

TWELFTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2006-2008)**

THIRTY FOURTH REPORT

(Presented on 25th July, 2007)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2007

TWELFTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2006-2008)**

THIRTY FOURTH REPORT

On

**Action taken by Government on the Recommendations
contained in the Hundred and Fifth Report of the
Committee on Public Accounts (1998-2000)**

1122/2007.

CONTENTS

	<i>Page</i>
Composition of the Committee	.. v
Introduction	.. vii
Report	.. 1
Appendix :	
Copy of the MVA Appeal No. 26/96	.. 8

COMMITTEE ON PUBLIC ACCOUNTS (2006-2008)

Chairman :

Shri Aryadan Muhammed

Members :

- Shri C. T. Ahammed Ali
” Alphons Kannanthanam
” P. Jayarajan
” K. M. Mani
” K. P. Mohanan
” C. K. P. Padmanabhan
” M. Prakashan Master
” Thiruvanchoor Radhakrishnan
” N. Rajan
” A. K. Saseendran.

Legislature Secretariat :

Dr. N. K. Jayakumar, Secretary
Shri K. Gireesa Kumar, Joint Secretary
Shri K. Ravikumar, Deputy Secretary
Smt. A. Achamma, Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report on their behalf, present the Thirty Fourth Report on Action Taken by Government on the Recommendations contained in the Hundred and Fifth Report of the Committee on Public Accounts (1998-2000).

The Committee considered and finalised this report at the meeting held on July 18, 2007.

Thiruvananthapuram,
25th July, 2007.

ARYADAN MUHAMMED,
Chairman,
Committee on Public Accounts.

REPORT

This Report deals with the action taken by Government on the recommendations contained in the 105th Report of the Committee on Public Accounts (1998-2000).

The Hundred and Fifth Report of the Committee on Public Accounts (1998-2000) was presented to the House on December 18, 2000. The Report contained 9 (nine) recommendations relating to Transport Department. The Government was addressed on January 22, 2001 to furnish the statement of Action Taken on the recommendations contained in the Report and the final reply was received on 21st June 2006.

The Committee examined the Action Taken Statements at its meeting held on 5-6-2004, 18-8-2005 and 8-11-2006. The Committee decided not to pursue further action in the light of the replies furnished by the Government.

The recommendations and the Statements of Action Taken are incorporated in the Report.

RECOMMENDATIONS WHICH THE COMMITTEE DO NOT
DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES
FURNISHED BY GOVERNMENT
TRANSPORT DEPARTMENT

Recommendation

(Sl. No. 1, 2 & 3 Para Nos. 5, 6, 7 & 8)

The Committee express displeasure over the laxity on the part of the Government to leave such cases, which ought to be dealt with at Government level, under the disposal of district level officers, who usually failed to file appeal well in time, consequently Government did not get an opportunity to file an appeal.

The Committee observe that the Joint RTO, Muvattupuzha, who failed to file an appeal in advance before the period of limitation and failure to initiate action at Government level is responsible for causing huge loss to the exchequer. Expressing dissatisfaction over the absence of any disciplinary action against the erring officer, the Committee recommend that stringent action should be initiated against the joint RTO, Muvattupuzha, for his lapses and immediate action should be taken to recover the losses due to Government.

The Committee find fault with Government Pleaders, who had appeared for the case of University of Agriculture Vs. RTO, Thrissur. The Committee understand that in the case of Joint RTO, Muvattupuzha Vs. Mohandas the vehicles were used for the transportation of students, whereas, the vehicles of Agricultural University were used for the transportation of University employees. In this circumstances, the Committee feel that application of the decision in the OP No. 19723/97 to the latter without making any distinction between the two cases indicates the poorer the careless presentation of the case. The Committee opine that the Government Pleaders, who appeared for the case failed to convince the court the exact position. The Committee take serious note of such incidents and consider it as a matter of great concern.

Action Taken

Joint Regional Transport Officer had filed Writ appeal No. 907/98 against the judgment dated 27-2-1998 in OP No. 19723/97 in time. In view of the above reason there is no basis for taking disciplinary action against the Joint Regional Transport Officer. Writ appeal is still pending before the Court.

Recommendation

(Sl. No. 4 Para No. 12)

The Committee note that Instrumentation Limited, Palakkad was allowed concessional rate of tax though the name of the Public Undertakings was not

included in the list of Commercial Public Undertakings which are eligible for the exemption. Consequent on the exclusion, arrears of tax accrued was not collected as from the firm. Therefore, the Committee recommend that steps should be initiated to collect the arrears of tax due with effect from 3rd June, 1997.

Action Taken

Government as per the notification No. 2512/N2/86/PW&T dated 13-3-1986 (SRO No. 627/86) had reduced the tax payable in respect of vehicles owned by certain Commercial Public Undertakings including M/s. Instrumentation Ltd., Palakkad to Rs. 60 per Passenger per quarter. Subsequently, when the tax structure of vehicles was revised by amending KMVT Act, 1976, a proportionate increase in the concessional rate, was made by the Government, in supersession of all the notifications issued previously, as per notification No. 55404/N2/85/PW&T dated 3-6-1987 (SRO No. 1110/87). But in that notification the name of M/s. Instrumentation Limited, has not been included. Hence tax for the vehicle KRP 2433 has to be realized at full rate. But the firm continued to pay tax at the lower rate fixed as per SRO No. 627/86, and which resulted in short collection of tax to the extent of Rs. 1,24,284 from June 1987 to June 1991.

A detailed reply indicating that the Deputy Transport Commissioner, Thrissur has considered and disposed of the M. V. A. appeal (No. 26/96) filed by M/s. Instrumentation Ltd., in favour of the Appellant duly examining the whole history of the case.

The Public Accounts Committee after considering this subject and the reply presented has observed that the firm was allowed concessional rate of tax, though the name of the Public Undertaking was not indicated in the list of commercial Public Undertaking which are eligible for tax exemption. The Committee recommended to take steps to realize the tax arrears due from the firm from 6/1987.

Immediately on receipt of the recommendation of the Committee, the taxation authority of the vehicle (the RTO, Palakkad) has been directed by TC to take urgent measures to realise the tax arrears in question.

The Regional Transport Officer, Palakkad has reported that the vehicle KRP. 2433 has enjoyed the concessional rate (Rs. 60 per seat per quarter) of tax allowed by the notification No. 2512/N2/86/PW&T dated 13-3-1986 and the same rate was applicable for the firm until the concessional rate so allowed was withdrawn with retrospective effect from 31-12-1991, as per the G.O.(P) No. 5/94/PW&T dated 18-1-1994. It is true that the name of the firm was not included in

the notification No. 55404/N2/85/PW&T dated 3-6-1987 issued by the Government, modifying the concessional rates of tax. In the notification G.O.(P) No. 5/94/PW&T dated 18-1-1994, it was made clear that Government have granted concessional rate of tax to the vehicle KRP. 2433 owned by M/s. Instrumentation Limited, Palakkad, as per the notification No. 2512/N2/86/PW&T dated 13-3-1986 and that Government intends to withdraw the concession allowed to the said vehicle (w.e.f.31-12-1991). In that notification nothing has been mentioned about the enhancement made to the concessional rate. In this connection, it is also pointed out that the audit was conducted during 8/92 and the notification No. G.O.(P) 5/94/PW&T dated 18-1-1994 was issued only after the audit.

In the meantime the vehicle KRP. 2433 was reclassified as 'Private Service Vehicle' w.e.f. 27-4-1991 and taxed accordingly. Therefore the question of any tax arrears at the enhanced rate does not arise w.e.f. 27-4-1991. All these details were discussed elaborately in the order issued by the Deputy Transport Commissioner, while disposing the MVAA No. 26/96 filed by the firm (copy enclosed as Appendix I)

In view of the above, no tax arrears are outstanding against the vehicle KRP 2433 owned by M/s. Instrumentation Limited, Palakkad.

Recommendation

(Sl. No. 5. Para No. 27)

Despite the existence of Specific Acts and Rules such as Motor Vehicles (National Permit) Rules, 1975 and the Kerala Motor Vehicles Rules, 1989 to regulate realization accounting and credit to Government account the composite fee payable for National Permit the Committee could notice many irregularities regarding the collection of composite fee due to our State. The Committee regret to note that steps were not taken by the Department to prevent the loss of revenue in which composite fee has not been realized promptly on due date. Therefore, the Committee recommend that National Permit Vehicles plying in our State without genuine records of composite tax remittance should be seized in 'Motor Vehicles Check Posts' as a deterrent measure of tax evasion.

Action Taken

Necessary directions have already been issued to the officials at the Motor Vehicles Check Posts for strict compliance of the recommendation to seize the Goods Carriage covered by 'National Permit' for plying in our State without genuine records of composite fee remitted.

Recommendation

(Sl. No. 6 Para No. 28)

Demand Collection and Balance Register is a basic record to ensure that composite tax due to the State is being realized promptly and in time. It is surprising to note that the State Transport Authority does not maintain a Demand Collection and Balance Register in respect of remittance of composite tax of vehicles of other States having National Permit. The Committee record their displeasure over the non maintenance of the prescribed DCB Registers in the State Transport Authority. It was nothing but the non maintenance of DCB Registers that resulted in the delay of more than two years for accounting the composite tax. The Committee recommend that the maintenance of DCB Register should be made mandatory so as to initiate action against the National Permit holders who fail to remit the composite tax.

Action Taken

All the State/Regional Transport Authorities of other states have been addressed to made available the details of vehicles covered by National Permits issued by them to ply in Kerala State. The TC has promised that the DCB Register will be maintained immediately on receipt of the details.

Further Recommendation

The present position of the details of vehicles to be received from other States and also the present position of the maintenance of DCB Register.

Action Taken on Further Recommendation

All the outside states have been addressed by TC to forward the list of vehicles covered by National Permit with a view to open a DCB Register and reminded on several occasions. But none of the States have responded so far. Therefore the matter was placed before the Standing Committee of Transport Ministers, Secretaries and Transport Commissioner held at Hyderabad in 2003. All member States have agreed to communicate the details but there was no response so far. The permit holders of goods vehicles covered by National Permit are at the liberty to include/delete any State form the permit at any time. It is not mandatory that once he has obtained authorization to ply in Kerala, should operate in Kerala during the next year also. DCB Register can be maintained only if this inclusion/deletion/cancellation/fresh issue is intimated by the issuing states promptly. As such it is difficult to maintain a DCB in respect of Goods Vehicles covered by National Permit effectively.

Recommendation

(Sl. No. 7 Para No. 29)

The Committee notice that one of the reasons for the delay in crediting the Demand Drafts to Government Accounts is the delayed presentation of Demand Drafts to the Bank. Prompt presentation of the DDs and its crediting should have been ensured by the Supervisory Officers of the Transport Department. The Committee, therefore, recommend that steps should be taken to present the Demand Draft within 3 days of its receipt.

Action Taken

During certain occasions Demand Drafts from other states are received in bundles. Sorting of Demand Drafts bank wise and branch wise is a time consuming process.

Further Recommendation

The procedure adopted in the department to avoid the delay in the presentation of the Demand Drafts.

Action Taken on further Recommendation

Regarding delay in sorting and processing of Demand Drafts, no delay is being experienced since the process has been streamlined and two subject clerks have been posted exclusively for doing Demand Draft works.

Recommendation

(Sl. No. 8 Para No. 31)

The Committee notice that the Registering Offices failed to ensure the collection of entry tax or clearance certificate from the Sales Tax Department of vehicles registered in other States or Union Territories and the resultant loss of Rs. 228.41 lakhs to Government in between June 1994 and March 1996. The Committee desire that the Government should take necessary safe-guards against the loss of the revenue on account of entry tax and urge the Government to introduce an effective system to control such tax evasion. The Committee desire to be informed about the details of collection of entry tax in the cases pointed out by audit.

Action Taken

All the registering authorities had been instructed for insisting proof for remittance of entry tax in respect of the vehicles brought for registration in this State from outside in future by Transport Commissioner. Besides, the Sales Tax

Department has also been informed of the details of the defaulters by Transport Commissioner. The matter has also been taken up with the Taxes Department for directing Commercial Taxes Department to take effective measures for the realization of the dues from the defaulters however a total amount of Rs. 56,69,809 has since been realized from 492 cases.

Recommendation

(Sl. No. 9 Para No. 35)

The Committee note with serious concern that a short levy of vehicle tax of Rs. 1.08 lakhs was incurred due to the direction issued by the Transport Commissioner which went against the provisions of Motor Vehicles Act, 1988. The Committee opine that the Department should issue strict instructions to its officers to be vigilant while issuing such directions in future. The Committee desire to be informed about the details of action taken to make good the short levy.

Action Taken

The Regional Transport Officer has already been instructed to make good short levy.

ARYADAN MUHAMMED,

Thiruvananthapuram,
25th July, 2007.

*Chairman,
Committee on Public Accounts.*

APPENDIX I

PROCEEDINGS OF THE Dy. TRANSPORT COMMISSIONER (CZ—I) THRISSUR
Present : Sri M. K. Sukumaran.

M. V. B. Appeal No. 26/96

Appellant : Sri R. G. Neelakantan,
Additional General Manager,
Instrumentation Limited,
Kanjikode West, Palakkad.

Respondent : The Regional Transport Officer,
Palakkad.

The above appeal is filed against the order No. C7-38088/P/92 dated 15-3-1994 of the Regional Transport Officer, Palakkad, demanding tax in respect of the vehicle KRP. 2433.

This appeal has been finally heard on 24-1-1997 and this authority passed the following :

Order No : C-2049/97/CZ-I dated 25-3-1997

The orders of the Regional Transport Officer, Palakkad, vide No. C7-38088/P/92 dated 15-3-1994, 2-3-1995 and 12-12-1995 are challenged in this appeal. By the said order, the Regional Transport Officer, Palakkad has reassessed the tax in respect of the appellant's vehicle KRP 2433 on the basis of a local audit report for the year 1991-92. It has been assessed that Rs. 36,246 is due for the period from 3-6-1987 to 30-6-1991 and Rs. 59,862 is due for the period from 1-7-1991 to 30-9-1992.

The appellant had taken up the matter with the Transport Commissioner, Trivandrum direct and it was under consideration at his office. Of late, the appellant was directed to prefer a statutory appeal before the Dy. Transport Commissioner, Thrissur and accordingly this appeal was filed in this office on 30-11-1996. The appeal is not time barred, for the above reasons.

The seating capacity of the vehicle KRP 2433 is 50 in all. The R.T.O. has demanded the tax at the rate of Rs. 100 per seat per quarter for entire period from 3-6-1987 to 30-6-1991, less the tax already paid on the ground that Rs. 100 per seat per quarter is applicable to all motor vehicles owned by the ten Commercial Public Undertakings referred in S.R.O. No. 1110/87 dated 3-6-1987 and

the seating capacity of which exceeds 20. But the petitioner's vehicle has been allowed concessional rate of tax of Rs. 60 per seat per quarter irrespective of its seating capacity.

The R.T.O. has demanded tax at the rate of Rs. 100 per seat per quarter for the period from 1-7-1991 to 31-12-1991. He has also raised the demand of tax at the rate of Rs. 310 per seat per quarter prescribed for the contract carriages, for the period from 1-1-1992 to 30-9-1992 on the ground that the concessional rate granted has been withdrawn on 18-1-1994 w.e.f. 31-12-1991.

Detailed remarks of the Regional Transport Officer, Palakkad has been received, along with the connected records. The same have been examined and it reveals as follows :—

The demand of Rs. 96,108 in respect of the appellant's vehicle for various periods from 3-6-1987 to 30-9-1992 to vehemently disputed. It is contended that the appellant's vehicle ceased to be a contract carriage on 27-4-1991. It was altered as P.S.V. and a HSV permit has been obtained from the RTA, Palakkad. So long as the vehicle was a P.S.V. the appellant is not liable to pay tax at any rate other than for P.S.V. He has also advanced an argument that the concessional rate of tax at the rate of Rs. 60 was granted to their vehicle and therefore they are not liable to pay tax at the rate of Rs. 100 per seat per quarter. It was also submitted before this authority, that their vehicle is used for the purpose of the conveyance of the employees and their school going children without realising any hire or reward except Rs. 3 for the student upto V standard and Rs. 7.50 for the students studying in other classes, being a nominal propulsion charges, per month.

On the perusal of the connected records and upon the hearing, I could trace the following facts and circumstances :—

The appellant's vehicle KRP 2433 was registered as a contract carriage on 29-6-1985 with a seating capacity of 50 in all and tax was being paid at the contract carriage rate for the period upto 30-6-1986. The Government, vide S.R.O. No. 627/86 dated 13-3-1986, have granted concessional rate to the petitioner's vehicle at the rate of Rs. 60 per seat per quarter. This concession was withdrawn w.e.f. 31-12-1991. During this period, the appellant is liable to pay tax at the rate Rs. 60 only per seat per quarter. The demand of Rs. 100 per seat per quarter, on the basis of the seating capacity, being 50 in all, cannot be justified, since the notification granting concessional rate of tax to the appellant's vehicle, specifically mentioning the rate of tax as Rs. 60 per seat per quarter. Therefore, the balance tax of Rs. 36,246 demanded for the period from 3-6-1987 to 30-6-1991 cannot be justified.

The appellant's vehicle was reclassified as a P.S.V. w.e.f. 27-4-1991 and PSV permit was issued by the R.T.A. Palakkad for the period from 11-12-1989 to 10-12-1994 and it has been renewed for a further period of five years upto 10-12-1999. The R.T.A. had issued the endorsement of tax correctly on 30-4-1991 and the appellant has been promptly paying the tax. Therefore the appellants vehicle was obviously altered as a P.S.V. and ceased to be a contract carriage. The appellant is not liable to pay even the concessional rate of tax during the period from 1-7-1991 to 31-12-1991. He is liable to pay the tax in force for the P.S.V., which he had paid in time. Therefore the demand of balance tax Rs. 10,362 is unsustainable.

The demand of Rs. 49,500 being the balance tax at the rate for contract carriage for the period from 1-1-1992 to 30-9-1992 is illegal, since the appellant's vehicle is not a contract carriage at all. The vehicle continues to be a P.S.V. covered by a PSV permit and used solely for the purpose of conveyance of the employees and also their school going children. Realisation of propulsion charge of Rs. 3 of Rs. 7.50 for one month from the students does not amount to realising hire or reward and therefore, tax at the rate prescribed at the rate of contract carriage cannot be demanded.

Under the above circumstances, I am inclined to quash the order passed by the respondent, the Regional Transport Officer, Palakkad and the appeal is allowed.

(Sd.)

Dy.Transport Commissioner
Thrissur.

To

The appellant.

Copy to :

The R.T.O., Palakkad, along with the connected file containing 19 pages, for necessary action.
