

स्पीड पोस्ट

D.P. cell



सत्यमेव जयते

अर्थ.शा.पत्र सं. (Revenue Sector) - 87
D. O. No.

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 : 04-04-2017
5-0-3

आर के खरे
IA&AS

कॉए (रप्ट) के डायर

7/10/17

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आदरणीय सुजाता महोदया,

मैं, निरीक्षण प्रतिवेदन संख्या रेवेन्यू सेक्टर (मु0) 252/2016-17 के कंडिका संख्या 1, 3, 4, 6, 7, 8, 9 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 प्राप्तियों), 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,

शशिन्द्र

04.04.17

अनुलग्नक: तथ्यों की विवरणी।

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

11.04.17
7.10.17

Statement of Fact

Non realisation of One Time Tax from Tractors (commercial): ₹ 25.02 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, Motihari for the period of account January 2016 to December 2016 we found (February 2017) that 2058 tractors (all checked) were registered between November 2015 and November 2016. Out of which, 41 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 ₹ 25,02,299.00 including penalty.

On being pointed out in audit, the District Transport Officer, Motihari stated (February 2017) that demand notice would be given to the defaulter vehicle owners. Further reply was awaited (February 2017).

This S O F is based on Para No-1 of IR No-252/2016-17 issued vide this office letter No.679-681 dated 21-03-2017.

Signature
04/04/17

**Deputy Accountant General
(Revenue Sector)**

Statement of Fact

Short realisation of trade certificate fees: ₹ 10.79 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, Motihari 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 29 trade certificates were granted to the vehicle sellers (authorized by the manufacturer/company), who deals in different class of vehicles. Out of 07 dealers, 07 cases have been checked/scrutinized and observed that these 07 dealers received 18083 vehicles (two wheelers and other vehicles) during the period between January 2016 and December 2016 and the Registering Authority issued only 29 trade certificate to the dealers. As a result of that trade certificate for 18054 vehicles were not issued hence, the department sustained loss in the shape of trade certificate fee to the tune of ₹ 10,78,800.00.

On being pointed out in audit, the District Transport Officer, Motihari stated (February 2017) that appropriate action would be taken as per the Act and Law. Further reply was awaited (February 2017).

This S O F is based on Para No-3 of IR No-252/2016-17 issued vide this office letter No.679-681 dated 21-03-2017.

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04/04/17

Deputy Accountant General
(Revenue Sector)

Statement of Fact

Non/short realisation of penalty for belated payment of One Time Tax from Tractors (Commercial): ₹ 0.79 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, Motihari for the period of account January 2016 to December 2016 we found (February 2017) that 2058 tractors (all checked) were registered between November 2015 and November 2016, out of which 05 were defaulter in which owners of these tractors paid the One Time Tax but the concerned District Transport Officer short realise the penalty for delayed payment (i.e. between 16 days and more than 90 days delay) of OTT as provided in the Act *ibid*. This omission resulted in short realisation of penalty on belated/delayed payment of One Time tax from Tractors (commercial) ₹ 79,473.00.

On being pointed out in audit, the District Transport Officer, Motihari stated (February 2017) that the matter would be examined case to case and appropriate action would be taken in consultation with NIC. Further reply was awaited (March 2017).

This S O F is based on Para No-4 of IR No-252/2016-17 issued vide this office letter No.679-681 dated 21-03-2017.

Sun
04/04/17

**Deputy Accountant General
(Revenue Sector)**

Statement of Facts

Non levy and collection of road safety cess on vehicles: ₹ 5.63 lakh

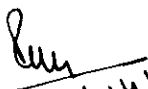
As per The Bihar Motor Vehicles Taxation (Amendment) Act, 2016 effective w.e.f. 16-08-2016, every vehicle liable to pay One Time Tax in accordance with the provisions of sub-Section (1) of Section (7), a road safety cess at the rate of one per cent of the value of such vehicle shall be levied and collected.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

During scrutiny of registration table and tax clearance table of 'VAHAN' database of the office of the District Transport Officer, Motihari for the period of account January 2016 to December 2016 we found (February 2017) that 526 (Two Wheelers-485 and Light Motor Vehicle i.e. private cars-41) vehicles were registered between 16-08-2016 and 31-08-2016 (all checked). The One Time Tax 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 at the rate of one per cent of the cost of the vehicles were not levied and collected from these vehicles as per the said notification. Due to non collection of such cess, owners of these vehicles were also liable to pay fine at the rate of two and a half per cent as per said provision. The concerned District Transport Officer did not initiate any action toward levy and collection of this cess from the owners of these vehicles as per provision of the Act.

Thus, due to non-observance of the provisions of the Act, road safety cess of ₹ 5,63,399.00 including fine remained un-realised.

On being pointed out in audit, District Transport Officer, Motihari stated (February 2017) that due to non mapping of database amount was be realised, demand notice would be issued. Further reply was awaited (February 2017).

This S O F is based on Para No-6 of IR No-252/2016-17 issued vide this office letter No.679-681 dated 21-03-2017.


04/04/17

**Deputy Accountant General
(Revenue Sector)**

Statement of Facts

Non levy and collection of road safety cess on issue of licenses of vehicles: ₹ 1.10 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:-

SI 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, Motihari for the period of account January 2016 to December 2016 we found (February 2017) that 1494 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 30-08-2016 (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 ₹ 1,09,700.00 remained un-realised.

On being pointed out in audit, District Transport Officer, Motihari stated (February 2017) that due to non mapping in 'SARTHI' software it could not be realised, demand notice would be issued. Further reply was awaited (March 2017).

This S O F is based on Para No-07 of IR No-252/2016-17 issued vide this office letter No.679-681 dated 21-03-2017.

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04/04/17

Deputy Accountant General
(Revenue Sector)

Statement of Fact

Non realisation of One Time Tax and penalty from Light Goods Vehicles: ₹ 1.16 lakh

Under the provision of Bihar Motor Vehicles Taxation Act, 1994 as amended by Finance Act, 2011 One Time Tax at the rate of ₹ 7700 for vehicles with gross vehicle weight Up to 1000 kgs and at the rate of ₹ 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, Motihari for the period of account January 2016 to December 2016 we found (February 2017) that 637 light goods vehicle (registered laden weight up to 3000 kgs) were registered between April 2015 and December 2016 (all checked), out of which 03 were defaulter and the owners of these vehicles did not pay their up to date One Time Tax at the prescribed rates. No action was taken by the office for the recovery of the outstanding tax. The concerned District Transport Officer did not raise demand notices against the defaulting vehicle owners. This omission resulted in non- realisation of One Time Tax ₹ 1,15,500.00 including penalty and the Government sustained loss of revenue.

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

This S O F is based on Para No-8 of IR No-252/2016-17 issued vide this office letter No.679-681 dated 21-03-2017.

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04/04/17

**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: ₹ 0.54 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, Motihari for the period of account January 2016 to December 2016 we found (February 2017) that 33 passenger buses were registered between July 2015 and June 2016 (all checked), out of which seating capacity of 05 transport vehicles were wrongly calculated on the basis of wheel base for 10 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 ₹ 53,708.00 including penalty.

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

This S O F is based on Para No-9 of IR No-252/2016-17 issued vide this office letter No.679-681 dated 21-03-2017.

Ray
04/04/17

Deputy Accountant General
(Revenue Sector)