

OFFICE OF THE TRANSPORT COMMISSIONER-CUM- CHAIRMAN,
STATE TRANSPORT AUTHORITY, ODISHA, CUTTACK

CIRCULAR NO. 04 OF 2019

Sub:- Registration of dumpers etc and payment of tax.

This is regarding registration of Dumpers, Loaders, Water Sprinklers and similar vehicles manufactured by M/s. BEML, Caterpillar etc and imported vehicles without homologation which are more than 49 tonnes GVW in case of rigid vehicles and 55 tonnes in case of articulated trailers and truck trailers, except modular hydraulic trailers and are of excess length, weidth and height than specified in Rule 93 of CMV Rules, 1989.

Above issues are examined with reference to M.V. Act, 1988 and Rules made thereunder and law laid down by Hon'ble Supreme Court in this regard.

"Dumper" is a non-transport motor vehicle under Rule 2 (cab) of CMV Rules, 1989.

Excerpts of Rule 2 (cab) of CMV Rules, 1989 is reproduced below for better appreciation.

"construction equipment vehicle" means rubber tyred (including pneumatic tyred), rubber padded or steel drum wheel mounted, self-propelled, excavator, loader, backhoe, compactor roller, dumper, motor grader, mobile crane, dozer, fork lift truck, self-loading concrete mixer or any other construction equipment vehicle or combination thereof designed for off highway operations in mining, industrial undertaking, irrigation and general construction but modified and manufactured with "on or off" or "on and off" highway capabilities.

Explanation :- *A construction equipment vehicle shall be a non-transport vehicle the driving on the road of which is incidental to the main off-highway function and for a short duration at a speed not exceeding 50 kms per hour, but such vehicle does not include other purely off-highway construction equipment vehicle designed and adopted for use in any enclosed premises, factory or mine other than road network, not equipped to travel on public roads on their own power."*

As provided under Rule 47 (1) (a) of CMV Rules, 1989, the manufacturer or dealer of a motor vehicle shall issue Sale Certificate in Form – 21 at the time of sale and delivery of vehicle to the purchaser. Rule 127 of above rules enjoins upon every manufacturer to issue Roadworthiness Certificate in Form – 22 and the manufacturer cannot escape from such lawful obligation.

Application for the purpose of registration of a motor vehicle to be made to Registering Authority in Form – 20 along with Form – 21, Form – 22 and Insurance Certificate etc along with proof of payment of prescribed tax and fee as provided under Rule 47 of CMV Rules, 1989.

In interpreting Rule 92 and 93 of CMV Rules, 1989 and Section 3 of OMVT Act, 1975, Hon'ble Supreme Court vide judgment reported in 1996 (7) Supreme 571 held that dumper being used within mining areas is motor vehicle which attracts liability of tax under Section 3 of OMVT Act, 1975.

Decision reported in AIR 1992 SC 1371 in which Hon'ble Supreme Court held that Dumpers and Rockers are adapted for use on roads using rubber tyres. They are motor vehicles and liable to taxation.

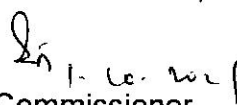
In a decision reported in AIR 1992 SC 1376 Hon'ble Supreme Court held that Dumpers are vehicles used for transporting goods. It is a vehicle kept for use on road and liable to pay tax. The mere fact that Dumpers were used solely on the premises of owner or that they were in closed premises or permission of the authorities were needed to move them from one place to another or that they are intended to be used or are incapable of being used for general purposes or that they have an laden capacity depending on their weight and size is of no consequence.

As per provision contained under M.V. Act, 1988 and rules made thereunder, OMVT Act, 1975 and law laid down by Hon'ble Supreme Court (supra), it can be safely concluded that Dumper is a motor vehicle under Section 2 (28) of M.V. Act, 1988 and liable to for taxation. The manufacturer will furnish Form – 21 and 22 for registration of Dumpers. For registration of above type over weight, over dimension of highway vehicle, homologation of such vehicle may not be insisted upon.


As regards registration of imported vehicles, Standard Operating Procedure communicated by MoRTH vide letter dated 01.05.2019 (copy enclosed) and provision of Rule 47 and 126 of CMV Rules, 1989 which will be applicable to all such cases.

Water Sprinkler is a goods carriage liable to be registered in appropriate category and exigible to tax.

It is instructed that above procedure may be followed by all Registering Authorities.


Transport Commissioner
Odisha.

Memo No. 10585 dated 01-10-19
Copy forwarded to all Officers at Head Quarters / All D.C.Ts. / All RTOs for information and necessary action.
Copy to Computer Cell to host in the website. Copy to Guard file.


Transport Commissioner
Odisha.