change the registration as directed by the State Transport authority. It is well established by precedents binding on this Court that fraud vitiates everything and no exception to false/fraudulent details given in Form-20 could be pleaded. It is proper and legal that the authority who registered the vehicle cancels the registration in cases arising under Section 55(5). The respondents having noticed the perpetuation of alleged fraud/forgery beyond doubt can forward a report to the Registering Authority who was misled while registering the vehicle. This step of forwarding report to the authority who registered the vehicle is independent to other issue of payment of vehicle tax arising under Act 1976. The tax incidence is dealt with while interpreting Section 3 of Act 1976.

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24. It is useful to refer to a few observations of the Supreme Court in *Hardev Motor Transport v State of M.P.*¹⁴ . The Apex Court in paragraph-4 held that Parliament enacted the Act 1988 to consolidate and amend the law relating to motor vehicles in exercise of its legislative power under Entry 35, List III of the Seventh Schedule of the constitution of India. The said Act is self contained code. In Para 12 of the judgment it is held that the 1988 Act and the Rules made thereunder provide for a complete code on motor vehicle and "the matter relating to the imposition of tax, however is provided for under the Statutes enacted by each State". Para 29 held that Section 3 of the 1991 Act is the charging Section, and provides that the tax shall be levied on every motor vehicle used or kept for use in the State at the rates specified in the First Schedule.

25. Summing up above discussion it is held that Chapter IV deals with registration of a vehicle i.e., where the vehicle is kept

¹⁴ 2006 (8) SCC 613

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normally, and when the vehicle is taken out or kept out of original jurisdiction either in the manner stated by Sections 47 or 49, then these sections obligate re-registration of vehicle. Firstly, under the Scheme of Act 1988 the registration is nothing but an act of entering in register maintained for the purpose of keeping an official record of a vehicle of which a record is required to be kept by law. The discharge or compliance with the requirements of Chapter IV could not be understood as conferring a right to use or keep for use a vehicle contrary to a State law.

26. Section 177 provides for general provision for punishment of offences. Section 177 refers to whoever contravenes any provision of the Act or of any rule, regulation or notification made there under shall, if no penalty is provided for the offence be punishable for the first offence with the fine which may extend to Rs.100 and for any second or subsequent offence with fine which may extend to Rs.300/-. The law as it stands provides for fine for a

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violation coming under Chapter IV as well. A few of the conclusions recorded in the orders impugned in the writ petitions do not conform to above discussion and hence such conclusions are held as beyond the power or jurisdiction of respondents.

27. Act 1976

Entry 57 of List II reads thus:

Entry 57: Taxes on vehicles whether mechanically propelled or not suitable for use on roads including tramcars subject to the provisions of Entry 35 of List III.

27.1. The learned counsel appearing for the petitioners apart from arguing on the vires of Section 3(6) of Act 1976 have made a few submissions on the words viz. "used" or "kept for use" employed in Section 3(1). The averment is that these words ought to be interpreted, subject to Entry 35 of List III. The petitioners by complying with the requirement of Chapter IV of Act 1988, enjoy absolute right of use of vehicle even beyond the limits of Puducherry State. This argument advanced for the petitioners

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would be considered after examining the scope, object, short title, charging section etc of Act 1976.

27.2 The statement of objects and reasons of Act 1976 is excerpted hereunder:

Statement of Objects and Reasons of the enactment-

(i) The tax on motor vehicles was being levied in the State under two enactments namely, the Kerala Motor Vehicles Taxation Act, 1963 (Act 24 of 1963) and The Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963 (Act 35 of 1963). While the levy of tax under the Kerala Motor Vehicles Taxation Act was on motor vehicles, the Kerala Motor Vehicles (Taxation of passengers and goods) Act provided for the levy of a tax on passengers of stage carriages and goods transported in goods vehicles;

(ii) Some States like Tamil Nadu and Andhra Pradesh have already enacted legislations abolishing the tax on passengers and goods and merging the same with the tax on motor vehicles. Difficulties were experienced in the matter of inter-State agreements etc., when tax on passengers and goods was payable in some States and no such tax was payable in other States. It was, therefore, considered necessary to consolidate the two enactments to enable the levy of single tax in respect of motor vehicles. While so doing, it was also considered necessary to enhance the rates of tax in respect of the following categories of motor vehicles.

27.3. Section 3¹⁵ of Act 1976 deals with levy of tax on every

15 **3. Levy of Tax:--** (1) Subject to the 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;

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motor vehicle used or kept for use in the State. Section 3 authorises levy of tax on every motor vehicle used or kept for use in the state at the rate specified for such vehicles in the schedule. By operation of section 2(m), the words and the expressions used, but not defined

Provided that no such tax shall be levied on a motor vehicle kept by a dealer in, or a manufacturer of, such vehicle, for the purpose of trade and used under the authorisation of a trade certificate granted by the registering authority.

Provided further that in respect of a new motor vehicle of any of the classes specified in items 1,2,6,7(i)(b), 7(i)(c), 10(iii) and 11(i) of the schedule, there shall be levied, from the date of purchase of the vehicle, one time tax at the rate specified in Annexure I, at the time of first registration of the vehicle and thereafter tax shall be levied at the time of renewal of registration of such vehicle or on the expiry of the life time tax already paid at the rate specified in the Schedule as per fifth proviso to sub section (1) of Section 4.

Provided also that in respect of old motor cycles specified in item (1), old three wheelers specified in item (2) and old motor cars specified in item 11(i) of the schedule, there shall be levied a tax in advance for a period of five years after the expiry of the period in respect of which tax has been paid at the rate specified in Annexure II and for new goods carriages specified in item (3) (i)(a) to 3(i)(e) and (3)(ii) (a) to (3) (ii)(e), new autorikshas specified in item 7(i)(a) and 7(i)(aa) and new e-rickshaws specified in item 7(i)(ab), there shall be levied a tax in advance for a period of five years at the rate specified in Annexure II at the time of first registration of the vehicle and thereafter tax shall be levied for five years or for one year at the rate specified in the eighth proviso to sub section (1) of section 4.

Provided also that in respect of new stage carriages registered or assigned a new registration mark or altered from any category other than stage carriage, there shall be levied a tax based on the floor area of the vehicle at the rate specified in item (iv) of serial No.7 of the schedule.

(2) The Government may from time to time by notification in the Gazette, increase the rate of tax specified in the Schedule:

Provided that such increase shall not in the aggregate exceed fifty per cent of such rate.

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in Act 1976 shall have the meaning respectively assigned to such words in the Motor Vehicles Act, 1939. It is contextual to note here that the liability to tax is on the owner of a motor vehicle who uses or keeps the vehicle for use in the State. The meaning of the words

(3) The registered owner of, or any person having possession or control of a motor vehicle shall, for the purposes of this Act, be deemed to use or keep such vehicle for use in the State, except during any period for which no tax is payable on such motor vehicle under sub-section (1) of Section 5.

(4) Notwithstanding anything contained in sub-section (1), the Government may, from time to time, by notification in the Gazette, direct that a temporary licence for a period not exceeding seven days or thirty days at a time may be issue din respect of any class of motor vehicles specified in the Schedule on payment of the tax specified in sub-section (5) and subject to such conditions as may be specified in such notification.

(5) The tax payable for temporary license in respect of a motor vehicle shall be, --

(a) Where the temporary license is for a period not exceeding seven days, at the rate of one-tenth of the quarterly tax on that motor vehicle; and

(b) where the temporary licence is for a period exceeding seven days but not exceeding thirty days, at the rate of one-third of the quarterly tax on that motor vehicle:

Provided that in the case of vehicles covered with permit under sub-section (8) of section 88 of the Motor Vehicles Act, 1998 (Central Act 59 of 1988) and registered in any State other than the State of Kerala and entering the State of Kerala and staying therein, the tax payable for such vehicle shall be,-

(i) If such stay does not exceed seven days, one tenth of the quarterly tax for one round trip; and

(ii) If such stay exceeds seven days but does not exceed 30 days, one third of the quarterly tax for one round trip.

Provided further that in the case of vehicles covered with permit under sub section (9) of section 88 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988) and registered in any State other than in the State of Kerala and entering the State of Kerala and staying therein, the tax shall be payable from the date of entry till the end of the quarter at the rate specified for such vehicles in the Schedule.

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'used' and 'keep' are thus in Merriam - Webster's Advanced Learner's English Dictionary:

- | | |
|--------------------|--|
| "used <i>adj</i> - | 1: having been used before |
| | 2: having had a previous owner |
| keep - | 1: to continue having or holding (something) |
| (pt.kept) | 2: to continue in a specified state, condition or position |
| | 3: to cause or force (someone) to stay in a place |
| | 4: to do (something) continuously or again and again |
| | 5: to do what is required by (something, such as a
promise) |
| | 6: to store (something) in a specified place |
| | 7: to continue to be in a good condition |

Provided also that in the case of transport vehicles registered in any State or Union Territories other than the State of Kerala and found operating in the State of Kerala without remitting tax due to Kerala, a tax equal to double the amount of tax specified in the Schedule for such vehicles shall be levied.

(6) In the case of non-transport vehicles registered in any State other than the State of Kerala and entering into the State of Kerala and staying therein for a period exceeding 30 days, the levy of tax shall be at the rate specified in Annexure III of the schedule.

(7) In the case of motor vehicles brought to the State from any other country for temporary use in the State, a short term tax shall be levied at the rate specified in Annexure IV.

(8) In the case of motor vehicles in respect of which any reciprocal arrangement relating to taxation has been entered into between the Government of Kerala and any other State Government, the levy of tax shall, notwithstanding anything contained in this Act, be in accordance with the terms and conditions of such reciprocal arrangement:

Provided that the terms and conditions of every such reciprocal arrangement shall be published in the Gazette and a copy thereof shall be placed before the Legislative Assembly of the State.

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8: to protect (someone)

9: to produce

10: to take care of (something)

11: to have (something) available for use

27.4. The second proviso to section 3(1)¹⁶ deals with New Motor Vehicles and prescribes the obligation to paying one time tax. Section 3(6) deals with levy of tax at the rate specified in Annexure III of the schedule on a non-transport vehicle registered in any State other than the State of Kerala, but entering in Kerala and staying in Kerala beyond thirty days. Annexure III of schedule III is substituted by sections 4 and 6 of Kerala Finance Act, 2018 and the amended Annexure III is effective from 1.4.2018. The unamended and amended Annexure III have some bearing on the points under consideration and are excerpted.

¹⁶Provided further that in respect of a new motor vehicle of any of the classes specified in items 1,2,6,7(i)(b), 7(i)(c), 10(iii) and 11(i) of the schedule, there shall be levied, from the date of purchase of the vehicle, one time tax at the rate specified in Annexure I, at the time of first registration of the vehicle and thereafter tax shall be levied at the time of renewal of registration of such vehicle or on the expiry of the life time tax already paid at the rate specified in the Schedule as per fifth proviso to sub section (1) of Section 4.

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Unammended Annexure III

Sl. No.	Class of Vehicle	Amount of Tax	
-(1)	-(2)	-(3)	
		Period of stay exceeding 30 days and up to one year	Period of stay exceeding one year
1	Motor Cycle and three wheeler	200	One time tax proportionate to the rate specified in Annexure I
2	Motor cars	1500	One time tax proportionate to the rate specified in Annexure I
3	Private Service Vehicles for personal use		
	A. Passenger capacity up to 10 seats - for every passenger	300	One time tax proportionate to the rate specified in Annexure I
	B Passenger capacity more than 10 - for every passenger	500	One time tax proportionate to the rate specified in Annexure I
4	Construction Equipment Vehicles and other non-transport vehicles	1000	One time tax proportionate to the rate specified in Annexure I

Amended Annexure III

Sl. No.	Class of Vehicle	Amount of Tax	
-(1)	-(2)	-(3)	
		Period of stay	Period of stay

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		exceeding 30 days and up to one year	exceeding one year
1	Motor Cycle and Three Wheeler	1/15 th of the one time tax specified in Annexure I	One time tax proportionate to the rate specified in Annexure I
2	Motor Cars	1/15 th of the one time tax specified in Annexure I	One time tax proportionate to the rate specified in Annexure I
3	Private Service Vehicles for Personal use		
	A. Passenger capacity up to 10 seats - for every passenger	1/15 th of the one time tax specified in Annexure I	One time tax proportionate to the rate specified in Annexure I
	B Passenger capacity more than 10 - for every passenger	1/15 th of the one time tax specified in Annexure I	One time tax proportionate to the rate specified in Annexure I
4	Construction Equipment Vehicles	1/15 th of the one time tax specified in Annexure I	One time tax proportionate to the rate specified in Annexure I
5	Other Non-Transport Vehicles	Quarterly Tax specified in the schedule for every quarter	Quarterly Tax specified in the schedule for every quarter

27.5. The incidence of tax liability under section 3 arises when motor vehicle is used or kept for use in the State. The petitioners do not challenge Act 1976 as beyond the legislative competence of

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State Legislature. But being owners of non-State registered vehicles challenge Section 3(6) which is introduced with effect from 29.07.2015. The unammended and ammended Section 3(6) read thus:

Unammended Section 3(6)	Ammended Section 3(6)
(6) In the case of motor vehicles in respect of which any reciprocal arrangement relating to taxation has been entered into between the Government of Kerala and any other State Government, the levy of tax shall, notwithstanding anything contained in this Act, be in accordance with the terms and conditions of such reciprocal arrangement: Provided that the terms and conditions of every such reciprocal arrangement shall be published in the Gazette and a copy thereof shall be placed before the Legislative Assembly of the State.	(6) In the case of non-transport vehicles registered in any State other than the State of Kerala and entering into the State of Kerala and staying therein for a period exceeding 30 days, the levy of tax shall be at the rate specified in Annexure III of the Schedule.

The Court is interpreting a taxing statute, its scope and ambit of application, when the incidence of tax arises etc..

27.6 At this stage, it is useful to bear in mind the dictum laid down by Apex Court in *State of Gujarat v Kaushikbai K. Patel*,

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*Sharma*¹⁷, *Transport Corporation v Government of A.P.*¹⁸, *Hardev Motor Transport v State of M.P.*¹⁹ and *Hoechst Pharmaceuticals Ltd. v State of Bihar*²⁰.

27.7 In *Hoechst Pharmaceuticals Ltd*, the Supreme Court while dealing with the approach, the Courts are required to take in matters relating to economic regulation or tax held that on questions of economic regulations and related matters, the Court must defer to the legislative judgment and wisdom. When the power to tax exists, the extent of the burden is a matter for the discretion of the law makers. It is not the function of the Court to consider the propriety or justness of the tax or enter upon the realm of legislative policy. In the case on hand the petitioners assail the legislative policy in enacting Section 3(6). Similarly, this Court cannot sit in judgment on the wisdom of state legislature in

¹⁷ 2000 (5) SCC 615

¹⁸ 2002 (2) SCC 188

¹⁹ 2006 (8) SCC 613

²⁰ 1983 (4) SCC 45

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introducing amendment to Section 3 including amendment to Section 3(6) and amendment to Annexure III of Schedule I of Act 1976. The comparative details given in the statement show that the tax payable under Section 3(1) of Act 1976 read with second proviso is with reference to percentage on the value of the vehicle whereas in Puducherry the tax payable is at slab rate. The limited narrow area of judicial review in matters of this nature is on the constitutionality of the impugned provision i.e., Section 3(6) and not on the wisdom of the legislature in bringing amendment to Section 3(6) of Act 1976.

27.8 The argument of petitioners is that the subject vehicles are registered, are plying with valid registration certificate after paying vehicle tax in Unnion Territory of Puducherry and cannot be compelled to pay Vehicle Tax to State of Kerala under Act 1976. The subject vehicles are either 'used' or 'kept for use' in the State of Kerala for varying periods as alleged in respective writ petitions.

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However in this judgment this Court is not examining, as a matter of fact, the exact period of stay by each vehicle and recording a finding thereon. The impugned notices are issued by respondents on the supposition that the subject vehicles are used or kept for use in the state without discharging corresponding liability under Act 1976. The argument of petitioners proceeds on the premise that the compliance with statutory requirement of registration under Act, 1988 and payment of vehicle tax under Pondicherry Motor Vehicle Taxation Act had conferred on petitioners a right to ply the vehicles in State of Kerala without further incidence of vehicle tax for plying on or using the roads of State of Kerala. The alternate argument of petitioners is that at any rate for twelve months from the date of registration (vide Section 47 of Act 1988) the petitioners cannot be compelled to obey any obligation under Act 1976.

27.9 Vehicle tax is held to be regulatory and compensatory in nature. The State legislature is competent to levy and collect tax on

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motor vehicles. Section 3(6) of Act 1976 curtails or restricts the privilege of use for thirty days from entry available under Chapter IV of Act 1988 to a non-State registered vehicle and thereafter obligates the vehicle owner to pay tax under Section 3(6) as per Annxure III. According to petitioners the non-State registered vehicle has twelve months period for changing the registration etc, and in the meantime, the respondents could not have demanded vehicle tax from petitioners. A limb of this argument is already examined supra and the right and privilege envisaged under Sections 47 and 49 of Act 1988 are stated as limiting to registration alone and not concerned with vehicle tax obligation.

27.10 Apex Court in *Bolani Ores Ltd. v Orissa*²¹ dealing with the legality of levy of tax under Tamilnadu Motor Vehicle Taxation Act in paras 16 and 17 as held as follows:

"Shri Soli Sorabji on behalf of the interveners has more or less adopted a similar line of argument and has referred us to the

²¹ 1974(2) SCC 777

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several dictionary meanings of the word 'adapted'. He has also referred to the English cases on this question and submitted that no vehicle can be taxed unless it possesses the attribute of being "suitable for use on roads". The expression "adapted for use on roads" must be construed as suitable for use on roads in the light of entry 57; otherwise, the legislation would be ultra vires the said entry, and consequently such a construction should be avoided by courts. He further submitted that the Orissa High Court has misconstrued the judgment of the, Supreme Court in *State of Mysore v. Syed Ibrahim*,⁽¹⁾ where the observations were made with reference to the definition of "a public service vehicle" as defined in S.2(25) of the Act, under which user by itself was sufficient to bring the vehicle within its purview. He has referred us to SS.47(f), 55(f), 71(2), 74, 75(1) and (3) and 77 of the Act in support of his proposition that having regard to the general object, purpose and the policy underlying the Act the expression "roads" must mean public roads and not private roads. If so, the dumpers, rockers and tractors etc. which do not ply or are not suitable for plying on public roads cannot be either registered under the Act or taxed under the Taxation Act.

Mr. Tarkunde for the State of Orissa submits that every motor vehicle registered under the Act is liable to pay tax under the Taxation Act and since dumpers, rockers and tractors are by their nature adapted for use on the roads they are registerable, and they have to be registered and are liable for payment of tax under the Taxation Act. There has been a good deal of argument on both sides on the meaning of the expression "adapted for use upon roads". We have been referred to certain English decisions which deal with the meaning of the word 'adapted' in the English Road Traffic Act, 1960. While the definition of 'motor vehicle' in the Act describes it as a mechanically propelled vehicle adapted for use upon roads, the English Road Traffic Act describes it as a mechanically propelled vehicle "intended or adapted for use on roads". Even the earlier English Road Traffic

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Act, 1930, had used the words "intended or adapted for use on roads", while making Part I applicable to motor vehicles."

27.11 It is one aspect of consideration, if Act 1988 has provided for the principles on which taxes on vehicles are levied i.e. by the State Legislature under Entry 57 of List II. The Parliament through Act 1988 provided what is argued as guiding principles on which taxes on such vehicles are to be levied, then such guiding principles would have been kept in perspective by the other constituents of our Federal structure and there could have been uniformity in the vehicle taxation in all the States. It is assumed that the Parliament for valid, functional and practical reasons did not provide for guidance on vehicle taxation to States under Entry 57. At this stage the other Entry viz 16 of List II, which deals with roadways etc, is excerpted.

"Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; municipal tramways; roadways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such

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waterways; vehicles other than mechanically propelled vehicles." and the States are obligated to provide for administration of subjects coming under Entry 16 and provide finances for augmenting these facilities or maintain these infrastructure facilities.

27.12 The State legislature firstly is competent to legislate on Motor Vehicle Taxation and secondly authorised by Entry 16 to administer roadways etc. In the process, the State has to not only lay the roads but maintain the roads for general use and public good. It is this expenditure, to the extent the State decides, is realised through vehicle tax. In other words, Section 3 as a whole deals with regulatory or compensatory collection of amount by way of tax from the vehicles 'used' or 'kept for use'. The levy of vehicle tax being regulatory and compensatory, it is left to the wisdom of State Legislature to decide the taxes payable on vehicles. The petitioners have paid tax under Pondicherry Motor Vehicles Act,

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1967. Whereas respondents demand tax under Act, 1976. The fact that there are two different legislations in two different States would clearly show that as on date no law is made by the Parliament guiding the principles on which taxes on mechanically propelled vehicles are to be levied under Entry 57 of List II. Upon noting the entire statutory scheme of Act 1988 it is held that Act 1988 does not advert to the principles of taxation guiding the State legislature on vehicle taxation. Therefore the challenge to Section 3(6) as laid by petitioners could not be taken the logical conclusion. The registration fee or registration certificate cannot be understood as exonerating an incidence which as a matter of fact arises within the territorial State limits of a State in this case, State of Kerala under Entry 57 of List II read with Act 1976. As on date vehicle tax is left to the discretion of State Legislature and State Legislature is authorised to legislate on matters relating to vehicles used or kept for use in Kerala.

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27.13 Section 3(1), as already noted, provides for levy of tax on every motor vehicle used or kept for use in the State at the rates specified for such vehicle in the Schedule. The second proviso reads as follows:

“Provided further that in respect of a new motor vehicle of any of the classes specified in items 1, 2, 6, 7(i)(b), 7(i)(c), 10(iii) and 11(i) of the Schedule, there shall be levied, from the date of purchase of the vehicle, on time tax at the rate specified in Annexure I, at the time of first registration of the vehicle and thereafter tax shall be levied at the time of renewal of registration of such vehicle or on the expiry of the life time tax already paid at the rate specified in the Schedule as per fifth proviso to subsection (1) of section 4.”

27.14 Second proviso deals with levy of tax on a new motor vehicle of any of the classes specified in items 1, 2, 6, 7(i)(b), 7(i)(c), 10(iii) and 11(i) of the Schedule and the tax is payable from the date of purchase of the vehicle. The rate of tax is specified in Annexure I. The latter portion of proviso deals with the payment of tax at the time of renewal of registration of such vehicle or on the expiry of the one time tax already paid at the rates specified in the Schedule.

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Combined reading of Schedule 1 and Annexure I, illustratively stated, creates the liability to pay life time tax in the State of Kerala as follows:

“Schedule 1 - Motor Cycles (including Motor Scooters and cycles with attachment for propelling the same by mechanical power.

.....

Annexure - I
One Time Tax

Sl. No.	Class of Vehicle	Rate of One Time Tax
1	2	3
A	New Motor Cycles (including Motor Scooters and Cycles with attachments for propelling the same by mechanical power) and three wheelers (including tricycles and cycle rickshaws with attachment for propelling the same by mechanical power) not used for transport of goods or passengers and Private Service Vehicle for personal use (NTV), Motor Cars, Motor Cabs, Tourist Motor Cabs and Construction Equipment Vehicles	
1	Motor Cycles (including motor scooters and cycles with attachments for propelling the same by mechanical power) and bicycles of all categories with or without side car or drawing a trailer having purchase value upto Rupees 1 lakh	8% of the purchase value of the vehicle

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28. Section 3(6) is introduced through Finance Act 2015 dated 29.07.2015. Amended Annexure III of the Schedule read as follows:

“Annexure III

Sl.No.	Class of Vehicle	Amount of Tax	
1	2	S.3	
		Period of stay exceeding 30 days and up to one year	Period of stay exceeding one year
1	Motor Cycle and Three Wheelers	1/15 th of the one time tax specified in Annexure I	One time tax proportionate to the rate specified in Annexure-I

28.1 Extending above illustration the obligation to pay vehicle tax under Section 3(6) is dependent on the period of stay of a non-transport vehicle registered outside State of Kerala but used or kept for use in State of Kerala. Annexure III as it stands today is substituted by Kerala Finance Act, 2018. The contention of the petitioners, that the Puducherry registered vehicles can ply in State

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of Kerala, is untenable in law and unavailable in the statutory scheme of Act 1988 and Act 1976. The twelve month period referred in Section 47 of the Act or thirty days' period referred in Section 49, has nothing to do with the vehicle tax payable under Act 1976. The nature and character of impost under Motor Vehicle Taxation Act is at the outset relatable to a vehicle used or kept for use in State of Kerala. This Court hastens to clarify that the completed act of registration of a vehicle, as is in this batch of cases, in Puducherry confers the right of the owner to ply the vehicle in Unnion Territory of Puducherry, but the vehicle tax paid in Unnion Territory of Puducherry does not enable use or keeping for use these vehicles beyond thirty days as per Section 3(6) of Act 1976. Non-State registered vehicles are allowed as guest vehicles in State of Kerala for thirty days and stay of non-transport vehicles beyond thirty days, for the purpose of Section 3(6), is understood as vehicle used and kept for use in Kerala and vehicle tax as per Annexure III

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is payable.

29. The following decisions of the Supreme Court and this Court dealing with regulatory and compensatory levy is adverted to: *Sharma Transport, represented by D.P. Sharma v. Government of A.P.*²² and *United States Lines Agency v. State of Kerala*²³.

29.1 In *Hardev Motor Transport* referred to supra the Apex Court in paragraph no.12 of the said judgment has made the following observation.

“The 1988 Act and the Rules made thereunder provide for a complete code. The matter relating to the imposition of tax, however, is provided for under the Statutes enacted by each State.”

29.2 In *United States Lines Agency*, a Division Bench of this Court while interpreting Sections 3 and 5 of Act 1976, the Sections as stood then, on the construction of a fiscal statute held as follows:

“The task before us is to construe a fiscal Statute. We have no doubt that a taxing provision also should be interpreted fairly reasonably and in accordance with justice”. The principle is plain and clear. This Court is bound to bear in mind in construing a revenue Act to give a just, fair and reasonable construction to the

22 (2002) 2 SCC 188

23 1988 (1) KLT 259

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words used without leaning to one side or the other. A course of complete and plain detachment to one side or the other is the policy. No tax can be imposed on a subject by an Act of the legislature without words which are clear and plain, showing an intent to lay the burden on him who has been asked to pay the tax. This simple stint of the Court, the limited job of the Court, is to construe the provisions of the taxing enactment according to the ordinary and natural meaning of the word used and then to apply that meaning to the facts of the case. If when this process is put in action, the tax payer is brought fairly within the Act; no escape for him, otherwise he goes free. In this process we should be careful to avoid any straining of language either way.”

The Division Bench referring to *Travancore Tea Company Ltd v.*

State of Kerala further observed as follows:

“Section 3 of the impugned Act (Kerala Motor Vehicles Taxation Act (Act 24 of 1963) provides that a tax 'shall be levied on all motor vehicles used or kept for use in the State'. The levy is within the competence of the State legislature as Entry 57 in List 1 authorizes levy on vehicles suitable for use on roads. It has been laid down by this Court in *Bolani Ores Ltd v. Orissa* that under Entry 57 of List II, the power of taxation cannot exceed compensatory nature which must have some nexus with the vehicles using the roads i.e. public roads. If the vehicles do not use the roads, notwithstanding that they are registered under the Act, they cannot be taxed.”

30. The term tax/taxes have been defined as a rate or sum of money assessed on the person or property of a citizen by the government for the use of the nation or state; burdens or charges imposed by the legislative power upon persons or property to raise

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money for public purposes and the enforced proportional contribution of persons and property levied by authority of the state for the support of government and for all public needs.

30.1 Taxation is the act of levying tax, or imposing these burdens or charges upon persons or property or in other words, the process or means by which the taxing power is exercised.

30.2 A Tax is the means by which a burden primarily borne by the State is transferred to the citizen. The obligation may have relation to debt already incurred or it may be in anticipation, dependent on future contingencies. Three things are essential to a tax. First, the ascertainment of a sum certain or that can be rendered certain to be imposed on the collective body of tax payers; second, the legal imposition of that sum as an obligation on the collective body of tax payers. Third, an apportionment of said sum among individual tax payers so as to ascertain the part or share that

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each should bear²⁴. Vehicle tax is held as regulatory and compensatory tax collected on vehicle used or kept for use in a State.

30.3 The petitioners claim a right to use or keep for use their vehicles in State of Kerala without corresponding tax liability on their vehicles on the basis of its registration and payment of vehicle tax in Puducherry. This argument of petitioners is untenable and without merit. Section 3(1) is attracted the moment a vehicle is used or kept for use and second proviso deals with the mode and manner of payment of tax. In the instant batch the issue as admitted by both the sides does not arise under Section 3(1). The first ground of challenge against levy of vehicle tax under Section 3(6) is by reference to Chapter IV of Act 1988 and the tenability of this argument is already discussed and conclusions are recorded rejecting the contentions. The next argument is Section 3(6) does

²⁴ Ramnath Aiyer's Advanced Law Lexicon

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not provide for the three important attributes necessary for a valid levy. This argument is untenable and from a bare reading of Section 3(6) it is discernible viz when, who and what the tax incidence is. The vehicles registered and vehicle tax paid in any other State including Union Territory of Puducherry can enter the State of Kerala and use vehicles in Kerala without incidence of vehicle tax only for thirty days.

30.4 State of Kerala is one of the favourite destinations for tourists (domestic/foreign) being God's Own Country is not closing its roads to its guests, but the guests enjoy the hospitality of all the roads of State of Kerala for thirty day's period and the vehicle, if is kept beyond thirty days, the keeping of vehicle is subject to paying the vehicle tax under Section 3(6) of Act 1976. The interpretation now put forward by the petitioners on Section 3(6) of Act 1976 if is accepted, the State Government cannot recover tax from the users of its roads and such user, defeats the regulatory or compensatory

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character involved in imposition of vehicle tax.

30.5 The petitioners rely on two reported decisions of Karnataka High Court (a) *Mahesh C. Gandhi v. The Deputy Commissioner for Transport, Belgaum Division*²⁵ and (b) *Jagadev Biradar v. State of Karnataka*²⁶ and contend that the levy of life tax is held to be illegal in the reported cases, and persuade this Court to follow the principle laid in those decisions. The distinction in the language used in Karnataka Motor Vehicle Tax Act and Act 1976 is explained by the following Table:

Act 1976 Sections 3(1) and 3(6)	Karnataka Motor Vehicle Taxation Act Sec 3
3(1) Subject to the 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; Provided that no such tax shall be levied on a motor vehicle kept by a dealer in, or a manufacturer of, such vehicle, for the purpose of trade and used under the authorisation of a trade certificate granted by the registering authority.	3. Levy of tax.- (1) A tax at the rates specified in Part A of the Schedule shall be levied on all motor vehicles suitable for use on roads: Explanation-1.—A motor vehicle of which the certificate of registration is current shall, for the purposes of this Act, be deemed to be a vehicle suitable for use on roads. Explanation-2.- In respect of motor vehicles registered outside the State of Karnataka and <u>which are in the State for a period exceeding thirty days</u>, notwithstanding anything contained in the provisions of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), and in any order

²⁵ 2005 (3) KCCR SN 201

²⁶ 2016 (3) KCCR 2330

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Provided further that in respect of a new motor vehicle of any of the classes specified in items 1,2,6,7(i)(b), 7(i)(c), 10(iii) and 11(i) of the schedule, there shall be levied, from the date of purchase of the vehicle, one time tax at the rate specified in Annexure I, at the time of first registration of the vehicle and thereafter tax shall be levied at the time of renewal of registration of such vehicle or on the expiry of the life time tax already paid at the rate specified in the Schedule as per fifth proviso to sub section (1) of Section 4.

or direction contained in any judgment or order of any Court, tax shall be levied as specified in Parts A1, A2, A4, A5, A6, A7 and A8 as the case may be;

3(6) In the case of non-transport vehicles registered in any State other than the State of Kerala and entering into the State of Kerala and staying therein for a period exceeding 30 days, the levy of tax shall be at the rate specified in Annexure III of the schedule.

30.6 In the instant batch petitions the Court is dealing with interpretation of Section 3(6) and the tax liability arising therein. With the object of preventing vehicle tax evasion by non-State registered vehicles, the State Legislature has amended Section 3, thereby introduced Section 3(6) and later on, with effect from 01.04.2018 Annexure III of Schedule I was also substituted. The ratio laid in the Karnataka High Court decisions is distinguishable

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and the ratio is not applicable to the case on hand. Sections 3(1) and 3(6) are interpreted and a view is recorded that under Section 3(1) the vehicle when used or kept for use the liability to vehicle tax arises and under Section 3(6) if the non-State registered vehicle enters Kerala and stays exceeding thirty days, the vehicle tax liability as per Annexure III arises.

30.7 The next argument advanced for petitioners is that the respondents have no locus to cancel the registration already granted by the Registering Authority of the Union Territory of Puducherry. The registration if is vitiated for a reason noted, enquired into and a finding recorded warranting cancellation under Section 55 of Act 1988, even then the authority who had granted the registration certificate alone has jurisdiction to cancel the registration under Section 55(5) of Act 1988. The respondents either by referring to the address shown in PAN Card, Aadhaar or Voters ID cannot compel the petitioners herein to register the

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vehicles in State of Kerala. Such compulsion militates against the discretion given by Chapter IV of Act 1988 to the owner of a vehicle which requires registration under Chapter IV of Act 1988. The reply of respondents is that fraud vitiates everything and an enquiry is necessitated into these alleged questionable registration made by Registering Authority - Pondicherry. Assuming that enquiry into these registrations of vehicles is warranted, the authorities of State of Kerala, upon enquiry, record that the very registration is vitiated then, it is considered appropriate that the respondents forward a report for action under Section 55(5) of Act 1988 to the registering authority of the other State on how fraud is played on those authorities. Hence the respondents herein i.e., Transport Department of State of Kerala and its officers do not have jurisdiction under Section 55(5) to cancel the registration effected and completed in Union Territory of Puducherry. This Court does not approve the stand of the respondents that they can direct

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registration under Section 40 and also cancel the registration effected under Section 55 of Act 1988.

31. Under Section 40 of Act 1988, two conditions are attracted for selecting place of registration i.e., (i) registration is effected by a Registering Authority in whose jurisdiction the owner has residence or place of business (ii) where the vehicle is normally kept. Form 20 provides for giving permanent address as well as short stay address for selecting the office of Registering Authority. Therefore, the respondents cannot, contrary to the volition or intention of the petitioner to continue to retain the present registration made at Puducherry, direct registration or re-registration of vehicle in State of Kerala. The petitioner or any owner contravenes either Sections 40, 47 or 49, the liability is provided for under Section 177 of Act 1988. The penal consequence for a breach of legal duty or obligation under Act 1988 is independent and separate from the tax liability arising under Section 3(6) read

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with Schedule and Annexure III of the Act. The respondents if have reason to believe that a non-transport vehicle is kept for more than thirty days in State of Kerala, the respondents are entitled to collect the tax in terms of Section 3(6) read with Annexure III to Schedule of Act 1976. For the said purpose of collecting vehicle tax, *sine quo non*, either to attract the incidence, rate or period is that a finding of fact on all the three essential ingredients is recorded by the respondents. The orders impugned where the petitioners are called upon to pay life time tax do not conform to the prescription of Section 3(6) etc.

32. The petitioners contend by referring to Annexure III, as amended with effect from 01.04.2018, that the respondents are determining the vehicle tax payable by the petitioners and such determination is illegal, amounts to retrospective applicability of amended Annexure III. For considering the said objection raised by the petitioner, the pleadings in the respective cases need not once

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again be adverted to, for, the liability to pay tax depends upon the corresponding period for which a vehicle is kept or used for thirty days more in State of Kerala. It is always open to the owner of a non-transport vehicle to take note that liability to pay tax is attracted if the stay exceeds thirty days from entry into State and relocate the vehicle to the State where the vehicle is registered, to continue to normally keep the vehicle in that State in terms of Section 40 of Act 1988. The respondents if insist upon payment of life tax or one time tax without reference to the words used in Section 3(6), the same amounts to levying and collecting tax not only for the period kept but also for the period likely to be kept in the State. The distinction between Section 3(1) second proviso and Section 3(6) will have to be borne in mind while collecting vehicle tax, either one time tax or tax under Annexure III. The second proviso to Section 3(1) provides for collecting one time tax on a new vehicle where the registration is in the State of Kerala, the

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residence of the owner is in State of Kerala and the owner intends to use or keep the vehicle in State of Kerala. The liability under Section 3(6) arises on account of the vehicle being registered in another State but kept in State of Kerala beyond thirty days. The argument that Section 3(6) does not provide for incidence of tax is without merit. As already discussed Section 3(6) is not a stand alone provision but part of Section 3 which provides for levy of vehicle tax subject to an incident and corresponding liability on the owner. All the three elements are present in Section 3(6).

32.1. The exemption in the manner canvassed by the petitioners if is accepted, then the exemption can defeat the entire scheme of levy of taxes under Section 3 including Section 3(6) of Act 1976, for exemption will have overriding effect on charging section. The argument claiming exemption through S.R.O. No.878/1975 does not take note of un-amended Section 3(6) and the effect of amendment through notification

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No.5959/Leg.A2/2015, Law dated 29.07.2015. The levy and demand as per Section 3(1) at present is a one time tax. This Court shall not substitute words both in the exemption notification and the charging Section while interpreting applicability of exemption. The argument claiming exemption hence is untenable and rejected.

32.2. The exemption claimed in terms of S.R.O. is out of context for the reason that the claim for exemption is dependent on a few set of circumstances and the applicable circumstances are proved by a person who claims exemption. This determination is primarily the job of authorities under Act 1988 and Act 1976. So this Court in an abstract way ought not to grant exemption from collection of vehicle tax on the vehicles owned by petitioners. S.R.O. 878/1975 is anterior to Act 1976. Section 3 of Act 1976 had undergone by way of amendments a few substantial changes. Section 3(6) expresses the intent of legislature to remedy the drain caused to exchequer by non-registration of vehicles in State of

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Kerala which ought to have been registered in State of Kerala and the present legislative mechanism is put in place. Therefore Section 3(6) in the considered view of this Court is applicable as on date but not the exemption in S.R.O. 878/1975.

33. The petitioners challenge impugned orders supposedly made under Chapter IV of Act, 1988. The orders, by and large, are similar in content, propose similar directions, but are slightly changed in expression. For appreciating the orders passed in purported exercise of the power under Chapter IV, the following order in WPC No.29183 of 2018 is excerpted:

“WPC No.29183 of 2018

The Registered Owner had appeared for personnel hearing on 2.8.2018 and he had failed to produce any substantiating evidence to prove the given address is genuine. As per questionnaire filed by him has properly as are not Puduchery address proof and also he had failed to produce Ration card, Passport or Adhar card for supporting to establish his given address proof at Puduchery. The lease deed made only on 16.11.2017 between AJ Hashif, S/o Abdul Jabbar Residing at No.105, I ECR Main Road, Chinnakalapet, Near Baba Temple Pondichery 605014 after the vehicle registration at Puduchery and also the GST registration certificate issued from 17.9.2017, it is

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just before the Registration of vehicle for evading higher rate of Kerala State road tax. An enquiry was conducted through Asst. Motor vehicle Inspector of this office regarding the usage of this vehicle at Kerala vide reference 6th cited. It is revealed that this vehicle is kept in and used in Kerala State permanently and also the vehicle had violated speed regulation rules in Kerala State Roads several times as per report of Kerala Police Hi-tech cell and Motor Vehicles Dept. Camera surveillance system. It is also enough evidence showing that the vehicle has been using here in Kerala State. The vehicle had registered after submitting fabricated address proof at Puduchery for evading road tax of Kerala state. In registration certificate the permanent address shown as Managing Partner, Hill View, Thokkampara, Kottakkal, Malappuram which is under the jurisdiction of this office. The hypothecation agreement is held with HDFC Bank, Nadakavu, Calicut and also insurance issued from Kerala State. He did not produce any proof to establish the genuineness of the address proof in which the vehicle had registered at Puduchery so far."

34. In WPC No. 25170 of 2018 the orders referred to above are concluded on a finding recorded by the respondents, to register the vehicle in the State of Kerala. The scope, purpose and ambit of Section 39, 40, 41, 47, 49 and 55 are already adverted to. Form 20 under the Central Motor Vehicle Rules provides for getting the vehicle registered with the permanent address as well as the temporary address of residence or business. The petitioners cannot

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be compelled to register in State of Kerala contrary to their convenience or utility. The registration certificate issued by the Assistant Registering Authority, Puducherry as on today is valid and there cannot be two registrations for a vehicle with same engine number, chasis number etc. unless and until the registration already held by the vehicle is cancelled under Section 55(5) of the Act.

34.1 On receipt of information the registering authority - Puducherry puts the owner on notice and thereafter passes orders cancelling the registration. The said approach is track-1 approach under Act, 1988 available to respondents and tract-II is independent, arising under Section 3(6) of Act 1976, where for keeping the vehicles beyond thirty days, vehicle tax as per Annexure III can be levied and collected.

34.2 Further, a few findings are recorded and final orders passed without furnishing the copies of documents on which the authorities have relied upon. For the view, this Court has taken

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supra while interpreting provisions in Chapter IV of Act 1988 the orders referred to above are unsustainable in law and matter requires reconsideration by the authorities in the manner indicated by this judgment. The respondents herein would be acting contrary to rule of natural justice and procedural fairness in action, if the respondents act upon information collected by them and which information has not been disclosed to the petitioners in the enquiry held in this behalf. The orders impugned in the writ petitions are either guided by circular issued by the Commissioner, Transport Department or refer to material collected behind the back of petitioners and the copies of such material are not furnished in the enquiry held by respondents. Therefore, in the writ petitions where orders passed by the respondents directing registration, payment of vehicle tax are challenged those order are set aside. The matters are sent back to respondents for fresh consideration and disposal in accordance with law. The challenge to show cause notices need not

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be entertained and ends of fair procedure are met by giving time to petitioners to file reply to show cause notice impugned in the writ petition within the time given by this judgment.

35. Therefore, the orders passed by the respondents and impugned in the writ petitions are set aside and matters remitted to respondents for consideration and disposal in accordance with law. In writ petitions filed challenging show cause notice the petitioner is given four weeks' time from the date of receipt of copy of this judgment to file explanation together with the documents on which the petitioner intends to rely upon against the proposed enquiry under Chapter IV of Act 1988 and that Section 3(6) of the Act is not attracted and secondly, that the period for which the tax is demanded is untenable etc. The respondents are under legal obligation to determine, as a fact, the relevant points which have bearing on tax liability and thereupon to recover tax in applicable cases. The respondents have to determine and levy the tax as

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payable contemporaneous to the period during which there is an infraction arising under Act 1976. In other words, the respondents will have to bear in mind the tax payable prior to 01.04.2018 and after 01.04.2018, and accordingly pass orders after affording reasonable opportunity to the petitioners.

36. The registration under Chapter IV of Act 1988 enables the vehicle to come on to a public place or any other place. Payment of vehicle tax at the time of registration allows the use or keep for use the registered vehicle in the State in which the vehicle tax is paid. The vehicle if forays into a neighboring State depending upon the period for which such State permits plying of vehicle without tax incidence, the vehicle registered in the other State can ply. A non-State registered/non-transport vehicle owner if keeps vehicle in Kerala beyond the permitted period i.e., stays beyond thirty days, then the incidence of tax under Section 3(6) of Act 1976 is attracted and the respondents are entitled to enquire into levy and

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recover the vehicle tax in accordance with Anneuxre III. Motor Vehicle Taxation Act, 1976 permits plying vehicles without the incidence of tax for a period of thirty days from the date of entry into State. The vehicle, if is kept in the State of Kerala beyond thirty days the incidence under Section 3(6) read with Schedule and Annexure III is attracted and vehicle tax payable under Section 3(6) of Act 1976.

37. As a result of my above discussion I summarise my judgment on the issues noted above as follows:

- (a) Section 3(6) of Motor Vehicles Taxation Act, 1976 is within the competence of State legislature and Section 3(6) is not in any manner repugnant to Chapter IV of Motor Vehicles' Act, 1988 or *ultra vires* Act 1976. Section 3(6) therefore is valid and legal.
- (b) The registration of a non-transport vehicle and payment of registration fee under Act 1988 or payment of motor vehicle

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- tax under a State legislature continues to be valid so long as the vehicle is kept and used in the State in which it is registered. These vehicles if enter State of Kerala and stay beyond the period stipulated by the State enactment, the vehicle is required to pay vehicle tax as per Section 3(6) read with Annexure III of Schedule of Act 1976.
- (c) The impugned orders calling upon the petitioners to register the subject vehicles in State of Kerala and pay life tax are set aside as illegal, arbitrary and violative of principles of natural justice, the matters are restored to the file of respective Regional Transport Officer/ respondents for consideration and disposal by keeping in view the principles stated supra.
- (d) The writ petitions filed challenging show cause notices are given four weeks' time from the date of receipt of copy of this judgment to file objections against proposed tax levy and are entitled to show that, firstly, the vehicle is not kept for use in

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State of Kerala beyond thirty days and, alternatively, vehicle is not at all used or kept for use in State of Kerala. The objection raised against proposed action is examined in detail and orders as are warranted by the circumstances of the case are passed. Respondents keeping in view the scope, character and purpose of incidence of vehicle tax, consider the objections and pass detailed orders, in all the matters now restored to file as well as where time is granted for filing objections to show cause notice.

Writ petitions are disposed of as indicated above.

Sd/-

S . V . BHATTI

JUDGE

CSS

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APPENDIX OF WP (C) 33231/2018

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE BRANCH OFFICE AT PONDICHERRY ISSUED BY THE LABOUR OFFICER, PONDICHERRY.
EXHIBIT P1 A	TRUE COPY OF THE RENEWED REGISTRATION CERTIFICATE OF THE BRANCH OFFICE AT PONDICHERRY ISSUED BY THE LABOUR OFFICER, PONDICHERRY.
EXHIBIT P2	TRUE COPY OF THE CERTIFICATE OF REGISTRATION DATED 04.10.2017 ISSUED BY THE REGISTERING AUTHORITY, PONDICHERRY.
EXHIBIT P3	TRUE COPY OF THE NOTICE DATED 16.01.2018 ISSUED BY THE 2ND RESPONDENT.
EXHIBIT P3 A	TRUE COPY OF THE LETTER COVER SHOWING THAT EXT.P3 NOTICE WAS ISSUED TO PONIDICHERRY ADDRESS OF THE COMPANY.
EXHIBIT P4	TRUE COPY OF THE REPLY DATED 31.1.2018 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

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APPENDIX OF WP (C) 1824/2018

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER'S CAR BEARING NO.PY-01-BL-707
EXHIBIT P2	TRUE COPY OF THE NOTICE DATED 05.11.2017 ISSUED BY THE FOURTH RESPONDENT.
EXHIBIT P3	TRUE COPY OF THE NOTICE DATED 18.12.2017 ISSUED BY THE THIRD RESPONDENT.

RESPONDENTS EXHIBITS

EXHIBIT R3(A) TRUE COPY OF THE CHECK REPORT

EXHIBIT R3(B) TRUE COPY OF THE REPORT OF THE MOTOR VEHICLE
INSPECTOR

EXHIBIT R3(C) TRUE COPY OF THE DEMAND NOTICE DATED 05.02.2018

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APPENDIX OF WP (C) 11585/2018

PETITIONER'S/S EXHIBITS:

EXHIBIT-P1	TRUE COPY OF THE SERVICE CERTIFICATE DATED 04/12/2017
EXHIBIT-P1 (A)	TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF PY 05/D 5505
EXHIBIT-P2	TRUE COPY OF THE RENTAL AGREEMENT DATED 29/11/2017
EXHIBIT-P3	TRUE COPY OF THE GST REG 06 DATED 06/12/2017
EXHIBIT-P4	TRUE COPY OF THE CERTIFICATE OF REGISTRATION ISSUED BY THE 3RD RESPONDENT
EXHIBIT-P5	TRUE COPY OF THE NOTICE (UNDATED) ISSUED BY THE 2ND RESPONDENT IN DECEMBER, 2017
EXHIBIT-P6	TRUE COPY OF THE DEMAND NOTICE DATED 03/03/2018
EXHIBIT-P7	TRUE COPY OF THE OBJECTION FILED ON 21/03/2018
EXHIBIT-P8	TRUE COPY OF THE SRO NO. 873/75

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APPENDIX OF WP(C) 20193/2018

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 : A TRUE COPY OF THE CERTIFICATE OF REGISTRATION ISSUED TO THE PETITIONER IN RESPECT OF THE PETITIONER'S VEHICLE BEARING REGISTRATION NO.PY01CR0027 DATED 27.9.2017.
- EXHIBIT P2 : A TRUE COPY OF THE CERTIFICATE OF REGISTRATION SHOWING THE REMITTANCE OF TAX RECEIPT ISSUED BY THE GOVERNMENT OF PONDICHERRY TO THE PETITIONER DATED 27.9.2017.
- EXHIBIT P3 : A TRUE COPY OF THE RENTAL AGREEMENT EXECUTED BY THE PETITIONER IN WITH THE LANDLORD CHANDRAKUMARI DATED 14.9.2017.
- EXHIBIT P4 : A TRUE COPY OF THE INSURANCE CERTIFICATE ISSUED TO THE PETITIONER IN RESPECT OF THE VEHICLE BEARING REGISTRATION NO.PY01CR0027 DATED 27.9.2017.
- EXHIBIT P5 : A TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER DATED 3.3.2018.
- EXHIBIT P6 : A TRUE COPY OF THE JUDGMENT IN WPC.NO.11399/2018 OF THIS HON'BLE COURT DATED 2.4.2018.
- EXHIBIT P7 : A TRUE COPY OF THE ORDER NO.R2/13858/2018 ISSUED BY THE 2ND RESPONDENT DATED 21.5.2018.

RESPONDENTS EXHIBITS

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EXHIBIT R2(A) TRUE COPY OF THE POSTAL REMARKS

EXHIBIT R2(B) TRUE COPY OF THE SHOW CAUSE NOTICE NO.R2/13858/2017/K
ISSUED TO THE PETITIONER ON 07.12.2017

EXHIBIT R2(C) TRUE COPY OF THE LETTER DATED 29.12.2017

EXHIBIT R2(D) TRUE COPY OF THE ENQUIRY REPORT

EXHIBIT R2(E) TRUE COPY OF THE TAX DEMAND NOTICE DATED 19.01.2018

EXHIBIT R3(F) TRUE COPY OF THE DEMAND AND SHOW CAUSE NOTICE
DATED 03.03.2018

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APPENDIX OF WP(C) 21595/2018

PETITIONER'S/S EXHIBITS:

EXT.P1	TRUE COPY OF THE LEASSE AGREEMENT DATED 06.07.2016
EXT.P2	TRUE COPY OF THE CERTIFICATE OF REGISTRATION ISSUED BY THE 4TH RESPONDNET DATED 21.10.2016
EXT.P3	TRUE COPY OF THE KERALA FINANCE ACT, 2015 (RELEVANT EXTRACT)
EXT.P4	TRUE COPY OF THE JUDGMENT IN W.P.C NO 11053 OF 2018
EXT.P5	TRUE COPY OF THE OBJECTIONS DATED 9.4.2018 SUBMITTED BY THE PETITIONER
EXT.P6	THE TRUE COPY OF THE ORDER DATED 13.04.2018 ISSUED BY THE 3RD RESPONDENT
EXT.P7	THE TRUE COPY OF THE REVISION SUBMITTED BEFORE THE 3RD RESPONDENT
EXT.P8	THE TRUE COPY OF THE ORDER DATED 19.06.2018 ISSUED BY THE 2ND RESPONDENT WITH TRANSLATION
EXT.P9	TRUE COPY OF THE REQUEST SUBMITTED UDNER THE R1 ACT
EXT.P10	TRUE COPY OF THE INFORMATION'S PROVIDED BY THE 1ST RESPONDNET
EXT.P11	TRUE COPY OF THE INFORMATION'S PROVIDED BY THE 1ST RESPONDNET

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APPENDIX OF WP (C) 24482/2018

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	COPY OF THE TAX INVOICE DATED 30.1.2017.
EXHIBIT P2	COPY OF THE EXPENSE MEMO DATED 30.1.2017.
EXHIBIT P3	COPY OF REGISTRATION CERTIFICATE DATED 31.1.2017 OF PY-01- CP -0167.
EXHIBIT P4	TRUE COPY OF THE SALE AGREEMENT DATED 4.12.2017 EXECUTED BETWEEN THE PETITIONER AND THE SRI.M.PASUPATHI.
EXHIBIT P5	COPY OF THE NOTICE DATED 07.12.2017 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
EXHIBIT P6	COPY OF THE PETITION DATED 15.12.2017 FILED BY THE COUNSEL FOR THE PETITIONER BEFORE THE 4TH RESPONDENT.
EXHIBIT P7	COPY OF THE PETITION DATED 26.12.2017 FILED BY THE COUNSEL BEFORE THE 5TH RESPONDENT.
EXHIBIT P8	COPY OF THE NOTICE DATED 29.12.2017 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
EXHIBIT P9	COPY OF THE EXPLANATION FILED BY THE COUNSEL FOR THE PETITIONER BEFORE THE 4TH RESPONDENT.
EXHIBIT P10	COPY OF THE NOTICE DATED 19.1.2018 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

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EXHIBIT P11	COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE 5TH RESPONDENT.
EXHIBIT P12	COPY OF THE COMMUNICATION DATED 23.12.2017 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER.
EXHIBIT P13	COPY OF THE NOTICE DATED 3.3.2018 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
EXHIBIT P14	COPY OF THE EXPLANATION DATED 31.3.2018 BY THE COUNSEL FOR THE PETITIONER BEFORE THE 4TH RESPONDENT.
EXHIBIT P15	COPY OF THE NOTICE DATED 26.4.2018 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
EXHIBIT P16	COPY OF THE NOTICE DATED 7.5.2018 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
EXHIBIT P17	COPY OF THE FORM 1 DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT DATED 26.6.2018 WITH TRANSLATION.
EXHIBIT P18	COPY OF THE FORM 10 DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT DATED 26.6.2018 WITH TRANSLATION.
EXHIBIT P19	COPY OF THE ORDER NO.C1/14189/TC/2011 DATED 22.11.2017.
EXHIBIT P20	COPY OF THE SERVICE DETAILS DATED 19.9.2017 ISSUED BY THE T.V SUNDARAM IYYENGAR & SONS PVT LTD.
EXHIBIT P21	COPIES OF THE INVOICE DATED 15.2.2018 ISSUED BY T.V SUNDARAM IYYENGAR & SONS PVT LTD.

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EXHIBIT P22 COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE
REGISTERING AUTHORITY, PUDUCHERRY DATED 06.09.2018

RESPONDENTS EXHIBITS

EXHIBIT R4(A) TRUE COPY OF THE LETTER RECEIVED BACK WITH POST
ACKNOWLEDGEMENT

EXHIBIT R4(B) TRUE COPY OF THE SHOW CAUSE NO.R2/13858/17/K DATED
07.12.2017

EXHIBIT R4(C) TRUE COPY OF THE LETTER ISSUED TO THE PETITIONER FOR
PRODUCING RELEVANT DOCUMENTS TO PROVE THE GENUINENESS OF
ADDRESS IN WHICH THE VEHICLE HAS BEEN REGISTERED AT
PUDUCHERRY

EXHIBIT R4(D) TRUE COPY OF THE DEMAND NOTICE DATED 19.01.2018

EXHIBIT R4(E) TRUE COPY OF THE DEMAND NOTICE DATED 03.03.2018

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APPENDIX OF WP (C) 25170/2018

PETITIONER'S/S EXHIBITS:

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| EXHIBIT P1 | (TRUE COPY OF CERTIFICATE OF INCORPORATION OF M/S.PAPER EXIM PVT.LTD., DATED 16/12/2005) . |
| EXHIBIT P2 | (TRUE COPY OF BOARD RESOLUTION DATED 19/8/2017) . |
| EXHIBIT P3 | (TRUE COPY OF LEASE AGREEMENT DATED 7/9/2017) . |
| EXHIBIT P4 | (TRUE COPY OF THE GST REGISTRATION CERTIFICATE OF PAPER EXIM PVT.LTD. BEARING NO.34AADCP8048FIZF DATED 14/9/2017 IN PONDICHERRY) . |
| EXHIBIT P5 | (TRUE COPY OF PURCHASE INVOICE NO.VSIP 1500159 DATED 9/9/2017 OF EVM AUTHOKRAFT INDIA PVT.LTD, SOUTH KALAMASSERY, KOCHI - 682 022) . |
| EXHIBIT P6 | (TRUE COPY OF T.C.PARTICULARS OF THE CAR BEARING REGISTRATION NO.PY 01 CR 1110) . |
| EXHIBIT P7 | (TRUE COPY OF NOTICE BEARING NO.R1/PY39/9019/2017E DATED 13/11/2017 . |
| EXHIBIT P8 | (TRUE COPY OF REPLY DATED 27/11/2017 TO EXHIBIT P8 NOTICE (WITHOUT ANNEXURES) GIVEN TO THE 3RD RESPONDENT) . |
| EXHIBIT P9 | (TRUE COPY OF DEMAND/SHOW CAUSE NOTICE BEARING NO.R/PY39/9019/2017/E DATED 3/3/2018) . |

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EXHIBIT P9 (A)	(TRUE TRANSLATION OF EXHIBIT P9 DEMAND NOTICE DATED 3/3/2018) .
EXHIBIT P10	(TRUE COPY OF JUDGMENT IN W.P.9C) NO.9752 OF 2018 DATED 21/3/2018) .
EXHIBIT P11	(TRUE COPY OF ORDER BEARING NO.R1/PY 39/9019/2017E DATED 30/5/2018) .
EXHIBIT P11 (A)	(TRUE TRANSLATION OF EXHIBIT P11 ORDER DATED 30/5/2018)
EXHIBIT P12	(TRUE COPY OF ANNEXURE - III OF THE KERALA MOTOR VEHICLES TAXATION ACT AS AMENDED BY THE KERALA FINANCE ACT 2018) .
EXHIBIT P13	(TRUE COPY OF ANNEXURE-III OF THE KERALA MOTOR VEHICLES TAXATION ACT AS AMENDED BY THE KERALA FINANCE ACT 2015) .

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APPENDIX OF WP (C) 29183/2018

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	A TRUE COPY OF THE LEASE DATED 08/09/2017.
EXHIBIT P2	A TRUE COPY OF THE GST REGISTRATION CERTIFICATE ISSUED TO M/S. CLASSY IN PUDUCHERRY.
EXHIBIT P3	A TRUE COPY OF THE RECEIPT FOR TEMPORARY REGISTRATION OF THE MOTOR CAR ISSUED ON 15/09/17 BY THE JOINT R.T.O., TRIPUNITHURA.
EXHIBIT P4	A CERTIFICATE REGISTRATION ISSUED BY THE ARO, PUDUCHERRY DATED 25/10/17.
EXHIBIT P5	A TRUE COPY OF THE RECEIPT FOR PAYMENT OF LIFETIME TAX ON THE VEHICLE AT PUDUCHERRY DATED 25/10/17.
EXHIBIT P6	A TRUE COPY OF THE RENTAL AGREEMENT DATED 16/11/17.
EXHIBIT P7	A TRUE COPY OF THE GST REGISTRATION ISSUED TO M/S. CLASSY AT THE NEW PREMISES DATED 29/11/17.
EXHIBIT P8	A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF THE CAR PY 01 CR 50 ISSUED BY THE ARO, PUDUCHERRY DATED 09/01/18.
EXHIBIT P9	A TRUE COPY OF THE NOTICE ISSUED BY THE FOURTH DATED 04/12/2017.
EXHIBIT P10	A TRUE COPY OF THE REPLY LETTER SUBMITTED BY THE PETITIONER TO THE FOURTH RESPONDENT DATED 12/01/2018.

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EXHIBIT P11	A TRUE COPY OF THE CIRCULAR NO.C1/14189/TC/2011 DATED 22/11/17.
EXHIBIT P12	A TRUE COPY OF THE JUDGMENT OF THIS HON'COURT IN WP(C)13888/18 DATED 13/04/18.
EXHIBIT P13	A TRUE COPY OF THE WRITTEN SUBMISSION FILED BY THE PETITIONER BEFORE THE FOURTH RESPONDENT ON 25/04/18.
EXHIBIT P14	A TRUE COPY OF THE ORDER OF THE FOURTH RESPONDENT NO.A1/2174/2018 MT DATED 06/08/18 SERVED ON 13/08/18.