

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

CIRCULAR No. 03 OF 2020

Sub: Prior permission for registration of off-highway vehicles.

As per advisory issued by MoRTH, Government of India, all vehicle manufacturers are required to upload chassis number, engine number and other particulars of all variants manufactured by them in the homologation portal which are populated in the VAHAN application for registration of new vehicles.

It is noticed that the manufacturer of off-highway vehicles viz BEML, CATERPILLAR, KOMATSU etc are issuing road worthiness certificate in Form – 22. However they are not uploading chassis number, engine number and other particulars of off-highway vehicle variants manufactured by them in the homologation portal for which the Regional Transport Officers are facing difficulties to register those vehicles by auto populating to Vahan application.

In the meantime MoRTH, Government of India basing upon representation received by Ministry and opinion of 56th meeting of CMVR-TSC has issued advisory dated 13th July, 2020 (copy enclosed) in which it has been requested not to seek the registration of Road Building and Rehabilitation equipment (wheeled cold milling machine, wheeled soil stabilizers machine, wheeled cold recycler equipment machine etc.) as the special purpose construction equipment and Heavy Earth Moving Machineries (HEMM) such as Dumpers, Pay-loaders, Shovels, Drill Master, Bulldozers, Motor Grader and Rock Breakers are also categorized as "OFF THE ROAD" operated in mining premises.

Aforesaid issues regarding registration of Dumpers and rockers etc. raised by the MoRTH have been adjudicated by Hon'ble Supreme Court and Hon'ble High Courts long back and the law is well settled by Hon'ble Supreme Court. Accordingly all such vehicles will be registered by the Registering Authorities. Gist of reported decisions of Hon'ble Supreme Court and Hon'ble High Courts is annexed as **Annexure-A.**

In order to facilitate registration of off-highway vehicles, it is instructed that after receipt of application for registration of off-highway vehicle, concerned Regional Transport Officer shall seek approval from this office for registration of those vehicles in the VAHAN application against "other class" and after getting approval in each case, such vehicle will be registered entering in the column of 'body type' as **"OFF HIGHWAY"** along with the order no. and date of Transport Commissioner. No

off-highway vehicle shall be registered by any Registering Authority without specific approval from this office. Any deviation will entail disciplinary action against the erring officer. Addl. Commissioner Transport (Technical) is designated as the nodal officer to accord such approval on behalf of the Transport Commissioner.

S. Jay
30-7-2020
Transport Commissioner, Odisha.

Memo No. 6523 /TC

dated 31-07-20

Copy forwarded to all Deputy Commissioners Transport / all RTOs for information and necessary action.

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

Copy to all Senior Officers of STA for information.

S. Jay
Addl. Commissioner Transport (Tech.),
Odisha, Cuttack. 30/7/2020

Memo No. 6524 /TC

dated 31-07-20

Copy forwarded to the Director (Tech.), MCL, Jagruti Vihar, Burla/ M/s. Tata Steel Ltd., Joda, Dist. Keonjhar / M/s. BEML Ltd., Mysore / M/s. Komatsu India Pvt. Ltd., Chennai / M/s Cater Piller through its dealer Gainwell Commosales Pvt., Ltd., Bhubaneswar for information.

S. Jay
Addl. Commissioner Transport (Tech.),
Odisha, Cuttack. 30/7/2020

Memo No. 6525 /TC.

Dated 31-07-20

Copy to Under Secretary to Govt. of India, MoRTH, New Delhi for information.

S. Jay
Addl. Commissioner Transport (Tech.)
Odisha, Cuttack. 30/7/2020

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|-----|-------------------------|---|--|
| 6. | 1996 (7) Supreme 571 | (Chief General Manager, Jagannath Area Vrs. State of Orissa) | OMVT Act – Section 3 - Rule 92 and 93 of C.M.V. Rules – Motor vehicles – Dumpers being used within mining Areas – Taxability – Whether dumper is a motor vehicle ? – (Yes) – Whether vehicle attracts liability of tax under section 3 of the OMV Act ? – (Yes) Dumpers and Rockers are vehicles adapted or suitable for use on roads – Being motor vehicles per se, they were liable to taxation. |
| 7. | AIR 1998 M.P. 238 | National Insurance Vrs. SahibaKhatun | Motor Vehicle Act (59 of 1988), Section 2 (34) – ‘Public place’ – Roads existing inside mines area – Entry of public restricted therein – Still public could enter with prior permission – It is thus a public place. |
| 8. | OLR 2002 Suppl 277 | MCL, Brajarajnar V. State of Orissa. | Liability of Tax under OMVT Act against the dumpers – the ground cannot be considered in view of apex court’s decision. |
| 9. | AIR 1974 Patna 151 | Hindustan Steel Works Construction Ltd. V. State. | Dumpers though actually used in factory premises only but suitable for being used on road also is a motor vehicle and as such requires registration. |
| 10 | AIR 2001 Kerala 363 | Chakkia Agencies P. Ltd. V. State of Kerala | Levy of Tax – Trailers kept in port trust area were used for transportation in port trust area is motor vehicle – kept for use in the State and exigible to tax. |
| 11. | AIR 2003 Bombay 498 | Vikarmlspat V. State of Maharashtra | Motor vehicle has chassis, engine, driver cabin and wheels and has mobility – capable for use in public road – not meant for use in enclosed place is motor vehicle within the meaning of Section 228 of M.V. Act. |
| 12. | AIR 1998 M.P. 238 | National Insurance Vrs. SahibaKhatun | Motor Vehicle Act (59 of 1988), Section 2 (34) – ‘Public place’ – Roads existing inside mines area – Entry of public restricted therein – Still public could enter with prior permission – It is thus a public place. |

Annexure-A

| <u>Sl. No.</u> | <u>CITATION</u> | <u>NAME OF PARTIES</u> | <u>GIST OF DECISION</u> |
|----------------|---------------------|--|--|
| 1 | AIR 1975 SC 17 | (M/s. Bolani Ores Vrs. State of Orissa) | Dumpers and Rockers are registrable. The Taxation Act is a regulatory measure imposing compensatory taxes for the purpose of raising revenue to meet the expenditure for making roads, maintaining them and for facilitating the movement and regulation of traffic. |
| 2 | AIR 1980 SC 1547 | (Travancore Tea Vrs. State of Kerala) | Motor vehicles used solely upon premises of the owner are equally exigible to tax – Tax is only exigible on vehicles used or kept for use upon public roads. |
| 3 | AIR 1987 SC 1911 | (State of Karnataka – versus- K. Gopala Krishna Shennoy) | Tax to be paid in advance as long as certificate of registration is current – Liability to pay tax is not dependant upon the vehicle being covered by Certificate of Fitness or not. |
| 4 | AIR 1992 SC 1371 | (Central Coal Fields and others Vrs. State of Orissa) | Orissa Motor Vehicles Taxation Act, 1975, section 2 (b) – Motor Vehicles adapted for use on roads – Dumpers and Rockers using rubber tyres – they are vehicles adapted for use on road – are motor vehicles – liable to taxation. |
| 5 | AIR 1992 SC 1376 | (Union of India Vrs. Chowgule & Co. & others) | The mere fact that dumpers were used solely on the premises of the owner, or that they were in closed premises, or permission of the authorities was needed to move them from one place to another, or that they are not intended to be used or are incapable of being used for general purposes, or that they have an un-laden and laden capacity depending on their weight and size, is of no consequence - dumpers are vehicles used for transport of goods and thus liable to pay a compensatory tax for the availability of roads for them to run upon, commission. |