

22/11/04

To be returned to the sender

Form 11-20-22-500-6-19-24

Law (Education) (1925) Department.

Encl to 22189 E 6/4-25
dated 15-4-04.

Ord. SERIES.

G.O. No. 1921

DATED 7th Nov. 1925

22-4
4792
S.B.

[Despatch Abstract.]

Elementary Education Act

Temples - Choultries -
educational buildings etc - declared
exempt from payment of education
tax

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.

Municipal DEPARTMENT.

Received



Registered

191

Subject

L. C. 1971
11/8/25

ENCLOSURES.

No.

Spare copies

R.C.No. 1129 GL

Station Dindigul., Dated the 7th August 1925.

191

From (Name) M.R.Ry., R. Ramaswamy Naidu Garu B.A.,

(Designation) Chairman, Municipal Council,

Dindigul.

To The Secretary to the Government of Madras,

Law (Education) Department.
Madras.

Sir,

Ref.--Education tax - Exemption--

Section 83 of the Madras Dt. Municipalities Act V of 1920 exempts temples, educational buildings, choultries and such other places of public resort & lands from the levy of general property tax.

The levy of education tax under sections 34 & 35 of the Madras Elementary Education Act 1920 was sanctioned by Government in G.O.No.903-Law-Educn., dated 28-5-25. This act does not contemplate the exemption of any building from the payment of education tax.

Orders of Government are therefore solicited as to whether lands & buildings exempted from general property tax under section 83 of the Municipal Act are liable to be assessed to Education cess.

Attention

Attention is invited to G.O.No.2164 L & M., (25)

dated 2-10-23.

D.M.S/8-8.,

For-Chairman

88.4

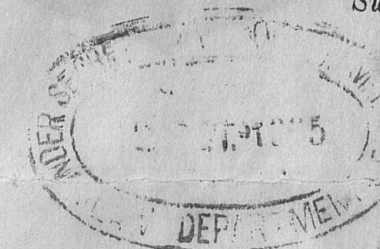
B/S

Municipal DEPARTMENT.

C.F.-29.

Received 191 . Registered 191 .

Subject.



7- Eu 3864 A
17/10/25

ENCLOSURES.

No.

Spare copies:

R.O.C.No. 1129-gl-25.

Station Dindigul., Dated the 6th October 1925. 192

From (Name) M.R.RV., R. RAMASWAMY NAIDU GARU B.A.

(Designation) CHAIRMAN, MUNICIPAL COUNCIL,

DINDIGUL.

To The Secretary to the Government of Madras,

LAW (EDUCATION) Department.

MADRAS.

Sir,

Ref.-- Education tax - Exemption - This office

R.O.C.No. 1129-gl-25 dated 7-8-25.

I request that the Government will be
pleased to pass early orders on the above reference.

For-Chairman.

D.M.S/7-10.,

(A)

4

Law (Education) Department

C.No.2997 A

Memorandum 2997 A/25-4 D 23.10.25

Levy of education tax on temples, educational buildings, choultries etc.

Under section 34 of the Madras Elementary Education Act, 1920, the Government sanctioned the proposal of the M.C. Dindigul, to levy an education tax in the area under its jurisdiction at the rate of $1\frac{1}{4}$ per cent on the annual rental value of properties and 25 per cent of profession and companies taxes. Under section 83 of the Madras District Municipalities Act, 1920, places set apart for public worship, choultries, buildings used for educational purposes etc. are exempt from property tax. The Chairman Municipal Council, Dindigul, ~~requires~~ ^{enquires} whether such buildings are exempt also from payment of education tax. The Advocate-General is requested to advise Government on the point.

2. A reference is solicited to the correspondence ending with the Govt. Solicitor's Endt. No.1230, dated 27-3-23

Sp 903 (D)
28-5-25

DESPATCHED

24 OCT 1925
p. 3880 2164 LHM
2.10.23
(25)

10/23/4

To
The Govt. Solicitor (memo)

AO
21.10.25
NH
22.10.25

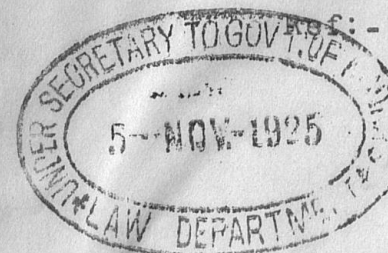
AO
22/10

V.TC
22/10

Op No. 341

OPINION.

5
A
504 4239#
5/11/25



Memorandum No. 2997 A/2544 dated 5

the 23rd October 1925, Law

(Education) Department.

---:0:---

THE previous correspondence referred to in paragraph 2 of the memorandum has not been sent. Perhaps it is not necessary. It is enough to know that one of my predecessors held that -- exemption from landcess under section 111 of the Local Boards Act XIV of 1920 involved exemption from the education tax.

Education tax under section 34 of the Madras Elementary Education Act VIII of 1920 is not leviable on properties on which property tax is not leviable by reason of exemption under section 83 of the District Municipalities Act V of 1920. It seems to me that the words "leviable under the law for the time being in force" settle the matter. The taxability of a property to education tax will vary with its taxability to property tax under the law as it stands at the moment. The variation may arise by a change in the municipal Act or by a change in the rules under the municipal Act exempting a property from taxation or making it taxable.

T. R. V. Sastri

Advocate-General.

Madras 1st November 1925.

(True Copy)


Government Solicitor.

6
LAW (EDUCATION) DEPARTMENT

From

C. Moresby,

Government Solicitor,

M a d r a s.

To

The Secretary to Government,

Law (Education) Department,

M a d r a s.

Dated Madras 3rd November 1925 }

Received }

No. 2074

Forwarded with reference to

Memorandum of Government -

No. 2997 A/25-4 dated 23rd -

October 1925 Law (Education)

Department, Madras.

C. Moresby
GOVERNMENT SOLICITOR.

6
Law (Education) Department.

(C.No. 2997 A) From the Chairman, Municipal Council, Dindigul, No. 1129

dated 7th August 1925.

Subject:- Exemption of temples, educational buildings
choultries etc. from education tax.

The Chairman, Municipal Council, Dindigul, enquires whether temples, educational buildings, etc., which are exempt from property tax under section 83 of the Madras District Municipalities Act are ~~liable~~ liable to pay the Education tax. ~~Under~~ the Madras District Municipalities and Local Boards Act, the following sections relate to exemptions from taxation:--

1) Section 83. ~~Exempts~~ ^(+ land) certain buildings from the property tax. of the District Municipalities Act.

2) Section 84 (c) of -do- authorises the Municipal Council to exempt buildings and lands from property tax under certain conditions.

3) Sec. 117 -do- authorises the Municipal Council to exempt any person or class of persons from any toll or tax with the sanction of the Govr. in Council.

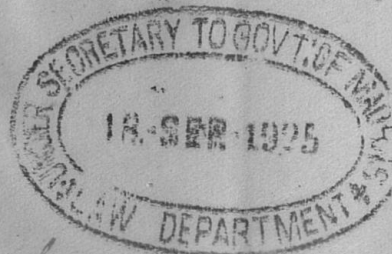
4) Sec. 99 of the Madras Local Boards Act. ~~Exempts~~ certain buildings from house tax.

5) Section 103 -do- ^(and the Taluk Board) authorises the Union Board to exempt owners of houses from the house tax on the ground of poverty.

6) Sec. 111 --do-- authorises the District Board to exempt any person or class of persons from any tax or toll.

25
In G.O.No. 2164 L. & M, dated 2-10-23, it has been ruled ^{that} exemption from payment of land cess granted under section 111 of the Local Boards Act does not involve exemption from payment of education tax as the latter is a separate tax leviable under the Elementary Education Act and as no provision ~~exists~~ exists in that Act

in the case of the exemptions granted under the other sections of the District Municipalities and ~~the~~ Local Boards Acts referred to above and as such, it would seem that no building can be exempted from the education-tax. This may, however, act as a hardship in some cases. e.g. temples, ~~a~~ educational buildings. The Law (Drafting) section may be requested to ~~advise~~ ~~advise~~ on the question raised by the C.M.C.



L. Cou no. 2997A-2
18/9/25

Law (Drafting) Department

The question is whether temples, choultries &c exempt from the property tax under section 83 of the District Municipalities Act are not liable to pay the education tax.

Under section 34 of the Madras Elementary Education Act, 1920, education tax may be levied in any municipality, not exceeding 25 percent of the 'taxation leviable' under law in that area under the head inter alia, of property tax.

The opinion of C₁ as Advocate General is that the words 'taxation leviable' should be interpreted to mean "(property) tax that is actually being collected under these Acts (the municipal and local board Acts)"

On this, the then Law Member, the Hon. Mr. K. Srinivasa Ayyangar remarked that if the Advocate General was of opinion that the 25 percent was of the actual collection he was unable to agree. He would understand the 25 percent as the actual levy or tax liability.

M₃ accepted the Law Member's interpretation and held that Education tax should not exceed 25%.

of the taxes "actually levied or imposed on property &c". Whether the words 'taxation leviable' mean amount actually collected or amount that is leviable (or can be collected) and whichever view may be accepted the temples &c exempted from property tax under s.84 must be held not liable to education tax.

Mr. Madhavan Nair's (Advocate-General) view is to the same effect.

p. 3 of L. Cou 2164
2-10-23
but his decision that the last sentence of s. 84 2164 & m/23 was correct - was not accepted as correct - vide L. Cou 2164 & m/23
L. Cou 13987
28.9.25



Law Cou no. 2997A-3
5.10.25



L. Cou 3670A
28/9/25

~~The view taken by the Law (Drafting) under Sec 84 A above is to be communicated to the C.M.C. Draft submitted to the C.M.C. for acceptance.~~
The file may be sent to L.S.G. (no) for remarks with reference to the notes in L. Cou 2164 & m/23. The opinion of the present Advocate General may, if considered necessary, be obtained, as the K.S. (drafting) differs from the view expressed by his predecessor.

21/10/25

2-10-25
3-10-25
L.S.G. no

The exemption contemplated in Sec 84 of the L. Board Act & which

was referred to in for No 2164
 Long 2.10.923 is quite
 different from the Exemptions
 dealt with in the present file.
 provided the latter are exemptions
 provided by the Act & in such
 cases the tax cannot be
 considered to be leviable.
 As ~~even~~ the main tax itself
 cannot be levied or collected
 in the exempted cases it
 follows that Edu tax also cannot
 be levied. In the case dealt
 with in for No 2164 Long 2.10.923,
 the question was whether in a
 case where a tax was leviable
 under the Act & the D.S.
 in virtue of the powers conferred
 on it by the Act exempted a
 person from payment of Special
 circumstances the Education
 tax was leviable. The exemption
 given by the D.S. in such cases
 is not absolute & is revocable.
 The liability of the person to
 pay the tax is not permanently removed.
 Further such exemption can apply to that tax alone & not to tax a tax.
 which are leviable under other enactments on the basis of the former tax.
 To be on the safe side it seems
 preferable however to obtain the
 opinion of the Adv. General on the orders
 of law members in the matter.

Under Sec 83 of the M.D. Act
 Temples & Churches etc are exempt
 from property tax.
 Under Sec 34 of the M. S. Edn Act
 Edn tax is levied as a surcharge
 on property tax upto a certain
 percentage.
 When property tax itself cannot
 be levied on temples & churches
 it follows that Edn tax also cannot
 be levied.

Lue
 Till this thing is not liable

Secy.
 Law (Edn)

L.S.G. U.O. 3005 BT-1-LPM
 9-10-42.

Law (Edn) Dept.

If it is not considered necessary to consult
 the Advocate-General on this question, the draft
 below is for approval. The file may be closed.

L-2-3859A/10/10
 19.10.42

It seems desirable to consult
 the Advocate-General so
 that we may have a definite
 & authoritative opinion on the point.

Draft memo below is for approval

Depd on 13/11/21

for copying

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192

O. No.

192

DATED

No.

C. No.

ERNMENT ..

A A A A A A A

ERNMENT.

ER DITTO.

ED OF, BRING MEANT FOR DESPATCH
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