

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

No. 9935 /TC  
LXVI-87/2014

Dated 16/11/20

ORDER

After amendment of Section 41 of M.V. Act, 1988, dealer point registration has been introduced in the State w.e.f. 06.10.2020. During review it is noticed that the Regional Transport Officers are not maintaining detailed data of financiers for which it was difficult on their part to ascertain exact number of vehicles financed by every financier which has direct bearing on issue of Trade Certificate to financiers and payment of fees therefor.

Financer engaged in the business of hypothecation, leasing or hire purchase of motor vehicles are required to obtain Trade Certificate in Form – 17 of CMV Rules, 1989 from the concerned Registering Authority following the provision contained under M.V. Act, 1988 and rules.

In this regard instruction was issued vide Circular No.09 of 2014, letter No.10866 dated 30.09.2014, letter No.18397 dated 29.12.2015 and Circular No.10 of 2016 (copies enclosed).

Rule 39 of CMV Rules, 1989 provides that “a trade registration mark and number shall not be used upon more than one vehicle at a time xx xxxx in the course of his business or on any type of vehicle other than the one for which the trade certificate is issued”.

Rule 34 of CMV Rules, 1989 provides that “An application for the grant or renewal of a trade certificate shall be made in Form – 16 and shall be accompanied by the appropriate fee as specified under Rule 81.

Sub-rule (2) of said rules it has been provided that “separate application shall be made for each class of vehicle”.

While making application for grant or renewal of trade certificate in Form – 16 of CMV Rules, the financer is required to mention **number of certificates required in respect of each class of motor vehicles.**

In the above context it is clarified that:-

- (1) Name of financier or its branch, address, trade certificate number, issuing authority, date of expiry of trade certificate shall be recorded in Form – 20 by the dealer before uploading the same for registration of new vehicles.
- (2) In case the financier is financing centrally in Odisha, it will obtain one trade certificate from the concerned Registering Authority, which will remain valid across the State. The RTO other than the RTO who has issued the trade certificate, shall not insist the financier to obtain trade certificate from it at the time of registration of new vehicle, assignment, hypothecation endorsement and termination.
- (3) Where the financier is doing business in financing the vehicles through different branches across the State, every branch will have to obtain trade certificate from the concerned RTO following due process as prescribed.
- (4) The financier will submit return on official e-mail every month within seventh of succeeding month to the Registering Authority from which it has obtained trade certificate disclosing number of vehicles financed by them during the month and amount of fee paid under Rule 81 of CMV Rules, 1989.
- (5) **Henceforth a trade certificate in Form – 17 will be issued to financier in respect of every vehicle as per Rule – 39 of CMV Rules, 1989 and contain the following particulars:** (exp ;OD-02-TCF-NNN-2020-NNNNN)
  - (a) State Code – OD.
  - (b) RTO Code - .....(viz. 01 or 02 etc.)
  - (c) TCFNo.- ..... (trade certificate for the vehicle, TCF-for financier)
  - (d) FIN No.....Three digit (from 001 to 999)
  - (e) YEAR-.....(Four digit)
  - (f) Trade Certificate Sl. No.....(5 digit serial number from 00001 to 99999) for that financier.
  - (g) Period of validity:- from ----- to -----

(6) In case of existing trade certificate issued to financier authorising total number of vehicles to be financed by them, after verifying monthly return furnished by the financier or from the system, as the case may be, if total number of vehicle so authorised found exhausted, further trade certificates will be issued for each vehicle in the manner mentioned at sl. (5) above, as per the application to be made by the financier.

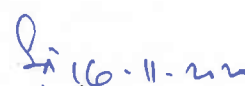
(7) The dealer will not entertain the financier in hypothecating any new vehicle and shall not mention its name in Form – 20 unless the financier has valid trade certificate.

  
Transport Commissioner  
Odisha.

Memo No. 9936

dated 16/11/20

Copy forwarded to Principal Secretary to Government, Commerce and Transport Department, Bhubaneswar for information.

  
Transport Commissioner  
Odisha.

Memo No. 9937

dated 16/11/20

Copy forwarded to all Officers at Head Quarters / All D.C.Ts. / All RTOs for information and necessary action.

Copy to Technical Director, NIC, STA / Computer Cell to host in the website.

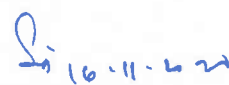
Copy to Guard file.

  
Transport Commissioner  
Odisha.

Memo No. 9938

dated 16/11/20

Copy forwarded to the Standing Counsel (Transport) / Addl. Standing Counsel (Transport) for information.

  
Transport Commissioner  
Odisha.

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

Circular No. 9 of 2014

Sub: Holding of Trade Certificate by financier.

As per provision contained under Section 2 (8) (d) of M.V. Act, 1988, "dealer includes a person who is engaged in the business of hypothecation, leasing or hire purchase of motor vehicle". Thus, the financier will have to obtain Trade Certificate from the concerned Registering Authority having jurisdiction in the area in which the financier is carrying out his business, irrespective of number of branches, following procedure laid down under Rule - 33, 34 and 35 of CMV Rules, 1989. However, the financier after obtaining Trade Certificate is not liable to pay tax under Section 5 of OMVT Act, 1975 as he is not authorised to kept vehicles in his possession in course of business of hypothecation. Whenever the dealer (financier) seizes a vehicle owing to default of registered owner in making payment of loan amount under the provision of an agreement of hire purchase, lease or hypothecation, the dealer (financier) shall be liable to pay tax due under Schedule - I and III of OMVT Act, 1975 at applicable rate.

It is therefore, instructed that whenever a new vehicle with an agreement of hire purchase, lease or hypothecation is produced for registration, it must be ensured that the financier holds valid Trade Certificate from the concerned registering Authority. This will also applicable to in use vehicles where hypothecation endorsement is made at subsequent stage.

Memo No. 9103

Copy forwarded to all Officers at Head Quarters / All D.C.Ts. / All RTOs for information and necessary action. Copy to Computer Cell/ Asst. Director (T.S.) to hoist in the website. Copy to Guard file of General Section.

Transport Commissioner  
Odisha  
dated 13-8-14

Memo No. 9104

Copy forwarded to the Standing Counsel (Transport) for information with reference to his letter No.178/SCT dated 23.07.2014 in W.P. (C) No.8611 of 2014.

Transport Commissioner  
Odisha  
dated 13-8-14

Transport Commissioner  
Odisha

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

To No. 18397 /TC

dated 29-12-15

All Regional Transport Officers.

Sub: Clarification regarding issue of Trade Certificate to Financers.

Ref: This office Circular No.09 of 2014 and letter No.10866 dated 30.09.2014.


Sir,

This is with reference to Circular and clarification issued earlier regarding issue of Trade Certificate to financers.

It is noticed that the financers after repossessing the vehicle are selling those vehicles without following the requirement of Section 51(5) of M.V. Act. In some cases the vehicles are being migrated to other State with fake documents and it is not possible on the part of Regional Transport Officers either to cancel Trade Certificate or to initiate Tax Recovery cases against the offending financers for realization of arrear tax and penalty outstanding against the impugned vehicle.

Considering the difficulties faced by Regional Transport Officers, it is instructed that the financers engaged in the business of hypothecation, hire purchase or lease etc of motor vehicle will obtain Trade Certificate from concerned Registering Authority.

Yours faithfully

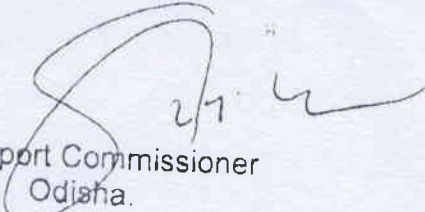
  
Transport Commissioner  
Odisha.

Memo No. 18398

dated

29-12-15

Copy forwarded to all Officers at Head Quarters / Technical Director, NIC,  
STA / All D.C.Ts. for information and necessary action.  
Copy to Computer Cell/ Asst. Director (T.S.) to host in the website.  
Copy to Guard file.

  
Transport Commissioner  
Odisha.

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

No. 10866 TC

dated 30-9-14

To

All Regional Transport Officers.

Sub:- Clarification regarding issue of Trade Certificate to Financers.


Sir,

I am to say that instruction has been issued vide Circular No.09 of 2014 specifying guidelines for issue of Trade Certificate to financers. In this regard following clarifications are issued which shall be adhered by all concerned.

1. Head of Bank or any other financial institution or person engaged in the business of hypothecation, leasing or hire purchaser of motor vehicle will obtain Trade Certificate from the Registering Authority where the head office of the financer is situated irrespective of number of branches operating in the State.
2. The financer will obtain Trade Certificate for minimum 10 vehicles of each class on payment of requisite fees prescribed under CMV Rules. Onus lies with the financer to submit report annually about total number of vehicle financed during the year within 15<sup>th</sup> of April every year to the concerned Registering Authority and pay balance fee to the Registering Authority.
3. Cases where the vehicle has been registered with hypothecation endorsement without having Trade Certificate by the financer, while terminating hypothecation endorsement from registration records after clearance of loan, holding Trade Certificate by the financer shall not be insisted upon by the Registering Authority.

4. Cases where the vehicle is financed by financier of other State, while registering the vehicle with hypothecation endorsement or terminating the same, requirement of Trade Certificate shall not be insisted upon by the Registering Authority.
5. While making or terminating hypothecation endorsement in the registration records of motor vehicle, it should be ensured that the public are not harassed in any manner.


Yours faithfully

  
Transport Commissioner  
Odisha

Memo No. 10867

dated 30-9-14


Copy forwarded to all Officers at Head Quarters / All D.C.Ts. for information and necessary action. Copy to Computer Cell/ Asst. Director (T.S.) to hoist in the website. Copy to Guard file of General Section.

  
Transport Commissioner  
Odisha

Memo No. 10868

dated 30-9-14

Copy forwarded to the Standing Counsel (Transport) for information with reference to his letter No.178/SCT dated 23.07.2014 in W.P. (C) No.8611 of 2014.

  
Transport Commissioner  
Odisha

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

CIRCULAR No. 10 OF 2016

Sub:- Grant / Renewal of Trade Certificate.

During review meetings it is noticed that Regional Transport Officers are not following rules relating to grant / renewal of Trade Certificate to dealers or manufacturers of automobiles etc specified under Rule 33 of CMV Rules, 1989 read with Section 2 (8) of M.V. Act, 1988.

Rule 33 of CMV Rules, 1989 provides that the above entities are required to obtain a Trade Certificate from the Registering Authority having jurisdiction in the area in which the dealer has his place of business.

Rule 34 of CMV Rules, 1989 provides that separate application for each of the following class of vehicles shall be made to the Registering Authority and shall be accompanied by fee as specified in Rule 81 of said Rules for grant / renewal of a Trade Certificate.

- a) Motor Cycle
- b) Invalid Carriage
- c) Light Motor Vehicle
- d) Medium Goods Vehicle
- e) Heavy Passenger Motor Vehicle
- f) Heavy Goods Vehicle
- g) Any other motor vehicle of specified description

The Registering Authority may, if satisfied that the applicant is a bonafide dealer may issue one or more certificates, as the case may be, in Form – 17 and shall assign separate Trade Registration Mark in respect of each certificate valid for twelve months.

Rule 39 of CMV Rules, 1989 provides that a Trade Registration Mark and number shall not be used upon more than one vehicle at a time or upon any vehicle which is not bonafide in the possession of the dealer in course of his business or on any type of vehicle for which Trade Certificate was not issued. Trade Certificate shall not be used by any person other than the Trade Certificate holder.

The Registering Authority and other OMVD Officers shall take regular enforcement measure to prevent use of vehicle in any public place by the Trade Certificate holder for any purpose other than those mentioned in Rule 41 of CMV Rules,



1989. It is to be ensured that no vehicle shall be delivered by the Trade Certificate holder to a purchaser without temporary or permanent registration.

Regular enforcement be conducted in every month by OMVD officers to verify proper maintenance of Registrar in Form – 19 by Trade Certificate holder and any discrepancy thereof be reported to the Registering Authority forthwith who in turn shall take appropriate action as per law.

In case it is found that the Trade Certificate holder acted in contravention with the provisions contained under Rule 39 to 43 of CMV Rules, 1989, the Registering Authority may suspend or cancel the Trade Certificate by affording an opportunity of hearing to the Trade Certificate holder under rule 44 of said rules.

In addition to above, the Trade Certificate holder is required to furnish return to the concerned Registering Authority in Form – XIII and Form – XIV in respect of vehicles received in stock and sold by him during every month by 15<sup>th</sup> of succeeding month as required under Rule 36 of OMV Rules, 1993.

The returns submitted by the Trade Certificate holder in Form – XIII and Form – XIV shall be scrutinised by the Registering Authority every month electronically with the amount of fee deposited by the Trade Certificate holder, details of which mentioned in the Form – 16 furnished at the time of grant or renewal of Trade Certificate and balance amount of fee as prescribed under Rule 81 of CMV Rules, 1993, if any, shall be promptly realised to prevent accumulation of arrear.

Second proviso to Rule 7 of OMVT Rules, 1976 provides that the dealer or manufacturer shall submit the declaration in plain paper in every quarter to the Taxing Officer stating legibly therein category wise make and model of the vehicles and maximum number thereof, for which tax and addl. Tax is being paid and certify that the maximum number has never been exceeded at any point of time during the previous quarters, alongwith Trade Certificate and Invoice, despatch note.

Technical Director, NIC will develop software within fifteen days to monitor activity of Trade Certificate holders and integrate same with VAHAN database to make the system full proof. Till development of software and integration thereof to VAHAN database, the Registering Authority shall follow the above instruction in manual mode up to October, 2016.

The Regional Transport Officer will submit monthly report to this office by 10<sup>th</sup> of every month from November, 2016 onwards in the following proforma for review by the undersigned.

Sl. No.	Name of dealer with Trade Certificate details (categorywise)	Number of vehicles taken in to stock and sold during the month.	Amount of tax paid	Amount of fee paid.	Details of returns filed by the dealer	Amount of fee/tax deposited	Action taken be the RTO for realisation of fee/tax due, if any.
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Transport Commissioner  
Odisha

dated 13-10-16

Memo No. 15962

Copy forwarded to Sri B. K. Panda, Technical Director, NIC for information and necessary action. He is requested to take necessary steps software development and integration etc. immediately to implement the instruction mentioned above.

  
Transport Commissioner  
Odisha

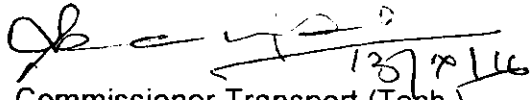
dated 13-10-16

Memo No. 15963

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Copy to Computer Cell/ Asst. Director (T.S.) to host in the website.

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Addl. Commissioner Transport (Tech.)  
STA, Odisha, Cuttack.