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No. A3-40392/TC, 88. Office of the Transport Commissioner,
Trivandrum, dt. 20.12.89.

CIRCULAR NO. 31/89.

Sub:- M.Vs.--O.P. No. 6826/88--observations--realisation
of tax arrears--Disposal of disputes regarding
ownership, revenue recovery proceedings and &
other connected issues--Speedy action--Instructions
issued--

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In the Judgement in O.P. No. 6826/88 the Honourable High Court of Kerala has made critical observations on the accumulation of tax arrears, the delay as well as the inefficiency of the tax recovery process, the style of functioning of Taxation Officers, the process of adjudication of disputes in relation to liability to pay tax and the final disposal of such cases. The Hon'ble High Court has also commented about the unsatisfactory way of departmental disposal of the cases of this type. The High Court has further expressed its deep concern over the inadequacy of checks and controls by the superior officers. In the above circumstances the following directions are issued to all the Dy. Transport Commissioners, Regional Transport Officers and Joint Regional Transport Officers for strict compliance.

NON USE INTIMATION

On receipt of the non-use intimations under Section 5 (1) of the K.M.V.T. Act, 1976 read with Rule 10 of the KMT Rules 1975, the same shall be forwarded immediately to the Circle Officers for enquiry and report. The Regional Transport Officer/Jt. Regional Transport Officer shall personally ensure that the non-use intimations are sent to the Circle Officers not later than 10 days of the beginning of every quarter. The Circle Officers shall, in turn, make enquiries and submit a report in respect of all ineligible cases by the first week of the second month itself in every quarter, so that steps for recovery of arrears can be initiated early in such cases.

The Circle Officers should have a clear idea of the whereabouts of all the vehicles in his jurisdiction. The Circle Officer, with the help of the circle clerk shall prepare the list of all the vehicles which are in arrears of tax for which he is in charge, immediately after the expiry of the grace period in respect of every category of vehicle. Use of the vehicles for which non-use intimations have been given shall be kept under close watch. Reports on non-use of the vehicles shall be submitted in the first week of succeeding quarter, positively. If the vehicles, for which non-use intimations are received, are on verification not found in the place mentioned in the Form G or are found to be in use, the Circle Officer shall take all possible measures to seize those vehicles under Section 11 of the K.M.V.T. Act. Simultaneously

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a report shall also be sent to the RTOs/Jt. RTOs, office for sending of Demand Notice and take steps for Revenue Recovery proceedings.

PREPARATION OF ARREAR LIST

The grace period in respect of the contract carriages Autorickshaws, Taxis and Tourist Taxis, expires by the 14th of the first month of the quarter. The grace period in respect of goods vehicles expires by the end of the first month of the quarter. Remittances of tax shall be entered then and there in the D.C.B. The list of vehicles for which tax fell in arrears shall be prepared by the first week of the second month of every quarter. The list so prepared shall be given to the Circle Officer for follow up action.

The grace period in respect of stage carriages expires by the 45th day of the beginning of the quarter. The list of those vehicles shall be prepared by the 3rd week of the second month. The Circle Officer shall take follow up action for the submission of enquiry reports as per these lists.

ISSUE OF DEMAND NOTICES

Demand Notices shall be sent in respect of all the vehicles which are used or kept for use in the state except stage carriages for which tax is in arrears not later than the last week of the second month of the quarter. Demand Notice in respect of all stage carriages attracting section 3 of the MVT Act shall be sent not later than by the 1st week of the 3rd month of the quarter.

CASES OF DISPUTES

There may be cases of disputes regarding the ownership or possession of the vehicles. Normally the tax liability rests with the owner in whose name the vehicle stands registered. The liability of the owner for payment of tax will not stand absolved by his intimation that he has sold the vehicle to somebody. If the possession of the vehicle has been admittedly to be changed by the buyer, steps may be taken for the realisation of arrears from the said possessor.

In cases of disputes Notice for hearing shall be given to the interested parties by the adjudicating authority fixing a specific date and time. All the parties in the dispute shall be heard simultaneously so that the contentions of one party can be countered or clarified by the others. All disputes in relation to the liability to pay tax shall be disposed of without delay by a formal order, setting forth therein the nature of the contentions, the materials relevant in the consideration of those contentions, conclusions of the authority and the reason which weighed with the authority in coming to that

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also take up long pending cases with the District Collectors and request the District Collectors to dispose of such cases on early. The Zonal D.T.Cs, shall ensure that the accounts maintained by-eeek with reference to tax endorsement register DCB and Taxation files by each circle clerk and the Circle Officers are correct. The DTCs, while visiting the RT Offices and Sub RT Offices shall inspect the Registers and Files relating to cases which are pending for long and in which huge amounts are pending recovery. The D.T.Cs. shall send a detailed review of the progress achieved by the RTOs. of his Zone to the Transport Commissioner. They shall also report cases for which no action has been pursued for a period of more than 6 months and deal with the persons responsible for such lapses.

SUPERVISION BY THE INTERNAL INSPECTION WING OF T.C'S OFFICE

Periodical biennial inspections are being conducted in all the offices by the Internal Inspection wing of the T.C's Office. They shall closely look into the pending arrears under service verification revenue recovery steps and those under stay particularly those involving large amounts. Abnormal delays if any attending to the taxation files shall be brought out during the inspections conducted. The persons responsible for such delays shall also be reported.

All the RTOs. have been directed to keep ready the details of arrear position including TPG arrears as on 1.1.89 year-wise and vehicle wise showing the amount due, period to which the arrears tax relates & and the present stage of action & for recovery by the end of November 1989. The RTOs were also directed to send the details of the earliest 100 cases in the same proforma mentioned above to the Transport Commissioner so as to reach him before the end of November 1989. The Secretary, STA will be in charge of intensive supervision of the Districts of Quilon, Pathanamthitta, Trichur, Malappuram and Wynad. Sr. DTC (Taxation) will be in charge of the Districts of Alleppey, Kottayam, Palghat, Idukky, Cannanore and Kasargode. The Jt. Transport Commissioner will be in charge of Districts of Trivandrum, Ernakulam and Calicut. Receipt of the Circular should be acknowledged.

[Signature]
21/12/89.
For Transport Commissioner.

To

All Deputy Transport Commissioners.

All Regional Transport Officers.

All Joint Regional Transport Officers of Sub Regional Transport Offices.