

(2025) 11 KL CK 1903

In the High Court Of Kerala

Case No : Writ Petition (C) No. 9075 Of 2025

Natural Wood & Veneers Pvt. Ltd., Vs State Of Kerala

Date of Decision : 20-11-2025

Acts Referred:

Constitution of India, 1950 — Article 301
Motor Vehicles Act, 1988 — Section 2(28), 2(34), 39
Factories Act, 1948 — Section 29
Kerala Motor Vehicles Taxation Act, 1976 — Section 3
Central Motor Vehicles Rules, 1989 — Rule 2(ca), 2(cab)

Citation : (2025) 11 KL CK 1903

Hon'ble Judges : Mohammed Nias C.P., J

Bench : Single Bench

Advocate : V.Krishna Menon, E.K.Madhavan, P.Vijayamma, J.Surya, A.B.Beenu, Mohammed Rafiq

Final Decision : Dismissed

Judgement

Mohammed Nias C.P., J

1. The petitioner, a company engaged in the manufacture and sale of plywood and veneer at its factory in Vettickal, Mulanthuruthy, Ernakulam, uses two forklifts, purchased in 2005 and 2017, and a crane, purchased in 2002, exclusively for lifting and moving timber logs within its 6-acre factory premises. It is the petitioner's case that these machines function solely as material-handling equipment inside the enclosed factory compound and are never used on public roads, and therefore, they do not fall within the definition of "motor vehicle" under Section 2(28) of the Motor Vehicles Act, 1988, and do not require registration.

2. It is contended that, based on a complaint allegedly lodged by certain disgruntled workers, the 2nd respondent conducted an inspection and issued Exhibit P4 dated 09.05.2025, directing the stoppage of the equipment's use, citing lack of maintenance, registration, and insurance. According to the petitioner, these allegations are baseless, as the forklifts and crane are treated as machinery under Section 29 of the Factories Act, 1948, and undergo periodic

safety examinations, evidenced by Exhibits P5, P5(a), and P5(b). The crane is also covered under the factory's fire insurance policy applicable to all machinery.

3. The petitioner further contends that Section 39 of the Motor Vehicles Act, 1988, mandates registration only for vehicles intended to be used "in a public place," and since the equipment in question is operated exclusively within a private enclosed factory, the impugned direction is without jurisdiction. The petitioner, therefore, seeks the quashing of Ext. P4 and a declaration that the forklifts and cranes used solely within the petitioner's factory for material-handling purposes do not come within the definition of "motor vehicle" under Section 2(28) of the Motor Vehicles Act and consequently do not require registration under the Act. The petitioners relied on *RDS Project Limited v. Union of India* [2024 KHC Online 1000], *Bolani Ores Ltd. v. State of Orissa* [(1974) 2 SCC 777], *Travancore Tea Estates Co. Ltd and others v. State of Kerala and Others* [(1980) 3 SCC 619], *Tarachand Logistic Solutions Limited v. State of Andhra Pradesh and Others* [2025 SCC OnLine SC 1851].

4. The respondents in the statement filed contend that based on a complaint dated 28.03.2025 from the Secretary of the CPI(M) Mulamthuruthy Local Committee alleging that the petitioner was operating two forklifts and a crane without valid registration or insurance, an inspection was conducted which confirmed that all three vehicles were unregistered, uninsured, and had not undergone fitness testing since their purchase in 2002, 2005, and 2017. Though the petitioner admitted that the machines were used within the factory premises, they declined to register on the ground that they were not operated on public roads. The respondents contend that the forklifts and cranes are roadworthy and capable of being used on public roads at any time and hence fall within Section 2(28) of the Motor Vehicles Act. They further argue that the petitioner's factory premises are accessible to workers, visitors, and other vehicles, and therefore constitute a "public place" under Section 2(34), which includes any place where the public has a right of access—whether permissive, limited, regulated, or through passes—as held by the Full Bench of the Bombay High Court in *Pandurang Chimaji Agale and Another v. New India Life Insurance Co. Ltd.* [AIR 1988 Bom 248].

5. It is therefore contended that the forklifts and crane are motor vehicles requiring registration and taxation under the Kerala Motor Vehicles Taxation Act, 1976, and that the petitioner's refusal to register them amounts to a clear violation of Section 39 of the Motor Vehicles Act, which prohibits driving or permitting the driving of an unregistered motor vehicle "in any public place or in any other place." The respondents maintain that registration and valid insurance are essential to safeguard workers and others who may enter the premises and to ensure compensation in the event of an accident. They also assert that the manufacturer's alleged failure to issue temporary registration documents cannot absolve the petitioner of their statutory responsibility, as the obligation to obtain registration rests with the owner and dealer. According to the respondents,

Section 39 does not exempt vehicles used in private or enclosed premises where public access exists, and therefore Exhibit P4 directing the petitioner not to operate the forklifts and crane until they are duly registered and insured is lawful and issued in the interest of public safety. The learned Special Government Pleader relies on the decisions in *State of Kerala v. Aravind Ramakant Modawdakar and Others* [(1999) 7 SCC 400], *The Travancore Rubber & Tea Company Limited v. The State of Kerala and Others* [WPC No. 21489/2011], and *Jindal Stainless Limited and Another v. State of Haryana and Others* [(2017) 12 SCC 1].

6. Heard the learned counsel for the petitioner, Sri. V Krishna Menon and Sri.Mohammed Rafiq, the learned Special Government Pleader (Taxes) for respondents 1 and 2.

7. The specific question in this case for consideration is whether the crane and forklifts purchased by the petitioner only for the sole use inside the premises of the factory, is a motor vehicle as defined under Section 2(28) of the Motor Vehicles Act, which would require registration as mandated under Section 39 of the Motor Vehicles Act and taxable under Section 3 of the Kerala Motor Vehicle Taxation Act.

8. To answer this, it is imperative to refer to the statutory definition of 'motor vehicle' under Section 2 (28) of the Motor Vehicles Act, 1988, which reads as follows:

"Section 2(28): "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted 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 exceeding1[twenty-five cubic centimetres];"

9. On a bare reading of Section 2(28), it is evident that the definition of "motor vehicle" is cast in widely inclusive terms, covering any mechanically propelled vehicle adapted for use upon roads, and the only exclusions are vehicles running on fixed rails and those of a special type adapted only for use within a factory or other enclosed premises. The statutory focus, therefore, is on the adaptability or suitability of the machine for road use, and not on its actual or intended use. Where a machine is structurally capable of road movement—equipped with rubber tyres, functional steering and braking systems, lighting, and mobility features— it is a motor vehicle within the meaning of Section 2(28), even if it is predominantly operated within private premises. Conversely, only equipment which, by its very design, is confined exclusively to enclosed premises and is not capable of independent movement on public roads falls within the narrow statutory exclusion. In short, the determinative test is road-adaptability, and

machinery such as forklifts, mobile cranes, dumpers, or similar equipment, if structurally capable of being driven on roads even incidentally or occasionally, squarely falls within the definition of "motor vehicle" under the Act.

10. The legal principles consistently affirmed by the Apex Court and various High Courts further reinforce this position: roadworthiness and adaptability, and not the actual use on roads, is the determinative test for whether a machine falls within the definition of a motor vehicle; exclusive use inside factory premises, port areas or enclosed compounds does not take such machinery outside the definition if it is capable of being used on public roads; the words "adapted" and "only" in the exclusion clause to Section 2(28) are decisive, with the exclusion applying only to machines exclusively designed for use within enclosed premises, rendering actual exclusive use irrelevant; and any machinery reasonably suitable for use on public roads remains a motor vehicle notwithstanding the claim that it is intended or designed for off-road or factory use. (See the judgments in *Bose Abraham v. State of Kerala and Another* [(2001) 3 SCC 157], *Ishardas Co. others v. State of Maharashtra others* [1986 AIR (Bom) 348]; *Poomani v. Tuticorin Thermal Power Project* [AIR 1990 Mad 372], *Chakkiat Agencies Pvt. Ltd. v. State of Kerala and others* [AIR 2001 Ker 363], *M/s Birla Cement Works & Anr v. State of Rajasthan & Ors* [2003 KHC 4145]; *Italian-Thai Development Public Company Ltd. v. State of HP and Ors* [MANU/HP/1488/2016]).

11. Having examined the scope of the definition under Section 2(28), it becomes necessary to next consider the amendment introduced in the Central Motor Vehicles Rules, 1989, in 2020, whereby Rule 2(cab) [earlier numbered as Rule 2(ca)] was substituted. The said amendment defines "construction equipment vehicle" in the following terms:

"construction equipment vehicle" means a self-propelled machine with rubber tyred (including pneumatic tyred), rubber padded or rubber or steel drum wheel mounted compactor, wheeled hydraulic excavator, wheel loader, backhoe loader, skid-steer loader, dumper, motor grader, mobile crane, dozer and pavers with rubber track or rubber pads or wheeled pavers, fork lift truck, self-loading concrete mixer or self propelled boom pumps, self-propelled or concrete pumps or any other construction equipment vehicle or combination thereof primarily designed to perform earth moving, excavation, loading, transportation, drilling, spreading, compacting or trenching of earth, rock, other materials, off-highway operations in mining, industrial undertaking, irrigation and general construction but modified and manufactured with "on or off" or "on and off" highway capabilities.

Explanation for the purpose of this clause: a construction equipment vehicle or earth moving vehicle shall be a non-transport vehicle the driving on the road of which is incidental to the main off-highway function and for a short duration at a speed not exceeding fifty kilometers per hour, but such vehicle does not include other purely off-highway construction equipment vehicle designed and adopted for use in any enclosed premises, factory or mine other than road network, not

equipped to travel on public roads on their own power for example slip form pavers, concrete pavers, cold milling machines, cold recycler machines and any construction equipment vehicle or earth moving vehicle with crawlers or metal track, for example, tracked excavator or excavator with legs are not considered to be falling under the scope of Central Motor Vehicles Rules, as they are not permitted to run on public roads.”

12. The definition recognises Construction Equipment Vehicles (hereinafter referred to as 'CEV') as a distinct class of self-propelled machinery used for construction, industrial, and on/off-highway operations, broadly covering earth-moving equipment, material-handling machines, road-construction and compaction machinery, concrete-handling equipment, and hauling/dumping vehicles.

13. The Explanation to Rule 2(cab) further clarifies that CEVs may move on public roads only incidentally to their principal off-highway function, for short durations and at speeds not exceeding 50 km/h, and such machinery is treated as non-transport vehicles. At the same time, the Explanation excludes purely off-highway equipment—those designed exclusively for enclosed premises and lacking the capability to travel independently on public roads—such as slip-form pavers, cold milling machines, and cold recyclers.

14. This delineation ensures that only machines inherently incapable of road movement fall outside the scope of the Central Motor Vehicles Rules, while all road-capable CEVs, irrespective of the frequency of such road use, remain within the regulatory framework.

15. Therefore, a cumulative reading of Rule 2(cab) and its Explanation makes it clear that the determination of whether a machine is a CEV is guided by (i) its dominant functional purpose, namely mechanical work such as excavation, lifting, loading, compaction or construction; (ii) its design characteristics, including being self-propelled and mounted on rubber tyres, pads or drum wheels with on/off-highway capability; (iii) the regulatory classification of such machinery as non-transport vehicles; (iv) the limited and incidental manner in which they may traverse public roads; and (v) the exclusion of machinery designed solely for enclosed premises and not capable of independent on-road movement.

16. A combined reading of Section 2(28) of the Motor Vehicles Act and Rule 2(cab) thus establishes that any construction equipment vehicle capable of movement on public roads—however occasional or incidental—satisfies the road-adaptability test under Section 2(28) and is a motor vehicle requiring registration under Section 39, while only purely off-highway machines exclusively adapted for enclosed premises stand outside the statutory framework.

17. It has been consistently held by various High Courts, reinforcing this statutory scheme, that the classification of a machine as a “non-transport vehicle” does not take it out of the definition of a motor vehicle under the Motor

Vehicles Act. Courts have further clarified that construction equipment vehicles, though primarily intended for off-highway operations, remain motor vehicles, ie, non-transport vehicles, where they possess on/off-highway capability. (see: *Ujjal Transport Agency and Anr v.. State of Assam and Ors* [2009 (2) GauLD 234] (Gauhati High Court), *Sri Hemachandra V. v. Smt. Hajira & Ors.* [2020 Supreme (Kar) 100] (Karnataka High Court)).

18. In this context, it is also necessary to address the petitioner's contention that the interpretation must rest exclusively on Section 2(28) of the Motor Vehicles Act, and that Rule 2(cab) of the Central Motor Vehicles Rules cannot be relied upon. This argument cannot be sustained in view of the settled principle that parent legislation and subordinate legislation must be read together and harmonised wherever possible. The Supreme Court in *Sunil Sikri v. Guru Harkrishan Public School and another* [(2022) 16 SCC 85], affirm the principle that while subordinate legislation cannot override or control the parent enactment, it must nonetheless be given full effect unless there is an irreconcilable conflict, and that properly appreciated and implemented the provisions of the parent Act and the subordinate legislation can be harmonized. Applying this principle, Section 2(28) and Rule 2(cab) operate in complementary fields and must be construed cumulatively to determine whether the machinery falls within the Motor Vehicles Act.

19. The next question to be considered is the issue of taxation under Section 3 of the Kerala Motor Vehicles Taxation Act. The petitioner argued that vehicles used exclusively within factory premises are not liable to tax under Section 3. Reliance was placed on *Bolani Ores* (supra), *Travancore Tea Estates* (supra), and *Tarachand Logistics* (supra) to contend that tax is attracted only when a vehicle is used or kept for use in a public place. In *Bolani Ores* (supra), the Court proceeded on the premise that only vehicles intended or kept for public use on public roads were taxable, and machinery used solely within the owner's premises stood exempt as stated in the Motor Vehicles Act, 1939. This decision relied on the principle that the taxation Act is a regulatory measure imposing compensatory taxes and the validity of the taxing power under Entry 57 List II of the Seventh Schedule read with Article 301 of the Constitution depends upon the regulatory and compensatory nature of the taxes and that it is not the purpose of the taxation Act to levy taxes on vehicles which do not use the roads.

20. Further in *Travancore Tea Estates* (supra), the Apex Court followed the same principle and held that the exemption applies only to machines of a special type adapted only for enclosed premises and not to vehicles otherwise suitable or capable of public-road use as stated in the Motor Vehicles Act, 1956. In *Tarachand* (supra), dealing with the Andhra Pradesh Motor Vehicles Taxation Act, it was held that liability arises only when the vehicle is used or kept for use in a public place. It must be noted that under Section 3 of the Andhra Pradesh Motor Vehicles Taxation Act, 1963, tax is leviable only on vehicles "used or kept for use in a public place," whereas Section 3 of the Kerala Motor Vehicles Taxation Act

adopts a markedly wider formulation by taxing every motor vehicle “used or kept for use in the State,” irrespective of whether such use occurs on public roads or within private premises. This clear textual distinction makes the Kerala Act more expansive, rendering tax liability independent of the “public place” requirement contained in the Andhra Pradesh Act.

21. This cumulative reliance cannot be accepted because all three decisions rest on the compensatory-tax doctrine, under which motor-vehicle tax was viewed as permissible only when linked to public-road use. The Constitution Bench in *Jindal Stainless* (supra) has categorically rejected the compensatory-tax theory, and the earlier decisions built upon it stand overruled to that extent. With that foundational principle removed, the petitioner’s argument cannot stand. When Section 2(28) of the Motor Vehicles Act is read with Rule 2(cab) of the Central Motor Vehicles Rules, every construction-equipment vehicle capable of movement on public roads clearly falls within the definition of “motor vehicle,” making it taxable under Section 3, irrespective of whether it is actually used, or claimed to be used, only within factory premises.

22. Viewed on the background of the above principles of law, in the instant case, the specifications of the machines, as submitted by the respondent, reveal that the forklift is equipped with a 48 HP (gross) engine operating at 2200 RPM, a 4-stroke, 4-cylinder, water-cooled diesel engine. It comprises accessories and standard equipment, of an automatic torque converter transmission, a clear-view mast with MFH 3300/3660 mm, and an all-welded high-visibility overhead guard. The vehicle is further provided with a foot-operated hydraulic service brake, hand-operated parking brake, high water/coolant temperature indicator, and low engine oil pressure indicator. The Hydraulic Pick n Carry crane of 11.4T capacity with water-cooled diesel engine rated power for crane 49 BHP @2200 RPM has a travel speed of approximately 25 kmph, restricted in accordance with safety norms when operated without a load. Accordingly, the forklifts and crane owned by the petitioner are to be held as construction-equipment vehicles capable of movement on public roads and do not fall within the exclusion under Section 2(28). They therefore require mandatory registration under Section 39 of the Motor Vehicles Act, and once they fall within the definition of “motor vehicle,” liability under Section 3 of the Kerala Motor Vehicles Taxation Act necessarily follows, irrespective of alleged exclusive use within factory premises.

Given the above findings, no relief can be granted to the petitioner, and the writ petition will stand dismissed.