Sectt. II-27—15,004—22-8-46.

Education and Public Health (1946) Department.

TN

Ms. SERIES.

①

G.O. NO. 2290 Edn.,

Dated 28-11-1946.

[Despatch Abstract.]

Subsidy-Government contribution under section 37 of the Elementary Education Act-Surcharge on profession tax-Municipal Council, Villupuram-Payment-Orders passed.

Back Papers.

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

Further Papers.

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

C.F. 32 (*a*).

A

(2)

Local Administration Department

Received 27 OCT 1945 Registered

From (Name)
Sri.K.Damodaran B.A.,

Designation
Commissioner,
Municipal council,
Villupuram.

To
The Secretary to Government,
Education Department,
Fort Saint George, Madras.

15 OCT 1945
MADRAS

C.4078

Through,
~~The Director of Public Instruction~~
Madras.

Enclosures:

No. A.2-4822/45 dated 12.10.45.

Sir,

Sub:-Subsidy - Local bodies - contribution to local bodies under section 37 of the Madras Elementary Education Act on account of Education cess - grant. Equivalent claimed
Ref:- G.O.No.724,Edn,dated 23.3.1938
Education Tax- payment of Equivalent grant.

48763

pp33-34 f

(Y)

2 infra

A statement showing the Demand Collection & Balance ~~statement~~ of Education tax for the year 1944-45 is herewith submitted. I request that the Government may be ~~plaged~~ pleased to sanction the payment of the equivalent grant for the said year.

Commissioner.

8
13.11.45

EdP. 14 (A)

P.T.O.

G.O. 724 Edn. d/ 23.3.38 quoted above has been called for from M.R.O.
This may lie over till 4.11.45

30.10.45
W/30.X.45

31/10/45

Details	Demand	Collection	Remission	Balance.
Arrears	10.13.0	6.8.0	2.3.0	2.2.0
Current	306-15-0	296-8-0	0-6-0	9-12-0
Total	317-12-0	303-0-0	2.9.0	11.14.0

Certified that the figures of actual realisation have been verified and found correct.

Commissioner
Villupuram Municipality.

N. Dis 4078 B/45 23-x-45

Submitted

For Director of Public Instruction

The Secy to Govt Edn & P.H.

F. No. 150
8.4.46

3

Examiner's Office.

19757

Subject:- Government contribution under section 37 of the Elementary Education Act - Tax realised in 1944-45 - Villupuram Municipal Council.

Reference:-Government Endorsement No.48759-A/45-I Education, dated the 7th November 1945 and G.O.No.342, Education dated the 19th February 1946.

*****

In G.O.No.724 Education dated the 23rd March 1938 sanction was accorded to the proposal of the Villupuram Municipal Council to levy profession tax at 87½% of the maximum rates and Education Tax at 12½% of the maximum rates as a surcharge thereon with effect from the 1st April 1938. These rates of taxation were continued even after the 1st April 1942. As the levy of Education Tax has not been specifically sanctioned by Government in the case of any local body after the 1st April 1942, such levy is illegal - Vide L.A.Department u.o.Note No.9736-3-A dated the 18th June 1945 and Government Memorandum No.27293/45-3A L.A., dated the 12th January 1946. The Council is not therefore, eligible for any contribution from Government under section 37 of the Elementary Education Act towards the Education Tax on Profession Tax. The equivalent contribution drawn with reference to the current collections of Education Tax relating to the period from the 1st April 1942 to the extent of Rs.536-13-0 as shown below, would need to be refunded to Government.

Current Collection in 1942-43 relating to 1942-43	Rs.232 12 0	Grant drawn Rs.232-12-0 on 6-3-44 as per G.O.202 Education dated 10-2-44.
Do. 1943-44	295 9 0	Drawn on 12-1-45 as per G.O.No. 1784, Education dated 27-11-44.
Arrear collection in 1943-44 relating to 1942-43	8 8 0	
Total	536 13 0	

2. As regards arrears relating to the period prior to the 1st April 1942, but collected after that date, the council is eligible for the equivalent contribution of Rs.14-13-0 as indicated below.

Net collection in 1942-43 in respect of arrears.	Rs.13 12 0	Grant drawn on 24-8-44 as per G.O.No.905,Edn. dated 13-6-44 and grant drawn on 12-1-45.
In 1943--44	1 1 0	Grant drawn on 12-1-45.
	14 13 0	

In respect of arrear collections in 1944-45, the council is eligible for equivalent contribution on the sum of Rs.1-6-0 only, being the tax relating to the period prior to 1st April 1942 and collected during the year. The above sum of Rs.14-13-0 (13-12-0 plus 1-1-0) would need to be refunded to Government from out of the Compensation for loss of income from Education Tax on Profession Tax with reference to paragraph 3 of G.O.No.1266, Local Administration dated the 7th June 1944. Sanction may be accorded for the payment of the Equivalent grant admissible, viz., Rs.1.6.0 and the council may be directed to refund to Government the sum of Rs.551-10-0 (Rs.536-13-0 plus Rs.14-13-0) drawn in excess.

3. The sum of Rs.46,494-11-0 being the current House Tax Collections shown in the letter dated the 24th October 1945 from the Commissioner disposed of in G.O.No.342 Education dated the 19th February 1946 includes a sum of Rs.69-6-0 being the refunds made during the year. A sum of Rs.6-2-0 being the grant drawn with reference to G.O.NO.Ms.342, Edn., dated

4

dated the 19th February 1946 would need to be refunded to Govt.

4. The letter dated the 12st October 1945 from the Commissioner received with the above endorsement is returned herewith.

M.V. Shanbogdas.
Deputy Examiner of L.F. Accounts.

To The Secretary to Government,
Education and Public Health Department,
Fort ~~Saint~~ George, Madras.

The whole file was forwarded to the Corporation vakil for opinion and he advised the Corporation that as the above three companies have been sold as going concerns to Associated Publishers, Ltd., and under the agreements the purchasing company has been authorized to use the names of the vendor companies and carry on the business, there is now only one company, i.e., Associated Publishers, Ltd., carrying on business in three different names and the three old companies which have been merged in the new company, i.e., the Associated Publishers (Madras), Ltd., are not separately taxable for companies tax. Thereupon, the Commissioner cancelled the assessment on these three companies.

From the file and from the description of the documents submitted to the Corporation vakil, it does not appear that there has been any special resolution passed by the old companies winding up their concerns as required by section 20 (3) of the Indian Companies Act (VIII of 1913) and merging their individual entities in the new company. From the Registrar's letter it appears as though the effect of the agreements between the three companies separately on the one hand and the Associated Publishers (Madras), Ltd., on the other, is that the old companies have only taken a very large number of shares in the new company.

In this connexion, it may be mentioned that even during the pendency of the correspondence between the Corporation authorities and the Associated Publishers (Madras), Ltd., the Madras Mail paid a tax of Rs. 500 on the 24th July 1925. When, afterwards, the vakil advised cancellation, the Corporation credited this amount to the Associated Publishers (Madras), Ltd., and collected only the balance of Rs. 500 from the company.

The points on which the opinion of the Hon'ble the Advocate-General is requested are—

(1) Whether, under the circumstances stated above, the three companies should not be held to be transacting business seaparately for purposes of taxation under section 110 of the City Municipal Act, 1919, *individually*, and therefore the cancellation of the assessment on these three companies by the Commissioner is contrary to law ; and

(2) whether the loss caused by such cancellation is not surchargeable under Rule 21 (1) of Schedule V of the City Municipal Act, 1919 ?

Opinion No. 56.

The Madras Mail, Ltd., Higginbothams, Ltd., the Associated Printers, Ltd., have sold their businesses to "The Associated Publishers (Madras), Ltd.," and it is the "Associated Publishers" that carries on the business. The three first named have taken shares in the "Associated Publishers" and do no business themselves.

That they have not been formally wound up may be true. It is not known or stated that they did or are doing any business which can bring them within the section as to taxation. It is not the continuing unextinguished of the legal personality of the company that makes it liable to

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From
Sri K.Damodaran B.A.,
Municipal Commissioner,
Villupuram.

To
The Secretary to Government,
Education and Public Health Department,
Fort St.George, Madras.

(4)

ASST. SECRETARY TO GOVERNMENT EDUCATION AND PUBLIC HEALTH DEPT.
12 JUL 1946

A [illegible]45, dated 29th June 1 9 4 6.

35023

Sir,

Sub: TAX ~~Education~~ Tax on Profession Tax - Subsidy - Local Bodies under section 37 of the Madras Elementary Education ~~Tax~~ -Act ~~Eximatexfaxx1945x46~~xxx Revised rates from 1-4-42 - Audit objection - dropping of - requested.

-:o:-

I submit that an objection has been taken up by the Audit to refund a sum of Rs.536-13-0 being the equivalent contribution under section 37 of the Elementary Education Act got by the Council during the years 42-43 and 43-44 on the Education Tax on Profession Tax collected commencing from 1-4-42. A copy of the Audit objection is enclosed.

In this connection, I submit that in G.O.No.Ms.724, Education, dated 23-3-38, sanction was accorded to the proposal of the Villupuram Municipal Council to levy profession tax at 87½% on the maximum rates, and Education Tax at 12½% as a surcharge thereon with effect from 1-4-38. With the advent of the Profession tax limitation Act, limiting the maximum tax leviable for half year at Rs.25/- from 1-4-42 the Council adopted the revised rates in accordance with the revised rules 16(1) of Schedule 4 of the Madras District Municipalities Act, as directed in G.O.1022, Local Administration, dated 14-3-42. In doing so, the Council did not change the proportion of the levy of the General and Education Tax on Profession Tax, viz.87½% and 12½% respectively as approved by the Government in G.O.724, Education, dated 23-3-38 but continued to levy the General Profession Tax and Education Tax as a surcharge thereon in the same proportion of the maximum laid down in the revised schedule.

The auditor has raised an objection and has stressed for the refund of ~~Edux~~ the equivalent grant drawn on the basis that the levy of Education Tax on Profession Tax after 1-4-42 has not been specifically sanctioned by Government and as such he has stated that the levy is illegal. I submit that the effect of the limitation act has been to revise the maximum Profession Tax leviable for half year and the Council, while adopting it, has not altered the rates of levy of General Tax as also the Education Tax levied as surcharge on Profession Tax from 1-4-42. In view of the fact that sanction has already been accorded by the Government ~~by~~ this Council to levy the General Tax at 87½% of the maximum, and Education Tax on Profession Tax at 12½% with effect from 1-4-38, it is submitted that no fresh sanction appears to be necessary for the continuance of the levy of Education Tax from 1-4-42.

If, however, the Government considers that specific sanction is necessary for the levy of Education tax on Profession Tax from 1-4-42 in so far as this Municipality is concerned, I request that Government may be pleased to ratify the irregularity and to pass orders early to drop the objection raised in audit for the refund of Rs.536-13-0 referred to in para 1 above.

K. Damodaran
COMMISSIONER. 29/6/46

Forwarded.
Govindarajulu
Chairman.
29/6/46

kk/29-6.

AUDIT OBJECTION STATEMENT (ELEMENTARY EDUCATION FUNDS) 1945-46 I HALF.

Education Tax - Excess grant drawn.

In G.O.No.Ms.724, Education, dated 23-3-38 sanction was accorded of the proposal of the Villupuram Municipal Council to levy profession Tax at 87½% of the maximum rates of Education Tax at 12½% as a surcharge thereon with effect from 1-4-38. This rate of taxation was continued even after 1-4-42. As the levy of Education Tax has not been specifically sanctioned by Government in the case of any local body after 1-4-42 such levy is illegal. The Municipal Council is not eligible for any contribution from Government under Section 37 of the E.E.Act. The Equivalent contribution drawn with reference to the current collection relating to the period from 1-4-42 to the extent of Rs.528-5-0 as shown below would need to be refunded to Government.

Current Collection	42-43	...	232-12-0
-do-	43-44	...	295 9 0
			Rs.528- 5-0

As regards arrears relating to the period prior to 1-4-42 but collected after that date the Municipal Council is eligible for the equivelent contribution to the extent of Rs.23-5-0 as shown below.

Net collection in 42-4[illegible] in respect of arrears Rs.13-12-0 grant drawn.
43-44 9 9 0

Total Rs.23-5-0

Out of the sum of Rs.23-5-0 a sum of Rs.8-8-0 being the Education Tax collected in 43-44 in respect of 42-43 has to be refunded to Government for the reasons mentioned in para 1 above.

In respect of arrears collected during 44-45 the Council is eligible for equivalent contribution on the sum of Rs.1-6-0 only being the tax collection for the period prior to 1-4-42. The above sum of Rs.14-13-0 (13-12-0 + 1-1-0) has to be refunded to Government from out of the compensation for loss of income from Education Tax on Profession Tax with reference to para 3 of G.O.No.1266, L.A., dated 7-6-44.

Sd/ x x x
Dt.Inspector of L.F.Accounts.

kk/29-6.

(True copy)

29/6/46
Commissioner

29.6.46.

(C)

E.P.H (C-1) 9

22/11/7

(b) Tax - Education - M. C. Villupuram - Levy as surcharge on profession tax.

From the Commr. Villupuram Mty.,
A.2.4822/45, d/ 29.6.46.

Memo: No. 15668 C-1/46-6 Edn., d/ 10/7/46

11/7

p.s.c.

The Commr. Villupuram Mty. is requested to furnish

(i) copy of the notification issued by the C. in pursuance of the orders in G.O. 724 Edn., d/ 23.3.1938; and

pp 33-34 of (Y)

(ii) copies of the resolution of the C. adopting the revised rates of profession tax with effect from 1.4.42 and the notification issued in ~~that~~ that connection.

12/7

To the Commissioner
Villupuram Mty
(thro' the C.M.C.)

10/7/46

10/7/46.

10/7/46

(7) C1

From
Sri K.Damodaran B.A.,
Municipal Commissioner,
Villupuram.

TO
The Secretary to Government,
Education and Public Health Department,
Fort Saint George, Madras.

ASST. SECRETARY TO GOVERNMENT
21 JUL 1946
EDUCATION AND PUBLIC HEALTH DEPT.

R.2.4822/45, dated 17th July 1946.

Sir,

Sub: TAX - Education Tax on Profession Tax - Subsidy under section 37 of the Madras Elementary Education Act - revised rates from 1-4-42 - Refund of subsidy drawn - audit objection - dropping of - requested.

39765 Ref: Government's memorandum No.15668-C-1/46-6, Education, dated 16-7-46.

p9 ante

-:o:-

I submit herewith the following records called for by the Government.

p13 infra

(i) A copy of the notification issued by the Council in persuance of the orders in G.O.No.724, Education, dated the 23rd March 1938; ~~with copies of the resolution of the Council~~

pp 33-34 (Y)

(ii) Copies of the resolution of the Council adopting the revised rates of Profession Tax with effect from 1-4-42 and the notification issued in that connection.

pp13-15 infra

Encl. 2.

Commissioner. 19/7/46

JRS 18.7.46

Forwarded.

V. Govindarajulu

CHAIRMAN. 19/7/46

Copy of notification issued by the Council in persuance of the orders in G.O.No.724, Education, dated 23rd March 1938.

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(8)

pp33-34 g
(9)

SUPPLEMENT
to the
SOUTH ARCOT DISTRICT GAZETTE.

MONDAY, the 28th March 1938.

Villupuram Municipality.

Notice.

LEVY OF EDUCATION TAX AS A SURCHARGE ON PROFESSION TAX FROM 1ST APRIL 1938.

Under section 80 of the Madras District Municipalities Act, as amended by Act X of 1930, it is hereby notified that the Municipal Council, Villupuram in its resolution No.579, dated 27-1-38 decided to levy Education Tax under sections 34 and 35 of the Madras Elementary Education Act 1920, as a surcharge on profession tax at the rates given hereunder. The levy of the tax has been sanctioned by the Government in their order No. Ms.724, Education, dated 23-3-38. The tax will accordingly be levied from 1-4-1938.

pp33-
(9)

PARTICULARS.

Half yearly income.				Profession Tax for General purposes.			Education tax proposed to be levied from 1-4-38 as a surcharg on Profession Tax.		
More than Rs. 150 .	but not more than	Rs.300		... 0	7	0	0	1	0
" 300	"	600		1	5	0	0	3	0
" 600	"	1200		... 2	10	0	0	6	0
" 1200	"	1800		... 5	4	0	0	12	0
" 1800	"	3000		... 8	12	0	1	4	0
" 3000	"	4200		...17	8	0	2	8	0
" 4200	"	6000		...24	8	0	3	8	0
" 6000	"	9000		...48	2	0	6	14	0
" 9000	"	12000		...74	6	0	10	10	0
" 12000	"	18000		..131	4	0	18	12	0
" 18000	"	21000		..196	14	0	28	2	0
" 21000	"	..		240	10	0	34	6	0

Municipal Office,
Villupuram
26-3-1938.

Sd/T.E.Gomathinayagam Pillai,
Commissioner.

.-.-.-.-.-.-.-.

MUNICIPAL COUNCIL'S RESOLUTION No.1148, DATED 14-3-1942 XXXXXINXX ADOPTING THE REVISED RATES OF PROFESSION TAX FROM 1-4-42.

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(0)

To adopt the maximum rates of Profession Tax fixed in G.O.No.624, Local Administration, Dated 18-2-1942 from 1-4-42 and to apportion it as 7/8 for profession Tax and 1/8 for Education Tax.

Approved.

Sd/- N.Govindarajaloo,
18-3-46,
Chairman.

/True copy/

19/7/46
Commissioner.

kk/18-7.

R 197 [illegible] 18-7-46

⑨

EXTRAORDINARY PUBLICATION

TO THE

South Arcot District Gazette.

VILLUPURAM MUNICIPALITY.

Notification under section 80 of the District Municipalities Act 1920 as amended and G. O. No. 1022 dated 14—3—1942.

It is here by notified for the information of the public that under section 80 of the District Municipalities Act V of 1920 as amended, this council resolved to levy profession tax in its resolution No. 1148 dated 18th March 1942 at the revised scale in accordance with revised rule 16 (1) of schedule IV to the Madras District Municipalities Act 1920 as amended and as prescribed by the Government in G. O. No. 624 L. A., dated 18th February 1942. ⓪

Class.	Half yearly income.				Maximum half yearly tax.
I	More than Rs. 9600				Rs. 25—0—0
II	More than	7800	but not more than Rs.	9600	18—0—0
III	do	6000	do	7800	13—0—0
IV	do	4200	do	6000	9—0—0
V	do	3000	do	4200	6—0—0
VI	do	1800	do	3000	3—0—0
VII	do	1200	do	1800	2—0—0
VIII	do	600	do	1200	1—0—0
IX	do	300	do	600	0—8—0

The council has fixed 7/8 of the rates mentioned above towards profession tax and 1/8 as surcharge on profession tax towards education tax. A

The same will come into force from 1—4—42 and the tax is leviable within Villupuram Municipal Limits.

(True Copy)

(Sd.) H. SUBRAMANIAN,
Commissioner Del.

19/7/46.
Commissioner.

தென்னாற்காடு ஜில்லா கெஜட்டு
விசேஷ அனுபந்தம்.

விழுப்புரம் நகர் ஆட்சி.

1920-ம் ஆண்டு திருத்திய ஜில்லா நகர்மன்ற சட்டம் 80-வது பிரிவின்கீழ் அரசினர் ஆணை 1022 எண் உள்ளாட்சி 14—3—42 தேதைய அறிக்கை.

ஜில்லா நகர்மன்ற சட்டம் 80-வது பிரிவின்படி 624 எண் உள்ளாட்சி 18—2—42 தேதைய அரசினர் ஆணையின்படியும், நகர்மன்ற சட்டம் 4-வது புதிய அட்டவணை 16 (1) விதியின்படியும் தொழில்வரியைத் திருத்திய விகிதப்பிரகாரம் இந்த மன்றம் 1-4-42 முதல் அமுலுக்கு கொண்டுவர 18-3-42 தேதைய எண் 1148 தீர்மானத்தில் தீர்மானித்திருக்கிறது.

வீத விவரம்.

வகுப்பு.	ஆறுமாத வருமானம்.		ஆறுமாத உயர்ந்த கட்டணம்.
I.	ரூ 9600-க்குமேல்	....	ரூ. 26 25
II.	ரூ. 7800-க்குமேல் 9600-க்கு மேல்படாமல்	....	ரூ 18
III.	ரூ. 6000-க்குமேல் 7800-க்கு மேல்படாமல்	....	ரூ. 13
IV.	ரூ. 4200-க்குமேல் 6000-க்கு மேல்படாமல்	....	ரூ. 9
V.	ரூ. 3000-க்குமேல் 4200-க்கு மேல்படாமல்	....	ரூ. 6
VI.	ரூ. 1800-க்குமேல் 3000-க்கு மேல்படாமல்	....	ரூ. 3
VII.	ரூ. 1200-க்குமேல் 1800-க்கு மேல்படாமல்	....	ரூ. 2
VIII.	ரூ. 600-க்குமேல் 1200-க்கு மேல்படாமல்	....	ரூ. 1
IX.	ரூ 300-க்குமேல் 600-க்கு மேல்படாமல்	....	அ. 8

மேலே கூறிய கட்டணத்திற்கு $\frac{7}{8}$ பங்கு தொழில் வரிக்கும் $\frac{1}{8}$ பங்கு கல்வி வரிக்கும் விதிக்க இந்நகர் மன்றம் தீர்மானித்திருக்கிறது. இந்த வரி விகிதம் 1—4—1942 முதல் விழுப்புரம் நகராட்சி எல்லைக்குள் செலாவணியாகும்.

(ஒப்பம்) எச். சுப்ரமணியம்.
கமிஷனர் டெலிகேட்.
(True Copy)

ஹனுமான் அச்சியந்திரசாலை விழுப்புரம்.

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(10)

25/28/11

29/11

Edn and P.H. (C.1.)

Subsidy - Govt. contribution under section 37 of the E.E. Act - Surcharge on profession tax - Ml.Cl., Villupuram- Payment - Orders passed.

Read : --

pp3-4 c f
From the Exr. of L.F.Accts, L.F. 150, d. 8.4.1946.

p11 c f
From the Commr, Villupuram Municipality, No.A.2. 4822/45, dd. 17.7.46.

ORDER: (Ms) 2290 Edn, d/ 28/11/46

para 2 of Exr's note on p2 c f

A sum of ~~Rs. 301-10-0~~ Rs 301-10-0 is due to the Ml.Cl, Villupuram, as Govt. Contribution under section 37 of the M.E.E.Act, in respect of education tax realized in 1944-~~19~~45, as surcharge on profession tax. In G.O.No. 342 Edn, d. 19.2.46, the council has been paid an excess subsidy of Rs.6-2-0 in respect of education tax levied on properties in 1944-~~19~~45, and the net amount due to the council is, therefore, only Rs. 295-8-0. Sanction is accorded to the payment to the Ml.Cl, Villupuram, of this sum (Rupees two hundred and ninety five and annas eight only).

pp15-16 c f (I)
para 3 on pp3-4 c f

301-10
6-2
295-8

2. The A.G. is requested to place the amount at the disposal of the Municipal Council. The Commr. should present the necessary bill at the Treasury to obtain payment of the amount or to have it adjusted.

3. The expenditure will be met from the appropriation under "37.I. Education - Primary - Grants to local bodies for Primary Education- A. Local Bodies - I. Ordinary Areas - 1. Grants under section 37 of Act VIII of 1920'

'M' on p4 c f and legal note on pp 8-9 c f

4. The Exr. of L.F.Accts is informed that if a municipal council continues to levy education tax as surcharge on profession tax at the rate in force before 1-4-1942 and if the total profession tax does not exceed the limit imposed in G.O. No. 624L.A. d. 18.2.1942, the levy of such tax will be in order and the council will be eligible for Govt. contribution under section 37 of the E.E.Act. The Exr. is requested to bring this to the notice of the municipal councils concerned.

despatched with encl 29/11

To the Commr. Villupuram Mlty,
(thro'the C.M.C.).
(with copy of para.3. on p.3-4c.f.)
" A.G. ✓
" D.P.I. ✓
" Exr. of L.F.Accts. ✓

B.M. 17/10/46

11/8/25

E.O.B. H(C-1).

Subsidy – M. Cl, Villupuram – Govt. contribution under Section 37 of the E.E. Act – Edn. tax realised as surcharge on profession tax.

p1 c.f
From the Commr, Villupuram Mty, No. A.2.4822/45, d/12.10.45.

pp3-4 c.f
" " . Exr of L.F.A., L.F. No. 150, d/8.4.46

The Exr of L.F.A., for the reasons stated by him in para 1 of his letter on p3 c.f, considers that the M. Cl, Villupuram, is not eligible for any contribution from Govt under Secn. 37 of the E.E. Act, in respect of edn. tax realised as surcharge on profession tax. In this connection, it is submitted that in the case of the M. Cl, Tiruppur, the contention of that Cl. that merely because the maximum rates of profession tax were altered, fresh sanction of Govt for levy of edn. tax was not necessary was endorsed by the Exr. This was accepted and the Cl was paid contribution in respect of edn. tax realised as surcharge on profession tax. In this view, it is not necessary to recover the amounts referred to in para 1 of the Exr's letter on p3 c.f as the rate of taxation was not altered. He may be requested to state the amount of contribution due to the Cl. in respect of the tax realized as surcharge on profession tax in 1944-45

pp1-2 of L.A. G.O. 1941 Ed 21.11.45 (E)

LF 5237 19.10.45 p2 c.f of (E)

pp3-4 c.f of (E) & p1 c.f of (E)

'X' on p3 c.f

2. The suggestions of the Exr at 'x' on p3 c.f and in para 3 of his letter on pp3-4 c.f may be accepted. Necessary orders may be issued when final orders are issued in this file.

3. L. Admn Exr may see the case f.w.o. for remarks. The L.A. Deptt will no doubt consider whether the compensation paid to the Cl. towards the loss of edn tax levied as surcharge on profession tax required revision.

LOCAL ADMINISTRATION DEPT.
28 APR 1946
12648
SECRETARIAT, MADRAS

NB 18/4/46 18m 22/4/46. OSM 26/4/46

L.A.
Exr. of L.F. Accts.

E.O.B. H. No. 15668 C-1/46-2
27/4/46

L.A. Deptt

It will be ~~more~~ advantageous to have the remarks of the Examiner of L.F. Accts

C-1

first ~~for this Deptt to offer remarks~~. E & P.H. may therefore be requested to ~~obtain~~ send this ~~remarks~~ case to the Examiner first & then send the file to this Deptt for remarks.

28.4.46

1.5.46

Ex p.H.

L.A. no 12648 .1A.
1.5.46

ASST. SECRETARY TO GOVERNMENT
2 - MAY 1946
EDUCATION AND PUBLIC HEALTH DEPT.

23665

E&PH (C-1)

May be sent to Exr of L.F.A. w.o.

3/5/46

3/5/46

4/5/46 Exr of L.F. A. w.o.

DEPUTY EX
7 MAY 1946
73
LOCAL FUND ACCOUNTS

E&P.H no. 15668 C-1/46-3
6/5/46

EXAMINER'S OFFICE.

In the case of the Tiruppur Municipality referred to in the above note, objection to the levy of education tax on profession tax without the sanction of Government raised in paragraph 5 of the Audit report of that municipality for 1944-45 was based on the view communicated to this department in L.A. U.O. Note 9736-3A dated 18th June 1945. The Commissioner contended that fresh sanction of Government for the levy of education tax on profession tax was not necessary, as there was no change in the percentage of levy of education tax on profession tax, though the maximum rate of ~~xxxxxx~~ profession tax was altered from 1st April 1942. His contention was examined in all its aspects and it was stated in this department letter L.F.5237 dated 19th October 1945 that the levy of education tax was in order and equivalent contribution from Government admissible. Subsequently, in the case of the Erode municipality, L.A. Department, in their memorandum 27293/45-3A, L.A., dated 12th January 1946 reiterated the view held in their previous U.O. Note 9736-3A dated 18th June 1945 that levy of education tax is unauthorised in the absence of sanction or authorisation by Government and that no equivalent grant is admissible in respect of amount collected as education tax. A copy of this memorandum is herewith enclosed for reference. Kind reference is also invited in Gos.Ms.594 Edn., dated 15th March 1946 and ~~xxx~~ 620 Edn., dated 19th March 1946 sanctioning the levy of education tax on profession tax from 1st April 1946 in the case of the Erode and the Udamalpet Municipal councils, respectively. Having regard to the view held by Government in the above orders, the recovery of Rs.536-13-0 from the Villupuram Municipal Council on account of equivalent contribution drawn by it from Government suggested in this department letter No.L.F.150 dated 8th April 1946 would appear to be correct unless the levy of education tax on profession tax from 1st April 1942 is regularised by Government.

pp 4-5 of (W)

p2 of (E)

copy at (U)

pp 4-5 of (W)

(U)

pp 5-6 of (X)

2. The amount of education tax realised as surcharge on profession tax in 1944-45 is Rs.701-10-0.

3. As, however, there are no clear orders regarding the levy of education tax as a surcharge on profession tax after the coming into force, of the professions Tax Limitation Act, 1941, Government may kindly be requested to clarify the following points and to communicate the decision arrived at to all local bodies for guidance

(i) whether a local body, which was levying education tax at a percentage on profession tax prior to 1st April 42 can, without the specific sanction of Government, continue to levy it after 1st April 1942 at the same rate - the total of the profession tax and education tax thereon not however exceeding the maximum limits prescribed - and claim equivalent Government contribution on the collections of such education tax on profession tax.

(ii) if the levy of education tax on profession tax as stated above is admissible, whether a proportionate reduction of the compensation for loss in income under education tax levied as a surcharge on profession tax and its equivalent Government contribution sanctioned in G.O. No. 1266, L.A., dated 7th June 1944 is not necessary.

ASST. SECRETARY TO GOVERNMENT
2 9 MAY 1946
EDUCATION AND PUBLIC HEALTH DEPT.

28470

M

(C)

27.5.46

N.B./23-5.
E. & P.H. Department U.O.

Exam & U.B. 73-1
27-5-46

E and P.H.(C-1)

Please see the notes on pages 1-3 ante.

The view expressed in U.O. Note 9736-3A., d/18-6-45 was that if any local body levies education tax as surcharge on profession tax without conforming to the provisions of sections 34 and 35 of the M.E.E. Act, the levy of the tax will be illegal, and that the levy of tax as surcharge on profession tax was not sanctioned in the case of any local body after 1-4-42. This does not affect the position of municipal councils which contine to levy the tax after 1-4-42 at the same rate - the total of profession tax not exceeding the limit imposed in G.O.624 L.A., d/18-2-42. It was in this view that the Tiruppur Ml. Cl. was allowed Government contribution under section 37 of the E.E. Act in respect of education tax collected as a surcharge on profession tax.

pp 4-5 of (W)

p612 of Book No 17

18-2-46

(O)

p2 of (E) also

p1 of (E)

However, in the case of the Erode and Udamalpet Ml. Cls., the rate of education tax was altered ~~in~~ after 1-4-42 (The rate in force in Erode Mty before 1-4-42 was 25 p.c. in addition to ~~of~~ the prof. tax at maximum rate levied for general purposes; afterwards, it was levied at 25 p.c. of the maximum rates fixed in G.O.624 L.A., d/18-2-42 the rate of prof. tax for general purposes being reduced correspondingly) As the rate of education tax was altered and as the previous

p9 of (G)

p16 of (X)

(O)

A

sanction of Government was not obtained, the levy of edn. tax after 1.4.42 was considered illegal and fresh sanction had to be accorded.

As regards the point raised in para 3(1) of the Examiner's note on page 3 ante, it appears that if a ml. cl. continues without fresh sanction of Govt to levy education tax as surcharge on profession tax at the rate in force before 1-4-42 and if the total of profession tax does not exceed the limit imposed in G.O.624 L.A., d/18-2-42, the levy of such tax will be in order and the Cl will be eligible for Government contribution under section 37 of the E.E. Act. The remarks of L.A. and Legal may be invited.

The point raised in para 3 (2) on page 3 ante is one for consideration in the L.A. Department.

The file may be sent to L.A. and Legal. After return of the file, the question of sanctioning the contribution to the Ml.Cl., Villupuram, in respect of the education tax collected by it as a surcharge on profession tax in 1944-45 may be taken up.

⊙ M

28.6.46

28.6.46

7/6/46 11/6/46 12/6/46 28.6.46

EPH no.15668C-1/46-5
18/6/46

L. A / Legal

L.A.Department

LOCAL ADMINISTRATION DEPT.
18746
1 JUN 1946
SECRETARIAT, MADRAS

Please see the notes on pp.1-4 ante. In the case of Tiruppur Mlty. the order authorising the levy of the education tax stated that the rate should be limited "to 12½% of the profession tax actually levied by the municipal council for general purposes". The wording gives room to the interpretation that the council can levy the tax for all time, so long as it conforms to the rate of ~~12½%~~ 12½% of the profession tax ~~then~~ in force from time to time, though the rate of profession tax may be changed. Perhaps it was in this view that the Examiner agreed that the Tiruppur Ml.Cl. might be paid the equivalent Govt. contribution for the year 1944-45. The order sanctioning the levy of education tax by the Villupuram Ml.Cl. is referential in character and the resolution of the Council referred to in the order does not give ~~any~~ clear idea of the actual wording of the notification issued by the

18/6

p 2 of 9
(E) 1941 Edn
21.11.45

pp 1+2 of (E)

(Y) p 33 of G.O. 724
23.3.38

+ p 4 of (Y)

Council in pursuance of the Govt. order. It looks as though the Govt. have sanctioned the levy of the education tax at 12½% of the maximum rates of profession tax laid down in rule 16 of Schedule IV to the M.D.M.Act, as it stood in 1938. If so, the levy of the education tax at 12½% of the revised rates of profession tax that came into force from 1-4-42 would seem to constitute a change in the rate of levy of the education tax requiring the sanction of Govt. Before a final view is expressed, it would seem necessary to have a copy of the notification issued by the Ml.Cl. in pursuance of the orders in G.O. No.724 Edn dated 23-3-1938. The E&P.H.Deptt. may be requested to obtain a copy of the notification and send the file to this Deptt. for further remarks.

(Y) A Sw.

The file may be passed on to Legal u.o.

LA no 18746-1A
27.6.46
4519

24.6.46 26.6.46 Legal

ASSISTANT SECRETARY
28 JUN 1946
LEGAL DEPARTMENT.

The file may be sent to E & PH ~~Legal Dept~~ for putting up a copy of the notification required by L.A Dept at A above. The file may be sent to this Dept after L.A have seen the file and expressed their final views.

2.7.46

2/7/46

~~L.A.D.~~
E & PH

Legal L.O. 4519-1
2.7.46.

EPH (C-1)

Please see the notes of the L.A and Legal depts. In the light of the reference to 'A' above, a draft memo. is submitted.

ASST. SECRETARY TO GOVERNMENT
8 - JUL 1946
EDUCATION AND PUBLIC HEALTH DEPT.

35541

10/7/46 10/7/46. 10/7/46

Issued as Memo: 15668C-1/46-6 Edn., d/10/7/46

p 9 of

p 11 of

From the Commr, Villupuram Mlty, A.2.4822/45, d/17.7.46

Please see the letter from the Commr

Villupuram Mcty., at p. 11 c.f. The file may be sent to L.A. and Legal, with reference to their notes on p 5 ante.

26/7/46

26/7/46.

OSM 27/7/46 L.A. Legal

E.P.A. No. 15668 C-1/46-7 29/7/46

L. A. Dept A 30/7

LOCAL ADMINISTRATION DEPT. 23357 27 JUL 1946 SECRETARIAT, MADRAS

[Previous note of this Dept at pp 4-5 ante]

Please see the copies of the notifns ~~levying~~ re: the rates of profession tax and education tax on pp 13 and 14 c.f. and the cl's resoln. of 14.3.42 on p 13 c.f.

The resoln. of the cl on p 13 c.f. is to the effect that the maximum rates of profession tax fixed in G.O. 624 L.A. 18.2.42 should be adopted from 1.4.42. The cl (in the latter part of the resoln.) has also resolved to apportion it between profession and education taxes in the proportion 7/8 and 1/8. The notifn. on pp 15-16 c.f. also ~~shows~~ is to the ~~[illegible]~~ above effect. Thus it can be seen that no education tax has been levied from 1.4.42 and what is being done is only to ~~apportion~~ levy the profession tax and apportion the proceeds between profession and edn. taxes, as if it is an internal arrangement of the cl. This has no legal sanction. Legal may be consulted on this point. ~~The file may be passed on to Legal u.o.~~

X Legal

2. The answer to the question raised in para 3(2) by the Examiner rests on the answer to the question in para 3(1). If in the class of cases referred to in para 3(1) the cl. is declared eligible to draw equivalent first grant, the compensation payable to the cl.

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will have to be correspondingly reduced. With these remarks, the file may be passed on to Legal u.o.

5.8.46.

Sr. 6/8 Legal

L.A. No 23357-1A 7.8.46

ASSISTANT SECRETARY 8-AUG 1946 LEGAL DEPARTMENT.

G.O. 724 Edn (Y) 23-3-38

LOCAL ADMINISTRATION DEPT. 26472 23 AUG 1946 SECRETARIAT, MADRAS

Dr 28/8

G.O. 1941 Edn 21-11-45 (E)

LEGAL DEPARTMENT.

In 1938, the Government directed the levy of education tax as a surcharge on profession tax in the rate of 1:7. In view of the passing of the Profession Tax Limitation Act, 1941, the maximum profession tax leviable had to be scaled down, but the same proportion of 1:7 was maintained - See the resolution of the Villupuram Municipal Council at page 13 c.f. As there has been no change in the proportion, there is no change in the rate at which the education tax was being levied before 1-4-1942 and consequently this case does not seem to be dissimilar to that of Tiruppur Municipal Council disposed of in the G.O. at 'E'. L.A. is kindly requested to clarify the point referred to in their note at 'X' on p.6 ante.

22/8/46 L.A.D.

Legal u.o. 5692-1 22.8.46.

L. A. Dept A

[Previous note of this Dept at pp 4-5 and pp 6-7 ante]

The resoln. of the Villupuram mcl is to adopt the maximum rates of profession tax fixed in G.O. No 624 ~~L.A.~~ of 18.2.42 from 1.4.42. In the light of this resoln. no education tax can be levied, for the maximum rates will be increased. If however, the cl want to levy edn. tax as well as profession tax at the same time keeping within the maximum limit then it will have to issue two notifns. one under the M D.M. Act 1920 and another under the Ely Edn. Act specifying the percentage at which each of the taxes is to be levied. The resoln. apportioning the proceeds between profession and edn. taxes is ~~has~~ no legal sanction for the levy of edn. tax. At best, it can be treated as a contribution from genl. funds to the Ely. Edn. Act to the extent of 1/8 of the profession tax proceeds. The notifn. on p 15 c.f. clearly shows that profession tax alone is proposed to be levied under the D.M. Act. It is in consideration of these facts that this Dept. opined that no edn. tax has been levied from 1.4.42. — vide x on p 6 ante.

With these remarks the file may be returned to Legal u.o

26.8.46

U.S. 27.8.46

Sw 7.9.46 Legal

9/9

Legal Department

L.U.O. No. 26472-1 A
9.9.46

(Y)

ASSISTANT SECRETARY
S/A 10 SEP 1946
LEGAL DEPARTMENT.

In G.O. No.724 Education dated 23-3-38, the Government directed the levy of education tax by the Villupuram Municipal Council as a surcharge on profession tax in the ratio of 1:7. After the passing of the Profession Tax (Limitation) Act, 1941, the Government directed all municipal councils to revise, with effect from 1st April 1942, the scale of profession tax levied by them in accordance with the revised scale prescribed in the G.O. at (x). In pursuance of this instruction,

x G.O. No. 624 L.A.
18-2-42

the municipal council scaled down its profession tax, but the ratio of education tax to the profession tax was maintained in the same proportion of 1:7 - See the resolution of the municipal council at page 15 c.f.

The Government sanctioned the levy of education tax at a certain percentage of the profession tax and not independently of the profession tax. The grant of sanction for the levy of education tax at a percentage of profession tax involves a sanction to the variation in the actual amount leviable when the profession tax on which it is dependent is increased or reduced. So long as the percentage of profession tax levied as education tax continues unaltered the sanction accorded by the Government in the G.O. at (Y) would be operative. It is only when the percentage is altered that fresh sanction of Government under section 34 is necessary. The case of the Villupuram Municipal Council is similar to that of Tiruppur Municipal Council dealt with in the G.O. at flag (E), and there is no legal objection to sanctioning a contribution under section 37 to this municipal council, as in the case of Tiruppur Municipal Council.

EPPNC

G.O. No. 724 Edn.
23.3.38

p 612 of Book No. 17

G.O. (E) 941 Edn.
21.11.45

p 613 of Book No. 17

p 612 of Book No. 17

There is nothing in sections 34 and 35 of the Elementary Education Act which requires the municipal council to issue a separate notification for the levy of the education tax. A notification is required only under section 80 of the District Municipalities Act and the council has complied with the provisions of that section - See the notification at page 15 c.f. The notification clearly specified that 7/8 of the rates mentioned therein will be levied as profession tax and 1/8 towards education tax. Under the circumstances the view of the E. & P.H. Department at M on page 4 ante appears to be correct.

pp 390-1 of Book No. 17

Legal u.o. 6999-1
1.10.46

S.

ASST. SECRETARY TO GOVERNMENT
60663
11 OCT 1946
EDUCATION AND PUBLIC HEALTH DEPT.

10/10/46

E+PH

E&PH (C-1)

C1 A

Please see the notes above.
A draft order is submitted.

L.A. may see before issue. That dept may be requested to take relevant extracts for necessary action with reference to para 3 in p1 ante and 'M' on p3 ante.

12/10/46

15/10/46.

17/10/46

16/10/46 LA

E&PH W.O.
15668 C-1/46-10
28/10/46

LA Dept A

LOCAL ADMINISTRATION DEPT.
34993
29 OCT 1946
AN
SECRETARIAT, MADRAS

[Previous notes of this Dept at pp 1-2, 4-5, 6-7 and 7-8 above]

Please see the remarks of Legal Dept on pp 8-9 above and of E&H above.

E&H. have suggested that extracts may be taken with refce to para 3 on p1 ante and M on p3 ante viz whether a revision of the compensation for loss under edn. tax is necessary, if the cl is declared eligible for the levy of the tax and to draw equivalent grant from the Govt. The answer to the question has already been given in this Dept note on pp 6-7 ante (para 2). This may be incorporated in para 4 of the draft submitted by E&H. Pencil additions have been made in the draft (p2).

The file may be returned to E&H wo

No. to take extracts for separate action we have to [illegible] the [illegible] of the refund excess amount paid for [illegible]
20/11/46

4.11.46

12.11.46

20/11/46

E&PH

E&PH C-1

The draft order may issue.

26/11/46

27/11/46

26/11

Extracts taken
13/11

ASST. SECRETARY TO GOVERNMENT
72371
26 NOV 1946
EDUCATION AND PUBLIC HEALTH DEPT.

LA No 34953-1
23.11.46