

C1/13903/TC/2012

Transport Commissionerate, Keralam  
Trans Towers, Thiruvananthapuram  
Dated: 18-05-2015

From

The Transport Commissioner

To

All Deputy Transport Commissioners  
All Regional Transport Officers  
All Joint Regional Transport Officers

Sir,

Sub: Motor Vehicles Department-Amendment in Rule 174(3) of the  
Kerala Motor Vehicles Rules, 1989-Reg

Ref: 1. Judgment of the Hon'ble High Court of Kerala dated 13-03-2015  
in W.P.(C). No. 5728/2015-M and connected cases  
2. G.O.(P) No.93/2014/Tran dated 29-12-2014

Attention is invited to the above references. Vide Government notification 2<sup>nd</sup> referred, the following sentence was inserted in the note to sub-rule (3) of Rule 174 of the Kerala Motor Vehicles Rules, 1989, namely:

"No replacement shall be allowed to a vehicle with material difference for a second time even if the material difference is less than 25 percent and such an application shall be treated as if it is for a fresh permit" But now, Vide reference 1<sup>st</sup> cited, High Court has set aside the said Government notification by citing that the amendment is totally incongruous with the intendment. The Hon'ble High Court has pointed out that as per the notification vide reference 2<sup>nd</sup> cited, there could be no replacement sought even if the difference is less than 25% and if the replacement is made by a vehicle having a higher seating capacity since the expansion of the Note indicate that it shall not be allowed at the second or any successive instance. The Hon'ble Court has also pointed out that the "material difference" shall always be related to the original vehicle. Hence you are directed to consider the pending applications with respect to Rule 174(3) of the Kerala Motor Vehicles Rules, 1989, in the light of the judgement of Hon'ble High Court of Kerala.


Yours faithfully

Sd/-

Senior Deputy Transport Commissioner  
(Taxation)

For Transport Commissioner

Approved for issue

  
Senior Superintendent

19/05/15