

FIDC

Finance Industry Development Council

(A Representative Body of Assets and Loan Financing NBFCs)

101/103, Sunflower, 1st Floor, Rajawadi Road No.2, Ghatkopar (East), Mumbai – 400 077

Tel: 022 21029898/9820035553 • E-mail: directorgeneral@fidcindia.org; Website: www.fidcindia.org

Date: 2nd December, 2020

To,
**The Transport Commissioner-Cum-Chairman,
The State Transport Authority
At- Rajaswa Bhavan,
Town/Dist- Cuttack-753002.
Odisha.**

Sir,

Sub: **Imposition of Fee by RTOs on the use of Trade Certificate by the Financers in Odisha for each vehicle**

Finance Industry Development Council (FIDC) is a representative body of Asset and Loan Financing of the NBFCs registered with Reserve Bank of India. FIDC was formed 16 years ago and is the recognised face of the NBFC sector. FIDC is involved in regular interaction both with the RBI and Government of India which includes important policy related meetings. Almost all the leading NBFCs and a large number of small and medium sized NBFCs are our members.

Customers of our members (hereinafter referred to as the borrower/s) avail finance from our members on execution of Loan/Hypothecation Agreement/s and as per the relevant terms of the said agreement, the borrower is obliged to punctually pay the monthly installment as per the repayment schedule and in case of any failure to make payment of the installment due, the financier is at liberty to repossess the hypothecated asset and may sell the same to recover the outstanding dues.

After getting delivery of the vehicle, the borrower is supposed to register the same with the Transport Authority concerned incorporating the hypothecation endorsement in favour of the financier. Besides, he/she shall pay the tax/statutory fees to the RTO and also get the vehicle insured time to time. It is further an understanding/terms of agreement that the borrower has to pay the installments as per the dates mentioned in the repayment schedule of the loan



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agreement. Violations of such terms are treated as “Events of Default”. In such “Events of Default”, the finance company is empowered and entitled to take custody of the hypothecated vehicle/asset.

The financier may require a Trade Certificate only to Move the Vehicle from the Place of Seizure of the vehicle (owing to the default of the borrower) to the place of their yard. For such practice and requirement, the financier is required under Rule 41(h) read with Rule 35 of the Central Motor Vehicles Rules 1989, to obtain Trade Certificate from the Transport Authority. Accordingly, our members obtain trade certificate from the RTO within whose jurisdiction the head office of our member situates. It is pertinent to note that the requirement of a financier to have trade certificate is only in order to move a vehicle to the yard in case of repossession. It may be noted that all the vehicles financed by the financiers are not to be repossessed and only the vehicle under default in compliance with the terms of the loan agreement need to be repossessed. Therefore, requirement of trade certificate will not arise for all the vehicles under hypothecation. That is why the CMV Rules specify requirement of a trade certificate only for a class of vehicle and not for each vehicle.

As per the Rule 37, the Trade Certificate so issued under Rule 35 of the Rules 1989 is valid for 12 months from the date of its issuance and is valid and effective all over of India and a holder of the Trade Certificate can use the same either new or renewed, all over the India and thus once a holder of the Trade Certificate obtains it from any Transport Region, it shall not be required to obtain from any other Region.

Ignoring the valid TC obtained at Regional Transport Authority within the jurisdiction of which the head office of our members is situate, the registering authorities in the state of Odisha are insisting for Multiple Trade Certificates from their own office in order to get new vehicles registered and for cancellation of hypothecation endorsement which are against the provisions of Rule 37 of CMV Rules. The Registering Authorities are also demanding fees under Trade Certificate for each and every vehicle under finance. The circular dated 16/11/2020 followed by another one dated 24/11/2020 issued by your good office also stipulate the same condition.



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The provisions under the Rule 41(h) of Central Motor Vehicles stipulate the requirement of Trade Certificate. For a finance company, a trade certificate is required only for removing the vehicle after it has been taken possession by or on behalf of the finance company due to any default on the part of the registered owner/borrower under the provisions of hire purchase/lease/hypothecation agreements.

As the financier is not required to use the Trade Certificate for each of the vehicle financed, the charging of fee for obtaining Trade Certificate on the basis of each vehicle financed by the financier is not in accordance with the Central Motor Vehicle rules. Under the amended CMV Rules, a dealer is required to obtain a Trade Certificate for **each class of vehicle** by paying the fee stipulated therein and not for each and every vehicle.

For all the reasons stated above and considering the Central Motor Vehicle Act And Rules, we request you to withdraw the circulars dated 16/11/2020 and 24/11/2020 and direct the RTOs in Odisha not to insist upon Trade Certificate for each and every vehicle during registration of the endorsement of hypothecation and cancellation thereof.

Thanking you,

Yours sincerely,

FOR FINANCE INDUSTRY DEVELOPMENT COUNCIL

**MAHESH THAKKAR
DIRECTOR GENERAL
9820035553**

Copy To:-

- 1. Ministry Of Road Transport and Highway, Odisha**
- 2. Ministry of Road Transport and Highways, New Delhi**

