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No.C2.257/TC/79

Office of the Transport Commissioner,  
Trivandrum, Dt: -2-79.

CIRCULAR NO.5/79

Sub: Motor vehicles confiscated vehicle under Abkari Act or the customs Act sold in auction transfer of ownership liability to pay the Hire Purchase agreement-instructions-reg

Ref: 1.Circular No.12/77 of the T.C.dt.23.11.77  
2.Letter No.C8.28919/78.C.dt.2.1.74.

In the letter 2nd cited, the Regional Transport officer, Cannanore has stated that autorickshaw KLN.21 which was confiscated to Government under the Abkari act, was sold in public auction by the Excise Commissioner, Cannanore as per ~~Tellicherry~~ section 67 H of the Abkari Act (1 of 1077), to Sri.O.K.Ravindran Tellicherry and that the transfer of ownership of the vehicle in the name of the purchaser is pending, since the vehicle is under Hire Purchase agreement with the State Bank of India and that the State Bank of India, Tellicherry has filed objection against the transfer of the vehicle. So he has requested to clarify whether the transfer of ownership in the name of the auction purchaser could be endorsed.

In this connection, the attention of all concerned is invited to this office circular No.22/77. Property confiscated under any law will vest in Government free from all encumbrances and when such property is sold by Government in public auction, the auction purchaser will also get the property free from all encumbrances.

In the present case, there is no conflict of laws as imagined by the R.T.C. Cannanore. The Hire purchase agreement will prevail only where there are not circumstances leading to the confiscation of a vehicle. The H.P. agreement is subject to the use of the vehicle for legal purposes. In cases, like the present one where the vehicle had been used for illegal purpose, the Abkari Act or customs act which have provisions for confiscation will prevail. Since the vehicle has been confiscated, the State Bank has to resort to other legal methods open to them to recover the dues from the persons to whom they made the hire purchase advances. As such the ownership of the vehicle which are under Hire Purchase agreement with Banks-Financiers, confiscated under Abkari act or customs act or any other enactment by Government and which are sold in public auction, can be transferred to the name of the auction purchaser, free from all encumbrances. We have only a duty to inform the Banks and financial institutions who have entered into the H.P. agreement concerned and give them a hearing. We have no further responsibility. But the fact of confiscation and auction shall be recorded in the relevant registers and records maintained in the office and certificate of registration of the vehicle

Sd. For Transport Commissioner.

Dtd. on G.4587/79.T.

Copy communicated to Registration sections.

*B. S. Huss*  
24/12  
For Regional Transport officer,  
Trivandrum.