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EXTRACT

I am directed to state that certain observations have recently been made by the Accountant General, West Bengal regarding large scale evasion of M.V.Tax, as reportedly detected in course of audit of M.V. in certain districts.

It has been highlighted that the tax demand registers do not indicate the up-to-date position regarding payment of tax and that exemption of tax, consequent upon non-use, has been allowed without verifying the admissibility of the claim. I am, therefore, to request you to kindly ensure that provisions of rule 26(5) of W.B.M.V. Tax Rules relating to review of Tax Demand. Registers by the Taxing Officer periodically say after every quarters are rigidly enforced. Attention of Taxing Officer may also be drawn to the provision of note to sub rule (1) and sub-rule (7) of Rule 24 in the matter of deciding the admissibility or genuineness of the claim for non-use of a vehicle.

It has been pointed out that R.L.W in a goods vehicle and seating capacity in a stage carnage are often wrongly fixed, leading to subsequently loss of revenue. It may please be ensured that provisions. Rule 28 and rules 140-142 of W.B.M.V. Rules are strictly in a particular realisation of all the available space over a wheel base is taken into consideration. In order that the variation of seating capacity may not occur over the same wheel base, having the same make and model, a minimum number of seating capacity may be prescribed before hand by the R.T.A. concerned (as is being done by R.T.A., Calcutta region).

I am also directed to invite your attention to the D.O. letter no. 14900-(15)-WT dated 27.9.1973 of Minister-in-charge, Transport emphasising the need of conducting frequent surprise check of enforce provisions M.V. Act and Rules framed thereunder and to request you to send an upto date report in this regard.

2. No. 9884-WT dated 27th August, 1979**NOTIFICATION**

In exercise of the power conferred by sub-section (1) of section 16 of the West Bengal Motor Vehicles Tax Act. 1979 (West Ben. Act. IX of 1979), the Governor is pleased hereby notify that any officer of the Home (Transport) Department of the Government of West Bengal not below the rank of a Motor Vehicles Inspector shall exercise the powers under that section.

By order of the Governor,

Sd/- D. Chakraborti
Dy Secy. to the Govt. of West Bengal

Sir,

Sub : Clarification regarding Tractor-Trailor combined Vehicles

I am directed to refer to your letter no. PTS/MV/1 dated 19.3.84 on the subject noted above and to say that the points raised therein may be interpreted as follows :—

- (a) Registration number of a tractor can be different from that of a trailer but authorisation should be there in the Registration Certificate books as to which tractor is allowed to tow with trailer/trailers.
- (b) When a tractor as towing a trailer the combination becomes transport vehicle and hence it will need C.F., permit etc.
- (c) Endorsement as claimed by A.P. authorities is justified.

Yours faithfully,

Sd/- Illegible
Asstt. Secy, to the Govt. of West Bengal.

4. No. 11832-WT dated 23rd October, 1986*

Sub : West Bengal Motor Vehicles Tax Act, 1979—tax on chassis

1. The undersigned is directed to state that in terms of sub-section (1) of section 3 of the West Bengal Motor Vehicles Tax Act, 1979 read with clause (a) of sub-section (2) of section 4 of the said Act, a chassis, which is a "motor vehicle" in terms of the definition given under clause (18) of section 2 of the M.V. Act, 1939 read with clause (b) of sub-section (1) of section 2 of the West Bengal Motor Vehicles Tax Act, 1979 is taxable from the date of registration or date of acquiring ownership/possession or control, whichever is earlier whether registered under section 22 of the M.V. Act or temporarily registered under section 25 of the said Act. The Government have reconsidred the justiciability of this principle of taxation on a chasis which is incapable of commercial use and have decided in principle that a

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chassis, which is different from other motor vehicles in respect of use and capability, should not be taxed on the same principle as other motor vehicles. No tax should therefore be charged on a chassis for a period of 3 (three) months from the date of purchase/acquiring ownership/possession or control or till the completion of the body-build.ng on it whichever is earlier. If a chassis under temporary registration in terms of section 25 of the M.V. Act, 1939 fails to complete its body within a period of 3 months from the initial date of temporary registration, it should be taxed thereafter irrespective of the fact that it is still not fit for carrying passengers or goods and liable for registration under section 22 of the M.V. Act.

2. In case of a vehicle other than transport vehicle, tax should take effect after a period of 7(seven) days from the date of purchase/ acquiring ownership/possession or control of the vehicle from the dealer/manufacturer.
3. Necessary amendment of the West Bengal Motor Vehicles Tax Act will be made in due course. The above instructions should however be complied with immediately pending formal amendment of the Act.
4. This order issues with the concurrence of the Finance Dept, *vide* their u/o. No. Group 'R' 703 dated 26.8.86 and in consultation with the Bengal Remembrancer.

Sd/- Illegible
Dy. Secy. to the Govt. of West Bengal.

5. No. 11849-WT/6M-3/83 dated 23rd October, 1986

NOTIFICATION

WHEREAS the Governor considers it necessary so to do in the public interest;

NOW THEREFORE, in exercise of the power conferred by sub-section (1) of section 11A of the West Bengal Motor Vehicles Tax Act, 1979 (West Ben. Act IX of 1979) (hereinafter referred to as the said Act), the Governor is pleased hereby to specify the following rate of penalty for non-payment of tax under the said Act payable by an owner of a motor vehicle who is authorised to operate in the State of West Bengal by virtue of a national permit granted under sub-section (11) of section 63 of the Motor Vehicles Act, 1939 (4 of 1939), or any public carrier who is permitted to operate in the State of West Bengal without countersignature under sub-rule (2) of rule 63, of the Bengal Motor Vehicles Rules 1940, in pursuance of the special reciprocal agreement entered into by the State of West Bengal with other States by virtue of a public carrier's permit granted under section 56 of the Motor Vehicles Act, 1939 (4 of 1939) :—

“Rupees one hundred only per month per vehicle”.

2. The Governor is further pleased to specify, under sub-section (2) of section 11A of the said Act the 1st day of April, 1981 as the date from which the rate of penalty specified under sub-section (1), shall be deemed to have come into force.

By order of the Governor,

Sd/- **S.K. Basu**
Dy, Secy, to the Govt. of West Bengal.

6. No. 13-T dated 3rd January, 1987

Sub : Realisation of penalty against non-payment of tax in respect of vehicles seized while plying without due/ payment of tax.

It has come to the notice of Govt. that a particular Taxing Officer recommended to Govt. for permission to accept penalty for non-payment of tax in terms of sub-clause (H) of clause (b) of section 11 of the West Bengal Motor Vehicles Tax Act, 1979 after the expiry of a period of 30 days from the date the vehicle in question was detected plying on the road

without payment of tax and seized and detained for such offence. While recommending the case, the Taxing Officer did not disclose all aspects of the case and adduced 'Procedural delay' in his own office as an extenuating factor in favour of the offending owner of the vehicle.

Such justification for acceptance of lesser penalty in case of a seized vehicle is wholly untenable and against the spirit of the Tax Act. Section 11 has no application in case of a vehicle seized in course of operation of the road without payment of tax. The lesser quantum of penalty prescribed in that section is applicable only in case of spontaneous payment of arrear tax on a date beyond the normal period prescribed in the Act for such payment. When a vehicle is detected plying on the road without payment of the tax the quantum of penalty has to be decided in the light of sub-sections (3) and (4) of section 10 of the tax Act. Tax with penalty can be accepted in respect of seized vehicles within a period of thirty days from the date of detention. Disposal of the vehicles by public auction can be avoided if the person liable to pay tax within the period of forty-five days from the date of detention. No negotiation for realisation of tax should be made after the expiry of such period and urgent step for disposal of the vehicle should be taken.

The payment of tax, as well as the penalty when it is due is on the owner of the vehicle and he should take the initiative for such payment in case he fails to meet such obligation, the provisions of the Act should be applied as a matter of course. It is hereby cautioned that henceforth taxing officers should be held responsible for any deviation from the provisions prescribed in the Act and grounds such as lapse, delay or omission on the part of his office justifying reduction of penalty or leniency in favour of the offending owner will not be acceptable under any circumstances.

Sd/- **M. Gupta**

Secretary,
Transport Department, Government of West Bengal.

ORDER

It has been observed that the breakdown vans/lorry/truck chassis fitted with crane and similar categories of vehicle gets registered under the non-commercial category of vehicles. Such vehicles usually pay annual road tax under the categories of vehicle falling in A(1) of the Schedule attached to the West Bengal M.V. Tax Act, 1979. While fixing the unladen weight of such vehicles the weight of the crane is not taken into account and the vehicles pays only the M.V. Road Tax for the portion of the chassis and not for the crane fitted on the chassis.

It is hereby ordered that while computing the unladen weight in the case of such categories of vehicles, the weight of the crane should be included within such unladen weight, after a formal weighment, if possible. The vehicle will be required to pay M.V. Tax on the basis of such weight.

Necessary entries be also made in the R.C. Book about the size, length, weight, capacity etc. of the crane.

This order shall be deemed to take effect from 1st April, 1989.

Sd/- **Manish Gupta**
Secy, to the Govt. of West Bengal.

8. Notification No. 7964-WT/6M-37/89 dated 7th July, 1989*

WHEREAS the Governor thinks fit and expedient so to do in the public interest :

NOW, THEREFORE, in exercise of the power conferred by section 21 of the West Bengal Motor Vehicles Tax Act, 1979 (West Ben. Act IX of 1979) (hereinafter referred to as the said Act), and in supersession of all previous notifications in this regard, the Governor is hereby pleased to exempt totally, with effect from the 1st day of April, 1989, the motor vehicles of the following classes from the payment of tax under the said Act, namely :—

- (1) motor vehicles belonging to the State Government and maintained for the use of the Governor of West Bengal or his staff or household;
- (2) motor vehicles which are owned directly by the State Government and which are certified by the Head of the Department to be used ordinarily for Government purposes ;

- (3) motor vehicles which are the property of the Central Government belonging to the Armed Forces, Central Industrial Security Forces and the Railway Protection Force ;
- (4) motor vehicles certified by officers commanding of Territorial Army Units to be maintained by persons in their capacity as the members of the Territorial Army;
- (5) motor vehicles which are the property of the State Government and which are certified by the Inspector General of Police, West Bengal and the Commissioner of Police, Calcutta, to be ordinarily used for police purposes ;
- (6) motor vehicles belonging to the State Government and maintained for the use of the Fire Brigade under the Director, Fire Services, West Bengal;
- (7) (a) ambulance/mobile dispensaries of the State Government hospitals, district hospitals and other hospitals which are run under the direct control of the State Government;
- (b) ambulance/mobile dispensaries owned by the Municipalities, Local Bodies, Corporations or Private Hospitals, Nursing Homes, Trusts, Societies, Indian Red Cross Societies or any other organisations :

Provided that a certificate is furnished before the Taxing Officer to his satisfaction by such owner that no money is recovered from the patients for the use of such ambulance and the service of the ambulance is rendered free of cost;

- (8) motor vehicles maintained either directly or under contract by any Local Authority (including the Darjeeling Gorkha Hill Council), Municipal Body, Notified Area Authority and Corporations which are exclusively used for conservancy or water supply purposes;
- (9) zmotor vehicles of the Kharagpur Station Committee used for conservancy or fire extinguishing purposes;
- (10) motor vehicles of the Ram Krishna Mission, Sarada Pith and Belur Math and Mission used in connection with the spreading of social education and other charitable purposes;

- (11) motor cars belonging to the Commercial Counsellor of the Embassy of the Union of Soviet Socialist Republics in India at Calcutta and used for official purposes;
- (12) motor vehicles belonging to Little Sisters of the Poor and St. Joseph's Home for the Aged;
- (13) motor vehicles belonging to the Consulates and Consular officers de carrier of countries which grant reciprocal facilities to India in such matters;
- (14) motor vehicles belonging to the following officers or the staff of the office of the High Commissioner for the United Kingdom in India or to the office of the High Commissioner for the United Kingdom in India :—
 - (a) Deputy High Commissioners;
 - (b) Counsellors;
 - (c) First Secretaries;
 - (d) Second Secretaries;
- (15) motor vehicles belonging to the Deputy High Commissioner for Pakistan in India at Calcutta or to his office or to any of the following diplomatic members of his staff :—
 - (a) Counsellors;
 - (b) Secretaries;
 - (c) Attaches;
 - (d) Advisors;
- (16) motor vehicles belonging to the Deputy High Commissioner of Bangla Desh in India at Calcutta or to his office or to the following diplomatic members of his staff :—
 - (a) Counsellors;
 - (b) Secretaries;
 - (c) Attaches;
 - (d) Advisors;

- (17) motor vehicles belonging to the Charitable Institutions which, in the opinion of the State Government, are used solely for Charitable purposes;
- (18) motor vehicles belonging to the Trade Commission, Assistant Trade Commissioners and Trade Agents of other countries;
- (19) motor vehicles owned by the United Nations and its agencies and Organisations ;
- (20) motor vehicles owned by the Technical Co-operation Mission or the International Development Mission of the United States of America and by the personnel of the said mission not being Indian nationals ;
- (21) motor vehicles used only for carrying dead bodies, for cremation or burials, provided that an application is made before the Taxing Officer by such owner of the Motor Vehicle praying for tax exemption on the basis of which such exemption would be granted annually ;
- (22) all carriages owned and driven" by physically handicapped persons.

2. All motor vehicles which are hitherto being exempted from payment of any tax, but are not covered under the present notification, shall be required to pay tax with effect from the 1st day of April, 1989.

By Order of the Governor,

Sd/- Sumantra Choudhury
Joint Secy,
to the Govt. of West Bengal Transport Department.

Dear Sir,

You should be aware that sub-section 4(b) of section 16 of the West Bengal Motor Vehicles Tax Act, 1979 empowers Taxing Officers to conduct sale of vehicles seized for non-payment of tax. If the owner of such motor vehicle so seized fails to make payment of the tax demand together with the penalty within one month of its seizure, the vehicle becomes liable to be sold by auction. Sale by auction should be made, unless the owner of such motor vehicle has paid within a further period of 15 days before the taxing officer having jurisdiction five times the annual tax due in respect of such class of vehicles.

It is clarified that before the actual sale is made, a notice of demand together with the particulars of the motor vehicle shall be published in at least two newspapers having wide circulation, of which one must be in Bengali, specifying therein the date on which the motor vehicle shall be sold in auction giving thirty clear time from the date of such publication. Before the vehicle is sold through auction, a reserve price will have to be fixed. Such reserve price may be fixed by a Committee consisting of one ADM in the District (Asstt. Director) in PVD one motor vehicle Inspector (Technical) and such other officers as may be decided by DM in the Districts of Director, PVD in Calcutta. In case the auction price is higher than the reserve price, the vehicle may be sold. In other cases, a fresh date for second auction may be fixed up.

Once a vehicle has been sold by auction, the new owner becomes entitled to have the vehicle free from the encumbrances. This is amendment in the Tax Act to this effect is being brought out to give statutory coverage. A clarification was earlier issued on this point.

It is learnt that a large number of motor vehicles seized by the MVIs are lying at different places in the Districts and also in Calcutta. Immediate steps should be taken on the basis of the above guidelines for conducting sale of such seized vehicles. All other financial proprieties and statutory obligations should be met with.

Yours faithfully,

Sd/- Sumantra Choudhury
Joint Secretary

A query was raised by R.T.O., Jalpaiguri in the meeting held at Siliguri on 28.8.89 regarding the Appellate Authority under section 9 of the WBMV Tax Act, 1979. The following clarifications were being issued :—

- (1) That the Appellate Authority under section 9 of the said Act shall be as follows :—
 - (/) Where the Taxing Officer is RTO or ARTO or SDO, the Appellate Authority shall be District Magistrate.
 - (//) Where the Taxing Officer is the PVD (Tax) at PVD Calcutta, the Appellate Authority shall be Director, PVD, Calcutta.
- (2) An appeal under section 9 shall be preferred in the form of memorandum in duplicate, one copy of which shall bear the court fee of Rs. 25/- setting forth concisely the grounds of objection to the order of the Taxing Officer and shall be accompanied by a certified copy of the order appealed against.
- (3) When an appeal is preferred, a notice shall be issued to the Authority against whose order the appeal is preferred.
- (4) The Appellate Authority after giving an opportunity to the parties to be heard and after such enquiry, if any, as it may deem necessary, may confirm, vary or set aside the order from which the appeal is preferred or make any amendment consequential or incidental thereto or that may be just and proper and shall make an order accordingly.
- (5) The court fee referred to above shall not be refundable.
- (6) Certified copy of any order of the Taxing Officer shall be issued normally within 7(seven) days from the date on which the requisitions are furnished, on receipt of the funds calculated at the rate of Rs. 50/- for the first page and Rs. 107/- for each additional page of such document. In urgent cases for which urgent fees at double the above rate will have to be paid, certified copies shall be issued within 3 (three) working days from the date on which the requisitions are made,
- (7) An appeal shall be preferred from the Appellate Authority within 30 (thirty) days to the date of issue of the order appealed against.

Sd/-

Sumantra Choudhury
Joint Secy, to the Govt. of West Bengal.

11. No. 14918(2)-WT dated 11th September, 1989*

Sir,

Under the provisions of West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989, certain categories of motor vehicles registered in any State other than West Bengal and plying within West Bengal are required to pay Additional Tax at the rate shown in the Schedule I of the said Act. In case any such motor vehicles, any omnibus or any goods carriage is found to be plying with a valid permit but without payment of such Additional Tax, requisite amount of Additional Tax calculated for the period covered in the permit should be collected from the owner of the said vehicle. But in case such motor vehicle is found to be plying without any valid permit and without payment of Additional Tax, requisite amount of Additional Tax calculated for a minimum period of 17 weeks shall be recovered from the owner of the said vehicle from the date of detection. As regards violation of the provisions of Motor Vehicles Act for plying without permit a separate compounding of offence may be done under the existing order. The above procedure may be adopted in respect of defaulting vehicles at the check-post.

Yours faithfully,

Sd/-

Sumantra Choudhury

Joint Secy, to the Govt. of West Bengal.

12. No. 12455-WT dated 26th September, 1989

Sub : Guidelines for seizure and sale of motor vehicles, for tax default

Sir,

Certain clarifications were earlier issued *vide* this office No. 9936 (19)-WT dated 1.8.89** regarding seizure and sale of tax failure vehicles.

Meanwhile, a query has been raised as to whether the Dept.'s earlier circular No. 2159-WT dated 22.2.89 prescribing procedure for auction sell of vehicles should be given effect to while fixing up of reserve price of the seized vehicle. It is hereby clarified that the reserve price of the seized vehicle should be fixed up taking into consideration the following factors only :

- (1) Cost price of the vehicle less depreciation at the rate of $12\frac{1}{2}$ % per annum;
- (2) Market price physical condition of the vehicle at the relevant point of time;
- (3) Other factors, if any.

This order supersedes this Dept.'s earlier Order No. 2159-WT/88 dated 22.2.89.

In addition to the above clarifications, the following guidelines are issued :-

- (1) An amendment of section 16(4) of the W.B.M.V. Tax Act, 1979, is being under consideration. The said section is proposed to be amended so that on the expiry of the period of 30 days, the vehicle seized and detained may be sold in auction unless the person liable to pay tax has within a further period of 15 days paid to the Taxing Officer having jurisdiction three times of the amount of total tax due in respect of the said vehicle together with amount of penalty under section 11 of the Act.
- (2) **(a)** Upon seizure of a motor vehicle under sub-section (1), the officer, other than the Police Officer who seizes the motor vehicle to make payment of the total tax due along with the penalty to the Taxing Officer having jurisdiction within 30 days from the date of such detention or seizure of the vehicle.

Where the driver leaves the motor vehicle, the officer who seizes the motor vehicle shall issue a notice to the owner of the motor vehicle by Registered Post with acknowledgment calling upon him to pay the total tax due together with the penalty before the Taxing Officer having jurisdiction within 30 days from the detention or seizure of the vehicle. A copy of the notice under this sub-section shall invaluable be sent to the Taxing Officer having jurisdiction.

(b) Where the officer who seizes the vehicle is a Police Officer, the officer seizes the vehicle shall immediately send a report with all particulars to the Taxing Officer of the area in which the vehicle has been seized. Upon receipt of the report under this paragraph, the Taxing Officer shall proceed in accordance with the provisions of the paragraph (a) above.

(c) Whenever the vehicle is seized under this section a seizure list shall be prepared in accordance with the provisions of Cr.P.C.

- (d) If the driver leaves the motor vehicle as soon as it is seized and the owner is not immediately available and does not turn up in spite of the issue of the note under para (a) or (b), the notice of demand together with the particulars of the motor vehicle shall be

published in at least two local newspapers having wide circulation, of which one must be in Bengali, specifying therein the date on which the motor vehicle shall be sold in auction. In such cases, the date of auction shall not be earlier than one month from the date of publication of the newspaper.

(3) In any auction under this section, the sale proceeds shall be set off in the following manner : At first the total tax demand under sub-section (4) of this section shall be adjusted. From the balance, if any, the total tax demand along with penalty as has been assessed under the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989, shall then be adjusted. If there is still any excess amount, any other claim on the same motor vehicle by any Bank or Financier shall then be adjusted. After adjustment of the above demands, if any amount is left, the same shall be repayable to the registered owner of the motor vehicle. If the owner is not available on notice, the amount shall remain in deposit for three years from the date of which the auction is made and thereafter shall be forfeited to the State.

In any auction under this section, the sale proceeds realised falls short of the total dues (*i.e.* the tax demand together with other dues if any, in respect of the motor vehicle), the balance shall be recoverable from the owner of the motor vehicle, as if it is a Public Demand under the Bengal Public Demands Recovery Act, 1913.

(4) (a) Whenever a motor vehicle is seized under section 16 of the Act and is found to contain perishable commodities and the owner is not readily available or does not take back the motor vehicle after making the payment of the dues by such time that the commodities do not get perished or deteriorated, the Taxing Officer within whose jurisdiction the motor vehicle has been seized shall dispose of the same by public auction after publicity and the markets nearby.

(b) Whenever a motor vehicle is seized under section 16 of the Act and is found to contain non-perishable commodities, and the owner does not take back the motor vehicle after making payment of the dues within the prescribed period under section 16, the said commodities shall be disposed of in the same manner and by the same authority as referred to in that section 16 of this Act.

I would request you to follow the above guidelines and to take immediate action for disposal of the seized vehicles which are lying at different Police Stations and R.T.O. offices immediately.

Yours faithfully,

Sd/-

Sumantra Choudhury

Joint Secy, to the Govt. of West Bengal.

13. No. 12456(36)-WT dated 26th September, 1989*

Sir,

Under section 9 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989, it has been proposed to impose "One-time Tax" on "Motor Cycles" in lieu of annual tax as leivable under the W.B.M.V. Tax Act, 1979. The Schedule II of the said Act prescribes different slabs for payment of One-time Tax by registered owners of such "motor cycles" according to the age of the vehicle.

The sub-section (4) of the section 9 contemplates that the owner of any "motor cycle" which is more than 15 years old shall pay the annual tax in lieu of "One-time Tax" as usual under the W.B.M.V. Tax Act, 1979. A question has been arisen as to whether the One-time Tax payable in respect of "motor cycle" at the time of its first registration or at any stage within 15 years of its registration is life-time tax for the said "motor-cycle" or the said vehicle is required to pay regular annual tax as per provisions of W.B.M.V. Tax Act, 1979 on completion of its 15 years from the date of its first registration. A clarification on this point is essential as because a suitable entry is required to be made on the tax token to indicate if the said tax token is valid for the entire life period of the particular "motor cycle" or the same is valid only upto a specific date calculated on the basis of 15 years from the date of its first registration.

The purpose of introducing One-time Tax in respect of "motor-cycles" is to provide relief to the owners of such vehicles from regular annual harassment as also to reduce considerable burden on the tax collection machinery. It is therefore clarified that the "One-time Tax" in respect of motor cycles under section 9 of the Act would mean a lump sum tax in lieu of the annual tax payable in respect of the same vehicle over a period of 15 years only. This means that at the end of 15 years from the date of first registration, regular annual tax is required to be paid by all vehicles of the said category (motor cycles), under the provisions of W.B.M.V. Tax Act, 1979, as usual.

The entry to be made in the tax token should also clearly indicate the date upon which the same should remain valid *i.e.* upto 15 years from the date of first registration.

Yours faithfully,

Sd/- **Sumantra Choudhury**

Joint Secy, to the Govt. of West Bengal.

14. No. 12518(35)-WT dated 27th September, 1989

Sub : Guidelines regarding issue of Tax Token/endorsement in the Tax Token under the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989.

The following guidelines are being issued in continuation of this office No. 12456(36)-WT dated 26.9.89*, regarding issue of Tax Token/endorsement to be made in Tax Token under the provisions of West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989.

1. Section 17 of the said Act clearly mentions that the taxing officer shall at the time of granting a receipt for the Additional Tax, make an endorsement in the Tax Token on that behalf. This means that no new Tax Token will be issued in respect of payment of Additional Tax under this Act but only endorsement will be made in the existing Tax Token of the vehicle which has already been issued under the provisions of West Bengal Motor Vehicles Tax Act, 1979.

2. As regards payment of One-time Tax the following procedures may be adopted :

- (a) In respect of new 'motor cycles' at the time of first registration, a fresh Tax Token should be issued at the time of receipt of One-time Tax under this Act.
- (b) We have allowed options regarding the payment of One-time Tax in respect of new 'Motor Cycles' upto 31.12.88 as a stop-gap arrangement. Under this arrangement, payment of One-time Tax at the time of first registration has been made optional upto 31.12.88. Such payment of One-time Tax has been, however, made compulsory with effect from 1.1.89. In such cases, where a Tax under the West Bengal Motor Vehicles Tax Act, 1979 and the One-time Tax has been paid under the new Act, after 1.1.89, a fresh tax token should be issued in respect of such 'motor cycles'.
- (c) In respect of motor cycles which are more than fifteen years old, annual tax should be levied under W.B.M.V. Tax Act, 1979 and Tax Token be issued as usual.
- (d) It has already been decided that One-time Tax shall remain valid upto 15 years from the date of first registration. A suitable entry should, therefore, be made in the Tax Token being issued under this Act. For example when a vehicle of eleven years old has come for payment of One-time Tax and has paid One-time Tax as per Schedule 2 Part-II, the validity of the Tax Token issued in respect of the said motor cycle shall indicate the last date to be calculated on the basis of fifteen years from its first registration. This means that at the end of the validity period, the said vehicle shall be required to pay regular Annual Tax under the provisions of W.B.M.V. Tax Act, 1979.

Sd/- Sumantra Choudhury
Joint Secy, to the Govt. of West Bengal.

15. No. 14742(18)-WT dated 5th December, 1989

RADIOGRAM

Please note that the One-time Tax for two wheelers under the new Tax Act of 1989 relates only to such two wheelers as are owned by individuals for personal use not being companies registered under the Companies Act 1956(.) Those two wheelers owned by companies registered under Companies Act, 1956 shall make payment of regular annual tax as usual at the prescribed rate (.) No repeat no One-time Tax shall be leviable from such two wheelers(.)

Please transmit the above message immediately.

Sd/- Illegible

Joint Secy, to the Govt. of West Bengal.

16. No. 4836-WT/6M-42/89 pt, dated 16th April, 1990

Please refer to Memo No. 435 dt. 4.1.90 of R.T.O., Cooch Behar and subsequent reminder No. MV 172 dt. 16th March, 1990 asking for certain clarifications on payments to be made under the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989. The clarifications are being made hereunder :—

- (1) All buses registered as idle buses or spare buses which conforms to the specification and standard laid down for tourist vehicles under the Motor Vehicles Act, 1988 and which are normally not used as stage carriage/special stage carriage shall be subject to payment of additional tax as usual for the period under the new Act. Stage carriage/special stage carriage route buses while being used on Temporary Permit/Special Permit for other purposes like marriages, tours etc. shall be subject to payment of additional taxes for the periods of such use.

- (2) Those stage carriages which ply on different routes as express bus with temporary permits shall be subject to payment of additional taxes for the periods during which such vehicles are plying as express bus.
- (3) If the due date of tax for a motor cycle falls after 1st April, 1989 and One-time Tax is paid after the due date, the owner of the vehicle shall be subjected to payment of usual penalty to be calculated at the rate of annual tax as was payable by him under the old Tax Act, 1979.
- (4) The due date for imposition of penalty under section 10(2) of the Additional Tax Act, 1989 shall be treated as 1st Oct., 1990. A revised order is being issued on this account.
- (5) A revised order is being issued under which the period of exemption of penalty under the Additional Tax Act is being extended upto 30th September, 1990.
- (6) There is no bar to realise arrear additional tax for the fractional period since 1.4.89 to be calculated at the rate of 1/12th last of the annual tax for every month.

Scff- Sumantra Choudhury
Joint Secy, to the Govt. of West Bengal.

17. No. 16887-WT/6M-42/89 pt. dated 8th October, 1990

Sir,

I am directed to say that the Taxing Officer, Asansol has sought for clarification regarding collection of Additional Tax, M.V. Tax in respect of the vehicles registered in any State outside West Bengal but plying within the State of West Bengal without any valid permit. It was earlier clarified in this dept., G.O. No. 14918-WT dt 11th Sept. 1989* that Additional Tax for a minimum period of 17 (seventeen) weeks shall be recovered from the owners of such vehicles from the date of detection. It is now clarified that in respect of vehicles registered in any State other than the State of West Bengal but plying within West Bengal without any valid permit and without payment of any tax, requisite amount of Additional Tax as well as regular Motor Vehicles Tax for a minimum period of 17 (seventeen) weeks together with usual penalties shall be recovered henceforth from the date of detection. Regarding violation of provisions of section 192 of the Motor Vehicles Act, 1988 (plying of vehicles without permit) a separate compounding of offence shall also be initiated under existing orders.

Yours faithfully,

Sd/- Illegible
Joint Secy, to the Govt. of West **Sd/- Illegible** Bengal.

18. No. 18848-WT/6M-37/89 pt. dated 26th November, 1990

NOTIFICATION

In exercise of the power conferred by section 21 of the West Bengal Motor Vehicles Tax Act, 1979 (West Ben. Act IX of 1979), and in supersession of the Notification No. 16654-WT dt. 19.9.90., the Governor is pleased to direct that clause (7) of the Notification No. 7964-WT dt. 7.7.89**, be substituted by the following :

- 7. (a) Ambulances/Mobile dispensaries of State Govt. Hospital, District Hospitals and other Hospitals which are run under the direct control of the State Government.
- (b) Ambulance/Mobile Dispensaries owned by Municipalities, Local Bodies, Municipal Corporation and Indian Red Cross Societiy.
- (c) Ambulances/Mobile dispensaries belonging to Charitable Institutions, Private Hospitals, Nursing Homes, Trusts, Societies about which the State Govt. is satisfying that their services are rendered free of cost and has issued exemption in writing.

By Order of the Governor,

Sd/- Sumantra Choudhury
Joint Secy., to the Govt. of West Bengal Transport Department.

19. No. 19219-WT/6M-17/90 dated 5th December, 1990

Sir,

I am directed to say that the sub-section (2) of section 8 and sub-section (6) of section 9 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 provides refund of Additional Tax and One-time Tax. Framing of necessary rules/guidelines for giving effect to such refund where admissible is yet to be made and may take some time. To meet such need in the transitional period the Taxing Officers are therefore advised to follow the procedure laid down in rule 24 of the West Bengal Motor Vehicles Tax Rules, 1957 as far as practicable and use in Forms 'E' and 'F' (West Bengal Form No. 330F and 3558 respectively) with suitable correction where necessary to dispose of the claims of such refunds until further orders.

Yours faithfully,

Sd/- Illegible

Joint Secy, to the Govt. of West Bengal.

20. No. 8083-WT dated 11th June, 1991*

Sub : *Change of address in the R.C. Book and assignment of new Registration number in respect of personalised small vehicles registered in other States but which are kept in this State either for a temporary period or for an indefinite period—Guidelines for payment of Road Tax etc.*

Section 47 of the Motor Vehicles Act deals with the assignment of new registration mark in respect of vehicles which are registered in outside the State but have been kept in this State for a period exceeding 12 months. Section 49 of the said Act contemplates that if an owner of a motor vehicle ceases to reside or have his place of business at the address recorded in the Certificate of Registration of the Vehicle, he shall within 30 days of any such change of address intimate in such form of his new address to the original Registering Authority or to the Registering Authority in whose jurisdiction the new address falls new address be recorded in the Certificate of Registration by the said Registering Authority.

It is found that a large number of vehicles which are registered outside the State, but which are kept in this State either for a temporary period or for an indefinite period, do not pay any road tax to the concerned

Taxing Officers of this State. In most of the cases, they even do not report about the change of address or pray for assignment of new registration marks in terms of the provisions of sections 49 and 47 of the M.V. Act. This is not only in violation of the provisions of the M.V. Act, 1988 but it also becomes difficult for the police to trace out the ownership of such vehicles in cases of accidents, violation of traffic rules, commission of other crimes using such vehicles, etc.

Section 4 of the West Bengal Motor Vehicles Tax Act, 1979 states that in the case of a motor vehicle registered outside West Bengal, whether temporarily, or otherwise, and which is used or kept for use in West Bengal temporarily tax shall be payable for every week or part thereof for which the motor vehicle is so used or kept for use in West Bengal @ 1/52 part of the tax payable for the year per week.

The owners of these vehicles are either ignorant of the provision of law or do not want to take the trouble of going to the Motor Vehicles officer for completing formalities and making payment of the requisite amount of Tax/Additional Tax. It is also difficult to ascertain the date on which a motor vehicle is brought to this State from outside the State. Sometimes, it may be possible to have Octroi/Entry Tax papers or such other reliable documents, but often no such papers are carried by the vehicles in question.

In view of the above complications, the following simplified guidelines are being prescribed for collection of Motor Vehicles tax and for recording change of address/assignment of new registration marks in respect of these vehicles :—

1. **Whenever vehicle is found by the enforcement officers of this State to be plying on the roads while continuing to have its registration outside the State and without making payment of road tax in this State, the following procedure should be adopted**
:—
 - (a) Road Tax and Additional Tax for a period of one year preceding the date of interception of the vehicle shall be collected together with 10% penalty thereon at a flat rate.
 - (b) Road Tax and Additional Tax for a further period of one year from the date of interception of the vehicle shall also be collected without any penalty.
 - (c) Change of address of the owner in this State will be recorded in the certificate of registration from the date of realisation of

tax as per provision of section 49 of the M.V. Act, as also payment of tax made under clauses (a) and (b) above.

(d) Steps for assignment of new registration mark in terms of provision of section 47 of the M.V. Act may also be taken, if necessary.

2. If the owner of a vehicle, which is registered outside the State and which has been brought to this State, approaches a Registering Authority/Taxing Authority in this State for making payment of Road Tax/Additional Tax, and/or also recording change of address/assignment of new registration mark, the following procedure should be adopted :—

(a) Such owners shall be asked to produce Octroi/Entry Tax documents or any other convincing document regarding arrival of the vehicle in this State. In that case, the Tax/Additional Tax etc. as well as usual penalty, should be collected on the basis of the Octroi/Entry Tax documents/other convincing documents. Other such documents produced by the vehicle owner should be to the satisfaction of Director, PVD in Calcutta and D.Ms in Districts.

(b) If the owner of such a vehicle is not able to produce any Entry Tax document/other convincing documents, it shall be presumed that the vehicle has been kept in this State for more than one year, and in that case Tax/Additional Tax together with penalty @ 100% flat rate shall be collected in terms of the guidelines mentioned above in paragraph I above.

(c) Change of address of the owner in this State will be recorded in the Certificate of Registration, as per provision of section 49 of the M.V. Act, as also payment of tax made under clauses (a) and (b) above.

(d) Steps for assignment of new registration marks in terms of provision of section 47 of the M.V. Act may also be taken, if necessary.

The above guidelines should be strictly followed in the matter of collection of M.V. Tax and other dues from the categories of vehicles mentioned hereinbefore.

Yours faithfully,

Sd/- Sumantra Choudhury

Special Secy, to the Govt. of West Bengal.

21. No. 8223(16)-WT dated 14th June, 1991*

Sir,

Certain guidelines have been issued under this office No. 8083-WT dated the 11th June, 1991** in respect of procedures to be followed for collection of road tax from personalised small vehicles registered in other States but which are kept in this State either for a temporary period or otherwise. Please organise raids in your area and ensure that all vehicles registered outside this State are made to pay road tax in this State. In clause 1(a) of the said order please read 100% (per cent.) instead of 10% which has been a typing mistake.

Yours faithfully,

Sd/- Sumantra Choudhury

Special Secy, to the Govt. of West Bengal.

22. No. 9478-WT dated 30th July, 1991*

It is noticed that there are some serious anomalies in calculating the 'Penalty on Tax' as per section 11 of WBMV Tax Act, 1979 in some districts.

It is clarified that the tax of a vehicle for any subsequent period may be paid within a grace-period of 15 (fifteen) days from the date of expiry of previous period for which tax has been paid as per section 4(1 A) of W.B.M.V. Tax Act, 1979 and the penalty to be imposed under section 11 of the said Act is to be computed after the expiry of the aforesaid grace-period of fifteen days and not from the expiry-date of previous tax period.

It is also made clear that henceforth the grace-period will be 15 Calender-days (not working days) after the expiry-date of previous tax; no further extension is to be allowed also in case of 15th day being any holiday.

SO/- Illegible

Special Secy, to the Govt. of West Bengal.

Sub : Payment of MV Tax/Addl. Tax after the grace period

Sir,

I am directed to refer to your letter no. MV/1523H" dt. 22.8.91 on the subject noted above and to say that under the provisions of section 12 of the Bengal General Clauses Act, 1897 (copy of the extract enclosed), if any Act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period, and if the court or office is closed on that day or the last day of the prescribed period, the Act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the court or office is open.

On the same analogy, if the last day of the grace period is a Sunday or a public holiday, acceptance of M.V. Tax/Addl. Tax without penalty on the very next working day shall also be lawful.

This is in partial modification of the earlier No. 9478-WT dt 30.7.91*. The computation of grace-period shall however be 15 calendar days and not working days.

Yours faithfully,

Sd/- Illegible

Special Secy, to the Govt. of West Bengal.

NOTIFICATION

In exercise of the power conferred by section 18(8)(A) of the West Bengal Motor Vehicles Tax Act, 1979 as amended by the West Bengal Motor Vehicles Tax (Amendment) Ordinance, 1991, the Governor is pleased to direct that any offence punishable under section 18, whether committed before or after the commencement of the West Bengal Motor Vehicles Tax (Amendment) Ordinance, 1991 may either before or after the institution of the prosecution be compounded by any officer not below the rank of Motor Vehicles Inspector having jurisdiction and such compounding may be done at rates of 75% of the maximum fine imposed under that section :-

Provided that the State Government may in very genuine cases to be recorded in writing allow compounding of an offence on payment of token amount as may be determined by it.

Every case of composition of the offence shall be entered in certificate of registration, driving licence of the driver and permit of the concerned vehicle by the officer compounding such offence. A register shall also be maintained in the proforma prescribed under notification 7859-WT dated 4th July, 1989 for the purpose. This notification shall come into effect from 25th November, 1991.

By Order of the Governor,

Sd/- Sumantra Choudhury

Special Secy, to the Govt. of West Bengal.

Sir,

I am directed to refer to your memo no. 763C dt. 26.11.1991 and to say that 100% penalty shall be charged on Tax & Addl. Tax uniformly for the other State vehicles detected without permit.

For the other State vehicles plying with temporary permit, but without payment of due W.B. Tax/Addl. Tax, penalty shall be charged @ 100% uniformly.

Yours faithfully,

Sd/- Illegible

Asstt. Secy, to the Govt. of West Bengal.

26. No. 1245-WT/3M-119/89 dated 6th February, 1992

Sir,

In partial modification of G.O.No. 11480(38)-WT dt. 11.9.89*, I am directed to say that the Appellate Authority under section 9 of the W.B.M.V. Tax Act, 1979 shall be as follows :—

(I) where the Taxing Officer is R.T.O. or A.R.T.O. or S.D.O., the Appellate Authority shall be District Magistrate.

(//) where the Taxing Officer is the P.V.O./A.D.(Tax) at Public Vehicles Dept., Calcutta, the Appellate Authority shall be the Director, Public Vehicles Dept. Calcutta.

All other arrangements as envisaged in the G.O. mentioned above, shall remain as it is.

Yours faithfully,

Sd/- Illegible

Asstt. Secy, to the Govt. of West Bengal.

27. No. 1445-WT dated 7th February, 1992

Sir,

As per the latest West Bengal Motor Vehicles Tax (Amendment) Ordinance, 1991, certain tax is required to be paid at the time of first registration by the Dealers for keeping the vehicles on the strength of the Trade Certificates. It has now been decided that the vehicles owned by CSTC/NBSTC/SBSTC/CTC may be exempted from paying such taxes, as because they purchased the vehicles directly from the manufacturers and not through Dealers. The above order is made under section 21 of the W.B.M.V. Tax Act, 1979.

Yours faithfully,

Sd/- Sumantra Choudhury

Special Secy, to the Govt. of West Bengal.

28. No. 1780-WT dated 14th February, 1992

Under the W.B.M.V. Tax Act, 1979, tractors used solely for agricultural purposes were not required to pay any tax in terms of Schedule (para 'D') of the said Act. Subsequently, by a notification No. 7964-WT dated 7th July, 1989* we had withdrawn the exemptions granted earlier to such tractors which were used exclusively for the agricultural purposes and required them to pay the road tax as usual like other tractors. A series of High Court cases were filed challenging validity of the said notification. In fact, 24 such cases on the subject were filed against the State Government. Our State Advocate has now informed that the matters in question numbering 24 Civil Orders were disposed of finally on 13th August, 1991 by the Hon'ble Mrs. Justice Ruma Pal on the basis of order passed by the Hon'ble Court in C.O. No. 13281 (W) of 1990 and the aforesaid 24 writ applications have been allowed.

Hon'ble Justice has observed that so far as the petitioners said vehicles (tractors or trailers) are concerned, tax exemption will be granted subject to their satisfying the authority concerned in the manner prescribed under the Act that the vehicles were not used on public roads. If the petitioners have applied or apply for refund on the ground of non-use of public roads under section 43 read with section 13 of the said Act, the

respondents will also grant the same subject to verification that the vehicles have not been used during that period on any public road. The onus is however placed on the owners of the vehicle (or the person in control of it) to obtain the refund on proving that the vehicle had not been used on public roads.

The Supreme Court had earlier held that in the case of Bolani Ores that the registration of a motor vehicle under the Motor Vehicles Act, 1939 does not automatically make it liable for taxation under the State Taxation Act. It is not the purpose of the Taxation Act to levy tax on vehicles which do not use roads or in any form part of the law on traffic on the roads which is required to be regulated. If the vehicles do not use roads, notwithstanding with their registration under the Act, they cannot be taxed—held by Supreme Court. If the vehicles are suitable for use on public roads, they are liable to be taxed. In order to levy a tax on vehicles used or kept for use on public roads of the State and at the same time to avoid evasion of tax, the Legislature has prescribed the procedure.

This means that the tractors and trailers where used solely for agricultural purpose or not are required to pay road tax as usual. Under the West Bengal Motor Vehicles Tax (Amendment) Ordinance, 1991, we have kept separate Schedule for tractors/trailers (paragraph 'D' and paragraph 'E'), irrespective of their nature of use. However, if these tractors/trailers are not used on public roads, they cannot be taxed. The tractors/trailers owned by the tea gardens which are used on public roads may claim exemption. However, the onus of proving the fact that these were never used even for a single instance on public roads would lie on the owner of such tractors/trailers. They will have to comply with the statutory formalities under section 4(3) and section 13 of the M.V. Act to be entitled to claim for any exemption. Otherwise they shall have to pay road tax as usual like all other motor vehicles.

You may, therefore, proceed on the basis of the above judgement and take suitable actions.

Yours faithfully,

Sd/- Sumantra Choudhury
Special Secy, to the Govt. of West Bengal.

29. No. 2195(17)-WT dated 26th February, 1992

Sir,

Clarifications were earlier issued from time to time on registration of training school vehicles. The following revised guidelines are issued on the subject :—

1. Under this office No. 1289-WT dated 6th February, 1992, instructions were issued to the effect that the autorickshaws owned by Motor Training Schools and used for training purposes be registered with private registration numbers in very genuine cases. Additional Tax as per Part-A Schedule I may be charged at the rate of 50% of the tax payable. Tax may be imposed on the basis of seating capacity at the rate applied to autorickshaws plying for hire or reward.
2. Small vehicles including cars/jeeps etc. owned by Motor Training Schools and used for training purposes may be allowed to have private registration numbers as usual. Tax may be imposed on these vehicles at the rate applicable for metered taxis. Additional Tax be paid as usual.
3. Omnibuses/ Goods carriages owned by Motor Training Schools and used for training purposes may be allowed Transport vehicle registration number with private service vehicle permit. Tax may be imposed on them as usual in the case of buses other than Stage Carriages and Additional Tax may also be levied as usual treating them at par with "buses of a company".

Necessary amendments are being brought.

Yours faithfully,

Sd/- Illegible
Special Secy, to the Govt. of West Bengal.

30. No. 2306-WT dated 28th February, 1992

Sir,

Under Transport Dept.'s Notification No. 11832-WT dt. 23rd October, 1986*, it was clarified that no tax should be charged on a chassis for a period of three months from the date of purchase/acquiring ownership/ possession or control or till the completion of the body-building on it, whichever, is earlier. If a chassis under temporary registration fails to

complete its body-building within a period of three months from the initial date of temporary registration, it should be taxed thereafter irrespective of the fact that it is still not fit for carrying passengers/goods and liable for registration under section 41 of the M.V. Act.

I am directed to issue the following fresh guidelines on the subject :—

1. While implementing the above G.O. tax/additional tax was not realised for a period of three months from the date of its purchase/acquiring ownership or possession in the absence of any concrete record of the date of completion of body-building on the chassis. There are likely to be cases where body building is completed in a period of less than three months. But in such cases too exemption for a period of three months is enjoyed because of lack of evidence regarding the date of completion of body building. In order to prevent misuse of the benefit extended in the Transport Dept.'s Notification No. 11832-WT dated 23rd October, 1986. The date of weighment or the date of presentation of the completed vehicle for registration, whichever is earlier, may be taken as the date of completion of the body on the chassis and tax and addl. tax should be realised accordingly.
2. It was stated in the above G.O. under reference, that in cases of vehicles other than transport vehicles, tax/addl. tax should be imposed after a period of seven days from the date of purchase/acquiring ownership/possession or control of the vehicle from the dealer/manufacturer. Under provision of rule 47 of C.M.V. Rules, 1989, an application for registration of a motor vehicle shall be made within a period of seven days from the date of taking delivery of such vehicle, excluding the period of journey. Tax and additional tax shall therefore, be calculated and realised with effect from the date of registration itself and not after a period of seven days from the date of purchase as indicated in the above G.O.
3. In the case of temporary registration under section 43 tax/additional tax should however be calculated under section 4(2)(fa) of the W.B.M.V. Tax Act, 1979 as usual.

Yours faithfully,

Sd/- Sumantra Choudhury

Joint Secy,

to the Govt. of West Bengal, Transport Department.

31. No. 2318-WT dated 29th February, 1992

Sub : Grant of temporary permits/special permit for casual journey / trips for marriages, festivals etc.

Sir,

It has been observed that temporary permits under section 87 and Special Permits under section 88(8) of the M.V. Act, 1988 are being granted by different RTOs and STA, West Bengal in divergent fashion. To ensure uniformity in granting such permit, following guidelines are prescribed :—

1. Temporary permits under section 87 to passenger transport buses should be granted only when such permit is restricted within any region by the respective RTOs.
2. Whenever a prayer for grant of a permit for casual journey is made before any RTO and the said journey includes places outside the region of the concerned RTO, Special permit under section 88(8) should usually be granted provided the vehicle is already covered by a permit as envisaged in the said section. It was earlier clarified that every omnibus should either be registered as a private service vehicle or as a public service vehicle or as an educational institution bus as per the prayer of the registered owner and depending on the actual use thereof (G.O. 9479-WT dated 30th July, 1991). Public service vehicle includes stage carriage and contract carriages. Under the said order, omnibuses are not to be registered as idle buses and in the past cases necessary corrections be incorporated in the Certificate of Registration at the time of renewal of Certificate of Fitness etc.

Special permit under section 88(8) can be granted to a motor vehicle if the said vehicle is already covered by a permit under section 72 or under section 74 or under section 88(9). Since the word "idle buses" will not be used any more, all the buses except those, registered as a private service vehicle or as an educational institution buses should be granted Special permit under section 88(8).

3. It has been observed that several RTOs are not collecting Additional Tax from the motor vehicles which are granted special permit/temporary permit under section 87/88(8) for the limited period of time. It is clarified that such Additional Tax, subject to a minimum of one week or as the case may be, should invariably be collected.

Yours faithfully,

Sd/- Sumantra Choudhury

Special Secy, to the Govt. of West Bengal.

32. No. 2322-WT dated 29th February, 1992

It was earlier ordered under this office No. 6170-WT/4M-14/89 dated 24th May, 1989* that the tax in respect of break-down vans/lorry/truck chassis fitted with crane and similar categories of vehicles like dumper, rig, tow truck, refuse collector etc. should be computed on the basis of their ULW after having taken into account of the weight of the crane mounted on the chassis. Even if a formal weighment is not possible, the ULW is to be calculated after taking into account the prescribed weight of the crane as per manual etc.

It is hereby clarified that the above categories of vehicles should be treated as transport vehicle and be given transport vehicle Nos. at the time of registration. They may be given private service vehicle or public service vehicle permits depending on the actual use and regular CF etc. should be conducted in respect of these categories of vehicles. They should also be made to pay tax and additional tax under the new Amendment Ordinance/ Act (under process).

Sd/- Surnantra Choudhury

Special Secy,

to the Govt. of West Bengal, Transport Department.

33. No. 2497-WT/6M-42/89 pt. dated 3rd March, 1992

Sub : *Change of address in the R.C. Book and assignment of new Registration number in respect of personalised small vehicles registered in other States but which are kept in this State either for a temporary period or for an indefinite period—Guidelines for payment of Road Tax etc.*

Sir,

I am directed to refer to this Dept. No. 8083-WT dated 11.6.91* and 8223-WT dated 14.6.91** on the above subject and to say that the guidelines for payment of Road Tax, Addl. Tax etc. in respect of the vehicles, as stated therein, shall be applicable in respect of the two-wheelers also.

Yours faithfully,

Sd/- S.C. Mukherjee

Asstt. Secy, to the Govt. of West Bengal

34. No. 2843(33)-WT dated 12th March, 1992

Elaborate guidelines were earlier prescribed under this Dept., No. 8083-WT dated 11th June, 1991* for collection of M.V. Tax and for recording change of address/assignment of new Registration Mark in respect of vehicles which are kept in this State either for a temporary period or for an indefinite period and which are registered in other States outside West Bengal. I was contemplated in the said order that Road Tax and Additional Tax for a period of one year preceding the date of interception should be collected together with 100% penalty thereon at a flat rate in respect of such vehicles.

In view of the promulgation of the West Bengal Motor Vehicles Tax (Amendment) Ordinance, 1991 a new sub-section (7) under section 19 has now come into force under which the owner of a vehicle who drives any motor vehicle without paying tax in respect of the said vehicle shall be punishable with a fine which may extend to Rs. 1000/-. The offence under the said sub-section has been made compoundable and the composition amount has been fixed at Rs. 7507- under G.O. No. 13859-WT dated 27.11.91***. A query has been raised by Director, PVD as to if a person can be asked to pay penalty twice for a single offence. It is clarified that if in respect of a vehicle tax and additional tax together with 100% penalty has been paid for a period of one year preceding the date of interception of the vehicle, no further penalty be realised under sub-section (7) of section 19 of the M.V. Tax Act in such cases. If, however, penalty has not been paid once, the said penalty under sub-section (7) of the section 19 may be collected as usual.

Sd/- Sumantra Choudhury

Special Secy,

to the Govt. of West Bengal, Transport Department.

35. No. 3013-WT dated 17th March, 1992*

ORDER

It is observed that the STA Office is collecting Motor Vehicles Tax in respect of Vehicles for which inter-State Permits have been issued by STA/RTA of States other than West Bengal. Such tax is being collected by

Secretary, STA, in exercise of powers as Taxing Officer under the appropriate Acts.

This is creating confusion at the time of enforcement raids. STA Office cannot issue any Tax Token/OCR and as simply making an endorsement on the body of the Permit in a cryptic manner. It would be very easy to forge such signature and in the absence of adequate documents our enforcement field staff are finding it extremely difficult to ascertain the tax payment position in the correct form. It has, therefore, been decided that henceforth the STA office shall not make any collection of Motor Vehicles Tax/Additional Tax/Special Fees in respect of any vehicle whatsoever, payment of tax in respect of Tax/Additional Tax/Special Fees in respect of Motor Vehicles for which Inter-State Permits have been issued by STA/RTA of States other than West Bengal shall henceforth be made before Taxing Officer, Calcutta, and on production of DCRrTax Token indicating such payment STA office will allow counter-signature/endorsement on Inter-State Permits.

It is also ordered that henceforth counter-signature/endorsement shall be made only for the period for which Tax/Additional Tax has been cleared in respect of any motor vehicle in its permit subject to a minimum of one quarter of a year. In other cases where endorsement has already been made, Inter-State Permit holders shall produce such documents on expiry of every quarter for making endorsement in respect of payment of taxes on the Part-A and Part-B of the permit.

In the cases of Temporary Permits, both goods carriages and passenger carriages, similar procedure will be followed.

However, in the cases of National Permits, composite fees may be continued to be collected by STA and other formalities may be completed by STA as usual. Similarly, in the cases of issue of Temporary Permits etc., Permit Fees shall also be collected by STA as usual.

Sd/- Sumantra Choudhury
Special Secretary, Transport Department.

36. No. 3072-WT dated 19th March, 1992

Ministry of Surface Transport, Government of India has issued directions on carrying of goods by goods carriages and the prescribed maximum weight has also been stipulated by the Ministry from time to time. Carrying of goods beyond the prescribed maximum permissible weight is an offence punishable under section 194 of M.V. Act. It has been observed that a section of transport companies/transport agents is allowing to load in different goods carriages beyond prescribed maximum permissible limit in violation of the above provisions of M.V. Act, 1988. It is brought to the attention of all concerned that this is a punishable offence under Motor Vehicles Act, 1988. The State Government has decided to check such violations in a determined manner and to conduct raids on all National Highways and State Highways throughout the State against overloading of goods carriages. It may also be pointed out that the enforcement officers may require the driver of any goods vehicle to report to a weighing device within a distance of 10 kms. from any point of the forward route or within a distance of 20 kms. from the destination of the vehicle for causing weightment and if on such weightment the vehicle is found to contravene in any respect, the prescribed maximum permissible weight, he may, by order in writing, direct the driver to off-load the excess weight at the driver's own risk and not to remove the vehicle from the place until the ladden weight has been reduced so that it complies with the maximum permissible limit. Any offence committed for such violation is punishable under section 194 of the M.V. Act, 1988 which may be compounded under section 200 of the said Act.

The above provisions of the statute are being brought to the notice of all Transport companies/transport agents/owners of goods carriages for strict compliance, failing which appropriate necessary action will be taken under the provisions of law.

By Order of the Governor,

Sd/- Sumantra Choudhury
Special Secy,
to the Govt. of West Bengal, Transport Department.

37. 3483-WT dated 31st March, 1992*

ORDER

It was earlier ordered *vide* this office No. 3013-WT dated 17th March, 1992**, that collection of Motor Vehicles Tax/Additional Tax/Special Fees in respect of motor vehicles for which Inter-State Permits have been issued by STA/RTA of States other than West Bengal shall be collected by Taxing Officer, Calcutta, and on production of OCR/Tax Token indicating such payments, STA Office will allow counter-signature/endorsement on Inter-State Permits. It was also ordered that henceforth counter-signature/endorsement shall be made only for the period for which Tax/Additional Tax etc. has been cleared in respect of any motor vehicle in its permit, by STA, West Bengal.

It has been reported that the Enforcement Officers of different districts have intercepted many vehicles with or without permits belonging to other States (in the case of those with permits issued by STA/RTA of States other than West Bengal). Tax/Additional Tax/Penalty/Special Fees etc. in respect of those vehicles are supposed to be collected by Taxing Officer, Calcutta, as per the circular mentioned above under No. 3013-WT dated 17th March, 1992*. Since these vehicles have been intercepted by Enforcement Officers of a particular district, there is a demand that the Tax/Additional Tax/Penalty/ Special Fees etc. In respect of those vehicles should also be allowed to be collected by the Taxing Officer of the concerned district so that the same is reflected in the total Motor Vehicles Tax revenue collection of the concerned district. The demand is considered to be genuine and it has, therefore, been decided that in respect of vehicles which are intercepted by Enforcement Officers of different districts, Tax/Additional Tax/Penalty/Special Fees etc. may be collected by the Taxing Officer of such district and STA office will allow counter-signature/endorsement on inter-State Permits on production of OCR/ Tax Token indicating such payments. The Taxing Officers of different districts will also make an endorsement to this effect in the Certificate of Registration/ Tax Token/Permit etc. and will intimate to the STA, West Bengal with a copy to Taxing Officer, Calcutta by Registered Post in this behalf. However, in respect of motor vehicles for which Inter-State Permits have been issued by STA/RTA of States other than West Bengal, and which have not been intercepted by Enforcement Officers of different districts, Tax/ Additional Tax/Penalty/ Special Fees etc. shall in normal cases be collected by Taxing Officer, Calcutta, in terms of this office No. 3013-WT dated 17th March, 1992*.

Sd/- Sumantra Choudhury
Special Secy., Transport Department

38. No. 4125-WT dated 16th April, 1992

ORDER

Under this office Order No. 3483-WT dated 31.3.1992**, it was earlier clarified that Tax/Additional Tax/Penalty/Special Fees etc. in respect of the motor vehicles plying in Inter-State routes, with or without permits, should be collected by the Enforcement Officers of different districts within whose jurisdiction such motor vehicles are intercepted. Since these vehicles are intercepted by enforcement officers of a particular district, it was decided that Tax/Additional Tax/Penalty/Special Fees etc. in respect of such vehicles, whether registered in West Bengal or outside West Bengal should be collected by the said officer of that particular district.

It is now clarified that similar procedures be also adopted in the case of all motor vehicles of different categories. In other words, if any motor vehicle is intercepted by enforcement officer of any district for non-payment of Tax/ Additional Tax/Penalty/Special Fees/without permit etc., such payment may be collected by the Taxing Officer of that particular district and an endorsement to this effect may be made in the Certificate of Registration/tax token/ permit etc. of the motor vehicle and the fact may be communicated to the concerned R.A.

Sd/- Sumantra Choudhury
Special Secy,
to the Govt. of West Bengal, Transport Department.

39. No. 4962-WT dated 11th May, 1992

RADIOGRAM

As per the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act 1992—Schedule I Para 2(a) those omnibuses plying under inter-State permits issued by RTA/STA of a State other than West Bengal with which the State of West Bengal has a reciprocal Agreement payment of Additional Tax may be condoned by the State Government(.) It has now been decided that in the case of inter-State permits issued by RTA/ STA of Bihar/Assam such Additional Tax be collected at the rate of rupees six thousands only per annum or 1/52nd part thereof for every week as the case may be per omnibus during the validity of the permit in this State until further order(.)

To
The Registrar,
I.G. Police, Govt. of West Bengal
Please transmit the above message immediately.

Sd/- illegible
Special Secy, to the Govt. of West Bengal.

NOTIFICATION

WHEREAS under Schedule I para 2(a) of the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1992, all omnibuses plying under Permanent Inter-State Permits, Stage Carriage or Contract Carriage or under Tourist Permit or under Temporary Stage Carriage Inter-State Permit in specified routes and plying in West Bengal in respect of which permits have been issued by the Regional Transport Authority of a State other than the State of West Bengal are required to pay Additional Tax at the rate of Rs. 2,0007- per seat per annum or 1/52nd part thereof for every week or part thereof as the case may be;

AND WHEREAS a reciprocal Inter-State Agreement has been executed between the State Government of West Bengal and the State Government of Orissa on 9th May, 1992 pertaining to the plying of Stage Carriage/Contract Carriage/Tourist etc. vehicles in the Inter-State routes agreed into previously;

AND WHEREAS under proviso to the said Schedule I, para 2 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1992 the State Government has been empowered to condone payment of Additional Tax in respect of any such omnibus if the Inter-State permit has been issued by the Regional Transport Authority or the State Transport Authority of a State with which the State of West Bengal has a reciprocal agreement.

NOW THEREFORE, in exercise of the power conferred under the said proviso to the Schedule I, para 2 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1992, the Governor has been pleased to decide that in the case of above categories of vehicles Additional Tax payable by the owners of the vehicle in respect of which permits have been issued by the State Transport Authority/ Regional Transport Authority, Orissa, shall be as below :-

Description of Motor Vehicles	Annual Rate of Additional Tax
STAGE CARRIAGES (i) For every seating capacity excluding the Driver and the conductor, which the vehicle is permitted to carry and where the total distance permitted to be covered by the vehicle in a day in West Bengal does not exceed 150 kilometers.	Rs. 7467- per seat per annum or 1/52nd part thereof for every week or part thereof as the case may be.
(ii) For every seating capacity excluding the Driver and the conductor, which the vehicle is permitted to carry and where the distance permitted to be covered by the vehicle in a day in West Bengal exceeds 150 kilometers but does not exceed 200 kilometers.	Rs. 1296 per seat per annum or 1/52nd part thereof for every week or part thereof as the case may be.
(iii) For every seating capacity excluding the Driver and the conductor, which the vehicle is permitted to carry and where the distance permitted to be covered by the vehicle in a day in West Bengal exceeds 200 kilometers.	Rs. 14557- per seat per annum or 1/52nd part thereof for every week or part thereof as the case may be.

The Governor has been further pleased to direct that the present order shall take effect on retrospective basis from 1st May, 1992 and in the event any vehicle eligible to be covered by the present order has paid, taxes in excess for the period ensuing from 1st May, 1992, such excess payment of taxes shall be adjusted against taxes payable by them in the immediate subsequent period/periods.

The Governor is also pleased to direct that notwithstanding anything contained in the above arrangement, all omnibuses plying under Inter-State permits—Temporary/Special and entering West Bengal for casual trips in respect of which the permits have been issued by the State Transport Authority, Orissa, shall continue to pay Additional Tax in terms of Schedule I, paras 2(b) & 2(c) of the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1992.

By Order of the Governor,

Sd/- Sumantra Choudhury
Special Secy, to the Govt. of West Bengal.

41. No. 5497-WT dated 22nd May, 1992

WHEREAS in terms of Schedule I, para 2(a) of the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1992, all omnibuses plying under permanent inter-State permits/stage or contract carriage or under tourist permit or under temporary stage carriage inter-State permit in specified routes and plying in West Bengal in respect of which permits have been issued by the State Transport Authority of a State other than the State of West Bengal are required to pay Additional Tax at the rate of Rs. 2000/- per seat per annum or 1/52nd part thereof for every week or part thereof as the case may be;

AND WHEREAS a. Reciprocal inter-State Agreement has been executed between the State Governments of West Bengal and Orissa on 9th May, 1992 pertaining to the plying of stage carriage/contract carriage/tourist etc. vehicles in the inter-State routes agreed into previously :

AND WHEREAS under proviso to the said Schedule I para 2(a) of the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1992, the State Government has been empowered to condone payment of Additional Tax in respect of any such omnibus if the permit has been issued by the State Transport Authority of a State with which the State of West Bengal has Reciprocal inter-State Agreement;

NOW, THEREFORE, in exercise of the power conferred in the said proviso to Schedule I para 2 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1992, the Governor is pleased to decide that the State Transport Undertakings of both the States of West Bengal and Orissa, enjoying permanent permits only, issued by the respective State Transport Authorities pertaining to the different inter-State routes as enjoyed in the Reciprocal Inter-State

Agreement, shall be exempted from making payment of Additional Tax as may be in force in the respective reciprocating States, that is, all vehicles of such State Transport Undertakings in respect of which permanent permits are granted by the said State, shall be liable henceforth to pay such Additional Tax etc. as may be in force in the permit granting State only and the Reciprocal State where such vehicles will be plying on the strength of such permanent-permit shall not charge any Additional Tax/Passenger Tax etc.

The Governor is further pleased to direct that the above arrangements will come into force on retrospective basis with effect from 1st May, 1992 and shall be restricted in respect of inter-State routes between State Governments of West Bengal and Orissa only.

The Governor is further pleased to direct that notwithstanding anything contained in the above arrangements, a vehicle of a State Transport Undertaking in respect of which temporary permit has been granted by the State Transport Authorities of Orissa/West Bengal shall continue to pay Additional Tax etc. as usual in terms of Schedule I para 2(b)/2(c) of the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1992.

By Order of the Governor,

Sd/- Sumantra Choudhury
Special Secy, to the Government of West Bengal.

42. No. SO 451 (E) dated 19th June, 1992**NOTIFICATION**

In exercise of the powers conferred by sub-section (4) of section 41 of the Motor Vehicles Act, 1988 (59 of 1988) and in supersession of the notification No. S.O. 436(E) dated the 12th June 1989, except or respects things done or omitted to be done before such supersession the Central Government hereby specified the types of Motor Vehicles mentioned in column 2 of the Table below as the type in respect of motor vehicles specified in the corresponding entry in column 1 thereof for the purposes of sub-section (4).

THE TABLE

Transport vehicles	Non-Transport vehicles
(i) Motor cycle with side car for carrying.	(i) Motor cycle with or without car for personal use
(ii) Motor cycle with trailer to carry goods.	(ii) Motor cycle with trailer to carry personal effects.
(iii) Motor cycle used for hire to carry one passenger on pillion and motorised cycle rickshaw for goods/passen-gers on hire.	(iii) Mopeds and motorised cycles (engine capacity exceeding 35cc)
(iv) Motor cab and Luxury cabs.	(iv) Invalid carriage
(v) Goods Carrier trucks/tankers/ mail carriers.	(v) Three wheeled vehicles for personal use
(vi) Trailers.	(vi) Motor car
(vii) Maxi cab	(vii) Fork Lift
(viii) Stage Carriers	(viii) Vehicles/trailers, fitted with equipment like Rig, Genera-tor, Compressor Non-Trans-port Vehicles.
(ix) Contract carriages and tour-ist vehicles	(ix) Crane Mounted Vehicle
(x) Three-wheeled vehicle for transport of passenger/ goods	(x) Tractor
(xi) Mobile clinic/x-ray van/ library vans	(xi) Trailers to carry personal effects

Transport vehicles	Non-Transport vehicles
(xii) Private Service Vehicle	(xii) Tower wagons and tree trim-ming vehicles
(xiii) Educational Institution Buses	(xiii) Tow Trucks/Breakdown Van/ Recovery Vehicles Omnibus for private use Camper Van/ trailer for pri-ate usel.
(xiv) Ambulances (xv) Mobile Canteens (xvi) Cash vans (xvii) Articulated vehicles (xviii) Camper vans/trailers (x/x) Animal ambulances (xx) Hearses (xxi) Mobile workshops (xxii) Fire tenders, snorked lad-ders, auxiliary trailers and fire fighting vehicles (xxiii) Omnibus (xiv) Dumper/Excavator	

- (a) "Ambulance" means vehicle specially designed, constructed or modified and equipped and intended to be used for emergency transportation of persons who are sick, injured, wounded, or otherwise incapacitated.
- (b) "Animal Ambulance" means intended to be used for the emergency transportation of sick, injured, wounded or otherwise incapacitated animals.
- (c) "Campers Van" means a motor vehicle designed or constructed to provide living quarters for creational camping or travel use with direct walk through to the living quarters from the driver's seat.
- (d) "Camping trailer" means a trailer not used for transport of goods, constructed with partial side walls which folds for towing and unfolds to provide temporary living accommodation for recreational camping and tourist purposes.

43. No. 12582-WT/6M-42/89 pt III dated 29th September, 1992

Sir,

It has been brought to the notice of this department by the Ministry of Transport (Transport Wing), Govt. of India, that Registration books of vehicles owned by Union Territory Administration are seized by Transport Authorities of the check-posts on the ground that they do not have inter-State permits and also for non-payment of tax for the concerned States. I am directed to say that transport vehicles of Central Government/State Government used for Government purposes and unconnected with any commercial enterprise may be exempted from the necessity of having any permit in terms of section 66(3)(a) of M.V. Act, 1988. As regards exemption of tax in respect of such vehicle, such tax may be collected at usual rate unless a notification in the *Official Gazette* in this respect is issued in terms of section 21, W.B.M.V. Tax Act, 1979 for exemption either totally or partially for any motor vehicle/ class of motor vehicles from the exemption of tax.

Yours faithfully,

Sd/- S.C. Mukherjee

Asstt. Secy, to the Govt. of West Bengal.

44. No. RT-11044/4/92-MVL dated 3rd November, 1992

Sir,

I am directed to say that the Ministry of Civil Aviation have pointed out that some of their specialised equipments which are used for flight handling within the premises of the Air Port had been seized and Airport authorities asked to register the same like any other vehicle. They have pointed out that such equipments do not come under the purview of Motor Vehicle Act as these are of specialised nature and cannot be made use of for general application. A list of these equipments is enclosed for ready reference.

2. The matter has been examined in this Ministry and it is observed that :—

- (a) The specialised equipments adopted for use within the enclosed Airport areas only cannot be deemed to be Motor Vehicles under section 2(20) of the Motor Vehicles Act.
- (b) An Aerodrome is apparently a restricted area. It cannot be deemed to be a public place as defined in section 2(34) of the Motor Vehicles Act.
- (c) As the specialised equipments will be driven within the enclosed Airport areas only, no driving licence, in terms of Provision of the Motor Vehicle Act, is necessary for driving these equipments. However, such a requirement may be laid down by the employer in their recruitment rules.

In view of the above, I am to request that while deciding the question whether or not a specialised equipment used within enclosed Airport areas is required to be registered under the Motor Vehicles Act, 1988, the State Government/UT Administrations may kindly take into account the observations contained in Para 2 above.

Yours faithfully,

Sd/- J. R. Kapoor
Desk Officer.

**LIST OF SPECIALISED EQUIPMENT USED WITHIN ENCLOSED
AIRPORT AREAS VIDE LETTER NO. RT-11044/4/92-MVL DT.**

3.11.1992

- (1) Ground Power Unit—This unit supplies 115 voltage a/c. 400 cycles supply to aircraft whenever it is on ground. The engine driven generator is installed on the chassis.
- (2) Airconditioning Unit—This unit supplies airconditioned air to the aircraft when it is on ground. This is achieved by installing airconditioning plant (engine driver) on the chassis.
- (3) Air Start Unit—This unit supplies high temperature, for pressure, compressed air for starting of aircraft engines. Two turbine engines with air hoses etc. are installed on the chassis.
- (4) Auto Step—This equipment is used for enplanning/deplanning passengers from the aircraft. Step ladder with suitable hydraulic operating mechanism and electrical controls is installed on the chassis.
- (5) Hi-lift/Chair lift—This unit is used for leading/off loading food carts, cabin items, etc., from the aircraft. Hi-lift body mounted on the scissor is operated hydraulically and is installed on a chassis.
- (6) Water Cart—This unit is used for supplying potable water to aircrafts. A Stainless Steel tank is fabricated and fitted on the chassis with regulate controls.
- (7) Toilet Cart—This equipment is used for servicing aircraft toilets, operator platform is equipped with scissor mechanism, and tanks with control panels is installed on the chassis.
- (8) Cargo Loader—This equipment is used for loading/off loading/ baggage cargo containers/pallets from the aircraft.

This equipment is fabricated on a special chassis with hydraulic/electric control mechanisms and interlocks.

- (9) Cargo transporters—This equipment is used for transferring containers/pallets from Cargo Loader to the dollies and vice-versa. This equipment is also fabricated on a special chassis with hydraulically/ electric controls.
- (10) Baggage conveyer—This equipment is used for loading/off loading loose baggage/cargo in the aircraft. Conveyor belt with suitable hydraulic drive is mounted on a specially fabricated chassis.
- (11) Aircraft tow tractor—This equipment is used for towing/push back of aircraft weighing upto 450 tons. This is fabricated on a special chassis and installed with high powered engine and automatic transmission.
- (12) Strato tower—This equipment is used for carrying out maintenance work on the air craft. Specially fabricated hydraulic mechanism, is mounted on chassis.
- (13) Roller bed truck—A bed of rollers is mounted on the chassis and is used for transportation of containers/pallets to distant locations in airport premises.
- (14) Passenger concern—This equipment is used for transporting passenger on the tarmac. It is equipped with pneumatically operated doors.
- (15) Fuel Bowzer—This equipment is used for fuelling various slow moving equipment on the tarmac itself. Fuel tank of 2000/ 3000 litres capacity is installed on the chassis with adequate controls.
- (16) Diesel tractor—This equipment is used for towing container/ dollies/ pallet dollies/baggage rollien in the airport premises. Special modifications have been carried out for use of this equipment in the airport premises.

45. No. 859(E) dated 24th November, 1992

NOTIFICATION

In exercise of the powers conferred by sub-section (4) of section 41 of the Motor Vehicles Act, 1988, the Central Government hereby makes an amendment to its Notification published in the Extraordinary issue of the *Gazette of India*, Part II, section 3, sub-section (1) No. S.O. 451 (E), dated 19th June, 1992*, namely—

1. The following items shall be added in the end of column 2 of the table of Notification No. 451 (E) :

(xiv) Omnibus for private use.

(xv) Camper Van/Trailer for private use.

Sd/- G.K. Pillai

Joint Secy, to the Govt. of India.

46. No. RT-11044/4/92-MVL dated 18th October, 1993

Sir,

I am directed to say that the Ministry of Steel and Mines (Department of Mines) have pointed out that some of their specialized equipment used by M/s. National Aluminium Company Limited (NALCO) are not being exempted from the purview of the Motor Vehicles Act and the Registering Authorities have issued directions to NALCO for registering the same and making payment of Road Tax etc. The Department of Mines have pointed out that such equipments do not come under the purview of Motor Vehicles Act as these are of specialized nature and cannot be made use of for general application. A list of these equipments is enclosed for ready reference.

2. **The Matter has been examined in this Ministry and it is observed that :—**

- (a) The specialized equipments adopted for use within the enclosed Mine Areas only cannot be deemed to be Motor Vehicles under section 2(28) of the Motor Vehicles Act.
- (b) A Mine Area is apparently a restricted area. It cannot be deemed to be a public place as defined in section 2(34) of the Motor Vehicles Act.
- (c) As the specialized equipments will be driven within the enclosed mine areas only, no driving licence, in terms of Provision of the Motor Vehicles Act, is necessary for driving these equipments. However, such a requirement may be laid down by the employer in their recruitment rules.

3. In view of the above, I am to request that while deciding the question whether or not a specialised equipment used within enclosed Mine areas is required to be registered under the Motor Vehicles Act, 1988, the State Governments/UT Administrations may kindly take into account the observations contained in Para 2 above.

Yours faithfully,

Sd/- P. Vijayan

Director (RT)

**LIST OF FIELD EQUIPMENT USED SPECIALLY INSIDE MINES REFERRED TO IN
LETTER NO. RT-11044/4/92-MVLDT. 18.10.1993**

- (1) **Tyre Handler**—This equipment is kept in the mechanical garrage of mines for fitting of tyres of heavy earth moving equipment. This equipment has been specially modified with different hydraulic controls for handling large size OFF THE ROAD (OTR) tyres and cannot be used for any other purpose.
- (2) **Rock Breaker**—This equipment is being used for breaking the big boulders inside the mines and it cannot be used for any other purpose. It has been manufactured for use inside the mines only.
- (3) **Fork Lift**—This equipment is being used for lifting heavy materials and to carry such materials from one place to another inside the Central Store/Garrage buildings of mines. This equipment steers with back wheel and no front wheel steering facility.
- (4) **Motor Grader**—This equipment is meant for granding of mines faces and earthen road within the mines. This equipment is meant for mines haulage and face maintenance only. Hence this should be treated as specialised equipment and not motor vehicle.
- (5) **Vibratory Roller/Compactor**—This equipment is tyre mounted at the rear with a specially designed vibratory roller at the front. This equipment is used for consolidating the work area and earthen roads for mining equipment movement inside the mines only.
- (6) **Polain 90P Excavator**—This equipment is specially manufactured for using inside the mines for excavation of rocks/minerals only. This is a special equipment and not “Motor Vehicle”.
- (7) **Haulpack Dumpers and DJB Dumpers**—These equipments are specially designed with exhaust heated bodies for use inside the mines for hauling of Bauxite from mine to crusher. These equipments are having OTR tyres and the size of tyres of haulpack dumpers is 18.00.25 (32 Ply) whereas, the size of the tyres of the DJB Dumpers are 26.5F-R25 and 33.25R26

(Rear). Since the size of these dumpers are very heavy gross weight 53,640 kg. and width 8.76 meter and due to the specific manufacturing these specialized equipment cannot be considered as Motor Vehicle.

- (8) **Water Sprinkler**—This equipment is meant for sprinkling water inside the mines premises for dust suppression purpose. The chassis is specially modified to accommodate 28,000 Lts. water tank, pump and automiser with hydraulic control. This equipment is not at all road worthy to be used on public roads. Due to the heavy size i.e. width 3.75 Mts. and gross weight 53,650 kg. it is not at all safe to use on public road and the use is confined to mines only. As such it should not be considered as Motor Vehicle.
- (9) **Loaders**—The loaders are meant for digging the bauxite earth and for loading on to heavy duty dumpers only within the mines. The loaders are also fitted with either OTR tyres or 76" Beadless steel tracks. These are special purpose equipment and not Moto Vehicles. The chassis is of articulated design, with hydro-electric controls and kick outs.
- (10) **Exploratory Drill**— This equipment is a drill machine which is a specialized equipment meant for using exclusively inside mines for prospecting and drilling purpose and should not be considered as Motor Vehicle.

47. No. 9215-WT/3M-75/93 dated 21st October, 1993**

Sub : Approval of Registration of Vikram Diesel 3-Wheeler (Auto-Rickshaw) manufactured by Scooter India Limited.

The undersigned is directed to say that Scooters India Limited manufacturer of the above model of three wheeler (Auto-Rickshaw) requested this department for allowing registration of the above model/make three-wheeler (Auto Rickshaw) having seating capacity of 8 including driver in the State of West Bengal.

The vehicle of the above make/model have been tested by the Automotive Research Association of India (Research Institute of the Automotive Industry with the Ministry of Industry, Government of India).

The Assistant Director (Tech), Public Vehicles Department is also of the opinion that the said Vikram Diesel 3-wheeler (Auto-rickshaw) may be allowed to be registered for plying throughout the State of West Bengal excepting Calcutta & Suburb, Howrah town, Asansol, Durgapur and the hilly areas of Darjeeling District.

In view of the above and subject to the above conditions, Government in the Transport Department have been pleased to allow registration of Vikram Diesel 3-wheeler (Auto-Rickshaw) manufactured by Scooter India Limited as Public Service Vehicle as well as goods carriage also in compliance with the Motor Vehicles Act and rules framed thereunder in the State of West Bengal.

Sd/- Illegible

Asstt. Secy, to the Govt. of West Bengal

48. No. 4094(30)-WT/3M-53/92 (Pt.) dated 16th June, 1994

RADIOGRAM

A serious lapse notice has come to the notice of this Department that certain taxing officers are not collecting M.V. Tax and Additional Tax as prescribed in the Motor Vehicles Tax Act of 1979 as amended in April 1992 and West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989, As (Amended in April 1992) especially in case of metered luxury/tourist taxi(.) You are requested to ensure that rates prescribed in the Schedule 1-B(r) of West Bengal Addl. Tax and One-time Tax on Motor Vehicles Act, 1989 (Amended in April 1992) in case of Luxury Taxis and M.V. Tax as prescribed in Article B(II)(d) of the revised schedule of the Motor Vehicles Tax Act (Amended in April 1992) are realised without fail(.) In case the taxes are not realised at the rates prescribed mentioned in the above schedule, action should be taken immediately to realise the current taxes and arrears and a report be sent to this department stating the circumstances and reasons for non-realisation of taxes as per the Act(.) Action may be taken immediately(.)

The Registrar
I.G. Police Directorate
Writers' Building, Calcutta
Please transmit the above message immediately.

Sd/- Arun Mishra
Joint Secy,
to the State of West Bengal Transport Department

49. No. 7110-WT/6M-6/90 dated 3rd August, 1994

NOTIFICATION

In exercise of the power conferred by section 21 of the West Bengal Motor Vehicles Tax Act, 1979 (West Bengal Act IX of 1979), and the impartial modification of the Notification No. 7964-WT dated 7.7.89*, the Governor is hereby pleased to include vehicles of Saint Johns Ambulance in the tax exempted category list of vehicles with immediate effect.

By Order of the Governor

Sd/- A. Mishra

Joint Secy, to the Govt. of West Bengal.

50. No. 8577-WT dated 19th September, 1994

NOTIFICATION

In exercise of the power conferred by section 21 of the West Bengal Motor Vehicles Tax Act, 1979 (West Bengal Act IX of 1979) (hereinafter referred to as the said Act) and section 3(3) of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989, Governor is pleased hereby to exempt battery operated vehicles/CNG/vehicles from payment of M.V. Taxes along with additional tax for a period of 5 years with immediate effect.

By Order of the Governor,

Sd/- A. Mishra

Joint Secy, to the Govt. of West Bengal

51. No. 273B-WT/4M-34/94 dated 29th March, 1995

Sub : Approval of Registration of Vikram Diesel 3-Wheeler (Auto-Rickshaw) manufactured by Scooter India Limited.

Sir,

In this Departments GO No. 9215-WT dated 21.10.93** on the above subject, Vikram Diesel Three-Wheeler auto-rickshaw was earlier allowed to be registered as auto-rickshaw throughout West Bengal excepting Calcutta and Suburbs, Howrah town, Asansol, Durgapur and hilly portions of Darjeeling District for plying as service vehicle.

In terms of Notification No. S.O. 436(E) dated 12.6.89 "Auto-Rickshaw" means a motor vehicle having three wheels constructed or adapted and used to carry not more than three passengers for hire or reward excluding the driver.

Consequently the present Vikram three-wheeler having carrying capacity of 8 including driver shall not be treated as auto-rickshaw as it does not come within the purview of the definition of Auto-rickshaw.

Accordingly in partial modification of this departments earlier GO No. 9215-WT dated 21.10.93**, I am directed to say that the Government in the Transport Department have decided to delete the word "Auto-rickshaw" in case of Vikram three-wheeler and register the same as Vikram three-wheeler only for its service as contract carriage. It has, therefore, been decided that this vehicle shall be brought under the ambit of Additional Tax Act and the additional tax @ Rs. 6000/- per annum shall be charged from such vehicles.

If any such vehicle is already registered as Vikram 3-wheeler auto-rickshaw the term rickshaw should be deleted from the registration certificate immediately at the time of renewal of the certificate of fitness or at the time of payment of road tax.

The other terms and conditions in respect of the said vehicle as stated in the GO mentioned above shall remain unchanged.

Yours faithfully,

Sd/- Illegible

Joint Secy, to the Govt. of West Bengal.

52. No. 2944-WT/3M-13/95 dated 3rd April, 1995

Sir,

I am directed to say that multi-axled Trucks registered in West Bengal and plying in this State with permit issued by any R.T.A. in West Bengal are not required to pay additional tax. Additional tax may however be levied on articulated vehicles at usual rates.

Yours faithfully,

Sd/- Illegible

Asstt. Secy, to the Govt. of West Bengal.

53. No. 4288-WT/6M-33/95 dated 18th May, 1995

Sir,

It has come to the notice of the State Government that some Taxing Officers are not realising actual amount of Additional Tax in respect of the vehicles coming from outside West Bengal and plying in the State of West Bengal resulting a short fall of considerable State revenue.

It may please be noted here that a vehicle having an inter-State permit issued by the States other than West Bengal cannot ply in the State of West Bengal unless it is countersigned by the S.T.A., West Bengal. Where a permit is granted in respect of inter-State route by the S.T.A./R.T.A., it does not become a permit valid for any part of the route beyond such point as lies within the State in which the R.T.A./S.T.A. functions; it becomes inter-State permit only when it is countersigned by the concerned authority of the other State.

Accordingly vehicles which have an inter-State permit without counter-signature by the S.T.A., West Bengal, shall not be

allowed to ply in the State and in such cases the vehicles will be considered as plying without valid permits and will be liable to pay Additional Tax at the rate of Rs. 2,000.00 per seat per annum in terms of B(2)(a) of Tax Schedule. No Lower rates of Additional Tax, as admissible in respect of the vehicle of the States with which the State of West Bengal has reciprocal agreement shall be realised in respect of the above-mentioned vehicles. Lower rates of Addl. Tax fixed in the different Govt. orders as applicable for the vehicles of the reciprocating States, shall be realised only during the validity of their inter-State Permits duly countersigned by S.T.A., West Bengal.

Yours faithfully,

Sd/- Arun Mishra

Joint Secy, to the Govt. of West Bengal

54. No. 4348-WT/3T-2/87 pt. dated 22nd May, 1995

Sir,

A question has been raised whether tax will be levied on the vehicles operated by the Royal Insurance Corporation of Bhutan, a Bhutan Government Undertaking and plying in the State of West Bengal in absence of any transport agreement between India and Bhutan.

It has now been decided that no tax will be levied on such vehicle till the finalisation of Indo-Bhutan Transport agreement.

Yours faithfully,

Sd/- Arun Mishra

Joint Secy, to the Govt. of West Bengal.

55. No. 4747-WT/6M-51/94 dated 22nd May, 1995

Sub : Realisation of Addl. Tax in respect of Tractors, Breakdown vans for Touring Vehicles, Trailers, Articulated vehicles entering West Bengal on change of address—Instructions regarding.

Sir,

You are aware that tractors, breakdown vans used for touring vehicles, trailers and articulated vehicles have so long been kept out of the purview of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989. But the additional tax is being realised only in respect of such categories of vehicles, which have been registered in any State other than West Bengal and have entered West Bengal on change of address, till the period on which assignment of new registration marks are made in favour of those vehicles.

The West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1994 provides for imposition of additional tax on the tractors, breakdown vans for touring vehicles, trailers and articulated vehicles registered in West Bengal or in any State other than West Bengal and entering West Bengal on change of address.

In view of the above, I am directed to request you to kindly take immediate steps to realise additional tax in respect of the aforesaid vehicles entering West Bengal on change of address at the rates as prescribed in clause (c) under heading 'B' of the Tax Act, mentioned above from the date of entry of the vehicles in West Bengal, whether assignment of new registration marks in favour of them are made or not. This issues in continuation of this Dept.'s No. 13260(25)-WT dt. 24.10.89.

Yours faithfully,

Sd/- Arun Mishra
Joint Secy, to the Govt. of West Bengal.

56. No. 4843-WT/3M-196/94 dated 8th June, 1995

Sir,

I am directed to say that a number of vehicles having permanent or temporary permits granted by the States other than West Bengal and entering the State of West Bengal are not paying Taxes, as payable for the State of West Bengal. It is informed that the other State, who are granting such permits, are not collecting such Taxes as payable for West Bengal at the time of granting permits.

In view of the above, I am directed to request you to kindly realise the Taxes, as admissible, for West Bengal in respect of such vehicles plying within your jurisdiction. Such Taxes may also be collected if the owners/drivers or such other persons approach to pay the same.

Yours faithfully,

Sd/- Arun Mishra

Joint Secy, to the Govt. of West Bengal.

57. No. 6169-WT/TR/O/3M-194/94 dated 18th July, 1995

ORDER

In exercise of powers conferred by section 7 of the W.B. Addl. Tax and One-time Tax on Motor Vehicles Act as amended in 1994, the Governor is pleased to delegate the powers to the Taxing Officers of the Motor Vehicle Dept. in the District authorising to make refund not exceeding Rs. 5.000/- (Rupees five thousand) only in case of payment of excess amount of additional tax or One-time Tax for any period on account of over assessment, subject to the condition that provision of rule 95 of West Bengal Treasury Rules Vol.I shall be followed in the matter of authorising refunds. Refund of revenue register of the Taxing Officer against the original entry of credit in Books of Accounts of the Officer. Similarly, Treasury Officer will make refund only after verifications of credit and after keeping note of refund against the original entry in the relevant register.

2. The Governor is further pleased to order that payment of amount in excess of Rs. 5,000/- (Rupees five thousand) only in this connection may be refunded by the Taxing Officer after obtaining approval of the Transport Department.
3. The Refund shall be made out of the head "0041-Taxes on Vehicles-102-receipts under the State Motor Vehicle Taxation Act-0900-deduct-refunds".
4. This order issues with the concurrence of Finance Department *vide* their U/O No. Group "Ft" 426 dt. 12.7.95 and U.O. No. 1161 dt. 22.6.95 of Group T.

Yours faithfully,

Sd/- Arum Mishra

Joint Secy, to the Govt. of West Bengal.

58. No. 3656-WT/6M-5/98 dated 17th June, 1998*

NOTIFICATION

Whereas the Govt. of West Bengal in the Transport Department after due consideration considers it fit to exempt totally the Motor Vehicles as described hereinafter from payment of Motor Vehicles Tax, Addl. Tax in the PuUic interest.

Now, therefore, in exercise of the powers conferred by section 21 of the West Bengal Motor Vehicles Tax Act, 1979 (West Bengal Act IX of 1979) read with sub-section (3) of section 3 of the West Bengal Addl. Tax and One Time Tax on Motor Vehicles Act 1989 and in continuation of this Department Notification No.7964-WT/6M-37/39 dt. 7.7.89**, the Governor is pleased to exempt totally, with immediate effect, the Motor Vehicles (non-transport) belonging to (/) the West Bengal Pollution Control Board (*if*) Central Bureau of Investigation and the Border Security Force, and registered in this State.

By Order of the Governor,

Sd/- S. Ghosh

Joint Secy, to the Govt. of West Bengal.

59. No. 7243-WT/3M-18/99 dated 2nd August, 1999

Sir,

Sub : *Change of address in the R.C. Book and assignment of new registration number in respect of personalised small vehicles registered in other States but which are kept in this State either for a temporary period or for an indefinite period—Guidelines for payment of Road Tax etc.*

It has been brought to the notice of this Deptt. that implementation of the Transport Deptt's G.O. No. 8083-WT dt. 11.6.91*** in respect of the subject function is not being possible in view of the abolition of the Octroi/ Entry Tax checkposts.

After careful consideration of the matter, a further clarification in regard to the procedure to be adopted in dealing with the vehicles entering into this State is considered necessary.

Accordingly, I am directed to issue the following guidelines on the subject in partial modification of the earlier G.O. mentioned above :

1. In case of the vehicles registered outside the State of West Bengal and entering the State of West Bengal through M.V. Checkpost, the officer(s) on duty in the checkposts shall record the dates of arrivals of such vehicles in their R.C. Books and on the basis of such records M.V. Tax/Additional Tax and usual penalty shall be collected;
2. In case of such vehicles entering the State of West Bengal on any other route(s) through M.V. Checkposts, the owners of the vehicles shall be asked to produce any other convincing document in support of the arrivals of their vehicles in this State to the satisfaction of the Registering Authority/Taxing Authority failing which one year's M.V. Tax/Additional Tax with penalty as prescribed in clause (b) of para II of the aforesaid G.O. shall be collected. They should report to the R.T.O. of the border district and obtain a certificate regarding date of entry;
3. If the owners of such vehicles produce such convincing documents in respect of arrivals of such vehicles in this State, M.V. Tax/ Additional Tax and usual penalty shall be realised from the owners of the vehicles.

Yours faithfully,

Sd/- Illegible

O.S.D. & E.G. Dy. Secy, to the Govt. of West Bengal.

60. No. 8927-WT/6M-11/99 dated 25th August, 1999

NOTIFICATION

WHEREAS the Govt. of West Bengal in the Transport Deptt. after due consideration considers it fit to exempt totally the Motor Vehicles as described hereinafter from payment of Motor Vehicles Tax/Addl. Tax in the public interest.

NOW, THEREFORE, in exercise of the powers conferred by section 21 of the West Bengal Tax Act, 1979 (West Bengal Act IX of 1979) read with sub-section (3) of section 3 of the West Bengal Addl. Tax and One Time Tax on Motor Vehicles Act, 1989 and in continuation of this Deptt.'s notification nos. 7964-WT dt. 7.7.89* and 3656-WT dt. 17.6.98**, the Governor is pleased to exempt totally all the Stage Carriage buses belonging to all S.T.C's of West Bengal from payment of M.V. Tax and Addl. Tax from their respective dates of registration and until further orders.

By Order of the Governor

Sd/- S. Ghosh
Joint Secretary.

61. No. RT-11036/13/97-MVL dated 15th March, 2000

Sir/Madam,

I am directed to say that some of the States have been raising queries from time to time regarding categorization/registration of the vehicles having carrying capacity of six passengers and above (excluding driver). In this context, it is clarified that as per section 2(29) of the Motor Vehicles Act, 1988, any vehicle constructed or adapted to carry more than six passengers excluding the driver may be categorized as "Omni bus".

While considering the registration of such vehicles in the name of the individual owner, the same may be allowed under the category of "non-transport vehicles" or "transport vehicle" depending upon the

declaration given by the individual owner regarding their end use. In case, registration of such vehicles is to be considered in the name of a Company, it may be allowed under the category of "transport vehicle" only, as per section 2(47) read with section 2(33) of the Motor Vehicles Act, 1988.

2. The Hon'ble High Court of Orissa in the matter of *Satyanarayan Kasani vs. State of Orissa and others* under O.J.C. No. 4989/97 have also observed on the same line as indicated above. The circular of even number dated 24.07.1998 issued by this Ministry in this regard stands revoked.

Yours faithfully

Sd/- J.R. Kapoor

Under Secy, to the Govt. of India
Tel. No. 3714324.

62. No. 10442-WT/3M-299/96 dated 19th September, 2000

Sir,

I am directed to refer to your memo No. 1368-MV dtd. 10.5.2000 on the above noted subject and to say that section 3(2) of the W.B. Motor Vehicles Tax Act, 1979 provides that every person who keeps in his possession or control any motor vehicle as a dealer shall, whether or not the motor vehicle is driven in any Public place on the basis of a trade certificate, Pay tax on such motor vehicle ; the rate specified in part H of the Schedule.

Accordingly, while the bare chassis having no temporary registration is brought to the Registering Authority for temporary registration, the dealer's tax at the rates prescribed in part H of the Schedule along with usual M.V. Tax and Addl. Tax in respect of such vehicles shall be realised because the dealer's tax which is required to be paid at the time of first registration, whether permanent or temporary, has not been paid by the dealer or the purchaser on his behalf.

Yours faithfully

Sd/- Illegible

Director of Movement and Ex-officio
Joint Secretary

63. Extracts of GOs along with clarifications

Points Raised	Clarifications issued
Vide G.O. No. 11735-WT dated 14.3.1989 (w.e.f. 1.4.1989)	
1. In the case whereafter the W.B. Additional Tax and One-time Tax on Motor Vehicles Act, 1989 (referred to hereinafter as the 89 Act) comes into force an owner of a vehicle, who is liable to pay additional tax under that Act, tenders only the tax payable under the West Bengal Motor Vehicles Tax Act, 1979 (referred to hereinafter as the 79 Act) whether the Taxing Officer will refuse to accept such tax unless the additional tax payable under the 1989 Act, is also tendered "and paid".	1. The contention is correct. Un-less an owner of the Motor Vehicle is agreeable to pay the tax due, payable under the both Acts, the same may not be accepted. This is of course excluding the cases of the Motor Vehicles registered in any State other than West Bengal and plying within West Bengal, which are re-quired to pay tax under section 4 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989.
2. Whether a motor car owned by a department of the Central Govt. or of any State Govt. other than West Bengal and not granted exemption under section 3(3) of the 1989 Act, will be liable to pay additional tax @ 50% under item A(1) or @ Rs. 500 under item A(2) of Schedule I of the 1989 Act.	2. It is clarified that those Motor Vehicles which have been granted exemption from payment of any road tax under Transport Deptt. Notifica-tion No. 7964-WT/6M-37/89, dated 7.7.1989* and subsequent Notifica-tions issued under section 21 of the W.B.M.V. Tax Act, 1979, shall also be exempted from making payment of any additional tax under this new Act.
3. A motor vehicle registered in West Bengal but kept outside West Bengal for a period is entitled refund or remission of tax for that period under section 4(3) of the 1979 Act. Whether any claim for the refund or remission of additional tax for the same period will be admissible and if so under which section of the 1989 Act?	3. The presumption is obvious. Whenever a Motor Vehicle is granted tax refund or tax remission under section 4(3) of the 1979 Act, similar tax remission/refund should also be allowed from payment of additional tax in respect of the same vehicle under the 1989 Act.

63. Extracts of GOs along with clarifications

Points Raised	Clarifications issued
Vide G.O. No. 11735-WT dated 14.3.1989 (w.e.f. 1.4.1989)	
4. Section 4(3) of the 1979 Act provides for refund or remission of tax in certain cases on the ground of non-use of vehicle. The 1989 Act does not contain any such provision. It may be clarified whether additional tax for a vehicle shall be payable for a period for which no use has been accepted by the Taxing Officer.	4. There is no provisions for tax remission or refund for temporary non-use of the Motor Vehicle under the 1989 Act. Till such time whenever tax remission or refund has been allowed under section 4(3) of the 1979 Act, tax remission/refund should also be granted in respect of the same vehicle for the same period under the 1989 Act.
5. Section 3(1) of the 1989 Act says that additional tax is payable by the person who owns the vehicle or keeps it in his possession. But sec-tion 10 of the same Act introduces the concept of "legal" possession and says that the owner or the person "legally in possession" of the motor vehicle shall be liable to pay the additional tax, it is for clarification how the Taxing Officer will go into the question of legality or otherwise of possession.	5. The word "legally" used in section 10(2) of the 89 Act is being omitted through an amendment. But the Taxing Officer will obviously verify whether the Motor Vehicle is owned or kept in the possession or control of any person and will verify the legal documents, R.C. Books even under section 3 of the 1989 Act.
6. Section 8(2) of the 1989 Act provides for refund of additional tax on conversion of a motor vehicle to a non-chargeable description. The wording of the section seems to make refund mandatory within fifteen days. It may be clarified that it is the claim, and not the refund, which is to be made within fifteen days.	6. An amendment of the section 8(2) of the 1989 Act on this ground is not considered imminent, at this stage.

63. Extracts of GOs along with clarifications

Points Raised	Clarifications issued
Vide G.O. No. 11735-WT dated 14.3.1989 (w.e.f. 1.4.1989)	
7. Section 9(6) of the 1989 Act provides for refund of one-time tax on changes of address or on cancellation of registration. Since removal of a vehicle registered in West Bengal does not involve any cancellation of registration it may be clarified that one-time tax shall be refundable (According to the given rate) when a registration is cancelled under the Motor Vehicles Act, 1988 whether the vehicle is moved out of West Bengal or not after such cancellation.	7. The contention is correct. Whenever registration of a two-wheeler is cancelled under the M.V. Act, the one-time tax paid in respect of the said vehicle shall be refundable whether the vehicle is removed out of West Bengal or not.
8. The 1989 Act does not seem to contain any provision for issue of tax token for one-time tax paid by the owner of a vehicle. It may be clarified whether the owner of such a vehicle should exhibit any tax documents in his vehicles.	8. Under section 14 and section 17 of the 1989 Act it has been categorically mentioned that the payment of additional tax and one-time tax shall be endorsed on the tax token already issued under the 1979 Act. This tax-token in any case will be exhibited as usual.
9. For the purpose of assessing tax under the 1979 Act the Taxing Officer usually inspects four documents, viz., (a) R.C. Book, (b) previous tax token, (c) Insurance cover and (d) P.U.C. Certificate. Now, for assessing additional tax of a transport vehicle under the 1989 Act he will have to inspect the permit also for identifying the category of the vehicle under items B & C of Schedule I of the 1989 Act. But even inspection of the permit or one of any other document referred to above, will not enable the Taxing Officer to ascertain whether a vehicle is a Delux Bus (which attracts additional tax of Rs. 4,000/- per annum) or not. It may be clarified how the Taxing Officer will make the assessment in such cases.	9. The definitions of Delux Bus, Express Bus, Bus of a Company are very clear. The Taxing Officer, will have to exercise certain degree of discretion for determining the additional tax payable under the Act. The working difficulties, if any, may be referred to the Deptt. quoting specific instances in future.

63. Extracts of GOs along with clarifications

Points Raised	Clarifications issued
Vide G.O. No. 11735-WT dated 14.3.1989 (w.e.f. 1.4.1989)	
10. The 1989 Act will be deemed to have come into force on 1.4.1989 although it is not expected to be notified, after Presidential assent, before July or August, 1989. In the circumstances instructions are required whether penalty will be payable on retrospective tax due from 1.4.1989 onwards and if so from which date such penalty will be calculated.	10. The point raised is very genuine. It is clarified that no penalty should be charged under section 10(2) of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Tax Act, 1989, if the payments are made within 31st March, 1990. A press insertion to this effect, in all leading dailies, is being made.
11. Since specific provisions are made in the 1989 Act regarding seizure and sale of motor vehicles on default of additional tax it may be clarified if for seizure and sale under the 1979 Act the same procedure can be followed.	11. The amendment of the 1979 Act is being made to incorporate elaborate proceedings for seizure and sale of Motor Vehicle on default. However, till such time, the procedures prescribed in the 1989 Act may be followed. Revised guidelines under this Deptt. Notification No. 9936(9)-WT dated 1.8.1989* regarding seizure and sale of Motor Vehicle have also been issued and the same may also be followed.
12. It has been represented by the Motor Industries Association that the payment of one-time tax under section 9 of the 1989 Act should be made optional at the initial stage for some time to allow them to process the existing cases. Otherwise, all existing cases in respect of which payments have already been received by them will be delayed for registration.	12. It is clarified that the payment of one-time tax under section 9(2) of the 1989 Act in respect of only fresh registration for new vehicle shall be made optional until 31st December, 1989. This means that the owners of new Motor-Cycles shall be given option to pay either one-time tax under the 1989 Act or annual tax under the 1979 Act as per their choice at the time of first registration upto 31st December, 1989 only. With effect from 1st Jan, 1990 option shall not be allowed any more and payment of One-time tax in lieu of annual tax shall be made compulsory.

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 13260(25)-WT dated 24.10.1989	
<p>13. The term "Jeep" used in part A of Schedule I, has not been defined either in the Motor Vehicles Act or in the Additional Tax Act. It is presumed that if a vehicle, commonly known as Jeep has a seating capacity of not more than six persons excluding driver, it will be treated as motor car and assessed for the purpose of additional tax under clauses (1) and (2) of Part A. If, on the other hand, it has a seating capacity of more than six persons excluding the driver it will be treated as an omnibus and will be assessed under clause (3) of Part A of the Schedule.</p> <p>This may be confirmed.</p>	<p>13. The term "Motor Car" has been defined under section 2(6) of the M.V. Act, 1988. The presumption raised in the point is correct. If the Vehicle, commonly known as Jeep has a seating capacity of not more than six persons excluding the driver, it will be treated as a "Motor Car" and additional tax be assessed under clauses (1) & (2) of Part A. In other cases the additional tax be assessed under clause (3) of Part A.</p>
<p>14. It is presumed that the pro-noun "those" used in the words "ex-cluding those owned by companies" in clause (2) of Part A of Schedule I refers to the beginning nouns "Mo-tor Cars" and not "organisation and trusts". That is to say, motor cars owned by companies registered un-der the Companies Act and not plying for hire will not attract additional tax under the 1989 Act.</p> <p>This may be confirmed.</p>	<p>14. it is clarified that "Motor Cars owned by Companies registered un-der the Companies Act, 1956" for carrying employees or other passen-gers not plying for hire shall not be required to pay any additional tax under the new Act.</p>

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 13260(25)-WT dated 24.10.1989	
<p>15. Part B of Schedule I is to be made applicable only to motor ve-hicles which carry passengers for hire. A private service vehicle under the Motor Vehicles Act is a vehicle which does not carry passengers for hire and reward but is used for the purpose of trade or business of the owner. So, by definition, a vehicle covered by a private service vehicle permit cannot be assessed under Part B of Schedule I.</p> <p>This may be confirmed.</p>	<p>15. It is clarified that a private service vehicle which conforms to the specification of "Delux Bus" or "Tour-ist Bus" having seating capacity of more than twenty excluding the driver shall be required to pay additional tax under Part B, clause (1) of Schedule I of the new Act.</p>
<p>16. A private service vehicle, as stated in (c) above, is a vehicle carrying passengers but not plying for hire. In the circumstances, a private service vehicle will pay addi-tional tax under clause (3) of Part A of Schedule I, if it has seating ca-pacity of 20, or below, and will be exempted from paying any additional tax whatsoever if its seating capacity exceeds 20. The situation seems to be anomalous and needs clarifica-tion.</p>	<p>16. It is clarified that a private service vehicle with a seating capa-city of less than twenty shall be required to pay additional tax under clause (3) of Part A of Schedule I of the new Act.</p>
<p>17. A school bus, that is a bus owned by an educational institution and used exclusively for the purpose of carrying students to and from school for some financial consider-ation is covered by the definition "Bus of a Company". It may be confirmed that such school buses will be as-sessed for the purpose of additional tax under clause 1(d) of Part B of Schedule I as "Bus of a Company" irrespective of their seating capacity and irrespective of their type of permit, if any, held by them.</p>	<p>17. It is clarified that a "School Bus" owned by an educational insti-tution and used exclusively for the purpose of carrying students shall be required to pay additional tax under clause 1(d) of Part B of Schedule I of the new Act irrespective of the type of permit held by them and irrespec-tive of their seating capacity.</p>

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 13260(25)-WT dated 24.10.1989	
18. Generally, it is not possible to ascertain the date of first registration of motor vehicles purchased by the present owner in army disposal or in a public auction conducted by or under orders of the Court. If a two-wheeler is purchased in such army disposal or public auction, it may be confirmed whether for determining the stage of registration for purpose of Part I and Part II of Schedule II of the 1989 Act, the date of purchase in army disposal or public auction will be treated as the date of registration.	18. Attempt should be made to ascertain the correct date of first registration of two wheelers purchased by the present owner in army disposal or in a public auction. If such information is not obtainable inspite of best search, the date of purchase through army disposal or public auction may be treated as a date of first registration and the same should be clearly recorded in the certificate of registration.
19. Subject to what has been stated in the foregoing paragraph, it is presumed that for determining the stage of registration under Part I and Part II of Schedule II it is the date of original registration (and not date of allocation of new registration mark, if any, under section 47 of the M.V. Act 1988) which will be taken into account. This may be confirmed.	19. It is clarified that the date of first registration means the date of original registration. The date of allocation of new registration mark under section 47 shall not be treated the date of original registration.
20. Part B and Part C of Schedule I refers to additional tax liability of motor vehicles registered in any State other than West Bengal but plying in West Bengal. It may be clarified if for the purpose of these two parts registration refers to first registration (excluding temporary registration) and not assignment of new registration mark under section 47 of the M.V. Act 1988.	20. Under Part B and Part C of Schedule I, Motor Vehicles, registered in any State other than West Bengal and plying within West Bengal has been required to pay additional tax. This should include the cases with present status only. The guiding factor shall be to verify whether the vehicle owner is paying road tax in this State or not. For example, (a) if the motor vehicle is registered in the State of West Bengal, but

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 13260(25)-WT dated 24.10.1989	
	has been paying road tax in any other State on "change of address" without having changed the registration no, the additional tax under the new Act shall be leviable in respect of this vehicle, (b) when the Motor Vehicle is registered in any other State outside West Bengal but has been paying only road tax in this State on change of address, the assignment of new registration mark should be made very quickly and such motor vehicle on change of registration to this State of West Bengal, shall not be required to pay any additional tax under the new Act. But so long the registration number is not changed, the motor vehicle shall be required to pay additional tax. It shall therefore be the responsibility of the Motor Vehicle owner to complete formalities for change of registration.
	(a) If a vehicle had a first registration in this State of West Bengal and subsequently the registration number was changed to some other State under section 47, the said vehicle shall be required to pay additional tax.
	21. Training Buses owned by Motor Training Schools do not carry passengers for hire but carry students as part of their training programme. It may be clarified how these buses will be assessed for the purpose of the 1989 Act if their seating capacity exceeds 20.
	21. The training school buses, not carrying passengers for hire and reward, may not be required to pay any additional tax under Part B of Schedule I. But they are required to pay additional tax under Part A of the Schedule I if applicable.

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 13260(25)-WT dated 24.10.1989	
22. It may be clarified if an om-nibus (not being a Deluxe or Tourist Bus) owned by an individual and used, under contract carriage permit, to carry office goers, marriage par-ties, school students etc, on charter basis will be liable to pay additional tax under the 1989 Act, and if so, under which clause.	22. It is clarified that an omnibus owned by individual and used, under contract carriage permit to carry office goers, marriage parties, school stu-dents etc. on hire basis shall be included within the definition "Bus of a Company" under section 2 of the new Act and hence shall be required to pay additional tax under Part B, clause (1) of Schedule I. A suitable amendment will be made.
23. Owners of vehicles who have already paid tax under the 1979 Act prior to the last week of September, 1989 (when the 1989 Act started to be implemented) will come to pay their tax next due not before a year from the date of last payment, i.e., any time before October, 1990. As per clarifica-tions already issued by the Transport Deptt. penalty will not be imposed in respect of arrear Additional Tax if payments are made within March, 1990. It may be considered if the benefit can be extended till September, 1990 in the circum-stances stated.	23. The position will be reviewed in February/March, 1990.
24. If clause (1) regarding the payment of one-time tax in respect of two wheelers shall be made in the certificate of registration.	24. As already clarified, a tax token shall be required to be issued towards payment of "One-time Tax" in respect of two-wheelers. The tax token should clearly record the last date of validity of such one-time tax. Since the tax token may be got defaced or torn during this long period, it would be appreciated if endorsement be also made in the certificate of regis-tration regarding the last date of validity of the "One-time-Tax".

Sd/- **Sumantra Choudhury**
Joint Secy, to the Govt. of West Bengal

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 14865(17)-WT dated 27.12.1991 (w.e.f. 25.11.1991)	
25. If at the time of registration of a vehicle, the Dealer will pay tax as per Schedule H other than the pre-vious prescribed fees?	25. Yes. Every vehicle shall be required to pay tax as per Schedule H at the time of its first registration, whether temporary or permanent. However, if the above tax has already been paid in respect of a vehicle before any Registering Authority once, in West Bengal, the same tax will not have to be paid twice (clarifications have already been issued).
26. What is the tax on a Trade Certificate. Is it that for every Trade Certificate the Dealer should pay Road Tax as per Schedule H ?	26. It is clarified that the tax is made in respect of a vehicle and not on the basis of a Trade Certificate. A Trade Certificate may cover differ-ent number of vehicles at different points of time.
27. At the time of a new regis-tration of two wheelers by Compa-nies should we accept one-time tax as per Schedule III of the Ordinance?	27. As it stands at present. Company owned two-wheeler will be required to pay tax as per the Amend-ment for a period of 15 years at the same scale as that of private owned two-wheeler as per Schedule III of the Ordinance. However, at the end of 15 years, the tax in respect of a Com-pany owned two-wheeler will be at a higher rate as per the Tax (Amend-ment) Ordinance.
28. Is the section 11(c) of the West Bengal Motor Vehicles Tax Act, 1979 as amended by the Ordinance redundant ? Is there any scope for its application ?	28. The possibility of paying pen-alty for non-payment of Tax as per Schedule H at the time of first regis-tration is very remote.

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 14865(17)-WT dated 27.12.1991 (w.e.f. 25.11.1991)	
29. What is the net result for calculation of tax/penalty etc. as per section 16 of the West Bengal Motor Vehicles Tax Act as amended by the Ordinance for seizure and sale of motor vehicle?	<p>29. Section 16 of the West Bengal Motor Vehicles Tax Act, 1979 has been amended. The net impact after the amendment stands as below :</p> <p>(a) If tax is paid within 30 days of detention—penalty as per section 11 of W.B. Motor Vehicles Tax Act only.</p> <p>(b) If tax is paid beyond 30 days but within 45 days, the total amount to be imposed = $2 \times$ tax due + penalty under section 11—which is the aggregate amount.</p> <p>(c) If tax is paid beyond 45 days—total amount to be paid is aggregate amount + 20% thereon.</p>
30. If a vehicle is brought to the State from outside West Bengal on temporary registration and is produced before Registering Authority for permanent registration for the first time, whether such tax as per Schedule H should be levied on the vehicle owner ?	30. The answer is in the affirmative. If, however, a vehicle is brought to the State on transfer after having permanent registration from outside the State, no such tax as per Schedule H should be levied.
31. Whether it is obligatory to make an endorsement in the Certificate of Registration or in the Trade Certificate under section 7 of the W.B. Motor Vehicles Tax Act, 1979 as amended by the Ordinance?	31. Endorsement in the Trade Certificate is not feasible. As because the same Trade Certificate will be used for a number of vehicles at different points of time. This may be followed uniformly throughout the State. Some districts like PVD, Calcutta and Howrah have introduced On-Line Computer System for issue of Tax Token. In these places endorsement in the Blue Book regarding payment of tax, where Tax Token is being issued through computers is also not feasible. But where Tax Token are not being issued through computers, endorsement in the Blue Book on payment of tax is mandatory.

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63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 14865(17)-WT dated 27.12.1991 (w.e.f. 25.11.1991)	
32. Under Transport Department's Memo No. 7729-WT dated 11th June, 1982, there is a provision for allowing exemption from payment of tax under W.B. Motor Vehicles Tax Act, 1979 for the quarter during which a motor vehicle is brought in West Bengal after payment of tax elsewhere out-side the State in advance. In the Ordinance of 1981, the concept of 'Quarter' has been done away with by amending section 4 of the W.B.M.V. Tax Act, 1979. Whether the G.O. should be implemented in view of the Ordinance?	32. The above G.O. No. 7729-WT dated 11th June, 1982 stands re-pealed. The Tax and Additional Tax shall be payable for every week or part thereof for which a motor vehicle is used or kept for use in West Bengal at the prescribed rate.
33. If a Tourist Taxi includes Luxury Tax ?	33. The answer is in the affirmative.
34. As per Part A of amended Schedule I a private service vehicle shall pay Additional Tax at the rate of 50% of basic tax. Again, as per Part B of the same Schedule as amended, 'Bus of a Company' which includes a private service vehicle is required to pay Additional Tax of Rs. 2000/- and Rs. 5000/- as per seating capacity. Is there any contra-diction?	34. A 'Bus of a Company' includes a private service vehicle and it has to be owned by a Company as per definition clause. In that case, it has to pay tax as per Part B of Schedule I. If the private service vehicle is owned by an individual, it does not come under the definition of 'Bus of a Company' and in that case it will pay tax as per Part A.
35. If a Goods Carriage or a Passenger vehicle is intercepted to be plying in West Bengal without a valid permit or without payment of any tax but which has a registration No. issued by any Registering Authority outside West Bengal, how will the Additional Tax calculation be made?	35. Since the vehicle is registered in any State other than West Bengal, tax is required to be paid as per Part B.2(£>) of the amended Ordinance. At the same time, if we presume that the vehicle has come from outside the State it will be required to pay Ad-ditional Tax as per Part B.2(a). Since the Additional Tax payable under 2(a) is higher than that of 2(a) only at a higher slab. Similar will be the case for Goods Carriages.

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O.No. 10857(28)-WT/3M-100/92 dated 5.8.1992.	
36. Regarding special tax on vehicles fitted with Air-conditioning system.	
(a) In case of air-conditioned vehicles registered on or after 4.5.1992 special tax is being realised on the basis of the noting in the R.C./Form A (Declaration for payment of tax)/ M.R. made by the Registration section to that effect and endorsement is made/on the tax token as well as in the R.C. regarding realisation of Special Tax.	(a) The assumption is correct. It may be followed.
(b) It is impossible to identify the air-conditioned vehicles registered prior to 4.5.1992 in absence of any noting to that effect in the R.C. and realisation of special tax along with the normal tax payable for the next period is very difficult. In order to solve this problem we may obtain from the R.O.(s) of all such vehicles, in general, written declaration to the effect that the vehicle is fitted/not fitted with A.C. system and special tax may be realised accordingly. In such cases special tax may be realised. (ii) from the date of registration of the vehicle, if it is registered after 25.11.1991.	(b) The assumption is correct. It may be followed.

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O.No. 10857(28)-WT/3M-100/92 dated 5.8.1992.	
(c) If payment of special tax is made in the manner as stated in 36(£>) above, whether such payment is to be considered as a delayed payment and whether penalty for such delayed payment may be imposed at the rate chargeable on basic tax as per section 11 of W.B. M.V. Tax Act, 1979. In this connection it may be pointed that the provision of special tax included in the W.B. M.V. Tax (Amendment), Act 1992 whereas there is no such provision in the W.B.M.V. Tax (Amendment) Ordinances, 1991 and the said Act which replaced the said ordinance shall be deemed to have come into force from 25.11.1991.	(c) Payment of special tax for airconditioned vehicles was introduced in W.B.M.V. Tax (Amendment) Act, 1992. This provision did not exist in the W.B.M.V. Tax (Amendment) Ordinance, 1991. As a result, gross period of one year should be allowed for payment of such special tax with-out any penalty until 3rd May, 1993. However, all payment of such special tax should be calculated with effect from 25.11.1991 or the date of registration whichever is later.
(d) In case an air-conditioned vehicle is intercepted by the transport wing for non-payment of special tax and the P.O. is yet to pay tax for any period subsequent to the promulgation of W.B. M.V. Tax (Amendment) Act, 1992, Special tax may be charged with effect from— (i) the date of such interception; (ii) the date of registration or 25.11.1991 whichever is later.	(d) In such cases Special Tax may be charged with effect from the date of registration or 25-11-1991 whichever is later. However, if a vehicle is found to be plying with A.C. fitted by giving a false declaration as mentioned in 36(t>) and without payment of special tax after 4th May, 1992, usual penalty should be collected in addition.

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O.No. 10857(28)-WT/3M-100/92 dated 5.8.1992.	
37. Regarding penalty to be imposed on the difference of tax :In terms of instructions given in G.O. No. 13730(23)-WT dated 25.11.1991 of Transport Deptt. penalty on enhanced rate of tax and additional tax was excused till May 1992.	
(a) Till May, 1992, this office followed the procedure of realising the difference of tax from 25.11.1991 without any penalty thereupon along with the current tax though penalties on the enhanced tax/addl. tax as usual rates used to be charged for delayed payment.	(a) The assumption is correct.
(b) From June, 1992, penalty is being imposed on the difference of tax w.e.f. 25.11.1991 at the rates applicable on the tax/addl. tax if the current tax is not paid within the due time whereas no penalty is charged on the said difference of tax if the current tax is paid within due time.	(b) The assumption is correct.

Sd/- Sumantra Choudhury
Joint Secy, to the Govt. of West Bengal

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 166-WT/3M-15/94 dated 5.1.1995	
38. If an unregistered vehicle is seized by the enforcement wing, tax is to be realised as per section 3(1) of Tax Act. But (/) what will be the rate of tax ? (As the type of vehicle is not classified until registration).	38. Realisation of tax depends on actual use as well as classification of the vehicle. If the vehicle is plying as contract carriage at the time of seizure, addl. tax shall be charged at the prescribed rate in the tax schedule. Similar method is applicable in case of other vehicles which are required to pay addl. tax as per tax schedule.
(1) From which date the tax to be imposed ?	(I) In such case, the tax shall be imposed from the date of purchase of the vehicle [section 3(1) of Addl. Tax Act]. If the date of purchase or possession of the vehicle is not ascertained, the Taxing Officer may fix a suitable date from which the tax to be imposed during the year indicating the make/model of the vehicle.
(ii) How the Dealer's tax can be realised ?	(ii) Under rule 42 of C.M.V. Rules, 1989, no holder of the trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent. Under sub-section (2) of section (3) of W.B.M.V. Tax Act, 1979, the dealer who keeps in his possession or control any Motor Vehicle shall pay tax at prescribed rates. In view of the above, if an unregistered vehicle, which is sold by a dealer of any region and seized within the same region or any other

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 166-WT/3M-15/94 dated 5.1.1995	
	region dealer's tax in respect of that vehicle shall be collected from the dealer, who sells the vehicle, by the Taxing Officer having jurisdiction in the area in which the dealer has his place of business. Necessary action be taken against the dealer for violation of Rule 42 of C.M.V. Rules. Responsibility for fur-nishing the details of purchase, name of dealer etc. will be on the owner of the unregistered vehicle.
39. Some officers allow the pay-ment of yearly tax instead of one-time tax in respect of two-wheeler owned by the officers of Defence Service. Who can actually enjoy this kind of exemption may clearly be stated ?	39. One-time tax be realized by all Taxing Officers as suitable provi-sion in the West Bengal Addl. Tax and One-time Tax on Motor Ve-hicles Act 1989 has been made for refund in the Amendment Act of 1994.
40. With reference to clause 2(b) of para "B" of Schedule I of Addl. Tax Act— (1) What is the definition of "Ev-ery Entry"?	 (1) "Every Entry" means a single entry, i.e., entering once only.
(ii) What is the meaning of "Ca-sual Trip"? What are the grounds to be taken into account to apply this rate?	(ii) "Casual Trip" means occasional single journey from the point to an-other. The provision of 2(8) of head-ing "B" of the Addl. Tax Schedule is applicable only on the omnibuses which are entering West Bengal on the strength of temporary permit or special permit for a short period granted by the Transport Authorities of other States for the purpose of occasional or temporary journey for temporary need or on a certain occasion.

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 166-WT/3M-15/94 dated 5.1.1995	
41. Are the transport Omnibuses or goods carriages, which were initially registered outside West Bengal but paying tax at present in this State and not yet assigned with the local registration mark, liable to pay addi-tional tax ? If yes, at which rate ?	41. In G.O. No. 13260(25)-WT dated 24.10.1989, clarifications have been given in the matter. According to that G.O. (Para B) when the Motor Vehicle is registered in any other State outside West Bengal, but has been paying only ro^ad tax in this State on change of address, the assignment of new registration mark should be made very quickly and motor vehicle on change of address, the assignment of new registration mark should be made very quickly and such motor vehicle on change of registration to this State of West Bengal, shall not be required to pay any additional tax. But so long the registration number is not changed, the motor vehicle shall be required to pay additional tax.
	In view of the above, such trans-port omnibus and goods carriage registered outside West Bengal, shall pay addl. tax for its plying for the period from the date on which it entered West Bengal to the date on which the assignment of new regis-tration mark is given to that vehicle at the prescribed rates.
42. When a stage-carriage is detected to be used as a contract-carriage without any permit, is it liable to pay addl. tax ? If yes, for which period ?	42. Imposition of tax depends on not only the category of vehicle, but also actual use of vehicle. If a stage carriage without permit or with tem-porary/special permit, it is liable to pay additional tax. If a vehicle regis-tered as stage carriage, but which has no stage carriage permit plies a contract carriage without any tem-porary or special permit, it shall pay additional tax from the date on which the validity of stage carriage permit expired, with usual penalty. A sepa-rate compounding of offence for violation of the provisions of M.V. Act shall also be charged under the existing orders.
	If a vehicle registered as stage carriage permit, plies as contract

63. Extracts of GOs along with clarifications

Points Raised	Clarifications Issued
Vide G.O. No. 166-WT/3M-15/94 dated 5.1.1995	
	carriage without any temporary/special permit, shall pay addl. tax for the period during which it plies as contract carriage subject to minimum one week's additional tax.
43. If a vehicle registered outside West Bengal is detected plying in this State with a valid permit, but without paying tax and addl. tax generally such tax and addl. tax is claimed with 100% penalty in some regions and elsewhere no penalty is charged. Clear instructions may be given in this regard.	<p>43. If a vehicle registered outside West Bengal is detected plying in this State with a valid permit, but without payment of M.V. Tax and Addl. Tax, M.V. Tax and Addl. Tax with 100% penalty shall be charged uniformly. Similarly if a vehicle registered outside West Bengal plying with Temporary permit, but without payment if due W.B.M.V. Tax/Addl. Tax, both the taxes as well as 100%, penalty shall be charged uniformly.</p> <p>Accordingly, in case of a vehicle plying within the State of West Bengal without any valid permit and without payment of any tax, requisite amount of Addl. Tax as well as regular M.V. Tax for a minimum period of 17 weeks together with usual penalties, i.e. 100% penalty shall be recovered from the date of detection of the vehicle in terms of G.O. No. 16887-WT 16M-42 pt. dated 8.10.1990*. For violation of provision of section 192 of the M.V. Act (plying of vehicle without permit) a separate compounding of offence shall also be initiated under existing orders.</p> <p>But if a vehicle registered outside West Bengal plying with a valid permit, but without payment of Taxes, requisite amount of M.V. Tax, Addl. Tax for the period covered in the permit shall be charged and usual penalty, i.e., 100% penalty shall also be charged in such case.</p>

Yours faithfully,

Sd/- Illegible
 Joint Secy, to the Govt.
 of West Bengal

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