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TRANSPORT DEPARTMENT

From

To

The Special Commissioner &
Transport Commissioner,
Chepauk, Chennai - 5.

All the Insurance Companies
in Tamilnadu.

Lr. R.No. C3/7821/08, dated 02.09.2008

Circular No. 41 /2008

Sir,

Sub: Motor Vehicles - Maintenance of Air Quality - **Insistence** of
Pollution Under Control Certificate at the time of
issue/renewal/transfer of insurance certificates - required -
Reg.

Ref: This office letter of even No. and date addressed to all the
Transport Officials.

A copy of the reference cited is enclosed.

1.1. You are well aware that emission of smoke from motor vehicles is one of the major sources of Air Pollution thereby becoming serious hindrance to **"safe driving"**. Therefore, the Motor Vehicles Act 1988, Central Motor Vehicle Rules 1989 and Tamil Nadu Motor Vehicles Rules 1989 require that all the vehicles after a period of one year from the date on which the Motor Vehicle was first registered **shall carry a valid "Pollution Under Control" Certificate** issued by an agency authorized for this purpose by the State Government as prescribed under provision of 115(7) of Central Motor Vehicles Rules 1989.

2. However, the **"non transport vehicles"** i.e. two wheelers and four wheelers purchased and maintained by individual owners for their personal use which constitute a larger share in the total vehicular population in the state and for which the life time tax payment system has been fixed and being collected, almost in all the States, at present actually many a time escape from this check, since neither then they have to pay motor vehicles tax subsequently nor they are required to

obtain fitness certificate periodically as certificates of registration are valid for a period of fifteen years from the date of registration and they need to get their certificates of registration renewed only thereafter. Therefore they are not really required to go to Regional Transport Offices for any verification or for any other work for that matter. Therefore the only enforcement methods to enforce the provisions of Rule 115(7) of Central Motor vehicle Rules available are (1) to check the vehicles on the roads-which is neither foolproof nor easily enforceable; and (2) to make production of such certificates mandatory before issue / renewal / transfer of vehicle insurance certificates.

3. The sub Rule (7) of Rule 115 of Central Motor Vehicles Rules 1989 stipulates that after the expiry of a period of one year from the date on which the motor vehicle was first registered every such vehicle shall carry a valid "Pollution Under Control Certificate" issued by an appropriate authority and it shall be valid for six months from the date of issue.

4. Therefore in order to introduce a system of check for such vehicles and also to further strengthen the existing system of "Pollution Under Control Check", for all non - transport vehicles, we consider that it would go a long way to serve the purpose, if the motor vehicles Insurance Companies could be required to insist upon the production of "Pollution Under Control Certificate" as a precondition for obtaining insurance, renewal or transfer of insurance certificates for all class of motor vehicles, i.e., both transport and non transport vehicles.

5. In this context we also would like to elucidate the rule provisions of Motor Vehicles Act, Central Motor Vehicle Rules and Tamil Nadu Motor Vehicle Rules 1989, Which insist on the importance of "Pollution Under Control" Certificate and relate to the obligatory on the part of the insurance authorities to enforce the same:-

5.1 Section 41(7) of the Motor Vehicles Act 1988 lays down that the certificate of registration of a motor Vehicle, other than a transport vehicle, shall be valid only for a period of fifteen years from the date of such issue of certificate and shall be renewable.

5.2 Rule 52 (1) of Central Motor Vehicles Rules 1989 provides for the renewal of certificate of registration, before the date of its expiry.

5.3 Rule 52 (3) stipulates that a motor vehicle other than a transport vehicle shall not be deemed to be validly registered for the purpose of Section 39 after the expiry of the period of validity entered in the certificate of registration and no such vehicle shall be used in public place until such time the certificate of registration is renewed.

5.4 So also in the case of transport vehicles, Section 56 of the Act says that the transport vehicle shall not be deemed to be validly registered for the purpose of Section 39 unless it carries a certificate of fitness issued by the competent authority in the form prescribed by the Central Government. Therefore, it goes to show that either in the case of non transport vehicle or in the case of transport vehicle the registration certificate could be construed as valid only if ~~the~~ it carries a valid certificate of fitness.

5.5 Section 146 of the Motor vehicles Act lays down that no person shall use, only as a passenger, or cause or allow any other person to use, a motor vehicle in public place unless there is in force in relation to use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of the Act. Therefore, every vehicle shall have to have a valid insurance certificate.

5.6 By necessary implication therefore it has to be construed that, in the case of a transport vehicle when the certificate of registration is

not construed to be a valid one then the permit issued by virtue of the certificate of registration also becomes invalid.

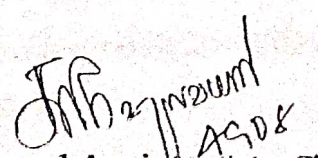
5.7 Sub Rules (6) (7) & (8) of Rules 116 of Central Motor Vehicles Rule 1989 further mandate that if the "Pollution Under Control Certificate" is not produced within the stipulated time i.e. seven days, before the registering authority it shall suspend the certificate of registration until such time the said certificate is produced before it. Likewise, Sub Rule (9) of Rule 116 lays down that on such suspension of certificate of registration of the vehicle, any permit granted in respect of that vehicle under chapter -V or chapter - VI of the Motor Vehicles Act shall be deemed to have been suspended until fresh "Pollution Under Control Certificate" is obtained.

5.8 Therefore in view of the foregoing it is clearly established that holding of a valid "Pollution Under Control Certificate" by a vehicle owner at all times is a must and imminent. As an agency implementing the provisions of the Motor Vehicles Act 1988 and Central Motor Vehicles Rules 1989 we therefore request you to ensure total observance of these mandatory statutory provisions of law and shall insist upon the production of a valid "Pollution Under Control Certificate" whenever the owner / permit holder of a motor vehicle applies for issue / renewal/ transfer of insurance certificate by your agency.

5.9 We shall request for your support and co-operation in this regard which shall go a long way in implementing the provisions of the Motor Vehicles Act and Rules made there under.

Sd/- C.P. Singh
Transport Commissioner
Chennai - 5

//By order//


Personal Assistant to STA