

**Government of Rajasthan
Transport Department**

No:- F6/140/Trans/tax/HQ/03

Jaipur, Dated :- 22/06/09

Office Order No - 15/2009

**Sub:- Clarification regarding payment/ refund of Lump sum/
one time tax.**

In order to seek clarity on the provisions of Section 7 of the Rajasthan Motor Vehicles Taxation Act, 1951 and rules 26-A of the Rajasthan Motor Vehicles Taxation Rules, 1951, opinion of the Law Department was sought, the excerpts of which are given below :-

Query No 1. What shall be the status of OTT/LST in the following three situations :-

(a) A situation when the owner of a vehicle who has deposited one time tax/lump sum tax, applies for NOC, does not claim for refund of one time tax/lump sum tax and takes the vehicle out of the State. The vehicle is registered in other State, whether it is required to pay tax on return to the State ?

(b) A situation when the owner of a vehicle who has deposited one time tax/lump sum tax applies for NOC, claims for refund of one time tax/lump sum tax but is not given the refund, takes the vehicle out of the State and gets it registered in other State, whether it is required to pay tax on return to the State?

(c) A situation when the owner of a vehicle who has deposited one time tax/lump sum tax applies for NOC, claims for refund of one time tax/lump sum tax receives the refund and takes the vehicle out of the State, on return to the State is he required to pay tax?

Law Department's Opinion :- In answer to sub query (a) and (b), the Law Department is of the opinion that if a vehicle on which one time tax/lump sum tax has been paid is taken out of the State for a particular period without obtaining refund of one time tax/lump sum tax, it would not empower the State to re-impose tax on such vehicle.

As far as situation (c) is concerned, the Law Department is of the view that after refund of one time tax/lump sum tax the vehicle cannot ply in the State therefore if it re-enters the State it is required to redeposit the Tax as per the rules.

Query No 2. This query pertains to interpretation of section 7 of the Rajasthan Motor Vehicles taxation Act, 1951 and Rule 26-A of the Rajasthan Motor Vehicles Taxation Rules, 1951. It is to be ascertained whether one time tax/lump sum tax can only be refunded or it can be refunded as well as adjusted by the taxation officer.

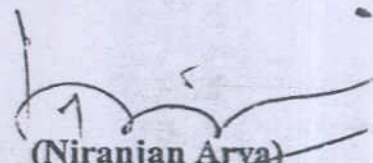
Law Department's Opinion :- As per the view of the Law Department Sub section (2) of Section 7 of the Rajasthan Motor Vehicles Act, 1951 deals with refund of one time tax/lump sum tax, Sub section (3) of Section 7 of the Rajasthan Motor vehicles Taxation Act, 1951 empowers the taxation officer to **refund or adjust** in the prescribed manner any amount paid in excess of the tax due. Rule 26-A of the Rajasthan Motor Vehicles Taxation Rules, 1951 deals with the method of claiming refund of the deposited one time tax/lump sum tax. The main rule makes provision only for refund but sub rule (7) of rule 26-A provides that the "Taxation Officer shall maintain a register in Form M.T.T for refunds and adjustments of the one time tax-----". Provision of the Act would prevail over the rules and the Act empowers the Taxation Officer to refund or adjust, sub rule (7) of rule 26-A provides that the Taxation Officer shall maintain a register in Form M.T.T. for refunds and adjustments of the one time tax, the Rules therefore prescribes for adjustment of tax also. Therefore one

time tax/lump sum tax can be refunded as well as adjusted by the Taxation Officer.

Query No 3. As the word lump sum tax has erroneously not been mentioned in certain places in the body of Rule 26-A, so whether lump sum tax can be refunded at the rates prescribed for refund of one time tax.

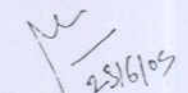
Law Department's Opinion :- Sub section 2 of Section 7 of the Rajasthan Motor Vehicles Taxation Act, 1951 deals with refund of one time tax/lump sum tax, similarly Rule 26-A of the Rajasthan Motor Vehicles Taxation Rules, 1951 deals with the method of claiming refund of the deposited one time tax/lump sum tax. Sub rule (1) of Rule 26-A provides that the person claiming refund of one time tax or lump sum tax shall present an application to the Taxation Officer. The harmonious interpretation of the Act and the Rules by necessary implication means that rule intended to refund lump sum tax also. As the intention of the Department was to keep the rate of refund of one time tax and lump sum tax at par, lump sum tax can also be refunded at the rates applicable for one time tax.

In the light of the above opinion given by the Law Department, all the Taxation Officers are directed to act accordingly.


(Niranjana Arya)
Transport Commissioner &
Secretary to Government

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Dy. T.C (Tax)