

No. B1-3690/TC/96

Office of the Transport Commissioner,  
Thiruvananthapuram, Date: 11.4.1997.

From

The Transport Commissioner,  
Thiruvananthapuram.

To

All Deputy Transport Commissioners,  
Regional Transport Officers and  
Joint Regional Transport Officers of  
Sub K.T. Offices.

Sir/Madam,

Sub:- Kerala Finance Bill 1997 - Amendment to K.M.V.T. Act -  
Clarification issued.

Ref:- This office letter of even No. dated 26.3.97.

In view of the doubts raised by certain Regional Transport Officers/Joint Regional Transport Officers the following clarification is issued on the payment of arrear tax and levy of additional tax in respect of Motor Cycles and three wheelers (N.T.Vs.) for which payment of 'one time tax' made mandatory with effect from 1.1.97.

The doubt is that whether bi-yearly tax can be accepted after 31.3.1997 in respect of Motor Cycles and three wheelers for which payment of tax defaulted prior to 1.4.1997 (ie. tax licence expired on 31.12.96, 30.9.96, 30.6.96 and earlier periods, if any)

The liability to pay tax in advance in lump sum arose prior to 1.4.97 by virtue of the 4th Proviso to Section 4 of the K.M.V.T. Act 1976. As such the matter is governed by the provisions existed prior to 1.4.1997. The Finance Bill, 1997 does not contain any provisions to this effect that any liability to pay tax which arose prior to 1-4-97 would in any way be affected by the provisions of the Finance Bill contemplated. There is also no express provision in the Bill that the liability under the 4th proviso would be deemed to have been discharged.

The Finance Bill, 1997 is to have effect only from 1.4.1997 and as such the provisions therein would apply only to dues arising on or after that date. In cases covered by the 4th proviso, the rate of 'one time tax' contemplated would apply only after the advance period of two years referred to in the 4th proviso.

In view of the reasons stated the liability still exists and the advance tax will have to be paid under the then existing provisions within the time specified in the Act for the purpose. If it is not paid with the time prescribed other consequences contemplated under the provisions prior to 1.4.97 would follow.

To be more precise the remittance of tax should be made for "2 year period" as provided in the earlier proviso in respect of the defaulted periods prior to 1.4.1997 with usual additional tax and surcharge.

2) Rate of tax applicable to inter-state and Intra-state Contract Carriages

Though separate tax rate has been specified for intra-state and inter-state contract carriages in the present schedule also tax shall be levied only at the rate specified in clause (d) or (e) of item 7 of the schedule for both intra- and inter-state contract carriages in the light of the judgement in W.A.No.1180/95 dated 11.12.95 of the Hon'ble High Court of Kerala. In the said judgement the Hon'ble High Court held that the two tire tax measure levying higher tax on contract carriages operating inter-state service offends Article 14 of the Constitution and declared that the higher tax imposed on contract carriages operating inter-state service is unconstitutional.

3) Tax rate rounding off:

It has been brought to the notice of this office that certain taxation officers insist payment of tax more than that specified in the schedule by founding off to the next multiples of rupees hundred. It is clarified that the question of rounding off arises only when proportionate tax become payable for last one month or two months as provided in the 4th Proviso to the schedule.

4) Printing mistakes in the schedule:

- i) In the schedule in clause (g) of item 3 the figures 5000 Kg. shall be corrected as 5500 Kg.
- ii) In clause (e) of item 4, the figures 720.30 shall be corrected as Rs.720.00
- iii) In item No.9 of the schedule in the marginal heading the words "Sub clause (a)" shall be corrected as "clause 8".
- iv) After item 11 the marginal heading "Motor Vehicles other than those liable to tax under the forgoing provisions of this schedule" may be numbered as 12.

Yours faithfully,  
Sd/-

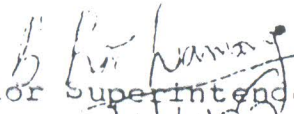
V.C.AYYAPPAN

Sr.Dy.Transport Commissioner (Tax)  
For Transport Commissioner.

Copy to: All Motor Vehicle Inspectors of Check Posts.

CA to JTC, Secy.STA, Sr.DTC(T) AO, FO, LO, Asst.Secy.STA,  
Accounts Officer, HA for information.

Approved for issue

  
Senior Superintendent.