

PROCEEDINGS OF THE TRANSPORT COMMISSIONER, TRIVANDRUM.

Present:- Shri.N.Krishnan Nair I.A.S.

Sub:-MVs. - Break down Recovery Van KER 4401 -
Tax exemption - Appeal dismissed - R.P.
filed - Orders issuing of -

Read:-Revision Petition dated 13.10.1987 from
Shri.T.S.Shamsuddin, Thecharayil House,
poothole, Trichur-4.

ORDER No.B2/34822/TC/87 DATED 26.7.88.

This is a revision petition filed under section 24 of the Kerala Motor Vehicles Taxation Act IV of 1976. The petitioner's case is that the van KER 4401 was purchased by him from the Army on 5.11.1985 as Break down van. This van was never used as Goods Vehicle but was exclusively used for lifting vehicles disabled as a result of road accidents. The petitioner has been paying tax for the vehicle according to clause 8 of schedule under section 3(1) of the Kerala Motor Vehicles Taxation Act as per endorsement of the R.T.O., Trichur. According to the petitioner, the vehicle is neither adapted to carry goods nor used as a goods vehicle and therefore the memo of R.T.O., Trichur directing him to remit tax at goods vehicle rate with effect from 1.10.1985 onwards is against law and is therefore illegal. The Deputy Transport Commissioner, Central Zone, Trichur dismissed the appeal filed against the revision petition as per his order No.C/145/87/CZ-1 dated 30.9.1987 and hence this petition.

On examination of the R.C. Book, it is seen that the R.T.O., Trichur has imposed a tax of Rs.160/- plus 10% surcharge classifying the vehicle as Crane as per endorsement No.C4/30332/86 dated 4.3.86. A perusal of the records will show that the Taxation Authority has subsequently relied on the fact that there is no classification by name Crane in the Motor Vehicles Act and as such tax has to be levied at goods vehicle's rate. He has overlooked the fact that the vehicle has already been classified as Crane by his predecessor and tax has been imposed at the rate of chargeable for Crane underschedule 6(1) of section 3(1) of the Motor Vehicles Taxation Act. The vehicle was seen registered first as Break down Van and since a Crane is an accessory of a Break down Van no separate sanction is necessary to fit a Crane in the vehicle. The petitioner has also produced the photographs of the vehicle to prove that the Van can never be used as a Goods Vehicle.

(contd.....2)

On inspection, I have found that the contention of the petitioner is correct and that the vehicle cannot be used for carrying goods as the entire body of the vehicle is occupied by the Crane which is firmly fitted on the vehicle as a permanent accessory. The R.T.O. was therefore not correct in demanding tax at goods vehicle rate. The vehicle is chargeable only at the rate applicable to Crane under schedule 6(1).

The revision petition is allowed.

Sd/-
Transport Commissioner.

To

The Revision Petitioner.

- Copy to:-
1. The Counsel to R.P. (Shri. P. Balakrishna Menon, Advocate, Padikkal, Vettill, Trichur-3).
 2. Deputy Transport Commissioner, Central Zone-I, Trichur along with the connected file containing 68 pages. He is requested to acknowledge the receipt of the file.
 3. The R.T.O., Trichur for information and necessary action.
 4. Stock File.
 5. Spare.

Ramanathan
30/7/88
FOR TRANSPORT COMMISSIONER.

CL/29.7.