

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

FRIDAY, THE 21ST DAY OF JULY 2023 / 30TH ASHADHA, 1945

WP(C) NO. 21489 OF 2011

PETITIONER/S:

THE TRAVANCORE RUBBER & TEA COMPANY LTD.
LTD., PATTOM PALACE P.O., THIRUVANANTHAPURAM-695, 004, REP.
BY ITS CHIEF SECRETARY, MR. SIVARAMAKRISHNA SARMA.

BY ADVS.
SRI.JOSEPH KODIANTHARA (SR.)
SRI.V.ABRAHAM MARKOS
SRI.BINU MATHEW
SRI.B.J.JOHN PRAKASH
SRI.MATHEWS K.UTHUPPACHAN
SRI.TERRY V.JAMES
SRI.TOM THOMAS KAKKUZHIYIL

RESPONDENT/S:

- 1 THE STATE OF KERALA, REP. BY SECRETARY
MOTOR VEHICLE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
- 2 THE JOINT REGIONAL TRANSPORT OFFICER
VANDIPERIYPAR-685 533.
- 3 THE DEPUTY TRANSPORT COMMISSIONER
CENTRAL ZONE, KUNNUMPURAM, KAKKANAD, ERNAKULAM,,
KOCHI-682 021.
- 4 THE TRANSPORT COMMISSIONER, TRANS TOWER, VAZHUTHACAUD,
THIRUVANANTHAPURAM-695 014.
- 5 THE ASSISTANT MOTOR VEHICLE INSPECTOR
VANDIPERIYAR-685 533.

6 THE TAHSILDAR
PEERMADE, IDUKKI DISTRICT-685 531.

BY ADVS.
SR. GOVERNMENT PLEADER MR MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21.07.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

This writ petition under Article 226 of the Constitution of India has been filed impugning the order dated 25.02.2009 whereby the petitioner's stand that they are not liable to pay the road tax on vehicles being used within the estate of the petitioner has been rejected, and demand of tax has been confirmed. The only ground taken before the authorities is that the petitioner itself is maintaining the roads within the estate, and the same is not maintained by the government from the government exchequer. The tax being compensatory, the petitioners are not liable to pay the tax on the vehicles used for their own purposes within their own premises.

2. In support of the said submission, the petitioner has relied on the Supreme Court's judgment in *Travancore Tea Co.Ltd v. State of Kerala*¹. However, a Constitution Bench of nine

¹ AIR 1980 SC 1547

Judges in *Jindal Stainless Limited v. State of Haryana*² has summarised the law on the tax being compensatory. It has overruled the said theory as was propounded in *Automobile Transport (Rajasthan) Ltd v. State of Rajasthan*³[3]. In the summary of the judgment, particularly paragraph 1159.5, it has been held that the Compensatory Tax Theory has no juristic basis and, therefore, has been rejected.

Given the authoritative pronouncement of the Supreme Court in *Jindal Stainless Ltd* (supra) that the Compensatory Theory has no juristic basis, the petitioner's case does not stand on any legal footing. Therefore, the petition fails. Hence dismissed.

Sd/-

DINESH KUMAR SINGH

JUDGE

jjj

² (2017) 12 SCC 1

³ AIR 1962 SC 1406

APPENDIX OF WP(C) 21489/2011

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF ORDER DATED 30-12-2005 ISSUED BY THE 3RD RESPONDENT.
Exhibit P2	TRUE COPY OF ORDER DATED 6-4-2005 OF THE 2ND RESPONDENT.
Exhibit P3	TRUE COPY OF COVERING LETTER DATED 29-8-2006 ISSUED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
Exhibit P4	TRUE COPY OF APPLICATION IN FORM-G SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
Exhibit P5	TRUE COPY OF ORDER DATED 1-9-2006 OF THE 2ND RESPONDENT.
Exhibit P6	TRUE COPY OF ORDER DATED 19-2-1992 OF THE SUB DIVISIONAL MAGISTRATE, KOTTAYAM IN M.C.NO.67/1983.
Exhibit P7	TRUE COPY OF THE MEMORANDUM OF APPEAL NO.28/2006 DATED 27-11-2006 FILED BY THE PETITIONER.
Exhibit P8	TRUE COPY OF THE ORDER DATED 24-09-2007 ALONG WITH COVERING LETTER DATED 9-6-2008 OF THE 3RD RESPONDENT.
Exhibit P9	TRUE COPY OF MEMORANDUM OF REVISION NO.14/2008 DATED 3-10-2008 FILED BY THE PETITIONER.
Exhibit P10	TRUE COPY OF ORDER DATED 25-02-2009 ALONG WITH COVERING LETTER DATED 27-4-2009 OF THE 4TH RESPONDENT.
Exhibit P11(a)	TRUE COPY OF COVERING LETTER DATED 23-3-2010 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.
Exhibit P11(b)	TRUE COPY OF DEMAND DRAFT DATED 22-03-2010.
Exhibit P11(c)	TRUE COPY OF POSTAL ACKNOWLEDGEMENT CARD.
Exhibit P12	TRUE COPY OF LETTER DATED 26-11-2007 ISSUED BY THE 2ND RESPONDENT.
Exhibit P13	TRUE COPY OF ORDER DATED 06-10-2008 ISSUED BY THE 3RD RESPONDENT.
Exhibit P14(a)	TRUE COPY OF DEMAND NOTICE DATED 04-08-2010 ISSUED BY THE 2ND RESPONDENT.

Exhibit P14(b)	TRUE COPY OF DEMAND NOTICE DATED 11-02-2010 ISSUED BY THE 2ND RESPONDENT.
Exhibit P15(a)	TRUE COPY OF LETTER DATED 07-09-2010 ISSUED BY THE PETITIONER TO THE 3RD RESPONDENT.
Exhibit P15(b)	TRUE COPY OF LETTER DATED 13-09-2010 ISSUED BY THE PETITIONER TO THE 3RD RESPONDENT.
Exhibit P15(c)	TRUE COPY OF LETTER DATED 12-03-2010 ISSUED BY THE PETITIONER TO THE 3RD RESPONDENT.
Exhibit P16(a)	TRUE COPY OF DEMAND/ATTACHMENT NOTICE DATED 21-03-2011 ISSUED TO THE PETITIONER BY THE 6TH RESPONDENT UNDER SECTION 34.
Exhibit P16(b)	TRUE COPY OF DEMAND/ATTACHMENT NOTICE DATED 21.03.2011 ISSUED TO THE PETITIONER BY THE 6TH RESPONDENT UNDER SECTION 7.
Exhibit P17	TRUE COPY OF LETTER DATED 4.8.2011 SENT BY THE MANAGER TO THE TAHSILDAR MAKING PAYMENT UNDER PROTEST.
Exhibit P17(a)	TRUE COPY OF LETTER DATED 4.8.2011 SENT BY THE MANAGER TO THE TAHSILDAR AND ACKNOWLEDGEMENT GIVEN BY THE DY. TAHSILDAR AND ACKNOWLEDGEMENT GIVEN BY THE DY. TAHSILDAR.