To be returned to the Madras Record Office 22/4/64

Law (Education) (1925) Department.

Encl to 22189-E6/64-2 dated 15-4-64.

Ord. SERIES.

G.O. No. 1921

DATED 7th Nov. 1925

[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.

C.F.—29.

(7)

Municipal **DEPARTMENT.**

37

Received .... 191 Registered 191

UNDER SECRETARY TO GOVT. 11 AUG 1925 LAW DEPARTMENT

Subject.

L. En 2357A
11/8/25

ENCLOSURES.
No. ....
....
Spare copies ....

Roc 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.

(D)

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.

Attentio

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

dated 2-10-23.

For-Chairman 8.8.

D.M.S/8-8.,

C.F.—29.

Municipal DEPARTMENT.

Received .... 191 . Registered .... 191 .

L - Eu 3864 A

Subject.

ENCLOSURES.
No.
Spare copies

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

Station Dindigul., Dated the 6th October 1925.

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 - 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.,

(4) 4/ Law (Education) Department 7

C.No.2997 A

Memo No. 2997 A/25-4 dt 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 1/4~~ 1¼ 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 27-8-23

Ed 903
28-5-25 (D)

DESPATCHED
24 OCT 1925

p. 3 of Ed 2164 L&M
2.10.23 (25)

10/23/4

To
The Govt. Solicitor (memo)

21.10.25
22/10/25

22/10

V.T.K.
22/10

Op No.341

OPINION.

Ref:- Memorandum No.2997 A/25-4 dated 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,

Madras.

To

The Secretary to Government,

Law (Education) Department,

Madras.

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.

x. power now delegated to the collr.

(6) 13 7

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.

advice

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 ~~xxxx~~ liable to pay the Education tax. ~~Under~~ & the Madras District Municipalities and Local Boards Acts the following sections relate to exemptions from taxation:--

1) Section 83. of the District Municipalities Act.	exempts certain buildings + lands from the property tax.
2) Section 84 (c) of -do-	authorises the Municipal Council to exempt buildings and lands from property tax under certain conditions.
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.x
Sec.99 of the Madras Local Boards Act.	exempts certain buildings from house tax.
Section 103 -do-	authorises ~~the Union Board~~ and the Taluk 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.

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 in that Act

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2/

in the case of the exemptions granted under the other sections of the District Municipalities and ~~Lo~~ 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, or educational buildings. The Law (Drafting) section may be requested to advise on the question raised by the C.M.C.

A.S.
SA
16.9.25.

CR
18.9.25

Law (Drafting) no

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

Rg. 1398
18.9.25

Law(Drafting)Department

1. 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 C_1 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)"

p1. A G.O. 40
3-4-22

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 of the actual levy or ~~tax~~ liability.

p7 ref. do.

M_3 accepted the Law Member's interpretation and held that Education tax should not exceed 25%

9

(7)

-3-

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.

A

83?

(25)

p.3 of G.O. 2164
2.10.23

but his decision that the last sentence G.O. 867 L&M/23 was in order was not accepted as correct. Vide Note G.O. 2164 L&M 2-10-23 (25)

Rg. Cou. 1398 I
28.9.25

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

S.
d
25/9

A.S
V.T.K
28/9

Law (Edn) Depth

~~The view taken by the Law (Drafting) under Secy at 'A' above may be communicated to the CMC Original Draft submitted. Draft for ... to L.S.G for acceptance.~~

30005

Law Edn no. 2997 A.3
5.10.25.

CR
29/9/25

The file may be sent to L.S.G (no) for remarks with reference to the notes in G.O.M. 2164 L&M of 2-10-23. The opinion of the present Advocate-General may, if considered necessary, be obtained, as the L.S (drafting) differs from the view expressed by his predecessor.

(25)

L. Cu 3670 A
28/9/25

CR
2.10.25
S

V.T.K
3.10

L.S.G. no

NK
2/10/25

L.S.G. Depth

The exemption contemplated in Sec. 111 of the L. Bds Act & which

W

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was referred to in G.O. No 2164 L.W. 2.10.1923 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 ~~exem~~ the main tax itself cannot be levied or collected in the exempted cases it follows that Edn tax also cannot be levied. In the case dealt with in G.O. 2164 L.W.&M. 2.10.1923, the question was whether in a case where a tax was leviable ~~under the Act & the D.B.~~ ~~in virtue of the~~ powers conferred ~~on it by the~~ Act exempted a ~~person from~~ payment (of main tax) in special ~~circumstances~~ the Education ~~tax was~~ leviable. The exemption given by the ~~D.B.~~ in such cases is not absolute ~~& is~~ revocable. The liability of the person to pay the tax is not permanently removed + not to ~~tax~~ a tax Further such exemption can apply to that tax alone 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 or the orders of Law Member in the matter.

(25)

(25)

A

A.S.2

8.10.25

8.

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(9)

17

Under sec 83 of the M.D.B. act temples & Choultries etc are exempt from property tax

Under sec 34 of the M.E. 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 & choultries it follows that Edn tax also cannot be levied.

8.X.25

Tell him they are not liable

S.B.
8.10.25

Secy.
Law (Edn)

L.S.G. U.O. 3000 B.I-1-LFM
9-10-1925.

Law (Edn) Deptt.

If it is not considered necessary to consult the Advocate-General on this question, the draft below is for approval. The file may be circulated to M_2 and C_1

L.E. 3859 A/10.10

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

19.10.25

V.T.K.
19.10

Draft memo below is for approval

19/10/25

V.T.K.
23.10

6

12

[Memo no. 2997 A/25-4 d/ 23.10.25] p. 4 CF

[C. no. 4239 A] from the Govt. Solicitor no. 2044 d/ 3.11.25 pp 5-6 CF

The draft order in the file, which is in accordance with the opinion of the Advocate General a.p. 5 CF, may now issue

6.11.25

V.T.K. 7.11

5/11/25

Scott. II-5 (a)—28,703—6-12-24. (6)

	Date.	Initials.
When received for Fair-copying.		
When copied ..	9.11	
When examined ..		
When signed ..	9/11	
When despatched ..	9/11	

(9) Law (Education) DEPARTMENT.

Elementary Education Act

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

19

READ AGAIN G.O. No. ......, dated ...... 192 .

" " " " ...... " ...... 192 .

READ ALSO:-

C. No. 3670 A / 2997 From the ......, No. ......, dated 192

" " ...... " " ...... " ...... " 192

" " ...... " " ...... " ...... " 192

ORDER.

Mis.

No. 1921, dated 7-11- 1925.

The Chairman, Municipal Council, Dindigul, is informed that temples, educational buildings, choultries etc. exempted from property tax under section 83 of the Madras District Municipalities Act, 1920, are not liable to education tax.

6.11

V.T.K. 7.11

17.10.25

17/10

DESPATCHED 9 NOV 1925

To

The C.M.C. Dindigul (with refce. to his letter No.1129, dated 7-8-25)

Copy to the Chairmen of all other M. Cs.

The D.P.I.

" Exr. of L.F. Account.

" Law (Drafting) Section (order with a copy of A.G.'s opinion a.p. 5 CF)

Despd on 6/11/25

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.O. No. , DATED
192 .

No.

C. No.

ERNMENT .. .. A A A A A A A

VERNMENT.

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