

CIRCULAR NO. 12/77.

Sub:- M.Vs. Confiscated vehicles sold in auction--
transfer of ownership--Liability to pay tax
and issue of duplicate RC- instructions- reg-

Ref:- 1. Lr. No. G/714/77/SZ dt. 23-2-77 of D.T.C., Tvm.
2. Govt. lr. No.22402/TC2/77/PW dt. 28-10-77.

A question has arisen as to the liability for the payment of arrears of vehicle tax and also transfer of ownership in respect of vehicle sold in public auction by Govt. consequent on confiscation of such vehicles under Abkari Act, Forest Act, etc. and vehicles sold in public auction under the R.R. Act. Government have been addressed for clarification on the following points.

1. Whether the auction purchaser is liable to pay the arrears of tax if any accrued on the vehicle while it was in the possession of the previous owner:
2. Whether tax can be exempted for the period during which the vehicle was in the custody of auction authorities.
3. The procedure to be followed for the issue of a duplication RC to the auction purchaser when the original RC is not made available either by the previous owner or by the department concerned; and
4. Whether the transfer of ownership has to be effected first in the name of the department auctioning the vehicle.

Government in their letter 2nd cited have clarified the points raised above.

On point (1)

According to Section 67-H of the Abkari Act (1 of 1977) when an order for confiscation of any property has been passed under section 67-H or 67-E and such order has become final in respect of the whole or any portion of such property or portion thereof as the case may be, shall vest in Govt. free from encumbrances. Section 61-F of the Kerala Forest Act 1961 provides that "When an order for confiscation of any property has been passed under section 61-A section 61-C and such order has become final in respect of the whole or any portion of such property, such property or portion thereof, as the case may be, shall vest in Govt. free from all encumbrances. Therefore in cases where it is provided by law that property shall vest in Govt. free from all encumbrances and when such property is sold by Govt. in public auction, the auction purchaser will also get the property free from all encumbrances. Hence the auction purchaser of a motor vehicle in such cases will not be liable for the payment of arrears of tax accrued in the hands of the previous owner."

contd.p.2

(1 point (2))

Government have informed that the vehicles owned by commercial or quasi-commercial departments of Government are not exempted from payment of tax under item No. 1 of the Notification No. 33942/TCe/75-7/PW dt. 29-9-75, and hence, ~~strictly~~ commercial or quasi-commercial department of Government cannot claim exemption from payment of tax.

On point (3)

In such case, a duplicate certificate of registration may be issued by the Registering Authority concerned to the auction purchaser on his application and on receipt of an intimation from the department concerned regarding the non-availability of RC with them. Before the issue of such duplicate RC an opportunity must be given to the previous owner to surrender the original RC by sending a notice by RPAD specifying the time limit of 7 days. The original RC should be surrendered on the issue of the duplicate RC.

On point (4)

If the vehicle confiscated or seized is to be appropriated for the purchase of the department the ownership has to be transferred to the name of the Dept. as per the Rules. But if it is sold in public auction, it will be sufficient that the ownership is transferred to the name of the auction purchaser noting the fact of confiscation and the period during which the vehicle was in the possession of the department in the RC of the vehicle.

Joint
Sd/-/Transport Commissioner.

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JTC, ATC, CA to TC, Secy. STA, Asst. Secy.
STA, SAO, S.O. All Sr. Supts. Js, SF. of
C3 section.

Sd/- For Joint Transport Commissioner.

//true copy//

Sd/- Regional Transport Officer,
Alleppey.

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