

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 13TH DAY OF FEBRUARY 2020 / 24TH MAGHA, 1941

WP(C).No.1190 OF 2020(W)

PETITIONER:

FATHIMA ABDULKHADAR,
PROPRIETOR-M/S. STEEL HOUSE KALADY,
RESIDING AT 9/611 SOUTH CHITTOOR,
ERNAKULAM-682 027.

BY ADVS.
SRI.P.THOMAS GEEVERGHESE
SRI.TONY THOMAS (INCHIPARAMBIL)

RESPONDENTS:

- 1 REGIONAL TRANSPORT OFFICER
CIVIL STATION, KAKKANAD, ERNAKULAM-682 030.
- 2 THE TRANSPORT COMMISSIONER
THE OFFICE OF THE TRANSPORT COMMISSIONER,
TRANS TOWER, VAZHUTHACAUD,
THIRUVANANTHAPURAM-695 014.
- 3 STATE OF KERALA, REPRESENTED BY
ITS SECRETARY OF TRANSPORT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.

SRI.P.SANTHOSHKUMAR, SPL.GP(MV)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13.02.2020, ALONG WITH WP(C).NO.32404/2019(A), THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 13TH DAY OF FEBRUARY 2020 / 24TH MAGHA, 1941

WP(C) .No.32404 OF 2019(A)

PETITIONER:

M/S.HILLWOOD IMPEX PRIVATE LIMITED,
7/696, ANH ROAD,CHUNGAM, FEROKE,
KOZHIKODE-673631, REPRESENTED BY ITS MANAGING
DIRECTOR, MR.SHAS AHAMMED.

BY ADVS.
SRI.E.C.AHAMED FAZIL
SRI.K.P.SUFIYAN

RESPONDENTS:

- 1 THE TRANSPORT COMMISSIONER,
TRANSPORT COMMISSIONER, 2ND FLOOR,
TRANS TOWER, THYCADU POST,
THIRUVANANTHAPURAM-695014.
- 2 THE REGISTERING AUTHORITY, KOZHIKODE,
REGIONAL TRANSPORT OFFICE,
CIVIL STATION, MALAPARAMBA, KOZHIKODE-673020.

SRI.P.SANTHOSHKUMAR, SPL.GP(MV)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13.02.2020, ALONG WITH WP(C).NO.1190/2020(W), THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

(C.R.)

ALEXANDER THOMAS, J.

W.P. (C) Nos. 1190 of 2020 & 32404 of 2019

Dated this the 13th day of February, 2020

J U D G M E N T

Since common issues arise in these cases, both the Writ Petitions (Civil) are disposed of on the basis of this common judgment. WP(C). No. 1190 of 2020 is taken as the lead case for the purpose of convenience.

W.P. (C) No. 1190 of 2020

The prayers in W.P. (C) No. 1190 of 2020 are as follows:
“

1.
Declare that Motor Vehicle Tax payable by the petitioner for his vehicle (Temporary Reg.No.MP B/T/o8o2) purchased as per Ext.P1 invoice is only Rs.13,31,400/- (21% of Rs.63,40,000/-); and that respondents cannot be demanded tax based on local price of similar vehicle.
2.
Issue a writ of mandamus or any other appropriate writ or order directing the 1st respondent to accept 21% of Rs.63,40,000/- as the correct Motor Vehicle Tax payable by petitioner and cause permanent registration of his vehicle; and
3.
Issue any other writ, order, declaration or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. Both sides have been heard *in extenso* in respect of both these cases on 6.1.2020. A statement dated 6.2.2020 was also then

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filed on behalf of the 1st respondent in WP(C).No.1190/2020, on the basis of which submissions were made by both sides. Though certain submissions were made on behalf of the respondents on the basis of the letter said to have been issued by the Union Government, referred to in the said statement, the copy of the said letter was not made available for the perusal of this Court, nor for the opposite side. On querying those details, the respondents then sought a short time to make available copy of the said letter. The copy of the letter has been made available for the perusal of this Court today. The said letter is stated to be bearing No.RT-11036/82/2017-MVL dated 1.5.2019 issued by the Government of India in the Ministry of Road Transport and Highways, which is seen addressed to Principal Secretaries/Secretaries of the Department of Transport as well as Transport Commissioners of the various State Governments and various Governments of the Union Territory Administrations concerned.

3. The matter in issue raised in these writ proceedings is covered by the judgment dated 30.1.2020 in WP(C).No.2399/2020 rendered by this Court in a similar case. The only difference is that,

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in the said case no such contentions as the one now sought to be advanced by the respondents on the basis of the abovesaid Union Government's letter dated 1.5.2019 has been advanced or attempted to be advanced at that point of time. The said arguments based on the said letter dated 1.5.2019 from the Government of India, Ministry of Road Transport and Highways, have been made in these cases.

4. The factual aspects stated in W.P. (C) No. 1190 of 2020 are as follows: The petitioner has purchased a new car of Audi Brand viz Audi Q7 45 TDI Q, for a total sum of Rs.63,40,000/- as per Ext.P-1 purchase invoice issued by M/s.Anand Cars (P) Ltd., Indore, Madhya Pradesh. According to the petitioner, going by the provisions of the Kerala Motor Vehicle Taxation Act, 1976, and the Annexure I appended to the Schedule of the said Act, the motor vehicle tax payable by the petitioner in this case is 21% of the purchase value of the vehicle. Whereas, the case of the 1st respondent appears to be that, motor vehicle tax should be paid at the rate of 21% not on the abovesaid purchase value of the vehicle as shown in Ext.P-1 purchase invoice issued by the dealer,

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but at the rate of 21% on Rs.79,99,999/- which is stated to the local price of the same brand car, which according to the 1st respondent is based on the 2nd proviso to Sec.2(2) of the Kerala Motor Vehicle Taxation Act, 1976.

5. Sec.3 of the Kerala Motor Vehicle Taxation Act, 1976, deals with the levy of motor vehicle tax on vehicles and the same reads as follows:

“3.Levy Tax- (1) *Subject to the other provisions of this Act, on and from the date of commencement of this Act, a tax shall be levied on every motor vehicle used or kept for use in the state, at the rate specified for such vehicle in the Schedule;*

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 authorization 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 of specified in the Schedule [as per fifth proviso] to sub-section (1) of section 4”

6. Sec.2(e) of the abovesaid Act deals with the definition clause of purchase value (which contains two provisos thereof) which reads as follows:

“2(e) “purchase value” means the value of the vehicle as shown in the

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purchase invoice and includes value added tax, [goods and services tax and such other taxes as may be levied by the Central and State Government] cess and customs/excise duty chargeable on vehicles:

Provided that the discount or rebate given by the dealer to the registered owner shall not be deducted from the bill amount for computing the purchase value:

Provided further that where the purchase value of any vehicle including a vehicle imported from other countries or a vehicle acquired or obtained otherwise than by way of purchase is not ascertainable on account of non availability of the invoice, the purchase value shall be the value or price of the vehicles of the same specifications which are already registered or available with the manufacturer or as fixed by the Customs and Central Excise Department for the purpose of levying customs duty and includes excise or customs duty levied on the purchase or a motor vehicles, as the case may be. ”

7. It is also not in dispute that Clause 7A of Annexure I referred to (in the 2nd proviso of Sec.3) has been amended and substituted by the Kerala Finance Act, 2019 (Act 5 of 2019) (w.e.f. 1.4.2019) and the said Clause now reads as follows:

<i>7A. Motor Cars and Private Service Vehicles for Personal Use (Non Transport Vehicles) having purchase value of more than rupees twenty lakh.</i>	<i>[21% of the purchase value of the vehicle]</i>
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8. According to the petitioner, the motor vehicle tax payable in the instant case is 21% of the purchase value as shown in Ext.P-1 invoice issued by M/s.Anand Cars (P) Ltd., Indore, Madhya Pradesh, from where the petitioner had purchased the car. The 1st proviso to Sec.2(e) of the Kerala Motor Vehicle Taxation Act, 1976, makes it clear that the discount/rebate given by the dealer to the

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registered owner shall not be deducted from the bill amount for computing the purchase value. The 2nd proviso appended to Sec.2(e) of the abovesaid Act further stipulates that, where the purchase value of any vehicle including a vehicle imported from other countries or a vehicle acquired or obtained otherwise than by way of purchase is not ascertainable on account of non availability of the invoice, the purchase value shall be the value or price of the vehicles of the same specifications which are already registered or available with the manufacturer or as fixed by the Customs and Central Excise Department for the purpose of levying customs duty and includes excise or customs duty levied on the purchase of a motor vehicle, as the case may be.

9. The jurisdictional facts required for invocation of the 2nd proviso to Sec.2(e) of the abovesaid Act are that, the vehicle in question is either imported from foreign countries or the vehicle has been acquired or obtained otherwise than by way of purchase, and its value is not ascertainable on account of non availability of the invoice, etc, in which case the purchase value shall be the value or price of the vehicles of the same specifications which are already

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registered or available with the manufacturer or as fixed by the Customs and Central Excise Department for the purpose of levying customs duty and includes excise or customs duty, etc as envisaged in the 2nd proviso to Sec.2(e) of the said Act.

10. In the instant case, it is beyond any dispute that the car has not been imported from a foreign country. So also, there is no dispute that the car has been obtained, otherwise than by purchase and the purchase value is not ascertainable on account of non availability of the invoice, etc as envisaged in the 2nd proviso to Sec.2(e) of the Kerala Motor Vehicle Taxation Act, 1976. Therefore it has to be proceeded on the premise that the purchase value is as per Ext.P-1 purchase invoice as issued by the local dealer in the State of Madhya Pradesh, from where the petitioner has purchased the car. If that be so, the motor vehicle tax payable in this case shall be 21% of the purchase value of the vehicle. The respondents do not have a case that the dealer in this case has given any discount or rebate to the petitioner as envisaged in the 1st proviso to Sec.2(e) of the abovesaid Act. So also, the respondents do not have a case that the purchase value as shown in Ext.P-1 invoice does not include the

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Value Added Tax, GST and other taxes as can be levied by the Central Government and the State Government, Cess and other duties as envisaged in the operative portion of Sec.2(e) of the abovesaid Act.

11. The counsel for the petitioner would point out that a perusal of Ext.P-1 invoice would show that the IGST and the State Compensation Cess have been duly reckoned in Ext.P-1 purchase invoice for arriving at the total figure of Rs.63,40,000/- in Ext.P-1.

12. Based on these aspects, this Court has already held in the judgment dated 30.1.2020 in WP(C).No.2399/2020 rendered in a similar case that the motor vehicle tax payable as per the provisions of the Kerala Motor Vehicle Taxation Act, 1976, is 21% of the purchase value as shown in the invoice issued by the local dealer. While rendering that judgment, none of the present contentions which are sought to be raised by the respondents, have been advanced or attempted to be advanced in that case, for reasons not known to this Court. Now the contention raised by the 1st respondent in the statement is that, motor vehicle tax is not being accepted manually by the Motor Vehicles Department, and

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that as part of the policy of the Union Government, a centralized software has been implemented for registration of motor vehicles, and that in the present scenario, acceptance of any motor vehicle tax by the Motor Vehicles Department of the State Government manually has been dispensed with, and all transactions for the purpose of acceptance of motor vehicle tax can be done only through the centralized software “Parivahan seva”. Further that, the Union Government has issued directions to various State Governments and various Union Territories, to take all necessary steps for implementation of the software. In the State of Kerala, the software has been fully implemented. The portability of the registration numbers of all the vehicles registered in the State of Kerala was done in a phased manner and the entire porting from State software to centralized software has been completed. In the said software all the information pertaining to the class and category of the vehicles are uploaded and the same is done on the basis of a process called “Homologation”. The manufacturer of the vehicle provides information pertaining to the vehicle into the software through this process. That this cannot be altered by the

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dealer or by the Registering Authority, it is contended. Further that, in the instant case the purchase value of the class of vehicle owned by the petitioner is uploaded by the manufacturer as Rs.79,99,999/- and in such circumstances, the software automatically calculates the tax, the tax component towards One Time Tax at the rate of 21 % of Rs.79,99,999/- and this value cannot be altered by the Registering Authority or anybody else.

13. The above aspects are mentioned in para No.6 of the abovesaid statement dated 6.2.2020 filed by the 1st respondent. Further it is contended in para No.7 of the statement that the 1st respondent is unable to allow the petitioner to register his vehicle for any value less than the value shown by the manufacturer in the Parivahan Seva software. So also, it is contended that the 1st respondent is prohibited from accepting the life time tax manually. Under such circumstances, it is contended that the petitioner is bound by the statutory provision to pay the One Time Tax in accordance with Sec.7A of Annexure I r/w Sec.2(e) of the Motor Vehicle Taxation Act, 1976, and any deviation from the value so prescribed is undisputable and impermissible

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under law.

14. As mentioned herein above, copy of the abovesaid letter was not made available to this Court when the matter was heard and was about to be taken on judgment on 6.2.2020. The abovesaid letter bearing No. RT-11036/82/2017-MVL dated 1.5.2019 issued by the Government of India in the Ministry of Road Transport and Highways, reads as follows:

“The Ministry of Road Transport and Highways through an amendment in the Central Motor Vehicles Rules, 1989 (CMVR) made through GSR 870(E) dated 13th September, 2018 (Copy enclosed) has provisioned for the import of certain limited number of vehicles under various categories by the vehicle manufacturer directly or through their authorized representative for the purpose of further sale or research or by the organization/citizen for personal use, demonstration, testing, research or scientific use.

2. With the Ministry's online registration of vehicles system provided through NIC viz. VAHAN system in operation in the States, the process of registration of vehicles is being carried through an IT based system. The system is linked with the homologation system being provided by the Ministry through NIC, wherein the domestic vehicle manufacturer provides the details of each vehicle sold in the country and those details are used by the dealers selling the vehicles to the citizens. Further, the Registering Authorities also uses the same details for completing the process of Registration of Vehicles. The system is secured, with only the authenticated users having access to the system for updating.

3. With the requirement to facilitate the Vehicle Manufacturers/Importers or organisations/citizens to have the vehicles so imported as per the above said notification, be registered and further that the details of the vehicles are captured properly, a facility is being provided through VAHAN.

4. The Standard Operating Procedure for the process is hereby attached to be followed for the process of registration for such vehicles imported as per GSR 870(E) dated 13th Sep 2018 by the Vehicle Manufacturers or through their authorized representatives in India or by the organization /citizen for personal use, demonstration, testing,

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research or scientific use.

5. *It is also requested that the registering authorities in the State be directed to ensure that the information on customs duty payment and clearance from Directorate General of Foreign Trade (DGFT) must be checked before permitting registration.”*

15. Para No.2 of the abovesaid Union Government's letter proceed to state that the system is linked with the homologation system being provided by the Ministry through NIC, wherein the domestic vehicle manufacturer provides the details of each vehicle sold in the country and those details are used by the dealers selling the vehicles to the citizens. Further, the Registering Authority also uses the same details for completing the process of Registration of Vehicles. The system is secured, with only the authenticated users having access to the system for updating, etc. On the basis of the abovesaid letter dated 1.5.2019 issued by the Union Government, it is contended on behalf of the respondents that the purchase value of the class of vehicle owned by the petitioner is uploaded by the manufacturer in the above software system, as Rs.79,99,999/-, and therefore the petitioner is legally obliged to pay motor vehicle tax at the rate of 21% of Rs.79,99,999/- and not at the rate of 21% of the purchase value as shown in Ext.P-1 invoice issued by the dealer

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of the car from where it has been purchased by the petitioner.

16. After hearing both sides, this Court is of the considered view that the abovesaid stand taken by the respondents is untenable and unsustainable in law. If the abovesaid stand taken by the respondents is accepted, it will amount to re-writing the provisions of the Kerala Motor Vehicle Taxation Act, 1976. The provisions contained in the Kerala Motor Vehicle Taxation Act, 1976, more particularly Sec.2(e), Clause 7A of Annexure I referred to (in the 2nd proviso of Sec.3). Sec.2(e) categorically and conclusively define purchase value to mean the value of vehicle as shown in the purchase invoice and includes Value Added Tax, Good and Services Tax and such other taxes as may be levied by the Union and State Governments concerned, cess and customs/excise duty chargeable on vehicles, etc. The respondents do not have a case that the present Ext.P-1 invoice is not inclusive of the abovesaid tax amounts. So also the respondents do not have a case that the abovesaid figure shown in Ext.P-1 invoice is arrived at on the basis of discount/rebate given by the dealer to the registered owner. So also, it is beyond any dispute that the instant

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car has not been imported from a foreign country, or that the it has been obtained by the petitioner otherwise than by way of purchase and therefore it's value is not ascertainable on account of non availability of the invoice, as envisaged in the 2nd proviso to Sec.2(e) of the Act. In the light of these aspects, it has only to be held that the respondents do not have a case that any of the provisions of the Kerala Motor Vehicle Taxation Act, 1976, or the provisions of any Rules, framed thereunder, if any, have any statutory connection or nexus to the price of the car as shown by the manufacturer in the web portal maintained by the abovesaid softwarey system, so as to link it up with the definition of purchase value as shown in Sec.2(e) of the said Act, by an appropriate legislative provision, including a legal fiction.

17. Further, Sri.P.Thomas Geeverghese, learned counsel appearing for the petitioner in WP(C).No.1190/2020 as well as Sri.E.C.Ahamed Fazil, learned counsel appearing for the petitioner in the connected WP(C).No.32404/2019 would point out that, it is a matter of common knowledge that the price shown by the manufacturer could be at variance with the actual price that may

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be shown in the purchase invoice by various dealers across the country. In that regard, the petitioners would point out that in a case where the manufacturing unit of the case is situated in a place like Gurgaon, which is close to Delhi, the purchase value as shown by the dealers in Delhi, may not tally with the purchase value that may be shown by dealers in far away places like Arunachal Pradesh, some other States in North-East India, or in a far away place like Kanyakumari and Nagercoil, etc in the State of Tamil Nadu. It is also pointed out that there could be also cases wherein the purchase value of a car of a local dealer in any Southern State could be higher than the value shown by the manufacturer in the web portal, or the value shown by a dealer in Delhi, etc where the manufacturer is situated in the Northern region of the country. Hence, it is pointed out by the petitioners that, in a case where the purchase value charged by the local dealers in such cases in southern states, is higher than the value shown by the manufacturer in the web portal, then going by the abovesaid contentions raised by the respondents, they would still demand to taxation only at the rate of 21% of the lower figure of the

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manufacturer and not the higher figure actually charged by the dealer in the purchase invoice in a Southern State, which is illegal and ultra vires, etc.

18. After hearing both sides, this Court is not in a position to accept the contentions of the respondents that the figure shown by the manufacturer in the web portal, could be the legal basis to simply discard the actual figure that is based on the purchase invoice by the dealer, from where the owner of the car had purchased the car. In the instant case, the respondents do not have a case that Ext.P-1 invoice is in any manner manipulated or that the figures shown therein are not inclusive of the Value Added Tax or duties etc, or that the dealer has given by rebate to the petitioner, etc.

19. Hence in the light of these aspects, this Court is of the considered view that the abovesaid stand of the respondents that they can accept motor vehicle tax only at the rate of 21% of the figure shown by the manufacturer in the web portal, etc cannot be accepted. Of course, in a case where the respondents have a doubt about the genuineness of the figures shown in the purchase

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invoice, certainly they are entitled to conduct appropriate enquiry to find out whether there is manipulation, etc. But, in a case where the figures shown in the purchase invoice are not in any manner manipulated, and is the genuine figures shown therein by the dealer in the purchase invoice, and the respondents do not have a case that the said purchase value is not inclusive of VAT, GST or other taxes, duties etc, as envisaged in the 2nd limb of the operative portion of Sec.2(e) of the Kerala Motor Vehicle Taxation Act, 1976, or that the figure is on the basis of discount or rebate given by the dealer to the registered owner, etc, or that the car has been purchased from a foreign country, or that the car has been obtained not on the basis of purchase, and therefore it's purchase value is not known on account of non availability of the invoice, etc the scenario would be as covered in this Court's judgment dated 30.1.2020 in WP(C).No.2399/2020.

20. Further, the 2nd proviso to Sec.2(e) of the said Act would also be a cardinal aspect in the understanding of the abovesaid provisions. In a case where the 2nd limb of the 2nd proviso to Sec.2(e) of the said Act would specifically mandate

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that, in a case where the car has been obtained otherwise by way of purchase, and the purchase value is not ascertainable on account of non availability of invoice, etc, then the purchase value shall be the value of the price of the vehicle with same specifications, which are already registered or available with the manufacturer, or has been fixed by the Customs and Central Excise Department for the purpose of levying customs duty and includes excise or customs duty levied on the purchase or a motor vehicles, as the case may be, etc. Therefore, the legislature has mandated in its wisdom on account of its legislative policy which led to the abovesaid enactment, that it is only cases as covered in the 1st & 2nd provisos of Sec.2(e) that the figure of purchase certificate be at such variance as per those provisions from that in the operative portion of Sec.2(e).

21. That apart, the corollary that flows out from the second limb of the 2nd proviso to Sec.2(e) of the abovesaid Act is that, where the invoice is available to show the value of purchase value, then that is the golden key for unlocking the abovesaid provisions of the Act and the purchase value is to be mainly

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understood as per the definition in the operative portion of Sec.2(e). In the light of all these aspects, this Court is of the considered view that the abovesaid stand of the respondents cannot be countenanced in law, so long as the above provisions in Sec.2(e) are not amended to make it compatible to the requirements of the manufacturer's figure as stated in the Union Government's Letter. It is also to be borne in mind that the Kerala Motor Vehicle Taxation Acts have been framed by the State Legislature concerned and once the field is covered by the State Law like the Kerala Motor Vehicle Taxation Act, 1976, the Union Government cannot have any competence to issue any executive guidelines or executive orders, which goes against the plain mandate of the law made by the State Legislature concerned. So also, once the law made by the State Legislature is clear and categorical as per the State Law concerned, then even the Executive Government of the State concerned will not have any competence or jurisdiction to issue any executive guideline or executive order, which is an infringement of the explicit provisions contained in the State Act. So long as the provisions of the above

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State Act are not so amended, the above contentions will amount to infringement of the explicit provisions of the above State Law. If the above contentions of the respondents are accepted, then it amounts to substituting the present definition of “purchase value” as per Sec. 2(e) with the understanding that it is the value of the vehicle as shown by the manufacturer in the Parivahan web portal.

22. Accordingly, it is ordered that the abovesaid stand taken by the respondents is illegal and ultra vires. Correspondingly it is ordered that, the competent authority among the respondents, more particularly the 1st respondent shall immediately accept motor vehicle tax of the petitioner's car at the rate of 21% of the purchase value as shown in the invoice, and thereafter, the 1st respondent shall forthwith grant permanent registration to the petitioner's vehicle.

With these observations and directions, the above Writ Petition (Civil) will stand finally disposed of.

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WP(C).No.32404 of 2019

23. The prayers in W.P. (C) No. 32404 of 2019 are as follows:

“

- i. *To direct second respondent to assess and accept tax from petitioner in Exhibit P5 application on the basis of the applicable tax rate against purchase value of the vehicle as per Exhibit P1 invoice and grant registration to vehicle of petitioner having Chassis No.WDD2221206L010373.*
- ii. *Such other reliefs as this Honourable Court may deem fit and appropriate to grant.”*

24. This case was heard along with WP(C).No.1190/2020 in which separate judgment has been rendered today. In the instant case, the factual aspects are slightly different, inasmuch as the car that has been purchased by the petitioner is said to be a demo car sold to the petitioner by a dealer in Mumbai, Maharashtra. This Court has specifically queried to the learned Government Pleader whether the respondents want to file any counter affidavit in this case when the matter has been taken up for consideration and accordingly, Sri.P.Santhosh Kumar, learned Special Government Pleader (Motor Vehicles Department), appearing for the official respondents would submit that the respondents do not want to file any separate counter affidavit in

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this case, and they would mainly place reliance on the statement dated 6.2.2020 filed in connected WP(C).No.1190/2020. Since the respondents have not canvassed any factual submissions that the facts of this case are in any manner substantially distinct from the facts in WP(C).No.1190/2020, or the overall factual aspects in the case in WP(C).No.2399/2020 (which was disposed of on 30.1.2020), it is ordered as follows: It is pointed out by the petitioner that the purchased car is a demo (demonstration) or test drive car being given for such use by the manufacturer to the dealer and its registration for such use has been exempted by Chapter III of the Central Motor Vehicles Rules. The demo car has run for 9879 kms, before it was purchased by the petitioner from the dealer in Mumbai, as can be seen from Ext.P-4, it is averred. It is pointed out that the purchase value of the car as per Ext.P-1 invoice is the market value of that car used for test drive purposes, as per the prevailing market conditions and the figure in Ext.P-1 is not based on any rebate or discount and the figure in Ext.P-1 is also inclusive of the tax components thereto, as can be seen from Ext.P-1 invoice, it is averred. Therefore, the purchase value as per

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Sec.2(e) is to be taken as per Ext.P-1 invoice, it is averred. As mentioned herein above, the respondents place reliance only on the above statement dated 6.2.2020 and they do not want to file any separate counter affidavit / written objections in this case. So in the instant case also, the respondents do not have any case that the figures mentioned in Exts.P1, P-4, etc. are manipulated or that it is based on any rebate or discount or that it is not inclusive of the tax components or that the car is imported from a foreign country or that the car is obtained otherwise than by purchase leading to non- availability of purchase invoice, etc.

25. So the matter in issue in this case is also covered by the above judgment in WP(C).No.1190/2020. Accordingly, it is ordered that the legal principles dealt with in the judgment in WP(C).No. 1190/2020 as well as the directions and orders in WP(C).No. 1190/2020 will regulate this case as well. Accordingly, it is ordered that the 2nd respondent herein (Registering Authority) will immediately accept motor vehicle

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tax of the petitioner's car at the rate of 21% of the purchase value as shown in the invoice and thereafter, shall forthwith grant permanent registration to the petitioner's car.

With these observations and directions, the above Writ Petition (Civil) will stand finally disposed of.

Sd/-

ALEXANDER THOMAS,
JUDGE

MMG

W.P. (C) Nos. 1190 of 2020 &
32404 of 2019

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APPENDIX OF WP (C) .NO.1190/2020

PETITIONER'S EXHIBITS:

EXHIBIT P1 TRUE COPY OF INVOICE NO.ACPL/1920/23
DATED 26.12.2019 ISSUED BY ANAND CARS
(P) LTD., INDORE.

EXHIBIT P2 TRUE COPY OF TEMPORARY CERTIFICATE OF
REGISTRATION (MP/B/T/0802) DATED
27.12.2019 ISSUED BY RTO, INDORE (MP) .

W.P. (C) Nos. 1190 of 2020 &
32404 of 2019

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APPENDIX OF WP (C) .NO.32404/2019

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF INVOICE NO.M/CI/023 DATED 13.08.2019 ISSUED BY M/S.AUTO HANGER(INDIA) PVT. LIMITED TO PETITIONER.
EXHIBIT P2	TRUE COPY OF FORM NO.21 ISSUED BY M/S.AUTO HANGER (INDIA) PVT.LIMITED.
EXHIBIT P3	TRUE COPY OF TEMPORARY CERTIFICATE REGISTRATION 14.08.2019 ISSUED TO PETITIONER FROM MOTOR VEHICLES DEPARTMENT,GOVERNMENT OF MAHARASHTRA.
EXHIBIT P4	TRUE COPY OF THE TESTIMONIAL ISSUED BY M/S.AUTO HANGER(INDIA) PVT.LIMITED
EXHIBIT P5	TRUE COPY OF APPLICATION PREFERRED BY PETITIONER HEREIN IN FROM NO.20 BEFORE THE SECOND RESPONDENT.