

स्पीड पोस्ट

आर के खरे
IA&AS



सत्यमेव जयते

D.P. Cell
अर्ध.शा.पत्र सं. (Revenue Sector) - 93
D. O. No.

उप महालेखाकार (राज्य राजस्व प्राप्ति)
कार्यालय, प्रधान महालेखाकार (लेखापरीक्षा), बिहार
वीरचन्द्र पटेल मार्ग, पटना-800 001

Deputy Accountant General (State Receipt Audit)
Office of the Principal Accountant General (Audit),
Bihar

Birchand Patel Marg, Patna-800 001

दिनांक/Date : 18-04-2017

S.T.C.
Sweety

S.O-3

आदरणीय सुजाता मैत्रीका,

मैं, निरीक्षण प्रतिवेदन संख्या रेवेन्यू सेक्टर (मु0) 262/2016-17 के कंडिका संख्या 1, 3, 4, 6, 7, 11 में उठाई गई आपत्तियों पर आधारित तथ्यों की विवरणी संलग्न कर रहा हूँ। इस कंडिका को भारत के नियंत्रक-महालेखापरीक्षक का 31 मार्च 2017 को समाप्त होने वाले वर्ष के प्रतिवेदन(राजस्व प्राप्तियाँ), बिहार सरकार में सम्मिलित किया जाना प्रस्तावित है।

अतः आपसे अनुरोध है कि अपना मंतव्य छः सप्ताह के अंदर इस कार्यालय को अवश्य भेजें। उत्तर प्राप्त न होने की स्थिति में यह समझा जाएगा कि आपको कंडिका में उठाई गई आपत्ति स्वीकार है।

कृपया पत्र प्राप्ति की सूचना दें।

सादर

भवदीय,

राजेश्वर

12/4/17

अनुलग्नक: तथ्यों की विवरणी।

श्रीमती सुजाता चतुर्वेदी, भा0प्र0से0
प्रधान सचिव, परिवहन विभाग,
बिहार सरकार
विश्वेश्वरैया भवन, पटना।
पिन - 800015

प्रकाश सचिव, परिवहन विभाग
कमरी सं. 1338, दिनांक: 21.04.17

6

Statement of Fact

Non realisation of One Time Tax from Tractors (commercial): ₹ 46.48 lakh

Under Section 7 (8) of Bihar Motor vehicles Taxation Act, 1994 as amended by Finance Act, 2010 One Time Tax for the life time shall be levied on tractors used or kept for use of other than agricultural purpose at the rate of one per cent of the cost of the vehicle excluding value added tax.

Under Section 7 (8) (a) of Bihar Motor vehicles Taxation Act, 1994 as amended by Finance Act, 2013 One Time Tax for the life time of the vehicle shall be levied on tractors used or kept for use for other than agricultural purpose at the rate of two per cent of the cost of the vehicle excluding value added tax w.e.f 01-04-2013.

Further the rate was revised vide Bihar Finance Act 15 of 2014 issued on 19-09-2014 to 4.5%.

Further, non-payment of tax within due date attracts penalty ranging between 25 and 200 per cent of the tax due under Section 23 ibid read with Rule 4 (2) of Bihar Motor Vehicle Taxation (BMVT) Rule 1994.

During scrutiny of owner and road tax table of 'VAHAN' database in respect of tractors (commercial) of the office of the District Transport Officer, Bettiah for the period of account July 2015 to December 2016 we found (August February) that 2534 tractors (all checked) were registered between May 2015 and December 2016. Out of which, 69 were defaulter in which owners of tractors did not pay the One Time Tax at the prescribed rate, and the concerned District Transport Officer also did not initiate any action to realise the outstanding dues. This omission resulted in non realisation of One Time tax ₹ 46,48,322.00 including penalty.

On being pointed out in audit, the District Transport Officer, Bettiah stated (February 2017) that demand notice would be issued. Further reply was awaited (March 2017).

This S O F is based on Para No-1 of IR No-262/2016-17 issued vide this office letter No.715-717 dated 31-03-2017.

[Signature]
12/4/17

**Deputy Accountant General
(Revenue Sector)**

Statement of Facts

Non-realisation of Motor Vehicle Tax: ₹ 4.93 lakh

Under Section 5 and 9 of Bihar Motor Vehicles Taxation (BMVT) Act, 1994 and Rules framed there under, taxes of motor vehicle other than personalised vehicles is payable annually or quarterly within 15 days from the commencement of the year or quarter as the case may be.

Further, a new Section 6(A) has been inserted as per Bihar Motor Vehicles Taxation (BMVT) (Amendment) Act, 2016 that every vehicle liable to pay tax under this Act, other than a vehicle liable to One Time Tax in accordance with the provisions of Sub-Section (1) of Section (7), at the rate of one per cent of the annual tax payable under this Act on such vehicle shall be levied and collected as road safety cess. Provided, that the said cess shall not be levied more than once during the validity of a license. Further, where any person liable to pay the cess levied under sub-section (1) fails to pay such cess within the time prescribed under sub-section (3), such person shall, in addition to the cess, pay by way of fine, an amount equal to two and a half per cent of the cess due for every month, or part thereof, of default.

Under Section 11 of Bihar Motor Vehicles Taxation (BMVT) Act, 1994 the taxing officer shall grant a receipt and tax token in the prescribed form in the prescribed manner to every person who pays motor vehicle tax or additional motor vehicles tax.

Further, under Section 20, *ibid*, no motor vehicle shall be used or kept for use within the state unless the valid tax token issued under Section 11 in respect of the said vehicle has been obtained and such token is displayed on the vehicle in the prescribed manner.

Further, under Section 23 of the Act, *ibid* read with Rule 4(2) of the Bihar Motor vehicles Taxation (BMVT) Rules, 1994, delay in payment of tax beyond 15 days attracts penalty from 25 percent to twice of the amount of tax due. Under Section 22 of the BMVT Act, if the tax or penalty or both has not been paid in accordance with the provisions of the Act, an officer not below the rank of Inspector of Motor Vehicles or any other officer specially authorised by the State Transport Commissioner, may seize the motor vehicles and detain it till the payment of tax.

During scrutiny of registration data and tax clearance table of 'VAHAN' database of the office of the District Transport Officer, Bettiah for the period of account January 2016 to December 2016 we found (February 2017) that out of 2000 commercial transport vehicles (all checked), owners of 34 transport vehicle did not pay tax pertaining to the period between July 2015 and November 2016. The concerned District Transport Officer did not issue demand notices against defaulting vehicle owners.

Thus, due to non-observance of the provisions of the Act and Rules, *ibid* taxes of ₹ 4,93,466.00 including cess and penalty remained un-realised.

On being pointed out in audit, District Transport Officer, Bettiah stated (February 2017) that demand notice would be issued after verification. Further reply was awaited (March 2017).

This S O F is based on Para No-3 of IR No-262/2016-17 issued vide this office letter No.715-717 dated 31-03-2017.

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12/4/17

Deputy Accountant General
(Revenue Sector)

Statement of Fact

Short realisation of trade certificate fees: ₹ 19.82 lakh

Section 39 of the Motor Vehicle (MV) Act, 1988 provides that no person shall drive any motor vehicle in any public place unless the vehicle is registered. Further, Rule 33 of the Central Motor Vehicles Rules, 1989 provides that for the purpose of the proviso to Section 39, a Motor Vehicles in the possession of a dealer shall be exempted from the necessity of registration subject to the condition that he obtains a trade certificate from the Registering Authority having jurisdiction in the area in which the dealer has his place of business. Under Rule 34, an application for the grant or renewal of a trade certificate shall be made in Form 16 and shall be accompanied by the appropriate fee (Motor Cycle/Invalid carriage Fifty Rupees for each vehicle; Others two hundred rupees for each vehicle) as specified in Rule 81, *ibid*.

Rule 35 *ibid*, further provides that on receipt of an application for the grant or renewal of a trade certificate in respect of vehicles; the Registering Authority may, if satisfied, that the applicant is a bona fide dealer and requires the certificates, specified in the application, issue to the applicant one or more certificates, as the case may be, in Form 17 and shall assign in respect of each certificate a trade Registration mark. Under Rule 37 such a trade certificate shall be in force for a period of 12 months from the date of issue or renewal thereof and shall be effective throughout India. Under Rule 39 (1) of The Central Motor Vehicles Rules, 1989 a trade registration mark and number shall not be used upon more than one vehicle at a time or upon any vehicle other than a vehicle bona fide in the possession of the dealer in the course of his business or any type of vehicle other than the one for which the trade certificate is issued. Rule 41 provides the purposes for which Motor Vehicle with trade certificate may be used.

The Hon'ble Patna High Court in Judgment (in CWJC No.3788 of 1995 (R)) also stated that the dealer is obliged to obtain a trade certificate in respect of all Motor Vehicles in his possession which do not require Registration.

During scrutiny of 'VAHAN' database in the office of the District Transport Officer, Bettiah for the period of account January 2016 to December 2016 we found (February 2017) that trade certificates were not being issued by the Registering Authority and the required fee as per provision of the Rule were not being collected in the transport office from the *bona fide* dealers of vehicle which was violation of Rules. During scrutiny of relevant records we observed that 06 trade certificates were granted to the vehicle sellers (authorized by the manufacturer/company), who deals in different class of vehicles. Out of 06 dealers, all 06 cases have been checked/scrutinized and observed that these 06 dealers received 39646 vehicles (two wheelers) during the period between April 2015 and December 2016 and the Registering Authority issued only 06 trade certificate to the dealers. As a result of that trade certificate for 39640 vehicles were not issued hence, the department sustained loss in the shape of trade certificate fee to the tune of ₹ 19,82,000.00.

On being pointed out in audit, the District Transport Officer, Bettiah stated (February 2017) that action would be taken after obtaining guidelines from the head quarter. Further reply was awaited (March 2017).

This S O F is based on Para No-4 of IR No-262/2016-17 issued vide this office letter No.715-717 dated 31-03-2017.


12/14/17

Deputy Accountant General
(Revenue Sector)

3

Statement of Facts

Short realisation of Motor Vehicle Taxes from transport vehicles due to wrong assessment of seating capacity on wheel base: ₹ 2.29 lakh

Under Section 5 and 9 of Bihar Motor Vehicles Taxation (BMVT) Act, 1994 and Rules framed there under, taxes of motor vehicle other than personalised vehicles is payable annually or quarterly within 15 days from the commencement of the year or quarter as the case may be. Further, as per notification No-1346 dated 04-04-2013 and No-5367 dated 25-09-2014 issued by the Department of Transport, Government of Bihar, the tax on buses will be calculated as per the seating capacity on the basis of wheel base. If the vehicles were registered with less seating capacity than its admissible capacity, the vehicles shall be registered as semi deluxe/deluxe category and tax will be calculated accordingly. The District Transport Officer (DTO) and Motor Vehicle Inspector (MVI) will be held responsible for the fixation of seating capacity of buses on the basis of wheel base.

Under Section 11 of Bihar Motor Vehicles Taxation (BMVT) Act, 1994 the taxing officer shall grant a receipt and tax token in the prescribed form in the prescribed manner to every person who pays motor vehicle tax or additional motor vehicles tax.

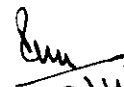
Further, under Section 20, *ibid*, no motor vehicle shall be used or kept for use within the state unless the valid tax token issued under Section 11 in respect of the said vehicle has been obtained and such token is displayed on the vehicle in the prescribed manner. To ensure realisation of tax in time, the District Transport Officer is required to issue demand notices and initiate certificate proceedings where necessary under PDR, Act.

Further, under Section 23 of the Act, *ibid* read with Rule 4(2) of the Bihar Motor vehicles Taxation (BMVT) Rules, 1994, delay in payment of tax beyond 15 days attracts penalty from 25 percent to twice of the amount of tax due.

During scrutiny of registration data and tax clearance table of 'VAHAN' database of the office of the District Transport Officer, Bettiah for the period of account July 2015 to December 2016 we found (February 2017) that 23 passenger buses were registered between January 2014 and September 2016 (all checked), out of which seating capacity of 08 transport vehicles were wrongly calculated on the basis of wheel base for 6 to 11 seat less than its admissible capacity as per notification in ordinary category of buses. It was further found that these vehicles were registered neither in semi deluxe/deluxe category with less seating capacity nor paid tax for the admissible capacity as per its wheel base. This resulted not only violation of Gazette notification but also wrong assessment of seating capacity by the inspecting authority/taxing authority to give undue favour to the vehicle owners which resulted in loss of Government revenue of ₹ 2,28,555.00 including penalty.

On being pointed out in audit, District Transport Officer, Bettiah stated (February 2017) that demand notice would be issued. Further reply was awaited (March 2017).

This S O F is based on Para No-6 of IR No-262/2016-17 issued vide this office letter No.715-717 dated 31-03-2017.


12/4/17

Deputy Accountant General
(Revenue Sector)

(2)

Statement of Fact

Non realisation of penalty for belated payment of tax from Light Goods Vehicles: ₹ 3.48 lakh

Under the provision of Bihar Motor Vehicles Taxation Act, 1994 as amended by Finance Act, 2011 One Time Tax @ 7700 for vehicles with gross vehicle weight Up to 1000 kgs and @ 5500 per 1000 kgs of gross vehicle weight for vehicles above 1000 kgs and Up to 3000 kgs (w. e. f 1st April 2011) shall be levied at the time of registration of such vehicles. Further the earlier tax paid by such vehicles is to be deducted at the time of One Time Tax of such type of vehicles.

Further, in case of delay of payment exceeding 15 days penalty ranging between 25 per cent to 200 per cent of the tax due is leviable under Section 23 ibid read with Rule 4 (2) of Bihar Motor Vehicles Taxation Rule, 1994.

During scrutiny of tax clearance table of 'VAHAN' database in respect of Light Goods Vehicle of the office of the District Transport Officer, Bettiah for the period of account January 2016 to December 2016 we found (February 2017) that owners of 20 vehicles, out of 290 vehicles registered between April 2015 and December 2016 (all checked) paid the One Time Tax but did not pay the penalty for delayed/belated payment (ranging between 38 days and 164 days delay) of One Time Tax as provided in the Act. The concerned DTO did not raise demand notice to recover the dues in time. This omission resulted in non-realisation of penalty on delayed/belated payment of One Time Tax from light goods vehicles ₹ 3,48,150.00.

On being pointed out in audit, the District Transport Officer, Bettiah stated (February 2017) that action would be taken after verification. Further reply was awaited (March 2017).

This S O F is based on Para No-7 of IR No-262/2016-17 issued vide this office letter No.715-717 dated 31-03-2017.

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12/4/17

**Deputy Accountant General
(Revenue Sector)**

Statement of Facts

Non/short realisation of One Time Tax and penalty from three wheelers (commercial): ₹ 1.85 lakh

Under Section 5 & 7 of Bihar Motor Vehicle Taxation (BMVT) Act, 1994 as amended by Bihar Finance Act, 8 of 2010 One Time Tax (OTT) of ₹ 7500.00 and ₹ 5000.00 for seven and four seated vehicles (excluding driver) respectively shall be levied from all three wheelers up to one year of age at the time of registration for a period of ten years from the date of first registration in the state. Provided that One Time Tax payable by three wheelers already registered shall be calculated after deducting the tax amount already paid. Further, no One Time Tax shall be payable if the vehicle has already paid more than ₹ 7500.00 & ₹ 5000.00 as Taxes.

Further provided that as per notification issued vide letter No-2/tax amendment-01/2013/1301 dated 02-04-2013 by the transport department Bihar State, under Bihar Finance, Act 2013; the rate was revised which was effective from 01-04-2013;

(a) a One Time Tax of ₹ 9,000.00 shall be levied for 15 years for new registered vehicles for three wheelers with seating capacity not more than 4 persons (excluding driver). Or

(i) a One Time Tax of ₹ 6,000.00 on all three wheelers up to one year of age at the time of registration for a period of 10 years from the date of first registration in the state:

(ii) a One Time Tax of ₹ 6,000.00 for a period of 5 years on three wheelers which are more than ten years old.

(b) a One Time Tax of ₹ 13,500.00 shall be levied for 15 years from new registered vehicles for three wheelers with seating capacity up to 7 persons (excluding driver). Or

(i) a One Time Tax of ₹ 9,000.00 on all three wheelers up to one year of age at the time of registration for a period of 10 years from the date of first registration in the State.

(ii) a One Time Tax of ₹ 9,000.00 for a period of 5 years on three wheelers which are more than ten years old.

Further, non payment of tax within due date attracts penalty ranging between 25 and 200 per cent of the tax due under Section 23 ibid read with Rule 4 (2) of Bihar Motor Vehicle Taxation (BMVT) Rule 1994.

During Scrutiny of owner and road tax table of 'VAHAN' database in respect of three wheelers (commercial) of the office of the District Transport Officer, Bettiah for the period of account July 2015 to December 2016 we found (February 2017) that 1239 three wheelers (all checked) were registered between April 2015 and December 2016, out of which 10 were defaulter and the owners of these three wheelers (commercial) did not pay/short pay their One Time Tax at the prescribed rates. No action was taken by the concerned DTO and demand notices were also not issued for the realisation of dues. This omission resulted in non-realisation of One Time Tax of ₹ 1,84,500.00 including penalty.

On being pointed out in audit, the District Transport Officer, Bettiah stated (February 2017) that demand notice would be issued. Further reply was awaited (March 2017).

This S O F is based on Para No-11 of IR No-262/2016-17 issued vide this office letter No.715-717 dated 31-03-2017.

[Signature]
12/4/17

**Deputy Accountant General
(Revenue Sector)**