

Dated: 07/01/2010

**CIRCULAR No.2/2010**

Sub:-Handing over of the vehicles seized by the Police while investigating Cases under Abkari Act - Directions – Regarding.

Ref:-(1) Judgment of the Hon'ble High Court of Kerala in WP(C)32285 of 2009

(2) PHQ Circular No.28/1983

(3) PHQ Circular No.10/2001

The Police Department seizes vehicles regularly during the course of action to enforce provisions of the Abkari Act. These vehicles along with the liquor which is seized are normally listed as "Thondy articles" and produced before the concerned Court and then kept in Police custody. In many cases these vehicles get destroyed due to passage of time taken in the disposal of the case and the liquor seized remains in the Stations creating health and security hazards.

02. The necessity for handing over the vehicles seized by the Police while investigating offences under the Abkari Act to the Assistant Excise Commissioner having jurisdiction over the area without delay has been pointed out in the Circular cited 1st. The Circular cited 2<sup>nd</sup> has stressed the need to conduct indepth investigation into the ownership and history of such vehicles for ascertaining the genuiness of the documents of the vehicles before charge-sheeting the Case.

03. Sec.67B of the Abkari Act empowers the Authorized Officers of the Excise Department to take possession of vehicles seized under the provisions of the Abkari Act and to initiate necessary action for their confiscation.

04. Sec.53 (A) of the Abkari Act empowers the Authorized Officers of the Excise Department to dispose of liquor seized which includes Rectified Spirit, Arrack and IMFL.

05. Now the Hon'ble High Court of Kerala, has in judgement with reference to the OP cited above, has instructed that all Station House Officers (SHOs) should forward the vehicles seized under Abkari Act to the Deputy Commissioners of Excise having jurisdiction of the relevant area immediately after preparing records of the seizure.

06. Therefore, in future, in all Abkari Cases, where vehicles are seized by the Police with or without arrack, liquor or related relevant materials, all such vehicles seized should be handed over to the Deputy Commissioner of Excise having jurisdiction over the area immediately after registration of the connected Crime and after completing all formalities like taking of samples, sending for examination through Courts and such other immediate steps as may be needed. While preparing the Thondy List the details of liquor seized and the vehicles seized and handed over to the Authorized Officer should be detailed with the certificate that "the vehicles have been produced before the Officer authorized by the Government [Designation] to initiate further action U/s.67(B) of the Abkari Act". After so producing the articles before the concerned Court, an inventory should be made of liquor as mentioned in Para 04 above signed by the SHO and the same should be handed over along with a copy of the Seizure Mahazar to the Deputy Commissioner of Excise having jurisdiction with a request for urgent action under Sec.53 (A) of Abkari Act to dispose of the liquor.

07. In some cases vehicles such as Container Lorries are seized with liquor inside which cannot be separated for production before the Court. In such cases the vehicle along with the liquor may be handed over to the Officer authorized to take action under Sec.67(B) for the disposal of the vehicle. A report should be given to Court detailing the vehicle and thondy items involved with the certificate

as mentioned in the case above. However, it should be noted that since the Material Object which is the liquor contained in the vehicle is also being handed over, the handing over should be done within 24 hours of seizure of the vehicle and property.

08. It may be noted that since this is a matter mandated by a High Court Order, any laxity in the same will render the SHO liable for penal action. The SsP/CsP and Range IsGP are instructed to ensure compliance of these instructions through effective supervision.

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