

Copy of the Lr.No.B1-37686/TC/88 dated 6.4.89 from the Transport Commissioner, Thiruvananthapuram addressed to the Regional Transport Officer, Trivandrum.

Sub:- M.Vs. G/V KET 6483 - arrears of tax theft intimation - reg. -

Ref:- C3/KET 6483/T/88 of that end dated 9.11.1988.

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With reference to the above, clarification is delivered as follows:-

The question for consideration is whether a motor vehicle which has been stolen and in regard to which a case is registered by Police and investigation pending can be absolved from liability to pay tax.

Under Sub Section (1) of Section 3 of the KMT Act 1976, a tax is leviable on every motor vehicle used or kept for use in the State at the rate specified for such vehicle in the Schedule. Sub Section (3) of Section 3 provides that the registered owner of, or any person having possession or control of a motor vehicle, shall be deemed to use or keep such vehicle for use in the state except during any period for which tax is payable on such vehicle under Sub section (1) of Section 5. The effect of section 3 is that a tax is leviable on every motor vehicle used or kept for use in the state and the registered owner or person having possession or control of the vehicle is deemed to use or keep such vehicle for use same during the period for which exemption is provided under section 5(1). Undisputably section 5(1) is not attracted in this case. In this connection attention is invited to section 22 also which empowers the Government, if they are satisfied that it is in the public interest so, to do, to exempt by notification in the gazette either prospectively or re-trospectively, the tax payable under this Act by any person or class of persons or in respect of any motor vehicle or class of motor vehicles using a specified route, subject to such terms and conditions as they may deem fit. In exercise of the said power Government have exempted several classes of motor vehicles from the liability to pay tax. But vehicle stolen and in regard to the theft a case has been registered by the police and investigation is being made are not to be exempted from payment of tax by Government under section 22 of the KMT Act. In the above circumstances the registered owner of the vehicle is legally liable to pay the tax in respect of the vehicle, unless it is proved by him that the vehicle has been removed out of the State.

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There is no provision in the KMT Act empowering the Transport Commissioner to absolve any vehicle from the liability to pay Tax. Only Government have the power to exempt the vehicle in question or such class of vehicles under section 22 if public interest justifies such action.

Yours faithfully,
(sd.)
for Transport Commissioner.

--/True Copy/--

for Transport Commissioner.

R.Tm/6.8

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