

Copy of letter No.19488/N2/91/P.W.&T dt.19.10.92 from the Commr. & Secretary to Govt. Public Works & Transport (N) Dept., Trivandrum addressed to the Transport Commissioner, Trivandrum.

Sir,

Sub: M.Vs. Question of tax exemption - submission of form 'G' for one year - reg-
Ref: Your letter No.B3-3491/TC/91 dt.20-5-91.

I am to invite your attention to the letter cited and to inform you as follows:-

Exemption from tax for non-user of vehicles is provided in section 5(1) of K.M.V. Act. In 1982 KLT 166(FB) the High Court of Kerala, while interpreting section 5(1) of the Act read with rule 10 of the Kerala Motor vehicles Taxation Rules, 1975 has held that an operator of a vehicle would be entitled to claim exemption from tax in respect of any month or two months or quarter or year if he makes an application in that behalf in accordance with the provisions of the Act and Rules. Exemption provided in section 5(1) of the Act would be available only if previous intimation regarding non-use of the vehicle is given in writing to the Regional Transport officer in the manner and within the time prescribed in rule 10. Under rule 10 it will be sufficient if intimation is given within a period of one week from the commencement of the quarter in respect of which exemption is claimed (vide 1982 KLT 166). The outer limit for submission of such intimation is one week after the commencement of the period for which exemption is claimed. It means that an owner who does not apply for tax exemption and give the required intimation to the Regional Transport Officer concerned in form 'G' or in writing so as to reach him within one week from the date of commencement of the period for which exemption is claimed will not be entitled for the exemption for the entire period in respect of which it is claimed. To put it differently, in the case of belated application only the remaining portion of the year or quarter for which exemption is claimed can be reckoned for tax exemption. Therefore, apparently no difficulty is likely to arise in such cases if 'year' is interpreted as defined in such section (1A) of Section 4 of the Kerala Motor vehicles Taxation Act.

Sub section (2) of section 5 of the Act and rule 10(2) of the Rules provide for a verification of the claims of non-use of the vehicle before granting exemption by the Regional Transport Officer. ~~xxxxxx~~ If it is found on such verification that the vehicle has been used during such period or any portion thereof the applicant will not be entitled for the exemption claimed. If the time limit prescribed in rule 10 is not strictly maintained, it may not be possible to conduct any fruitful and effective verification. The provisions of sections 4(1A), 5(1) and (2) and rule 10 are very clear and they are sufficient enough to meet all possible contingencies.

I am to request you to consider these aspect again and take a decision.

Yours faithfully,
Sd/-L.Vijayalekshmi,

Under Secretary,

Endt. on B3-3491/TC/91

For Commr. & Secretary to Government.

Copy communicated to all Dy. Transport Commissioners, Regional Transport Officers & Joint R.T.Os of Sub Offices for information.

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For Transport Commissioner.

3/6/93