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डीडी फॉर्म



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अर्धशा.पत्र सं. (Revenue-Sector) - 60
D. O. No.

भारत के खरें
TAXES

उप महालेखाकार (राज्य राजस्व प्राप्ति)
कार्यालय, प्रधान महालेखाकार (लेखापरीक्षा), बिहार
वीरचन्द 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: 17-01-2017



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आदरणीय सुजाता महोदया,

मैं निरीक्षण प्रतिवेदन संख्या रेवेन्यू सेक्टर (गु0) 129/2016-17 के कंडिका संख्या 1
2 5(A) 5(B) 6 7 8 9 में उठाई गई आपत्तियों पर आधारित तथ्यों
की विवरणी बनाने कर रहा हूँ। इस कंडिका को भारत के नियंत्रक-महालेखापरीक्षक का 31 मार्च
2017 को समाप्त होने वाले वर्ष के प्रतिवेदन(राजस्व प्राप्ति), बिहार सरकार में सम्मिलित किया
जाया प्रस्तावित है।

यदि आपको जानकारी है कि अपना प्रतय छः सप्ताह के अंदर इस कार्यालय को अवश्य
मार्ग पत्र 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,

राजेश

16.01.17

81/23/11/11

अनुसूचित तथ्यों की विवरणी।

श्री. सुजाता महोदया, मा.प्र.परी.
प्रधान सचिव, परिवहन विभाग,
बिहार सरकार
मिहिराबाई भवन, पटना।

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वर्षानुसार भारत सरकार
सं. 259 दिनांक 20.01.17

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Statement of Facts

Short realisation of One Time Tax from newly registered three wheelers (commercial): ₹ 15.01 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 tax clearance table of 'VAHAN' database of the office of the District Transport Officer, Katihar in respect of three wheelers (commercial) for the period of account September 2015 to September 2016 we found (October 2016) that 692 three wheelers were registered between May 2013 and September 2016, out of which 500 newly registered three wheelers were granted One Time Tax for 10 years. However, as per Gazette notification newly registered three wheelers (commercial) should be granted One Time Tax for 15 Years. In this way the defaulter and the owners of these 500 three wheelers (commercial) short paid their One Time Tax. The taxing officer did not initiate any action to realise the outstanding dues. This omission resulted in short-realisation of One Time Tax Rs 15,01,500.00.

On being pointed out in audit, the District Transport Officer, Katihar stated (November 2016) that according to above mentioned Rule, a One Time Tax of six thousand (for seating capacity not more than 4) and nine thousand (for seating capacity up to 7 persons) shall be levied on all three wheelers up to one year of age at the time of registration. All the three wheelers mentioned in the list were up to the one year of age at the time of registration, hence, was registered for ten years.

Reply was not tenable since the clause I of the said notification detailed about the newly purchased vehicles should be registered for fifteen years. Further reply was awaited (December 2016).

This S O F is based on Para No-1 of IR No-179/2016-17 issued vide this office letter No.499-501 dated 20-12-2016.

Ray
16.01.17

Deputy Accountant General
(Revenue Sector)

Statement of Facts

Non- realisation of Motor Vehicle Tax: ₹ 17.61 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.

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, Katihar for the period of account September 2015 to September 2016 we found (November 2016) that out of 93 commercial transport vehicles (all checked), owners of 37 transport vehicle did not pay tax pertaining to the period between January 2012 and July 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 ₹ 17,60,964.00 including penalty remained un-realised.

On being pointed out in audit, District Transport Officer, Katihar stated (November 2016) that demand notice would be issued. Further reply was awaited (December 2016).

This S O F is based on Para No-2 of IR No-179/2016-17 issued vide this office letter No.499-501 dated 20-12-2016.

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16.01.17

Deputy Accountant General
(Revenue Sector)

Statement of Fact

Non/short realisation of penalty for belated payment of One Time Tax from Tractors (Commercial): ₹ 3.10 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 @ 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 @ two per cent of the cost of the vehicle excluding value added tax w.e.f 01-04-2013.

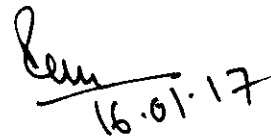
Further the rate was revised vide Bihar Finance Act 15 of 2014 issued on 19-09-2014 @ 4.5% of the cost of the vehicle excluding value added tax.

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 'VAHAN' database in respect of tractors (commercial) of the office of the District Transport Officer, Katihar for the period of account September 2015 to September 2016 we found (November 2016) that 1256 tractors (all checked) were registered between September 2015 and September 2016, out of which 22 were defaulter in which owners of these tractors paid the One Time Tax but the concerned District Transport Officer did not realise the penalty for delayed payment (i.e. between 28 days and 136 days delay) of OTT as provided in the Act *ibid*. This omission resulted in non realisation of penalty on belated/delayed payment of One Time tax from Tractors (commercial) ₹ 3,09,600.00.

On being pointed out in audit, the District Transport Officer, Katihar stated (November 2016) that the cases would be examined by a team of technical experts and necessary action would be taken accordingly. Further reply was awaited (December 2016).

This S O F is based on Para No-5(A) of IR No-179/2016-17 issued vide this office letter No.499-501 dated 20-12-2016.


16.01.17

Deputy Accountant General
(Revenue Sector)

Statement of Fact

Non realisation of One Time Tax from Tractors (commercial): ₹ 2.36 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, Katihar for the period of account September 2015 to September 2016 we found (November 2016) that 1256 tractors (all checked) were registered between September 2015 and September 2016. Out of which, 04 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 ₹ 2,36,375.00 including penalty.

On being pointed out in audit, the District Transport Officer, Katihar stated (November 2016) that demand notice would be issued to all. Further reply was awaited (December 2016).

This S O F is based on Para No-5(B) of IR No-179/2016-17 issued vide this office letter No.499-501 dated 20-12-2016.


16.01.17
Deputy Accountant General
(Revenue Sector)

Statement of Fact

Short realisation of trade certificate fees: ₹ 6.53 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*.

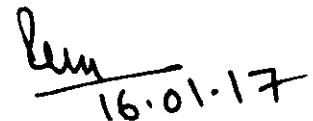
Rule 35 *ibid*, further provides that on receipt of an application for the grant or renewal of a trade certificate in respect of vehicles; the Registering Authority may, if satisfied, that the applicant is a bona fide dealer and requires the certificates, specified in the application, issue to the applicant 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, Katihar for the period of account September 2015 to September 2016 we found (November 2016) 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 03 trade certificates were granted to the vehicle sellers (authorized by the manufacturer/company), who deals in different class of vehicles. Out of 05 dealers, 03 cases have been checked/scrutinized and observed that these 03 dealers received 13067 vehicles (two wheelers) during the period between September 2015 and September 2016 and the Registering Authority issued only 03 trade certificate to the dealers. As a result of that trade certificate for 13064 vehicles were not issued hence, the department sustained loss in the shape of trade certificate fee to the tune of ₹ 6.53,200.00.

On being pointed out in audit, the District Transport Officer, Katihar stated (November 2016) that the matter would be sent to the head quarter for guidelines. Further reply was awaited (December 2016).

This S O F is based on Para No-6 of IR No-179/2016-17 issued vide this office letter No.499-501 dated 20-12-2016.


16.01.17

Deputy Accountant General
(Revenue Sector)

Statement of Fact

Loss of revenue due to delivery of vehicles without Temporary Registration: ₹ 4.89 lakh

Rule 42 of Central Motor Vehicle Rules, 1989 provided that those vehicle owners holding a trade certificate shall not provide delivery of Motor Vehicles to a purchaser without Registration, whether temporary or permanent. Further Section 43 of the Motor vehicle Act, 1988 provides that notwithstanding anything contained in section 40, the owner of a motor vehicle may apply to any Registering Authority or other prescribed Authority to have the vehicle temporary registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark. The Department vide office order No.3415 dated 28-07-2009 also made it clear that in accordance with the provision of Section 43 of the Motor Vehicle Act, 1988 the registering authorities shall provide the blocks of the temporary registration numbers to the dealer agencies on their requisition.

During scrutiny of registration records of 'VAHAN' database of the office of the District Transport Officer, Katihar for the period of account September 2015 to September 2016 we found (November 2016) that out of 24 dealers/agency, 11 dealers/agency, of motor vehicles (obtained trade certificate from the District Transport Officer) (all checked) delivered 5433 vehicles (Two wheelers) to the purchasers between September 2015 and September 2016 without temporary registration or permanent registration. The concerned Registering Authority permanently registered these motor vehicles which were delivered to the purchasers without temporary registration in contravention of the aforesaid provision of the Act/ Rules and departmental order. The concerned registering authority did not initiate any action against these dealers. This omission not only violated the Rules, but also resulted in non-realisation of temporary registration fee/taxes of ₹ 4,88,970.00.

On being pointed out in audit, District Transport Officer, Katihar stated (November 2016) that notice would be issued to all the dealers and necessary action would be taken. Further reply was awaited (December 2016).

This S O F is based on Para No-7 of IR No-179/2016-17 issued vide this office letter No.499-501 dated 20-12-2016.

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16.01.17

**Deputy Accountant General
(Revenue Sector)**

Statement of Facts

Short realisation of Motor Vehicle Taxes from transport vehicles due to wrong assessment of seating capacity on wheel base: ₹ 3.34 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.

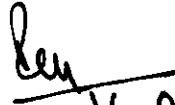
Further, under Section 20, *ibid*, no motor vehicle shall be used or kept for use within the state unless the valid tax token issued under Section 11 in respect of the said vehicle has been obtained and such token is displayed on the vehicle in the prescribed manner. To ensure realisation of tax in time, 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, Katihar for the period of account September 2015 to September 2016 we found (November 2016) that 46 passenger buses were registered between April 2012 and June 2016 (all checked), out of which seating capacity of 13 transport vehicles were wrongly calculated on the basis of wheel base for 7 to 10 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 ₹ 3,33,840.00 including penalty.

On being pointed out in audit, District Transport Officer, Katihar stated (November 2016) that demand notice would be issued after thorough verification. Further reply was awaited (December 2016).

This S O F is based on Para No-8 of IR No-179/2016-17 issued vide this office letter No.499-501 dated 20-12-2016.


 16.01.17
Deputy Accountant General
(Revenue Sector)

Statement of Facts

Non levy and collection of road safety cess on issue of licenses of vehicles: ₹ 2.23 lakh

As per The Bihar Motor Vehicles Taxation (Amendment) Act, 2016 effective w.e.f. 16-08-2016, every vehicle liable to pay One Time Tax in accordance with the provisions of sub-Section (1) of Section (7), a road safety cess at the rate of one per cent of the value of such vehicle shall be levied and collected. 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.

Road safety cess shall be levied and collected on licenses at the following rates as per Schedule IV:-

Sl No	Class of licensee	Amount of cess in rupees
1	Learners License	50
2	License for Two wheelers, whether with or without gear	100
3	License for Light Motor Vehicle License-Non Transport	150
4	License for Motor Vehicle License-Transport	200
5	License for Medium and Heavy Motor Vehicles	500

During scrutiny of learner's license and driving license of the office of the District Transport Officer, Katihar for the period of account September 2015 to September 2016 we found (November 2016) that 1543 licenses (New driving licenses/renewal/learner's license/professional licenses of Two wheelers, Light Motor Vehicles, Personal vehicles and Commercial vehicles) were issued between 16-08-2016 and 31-08-2016 (all checked) to the applicants. The prescribed fee at the prescribed rate were levied and collected from these vehicles. But road safety cess which was also leviable w.e.f. 16-08-2016 on issue of licenses to the applicant were not levied and collected from these licensees as per the said notification. The concerned District Transport Officer did not initiate any action toward levy and collection of this cess from the license holders as per provision of the Act.

Thus, due to non-observance of the provisions of the Act, road safety cess of ₹ 2,22,950.00 remained un-realised.

On being pointed out in audit, District Transport Officer, Katihar stated (November 2016) that delay mapping in the 'SARATHI' software, hence, road safety cess was not realised. Demand notice would be issued. Further reply was awaited (December 2016).

This S O F is based on Para No-9 of IR No-179/2016-17 issued vide this office letter No.499-501 dated 20-12-2016.

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16.01.17

Deputy Accountant General
(Revenue Sector)