

Dated 16.6.2014

**Thiru K. RAJARAMAN, I.A.S.,  
Principal Secretary/Commissioner of  
Commercial Taxes,  
Chepauk, Chennai - 600 005.**

Sub : E-Transit Pass - Non - submission at check posts - Instructions  
issued - Reg.

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1. According to Section 70 of the TNVAT Act, 2006, when the goods vehicle carrying any goods mentioned in the sixth schedule, coming from any place outside the State and bound for any other place outside the State, passes through the State, the owner or other person incharge of such goods vehicle shall obtain a transit pass in the prescribed form and shall deliver the transit pass within the prescribed period to the officer incharge of the last checkpoint or barrier before the exit of the goods vehicle from the State.

2. To enable to monitor the interstate movement of evasion prone commodities, more and more goods are added to sixth schedule. Recently, vegetable oil and iron and steel have been added in the sixth schedule.

3. In order to avoid difficulties in getting the manual transit pass, facility has been made in the Department intranet website for generation of electronic transit pass.

4. When certain procedure is made mandatory to ensure better tax compliance and such procedure has been simplified by way of e-governance, the department officials are expected to be fully realized of the purpose of such procedure and the importance of its successful implementation and monitoring. The object of tax reforms/regulatory initiatives coupled with e-governance procedures is to lead to a favourable situation, whereby the business data capturing and processing of such data could be possible in an effortless and seamless manner for all stakeholders.

5. Recently, many representations are received from dealers complaining that the electronic transit passes generated for transport of 6<sup>th</sup> Schedule goods are not properly acknowledged in the exit check posts. It is alleged that the transporters are put into lot of harassment for acknowledging the transit pass. Therefore, it is alleged that the transporters do not bother to get the acknowledgement for the transit passes surrendered by them at the check posts, to avoid wastage of their time and other

resources. This has led to issue of notices to the consignor-dealers u/s 70 of the TNVAT Act 2006 proposing to assess the transactions as local sales.

6. The above difficulties faced by the transporters and the dealers concerned due to the harassment and non co-operation of the check-post officials has defeated the very purpose of the regulatory mechanism prescribed. Rather, it has brought negative impact on the department as well as the dealers. This kind of non-co-operative and delinquent behaviour of the check-post officials is viewed very seriously.

7. In view of the above facts, the following instructions are issued.

- a) All the Joint Commissioners, Enforcement are directed to closely monitor the surrender of transit pass at exit check posts by the transporters without any difficulty or harassment.
- b) It should also be ensured that entries relating to surrendered transit passes are made in the application software then and there, without any delay.
- c) Check post officials failing to discharge the above duties promptly should be identified and besides initiating necessary disciplinary action against them, they should be transferred from check posts to non-sensitive post.
- d) While holding the legal validity of the statutory provisions relating to issue of transit pass under Section 44-A of TNGST Act, 1959, the Tamil Nadu Taxation Special Tribunal has held in the case of Godrej-Ge Appliances Ltd. vs. Assistant Commercial Tax Officer and others (114 STC 570 (TNTST)) that the assumption made to treat the transaction for which transit pass is not surrendered in the exit check post as local sales is a rebuttable presumption. The above view has been upheld by the Karnataka High Court in the case of Smt. Geetha Bhat Vs Additional Commissioner of Commercial Taxes, Zone I, Gandhinagar, Bangalore (52 VST 292).
- e) Regarding acceptance of other documentary evidences in lieu of surrendering Transit Pass, the Honourable Supreme Court, in the case of Tvl.Sodhi Transport Co. and Another vs. State of U.P. and Another reported in (1986) 62 STC 381, has held as under:-

***"The transporter concerned is not shut out from showing by producing reliable evidence that the goods have not been actually sold inside the State. It is still open to him to establish that the goods have been disposed of in a different way. He may establish that the goods have been delivered to some other person under a transaction which is not a sale, they have been consumed inside the State or have been redespached outside the State without effecting a sale within the State, etc."***

- f) Therefore, in case of non surrender of transit pass, if a dealer could produce sufficient legally valid and reliable documentary evidence to prove that the goods moved with the transit pass in question had actually crossed the borders of the State, such evidences may be accepted by the assessing authority as an evidence of inter-State movement of goods.
- g) However, such acceptance of alternate evidence to surrender of transit pass can be in exceptional cases, where there is sufficient cause for non-submission of transit pass by the transporter. But, this cannot be accepted for repeated violations by the same dealer. Such repeated violations may be brought out in the speaking orders passed by the Enforcement Officers/Assessing Officers.
- h) In case of frequent non-submission of transit pass, the Enforcement and Territorial authorities concerned should ascertain reasons for such non-compliance and take immediate systemic remedial measures to remove the difficulties, if any, in surrendering the pass. Failure to receive and submit ETPs by check post officers and failure to carry out data entry may be viewed seriously and disciplinary action should be taken against officers concerned.

8. All Joint commissioners are instructed to acknowledge the receipt of this circular by next mail and also get acknowledgements from all the subordinate officers under their control.

Sd/- A. Rajaraman  
Principal Secretary/  
Commissioner of Commercial Taxes

To

1. All the Joint Commissioners (CT) (Territorial and Enforcement), ISIC & MoU Cell.
2. All the Deputy Commissioners (Territorial and Enforcement).
3. All the Heads of Assessment Circles.

**Copy to:**

1. All the Additional Commissioners, O/o.PS/CCT, Chepauk, Chennai - 5.
2. The Joint Commissioner (Admin), O/o.PS/CCT, Chepauk, Chennai - 5.
3. The Deputy Commissioner (GS), O/o.PS/CCT, Chepauk, Chennai - 5.
4. All the Joint Commissioners (CT), Deputy Commissioners (CT) & Assistant Commissioners(CT), O/o.PS/CCT, Chepauk, Chennai - 5.
5. The Joint Commissioner (Computer Systems), Chennai - 6 for uploading in the internet and intranet websites.
6. The Director, Commercial Taxes Staff Training Institute, Chennai - 6.
7. Stock File/Spare

/Forwarded by order/

  
Deputy Commissioner (SMR)