

C3/24800/TC/2014

Transport Commissionerate
Kerala, Thiruvananthapuram
Dated: 18.12.2014

From

The Transport Commissioner
Thiruvananthapuram.

To

All Deputy Transport Commissioners
All Regional Transport Officers
All Joint Regional Transport Officers

Sir,

Sub:- M.Vs.Dept -Registering "Isuzu D max Space cab"-Judgment of Hon.
High Court forwarding of -reg-

Ref:- Judgment in WP© No: 24811/2014 (B)dated 24.09.2014.

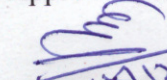
Your personal attention is invited to the reference cited, In this
connection I am forwarding the copy of the above judgment and you are directed
to adopt this judgment, when similar cases appears. This is for your information.


Yours faithfully,

Sd/-

Joint Transport Commissioner
For Transport Commissioner

Approved for Issue


Senior Superintendent


18/12/14

K.VINOD CHANDRAN, J

W.P.(C).No. 24811 of 2014

Dated 24th September, 2014

JUDGMENT

The petitioner, owner of a "Isuzu D max Space cab", presented her vehicle for registration as a non-transport private vehicle. The 2nd respondent refused to register the same on the ground that it is a transport vehicle. The petitioner contends that the issue is no longer *res integra* in view of the authoritative pronouncement of this Court in *Cheriyam v. Transport Commissioner* [2009 (2) KLT 583].

2. In *Cheriyam's case (supra)* this Court had declared that with respect to vehicles which are constructed and adapted for carriage of goods and carriage of passengers, the primary aspect to be considered is the use to which it is put. It was also declared that, if the vehicle in question is a

✓

Light Motor Vehicle, then the registration ought to be granted in that category and not as a goods carriage, if it is not intended to be used as a goods carriage. It was also clarified that if at all the vehicle was used other than for the purpose for which it was registered, then it was open to the authorities to re-classify the vehicle as a Transport Vehicle. In the present case, the petitioner declares that she intends to use the vehicle for her personal needs as also for her agricultural operations. The petitioner admittedly is an agriculturist and has purchased the vehicle to carry on her professional activity. In the above circumstance, the definition of 'goods carriage' and 'transport vehicle' in sub sections 14 and 47 of Section 2 of the Motor Vehicles Act, 1988 assumes significance.

(14) "Goods carriage" means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage

2

of goods:

(47) "Transport vehicle" means a public service vehicle, a goods carriage, an education institution bus or a private service vehicle.

3. There is nothing on record to show that the petitioner sought for registration as a non-transport vehicle and the same was declined by the registering authority. Ext.P3 temporary registration certificate shows that the class of vehicle as item No."5" which; as per the Schedule to the Kerala Motor Vehicles Taxation Act, 1976, is a 'private service vehicle', which belongs to the category of transport vehicle as distinguished from item No."6" "Private Service Vehicle for personal use (Non-Transport)". The vehicle itself has a seating capacity of only two and has an open carriage to carry goods. It is very clear that after seeking temporary registration of the vehicle as a goods vehicle, the petitioner on coming to know of the orders passed by this Court, has approached this Court with the claim of registration as a non-transport vehicle. On the

✓

facts disclosed from the averments in the writ
petition Cheriyans case (supra) is not
applicable in the instant case.

The writ petition, hence is dismissed.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

// True Copy //

✓