

C1/4221/TC/2010

Transport Commissionerate, Kerala
Trans Towers, Thiruvananthapuram
Dated: 07-07-2010

From

The Transport Commissioner
Thiruvananthapuram

To

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

Sir,

Sub: Motor Vehicles Department-Request to direct the officers of the Motor Vehicles Department to desist from checking and compelling the permit holders from compounding of offence under section 194 of Motor Vehicles Act-Direction issued-reg

Ref: 1. Representation from M/S Cochin Container Carrier Owners Welfare Association
2. Judgment of Hon'ble High Court in W.P.(C) No.11561/10(U)

Your attention is invited to the above references. Vide reference 1st cited, M/S Cochin Container Carrier Owners Welfare Association submitted a petition requesting to direct the officers of the Motor Vehicles Department to desist from stopping, checking and strictly levying fines on container carriers and also to restrain them from compelling the permit holders for compounding the offence under section 194 of the Motor Vehicles Act.

As per Section 194(1) of Motor Vehicles Act whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 113 or section 114 or section 115 shall be punishable with minimum fine of two thousand rupees and an additional amount of one thousand rupees per tonne of excess load, together with the liability to pay charges for off-loading of the excess load. As per Section 194(2) of the said Act any driver of a vehicle who refuses to stop and submit his vehicle to weighing after being directed to do so by an officer authorized in this behalf under section 114 or removes or causes the removal of the load or part of it prior to weighing shall be punishable with fine which may extend to three thousand rupees. It may be noted that Section 194 is one of the penal provisions in Chapter-XIII of the Act. The penal provision is cognizable by a competent authority and the competent authority is the court. Even though offences including Section 194 can be compounded as per Section 200, willingness of the accused is necessary for compounding the offence. If it is not compounded under Section 200, the penal provision under section 194 can be exercised only by a competent judicial officer in accordance with the procedures laid down in the Code of Criminal Procedure. But loading the vehicle beyond permissible weight is also against the law and violation of permit conditions. As road safety is a matter of much importance, it is the responsibility of the truck owners to ensure that there is no overloading. It is the duty of this department to ensure that such violations like overloading are not taking place. All the officers are instructed to refrain from forceful compounding while enforcing the provisions of law

Yours faithfully

Sd/-

Transport Commissioner

Approved for issue

Senior DTC (Taxation)

07/7/10