

C1/26024/TC/2010

Transport Commissionerate, Keralam
Trans Towers, Thiruvananthapuram
Dated: 31-01-2011

CIRCULAR 01 /11

Sub: Motor Vehicles Department-Hypothecation endorsement-Specific instruction issuing-reg

Ref: Letter No.G/4212/SZ/2010 dated 07-12-2010 of the Deputy Transport Commissioner, South Zone, Thiruvananthapuram

Attention is invited to the above subject. Vide reference cited, the Deputy Transport Commissioner, South Zone, Thiruvananthapuram points out that Registering Authorities in Keralam are not specifically mentioning the type of agreement under Section 51(1) of the Motor Vehicles Act, 1988 such as hire purchase or hypothecation or lease. This leads to difficulties while fixing the liability of payment of tax in appeal cases related to tax matters.

As per Section 51 of the Motor Vehicles Act, 1988, where an application for registration of a motor vehicle which is held under a hire purchase, lease or hypothecation agreement is made, the registering authority shall make an entry in the certificate of registration regarding the existence of the said agreement. The above said three transactions are entirely different in nature.

In hire purchase agreement, the possession in the property is transferred on down payment to the hire purchaser and the ownership and title in the property is transferred only on the last instalment of the price paid by the purchaser. Until the last instalment, each instalment is treated as hire.

Hypothecation agreement is a charge created on the movable properties. Ownership of the goods is vested with the transferor and the transferee is only having a charge over the property. It is similar to pledge. But in pledge, the creditor gets possession, but in hypothecation agreement the creditor does not.

In the lease agreement, lessee is entitled to get possession for a particular period and use thereon as per the agreement.

As the above terms are different and the parties having liberty to create any of the above agreement, the Registering Authority is required to make entry as per Section 51 of the Motor Vehicles Act, 1989. Hence all the Registering Authorities, Additional Registering Authorities and Assistant Registering Authorities are directed to specify the nature of agreement while issuing Certificate of Registration after registering the vehicle or endorsing hire purchase, hypothecation or lease as the case may be. It has to be made sure that the applicant has properly marked the nature of agreement in Form-20 or in Form-34 at the time of submitting application for fresh registration or endorsing hire purchase, hypothecation or lease.

The receipt of the circular may be acknowledged

Sd/-
Transport Commissioner

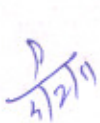
To


All Deputy Transport Commissioners
All Regional Transport Officers
All Joint Regional Transport Officers

Copy to: CA to Transport Commissioner, CA to Senior DTC & Secretary, STA, CA to Senior DTC (Taxation), Senior Administrative officer, Senior Law Officer, Senior Finance Officer, Statistical Officer, Additional Transport Commissioner, Assistant Secretary, STA, Motor Vehicles Inspector of TC Squad and all Superintendents of Transport Commissionerate

Approved for issue


Senior DTC (Taxation) 4/2/11


4/2/11


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