

Put away

14
29/4

Scott. II-27-87,604-12-18-67

Err. H (1946) Department.

MS SERIES.

G.O. No. 620 Edm.

Dated 19.3.1946.

(15)

[Despatch Abstract.]

Back Papers

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

Further Papers

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

~~forefth~~
 Please see C No. 52469/45

Rec. No. 5432/45-A2.

Municipal Office Udumalpet,
 Dated 10-11-45.

From Sri. A. Rama Iyer, L.N.P., L.P.H.,
 Commissioner in-charge, Udumalpet.

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

Through the Chairman, Municipal council, Udumalpet.

Sir,
 Sub: Education - Elementary - Levy of Education tax -
 Sanction to regularise the levy as per audit objection.

I submit herewith a copy of audit objection and
 a copy of the notification issued by the council for levy of educa-
 tion tax as surcharge on profession tax and request that the Govern-
 ment may be kindly pleased to approve the levy of tax under section
 35 of the Madras Elementary Education Act.

52469

p3 in pa

p612 of mch m 17

A Rama Iyer 13/11

Commissioner in-charge.

Forwarded.

13-11-45

W Palanisamy
 Chairman. 13/11

GN.13/11.

P.T.O

EXTRACT FROM THE AUDIT REPORT OF ELEMENTARY EDUCATION FUND.

4. DEFECTIVE NOTIFICATION FOR THE LEVY OF EDUCATION TAX ON PROFESSION.

TAX: Under section 35 of the Madras Elementary Education Act 1920 as amended, the rates of levy of the Education tax under section 34 of the act or of its alteration would need the previous sanction of the provincial government. Such a sanction did not appear to have been obtained so far, in respect of the levy of education tax on profession tax which is consequently illegal.

Sd. T.K.SRINIVASAN.
Assistant Examiner of Local Fund
Accounts Western Circle, Salem.

/True copy/

A. Ravina Nya 18.11.
Commissioner incharge.

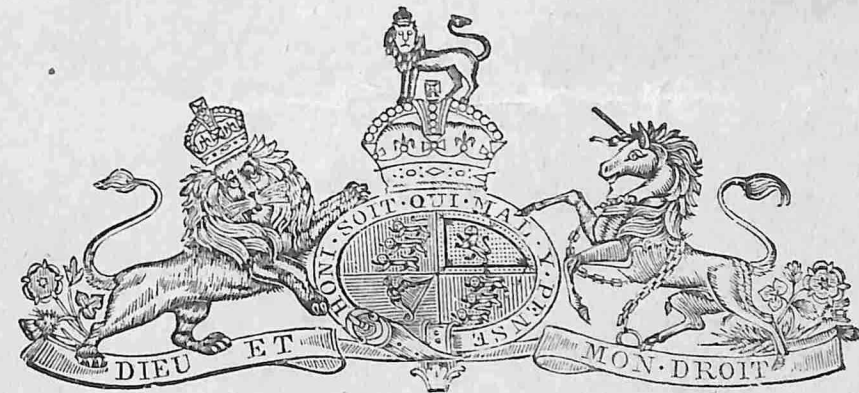
GN.13/11.

Published under Section 80 of the
Madras District Municipalities Act, as amended.

SUPPLEMENT TO THE
COIMBATORE DISTRICT
GAZETTE.

MARCH

1943.



கோயமுத்தூர் ஜில்லா கெஜட்.

உடுமலைப்பேட்டை முனிசிபாலிட்டி.

விளம்பரம்.

1920 இந்திய திருத்தப்பட்ட சென்னை ஜில்லா முனிசிபல் சட்டம் 80-வது செக்ஷன் பிரகாரம் உடுமலைப்பேட்டை முனிசிபல் சபையாரின் 30-3-43, 813 நெ. தீர்மானப்படி, உடுமலைப்பேட்டை முனிசிபல் எல்லைக்குள் 1-4-43 உ முதல் அடியில்கண்ட விபரப்படி தொழில் வரி விதிப்பதாகத் தீர்மானிக்கப்பட்டிருக்கிறது.

அரை வருஷத்திய
வருமானம்.

அதிகப்படியான அரை
வருஷத்திய வரி.

I ரூ. 9600—0—0க்கு மேல்	ரூ. 25—0—0
II ரூ. 7800க்கு மேல் ரூ. 9600க்கு அதிகப்படாததற்கு	ரூ. 18—0—0
III ரூ. 6000க்கு „ ரூ. 7800க்கு „	ரூ. 13—0—0
IV ரூ. 4200க்கு „ ரூ. 6000க்கு „	ரூ. 9—0—0
V ரூ. 3000க்கு „ ரூ. 4200க்கு „	ரூ. 6—0—0
VI ரூ. 1800க்கு „ ரூ. 3000க்கு „	ரூ. 3—0—0
VII ரூ. 1200க்கு „ ரூ. 1800க்கு „	ரூ. 2—0—0
VIII ரூ. 600க்கு „ ரூ. 1200க்கு „	ரூ. 1—0—0
IX ரூ. 300க்கு „ ரூ. 600க்கு „	ரூ. 0—8—0

மேலு வரி 1920ம் இந்திய மதராஸ் டிஸ்ட்ரிக்ட் முனிசிபல் ஆக்ட் ஷெட்யூல் 4, ரூல் 16 (1) திருத்தப்பட்ட ரேட்டில் 87½% பொதுக்காரியங்களுக்காகவும் 12½% கல்வி வரிக்காகவும் விதிக்கப்பட்டதாகக் கருதப்படும்.

முனிசிபல் ஆபீஸ்,
உடுமலைப்பேட்டை.
30-3-43

(ஒப்பம்) L. C. நீசாங்கு M. A.

(சரியான நகல்.)

சுமிஷனர்

கோபால் எலக்ட்ரிக் பிரிண்டிங் ஒர்க்ஸ், உடுமலைப்பேட்டை.

4

Government Secretar

Published under Section 30 of the
Madras District Municipalities Act as amended

SUPPLEMENT TO THE
GOVERNMENT DISTRICT
GAZETTE



சென்னை மாநகராட்சி
பொதுமன்றம்

சென்னை

E.H.H (A)

56
5/12

Tax - Education - M. C. Udumalpet -
Surcharge on profession tax - levy at revised rates

C. No. 52469A/45 From the Commr, Udumalpet Mpty. Roc. No.
5432/45-1A2., dt. 10.11.45
Memo: No. 52469 A/45-1 EDN, D/5-12.45

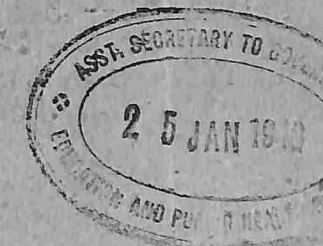
Recd
K.M.
6-12-45

To the Commissioner,
Udumalpet Mpty.
(Thru the C.M.O.)

The Commissioner, Udumalpet
Mpty, is requested to report, the rate at
which education tax was ~~being~~ levied as
a surcharge on profession tax before the
Professions Tax Limitation Act, 1941 came
into force, ~~whether and how~~ ^{of edu. tax} the rate was
subsequently altered, and the circumstances
under which the sanction of Govt was
obtained for the alteration ~~if any~~ should
also be reported.
29.11.45 K 29.11.45 B.A. 12/45

Municipal Office, Udamalpet,
Dated 19--1--1946.

From Sri.K.Narayanan, B.A.,
Municipal Commissioner,
Udamalpet.



4291 To The Secretary to Government,
Education and Public Health Department,
Madras.

Through the Chairman, Municipal Council, Udamalpet.

Roc.No. 5432/45-A2 dated 19-1-46.

Sir,

Education - Elementary - Udamalpet Municipality -
Levy of Education Tax.

psante. Ref: Your Memo.No.52469-A/45-1 Edn.,dated 5-12-1945.

Before the Profession Tax Limitation Act 1941, came into force (1-4-42) Education Tax was levied at one anna on every rupee or fraction thereof per half year on the profession tax levied. The profession tax was levied at the maximum rate specified in rule 16 (1) of the Schedule IV to the Madras District Municipalities Act as it stood then.

2. In 1942--43 the education tax was levied at one anna on every rupee or fraction thereof per half year on the profession tax levied. The Profession tax was levied at the maximum rates in schedule IV as amended by G.O.No. 624, L.A., dated 18--2--42.

3. In 1943-44 and succeeding years it was levied at 12½ % percent of the maximum rates prescribed for profession tax in the above rule.

4. I am unable to report why the sanction of Government was not obtained for the alterations as I was not in office then, probably it was due to oversight.

K. Narayanan
Commissioner.

Forwarded.
N. Palaniswamy
Chairman. 22/1/
Municipal Council.

G.N.19-1-46.

21.1.46

DRAFT FOR APPROVAL.

E.H.CC-1)

C.F. 16.

When received for fair copying ..

When copied ..

When examined..

When signed ..

When despatched.

Date. Initials.

SUBJECT:—

Tax - Education - Ml. cl, Udampet - Levy as surcharge on profession tax - Orders passed

READ AGAIN, dated 19

" " " 19

READ ALSO:—

C. No. 52469-1-45 From the Commissioner, Udampet City, No. 5432/45, dated 10.11.1945 & 19.1.46

" " " 19

" " " 19

Order Ms. No. 620, dated 19/2/46, Resolution-Rout. 19

The Commissioner, Udampet City,

is informed that as the cl levied in 1942-43 profession tax at the maximum rates fixed in G.O. 624 L.A., d/18.2.42, it had no authority to levy in addition education tax as surcharge on profession tax in that year. The levy was illegal and the education tax collected in that year as surcharge on profession tax should be refunded to the parties concerned.

2. The entire profession tax collections for 1943-44, 1944-45 and 1945-46 realised from 1943-44 should be treated as tax collected for general purposes and the amount of tax realised and set apart for educational purposes should be treated as an additional contribution from general funds to the E.E. fund. As the levy of edu. tax as a surcharge on profession tax was not sanctioned by Govt., the cl

10
is not eligible for Govt. contribution in respect of the edn. tax so collected. The Commr. is requested to report the amount of ^{such} equivalent Govt. contribution drawn by the cl in respect of the in each of the years 1942-43, to 1945-46, in addition to the compensation sanctioned to the cl ^{for} ~~in respect~~ these years. The report should be submitted through the Examiner of Local Fund Accounts.

1. Under Section 34 and 35 of the M. E. E. Act, 1920, the Govt. approve the proposal of the M. D. Udumalpet, to levy education tax as surcharge on profession tax at twelve and a half percent of the maximum rates fixed in G.O. 624 L.A., d/18.2.42, with effect from 1-4-46. ^{p 612 of Book No. 17}
of rule 16 of ~~the~~ Schedule IV to the M. D. M. Act, 1920 (G.O. 624 L.A., d/18.2.42), with effect from 1-4-46.

^{6.3.46} ^{oim 2/3/46} ^{lf 8/3/46}
2. Orders will be issued separately by the L.A. deptt., reducing the rate of profession tax for general purposes to $87\frac{1}{2}$ p.c of the maximum rates fixed in G.O. 624 L.A., d/18.2.42. ^(with copy of p 1 c and copy of their note on pp 2-4 n 1)

^{oim 18/3/46}

ETP.H (C-1) 11
Subsidy - Govt. contribution under Section 37 of the E. E. Act - Edn. tax levied as surcharge on profession tax - M. D. Udumalpet
Read again G.O. 620 Edw., d/19.3.1946.
Memo: No. 21062 C-1/46-1 Edw., d/18-4-46
21062 - Renewed
The Commr., Udumalpet rty. is informed that the entire profession tax collections for ¹⁹⁴²⁻⁴³ 1943-44, 1944-45 and 1945-46 should be treated as tax realised for general purposes and the amount of tax collected and set apart for educational purposes should be treated as an additional contribution from general funds to the E. E. fund. As the levy of edn. tax as surcharge on profession tax was not sanctioned by Govt, the cl is not eligible for Govt. contribution
para 3 on p 1 n 1

Under Section 37 of the E.E. Act in respect of the edn. tax so collected. The Commr. is requested to report the amount of equivalent Govt contribution drawn by the cl. in each of the years 1943-44 to 1945-46 in addition to the compensation sanctioned to the cl. for those years.

The report should be submitted through the Exr of C.F.A.

15/4/46
16/4/46

17/4/46

17/4/46

To the Commissioner
Udamalpet city
(thru the C.M.C.)

Copy to the Exr of C.F.A.

6613 of
Book No. 17

2275 13

C.F. 98. Education and Public Health DEPARTMENT. Branch.

25/5/46 REMINDER.

To The Commissioner
Udamalpet Municipality
(thru the C.M.C.)

I have the honour to invite
I am directed to invite attention to
No. 21062 C-1 dated 18-4-46 and to
to request that the reply to it may be expedited
request that this reminder may be returned at once
with information as to—

- (1) the stage at which the matter now is, and
- (2) the date by which a reply may be expected, and
- (3) the circumstances which have caused the delay.

Office Secretariat, J. B. M. E. C. M.
Station Fort St George
Dated 21-5-46
SUBJECT.
Subsidy - Govt. contribution under
Section 37 of the E.E. Act - Education
tax realized levied as surcharge on
profession tax - U. cl., Udamalpet
P.T.O.

From
Sri. A. Rama Iyer, L.M.P., L.P.H.,
Commissioner Delegate,
Udamalpet.

To
The Secretary to Government,
Local Administration Department,
Fort. St. George, MADRAS.

Thro' the Examiner of Local Fund Accounts, Madras.
Thro' the District Inspector of Local Fund Accounts,
Coimbatore.
Thro' the Chairman, Municipal Council, Udamalpet.

Sir,

L.Dis. 2569/46 D/ 18-5-46.

Sub:- Grant subsidy - Government contribution under section
37 of Elementary Education Act - Education tax levied
as surcharge in profession tax - Udamalpet Municipality
particulars - furnished.

Ref:- G.M.No: 21062-C-1/46-1 Edn., dated 18-4-46.

The equivalent contribution in respect of Education
tax realised as surcharge on profession tax drawn in 1943-44, 1944-45
and 1945-46 are furnished below. The amounts have already been refunded
as per audit report on Elementary Education Account for 1943-44 and
as per G.O.No.Ms. 738 Edn., dated 11-5-45.

For ~~1942-43~~ 1942-43. Contribution in 1943-44.

Equivalent grant for Education tax as surcharge of P.T. for which equivalent contribution sanctioned by Government. Rs. 20-5-0. The same has been refund into sub-treasury Udamalpet on 26-7-45 in chalan No: 18.

For 1943-44. Contribution drawn in 1944-45.

Equivalent grant for Education tax as surcharge on P.T. for which equivalent contribution sanctioned by Government. Rs. 5-14-0. The amount has been refund into sub-treasury Udamalpet on 26-7-45 in chalan No: 18.

Collection relating prior to 1942-43.

Collections for 1943-44. Rs. 71-14-0. The Amount has been into sub-treasury Udamalpet on 25-5-46 in chalan No: 820. as per G.O.No.Ms.738,Edn.,dated 11-5-45.

For 1944-45:- Contribution drawn in 1945-46.

Equivalent contribution sanctioned for education tax collected as surcharge on Provident Fund.

Collections relating ^{to} tax prior to 1942-43. Rs. 3-8-0. The amount has been refunded into sub-treasury Udamalpet on 11-3-46 in chalan No: 301 as per letter L.F.No. 1015/22-2-46 of the District Inspector of Local Fund Accounts, Coimbatore.

Sd.A.Rama Iyer,
Commissioner Delegate.

/True copy/

P. S. S. S. S.
Commissioner.

REPLY.

29430

To THE *Secretary to Govt*
Edn. & P. H. Dept. P. S. G.
Madras

2 - JUN 1946

The reply was submitted

through the District Inspector
of Local Fund Accounts, Coimbatore
and the Examiner of Local
Fund Accounts, Madras in
his office letter L Dis 2569/46
dated 18-5-46. However a
copy is submitted direct

PSM
Sd. S. S. S.
Commissioner
Udamalpet M.C.

Sd.
21/5/46

Forwarded

M. Palaniswamy
Chairman
Sd. 21/5

L.Dis. 2569/46.

Municipal Office Udumalpet,
Dated 18-5-46-

From
Sri.A.Rama Iyer, L.M.P., L.P.H.,
Commissioner Delegate,
Udumalpet.

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



the Examiner of Local Fund Accounts, Madras.
the District Inspector of Local Fund Accounts, Coimbatore.
the Chairman, Municipal Council, Udumalpet.

31693

Sub:- Grant -subsidy- Government contribution under section 37 of
Elementary Education Act - Education Tax levied as surcharge
on profession tax- Udumalpet Municipality - Particulars ---
furnished.

Ref:- Government Memorandum No: 21062-C-1-/46-1-Edn. dated 18-4-46.

The equivalent contribution in respect of Education Tax
realised as surcharge on profession tax drawn in 1943-44, 1944-45 and 1945-46
'46 are furnished below. The amounts have already been refunded as per
audit report on Elementary Education Act for 1943-44 and as per G.O.No
738, Edn., dated 11-5-1945.

For 1942-43. Contribution drawn in 1943-44.

Equivalent grant for Education tax as surcharge
of Profession tax for which equivalent contribu-
tion sanctioned by Government.

Rs. 20-5-0 The sum
been refund into
sub-treasury, Uda-
on 26-7-45 in cha
No: 18.

For 1943-44. Contribution drawn in 1944-45.

Equivalent grant for Education tax as surcharge
on profession tax for which equivalent contribu-
tion sanctioned by Government.

Rs. 5-14. The amount
been refund into st
treasury Udumalpet
26-7-45 in chalan N
18.

Collection relating prior to 1942-43.

Collection for 1943-44.

Rs. 71-14-0. The amount has be-
into sub-treasury Udumalpet or
25-5-46 in chalan No: 820 as
G.O.No: Ms. 783 Edn.D/11-5-45.
738

p.t.o.

BPHC-1)

Please see the reply of the
Commr., Udumalpet Mty, at p. 5 ante.

The receipt of the original letter

of the letter at p 5 ante submitted thro'
the Exr. may be awaited till 25/6/46.

NR
3/6/46

NR
3/6/46

-2-
For 1944-45. Contribution drawn in 1945-46.
Equivalent contribution sanctioned for Education
Tax collected as surcharge on profession tax.
Collections relating prior to 1942-43.

Rs. 3-8-0. The amount has
been refunded into sub-
treasury, Udamalpet on
11-3-46 in chalan No: 301
as per letter L.F. No:
1016/22-2-46. *By the Dy. Insp.*
of Local Fund Accounts, Comilabore

A. Rana Dyg 19/5

Commissioner Delegate.

Forwarded.

18/5 146

MR. Davis Wang
Chairman. 19/5.
Municipal Council.

N-18/5.

L.F. No. 2124

12-6-46
Forwarded.

EXAMINER'S OFFICE:

2. The particulars regarding the equivalent contribution
in respect of Education Tax realised as surcharge on profession
tax, drawn in 1943-44, 44-45 and 45-46 furnished by the
Commissioner, Udamalpet Municipality and the amounts refunded
are correct.

J. R. Suman

Asst. Examiner of L.F. Accounts.

To The Secretary to Government,
Education and Public Health Department.

EPH (C-1)

In the circumstances stated

by the Exr at 'M' above, no action is

** called for. The papers may be filed with*

10/6/46 626 Edn. 19-3-46

21/6/46 10/6/46 24/6/46

*not put up
(The papers may
be filed in L.A.)*

Edn., & P.H. (A) Deptt.
Tax - Education - Municipal Council, Udamalpet -
Levy as surcharge on profession tax.

C.No. 52469.A/45. From the Commr., Udamalpet Mty., Roc.No. 5432/45-A2,
dated 10-11-1945. and 19-1-1946.

pp 7-8 of

Please see the letters from the Commissioner, Udamalpet
Municipality, at pp. 1 and 7-8 c.f.

(Y)

*pp 73-74 of
Edn. 212 Edn
7.2.42*

(B)

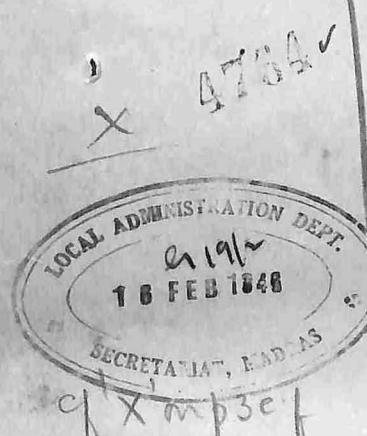
(Y)

Mimp 30f

2. As the Municipal Council levied in 1942-43, profession
tax at the maximum rates fixed in G.O.No. 624. L.A. dated 18-2-42
it had no authority to levy, in addition, education tax as sur-
charge on profession tax in that year. The levy was illegal
and the Education tax collected should be refunded to the
parties concerned.

3. From 1943-44 onwards profession tax was levied at the
maximum rates permitted in G.O.No. 624, L.A. dated 18-2-1942.
But ~~that~~ 12½% of the tax was deemed to have been levied for
educational purposes and the balance 87½% for general purposes

~~From 1943-44 onwards, profession tax was levied education~~
~~tax was levied at 12½% of the maximum rates fixed in G.O.No.~~
~~624 L.A. dated 18-2-42. 4. As the Council had no authority to~~
levy education tax as surcharge on profession tax at ~~this~~
12½%, the entire tax collections may be treated as tax levied
for general purposes and the amount of tax realised and set
apart for educational purposes may be treated as an additional
contribution from general funds. ~~The equivalent con-~~
tribution drawn by the Council in respect of the tax collected
illegally from 1942-43 will have to be recovered.



cf Xmp 30f

(Y)

5. The proposal of the council to levy education tax as sur-
charge on profession tax at 12½% of the maximum rates fixed in
G.O. 624. L.A. dated 18-2-42 may be approved with effect from

1-4-1946.

EPH WDS 2469 A/45-2

13/2/46

*The remainder of L.A. and the Sec. 72.26 may be
The Examiner may see the case a.o. for remarks.*

*17/8.2.46
19/2/46 L.A.
Sec. of L.A. Dept.*

The ~~Indomalpet~~ Mtd resolves to levy education tax at $12\frac{1}{2}\%$ of the maximum rate of the profession tax from 1.4.43, limiting the levy of the profession tax to $87\frac{1}{2}\%$ of the rates. In 1942-43 the Council levies the education tax at the rate of one anna in the rupee of the profession tax. The collection of the education tax made during 1942-43 is illegal as printed out by E.P.H. & would need to be refunded to the assesses.

2. The levy of the education tax at $12\frac{1}{2}\%$ of the maximum rate of the profession tax from 1.4.43 is also illegal in the absence of Govt sanction under S. 35 of the M.E.E. Act. The suggestion of E.P.H. at p 1 above may be agreed to in this Dept. It is proposed to treat similarly the collections made in the name of education tax made by the Erode Mtd in similar circumstances. E.P.H. may ask the Indomalpet Mtd to refund to the Govt any equivalent grants drawn from the Provincial

SEP 20 1944
(disturbed)

p 612 of Book No. 17

funds in respect of the collection.

3. The reduction of the profession tax to $87\frac{1}{2}\%$ of the maximum rate would need sanction under the second proviso to S. 78(3) of the M.D.M. Act as the Mtd is indebted. This sanction may be accorded in this Dept. Necessary extracts will be taken from this file and action taken. The sanction under the reduction of rates from 1.4.46, is the date from which E.P.H. propose to sanction the levy of the education tax. The revised amounts of compensation will be altered. The Exm. will be asked to work out & submit the revised amounts of compensation.

5. In view of the limited time before 31.3.1946 by which the sanction both to the levy of the education tax & to the reduction of the rates of the profession tax may better be accorded, E.P.H. may consider whether it is necessary to consult the Exm. at all. If they agree, the necessary sanction to the levy of the education tax may be given at once, while action will be taken, as stated above, to give sanction in this Dept. to the reduction of the rates of the profession tax.

6. With these remarks this may

be returned to Ex. P. H. no

20.2.46 H. 25.2.46
26.2.46

Miss B. 24/2

In the circumstances stated in para 5 of the note of the L.A. Dept on p 3 ante, the Exr need not be consulted.

The M. C. Udumalpet is levying education tax on ^{buildings} ~~property~~ at 2 1/2 p.c of their annual rental value.

Profession tax is being levied at the maximum rates specified in G.O. 624 L.A., d/18.2.42.

It proposes to levy education tax as a surcharge on profession tax at 12 1/2 p.c of the maximum rates specified in the G.O. and to reduce the tax for general purposes correspondingly.

The proposal of the C. to levy education tax as surcharge on profession tax at 12 1/2% of the maximum rates may be approved.

A draft order is submitted.

8.3.46 101 8/3/46 S

Para 1 of the draft. - The levy may have been illegal, but it was made in good faith. The refund of collections will cause enormous trouble & possibly lead to all sorts of malpractices. If we do not order refund, will a suit be? What is the period of limitation? 3 years?

If so, it will be over at the end of this month. Legal may be consulted

Para 2 of the draft. The proposal to deprive the Govt. of the Govt fund merely because there was some technical irregularity, seems to me to be very petty. I recommend that the amount set apart for educational purposes be deemed to have been levied under the E.E. Act & that the Govt. contribution under sec 37 of the E.E. Act be sanctioned.

Para 3 of the draft - approved. Subject to 8 people member of the limits of profession tax including education tax surcharge. The orders on this point can be issued at once.

EXP.H(C-1) L.A.U.O. 4764-1A/46
28.2.46.

12279

verified from L.A. budget file.

Y M' on p 30 9/3

2 signed and

now p 19

now p 1-2

verified from L.A. budget p 13 of book no. 17

Gone & signed (figure verified)

p 13 of book no 17

p 13 of book no 17

now p 27



EXP.H.W.D. 52469C-1/46-3
23/3/46.

PSA 8597
25/3

Minutes of A4 on p. 4 ante.

(a) Para 1 of the draft was based on the opinion of the legal dept in a similar case - vide pp 69-70 of G.O. 212 Edn., d/7.2.42. Legal may however be consulted as ordered by A4.

(b) Para 2 of the draft. Under sections 34 and 35 of the M.E.E. Act, the previous sanction of Govt. should be obtained for levying education tax or altering the rate of the tax. The levy of edn. tax at 12 1/2 p.c of the maximum rates fixed in G.O. 624 L.A., d/18.2.42 would fetch an income of about Rs 200 and the C. will get contribution under section 37 of the E.E. Act for a like amount. But the C. was being paid compensation for loss of education tax and equivalent contribution thereon, at Rs 477-13-9 per year. If the C. is allowed to retain the Govt. contribution under section 37 of the E.E. Act, drawn by it in respect of education tax collected by it without authority, it will have to refund an amount equal to education tax and contribution drawn by it, from the compensation already paid. As in any case, the C. will have to refund the excess amount drawn by it, it seems better that the C. is allowed to retain the compensation drawn by it and to refund the contribution under section 37 of the E.E. Act drawn in respect of education tax collected without authority. L.A. and Fin may

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Section 37 of the E.E. Act drawn in respect of education tax collected without authority. L.A. and Fin may

(c) Para 3 of the draft. The draft has been amended. After issue, the file may be sent to A., Legal and Finance

18/3/46 S

The minutes of A4 on page 4 ante

and the note of the 2 P.H. Dept on p. 5 ante may be pruned and the file passed on to legal dep. (The 'Dept' mentioned on p. 4 & 5 ante has reference to the order at ②)

Order, regarding the note of profession tax for 8 purposes & P.H. Dept have done

26.3.46

27.3.46

LEGAL DEPARTMENT.

Parag. 1 of the draft referred to in the note of Adviser 4

(Mr. Brown) A Bench of the Madras High Court (Wadsworth and

Patanjali Sastri JJ.) has recently held that the period of limitation for a suit to recover the amount of profession tax paid in excess is 3 years from the date on which such payment was made or recovered. See 1942 (2) M.L.J. 662

Indian Sugars and Refineries Limited v. the Municipal Council, Hospet. This was also the view expressed by

this Department at M on p. 69 of G.O. No. 212, Edn., d. 7-2-42.

As the period of three years has expired, no refunds need be made by the municipal council.

K.M. 2/4/46

Legal no. 2138-1
2.4.46

Finance (Exp. B).

The Municipal Council, Udumalpet, has been receiving,

consequent on the promulgation of the Profession tax Limitation Act, 1941, from the Govt. compensation for loss of income ^{from Profession tax and from} ~~Education tax~~ ^(levied as a surcharge on profession tax) and Govt. contribution equivalent to the education

tax. As the Council was levying actually education tax at 12 2/3 of the maximum rates of Profession tax prescribed in the rules issued under the Dt. Municipalities Act, it was also getting Govt. contribution under Section 37 of the Elementary Education Act equal to the proceeds of the education tax. The levy of education tax was not regular as the sanction of the Govt. had not been obtained, and consequently the Council was not eligible for Govt. contribution under the section 37 of the E.E. Act.

Since the Council cannot be allowed to have double

ASSISTANT SECRETARY

29 MAR 1946

LEGAL DEPARTMENT.



Under Sec. 37 of the Ely. Edn. Act.

187244B

vide p. 304.

p 613 of Book No. 17

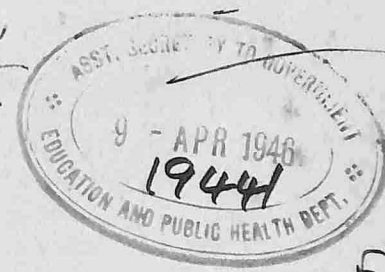
advantage by retaining with it the compensation ~~already drawn~~ ^(It at high school levied as a surcharge on profession tax) for loss of income under the Education tax and equivalent

Govt. contribution and by retaining also the Govt. contribution given under Section 37 of the E.E. Act, E.P.H. propose that the Council may be allowed to retain the compensation drawn by it and at the same time asked to refund to the Govt. the contribution under Section 37 of the E.E. Act drawn in respect of education tax collected without legal authority. The proposal may be accepted in Finance.

(In similar circumstances, the Erode M.L. Cl. was asked recently to refund the Govt. grant drawn under Sec. 37 of the Ely. Edn. Act.)

8/4/46.

8.4.46.



ESP.H(C-1)

Minutes of A₄ on p 4 ante.

Portion marked 'M' on p 4 ante. The

legal dept have stated that the period of limitation to recover the amount of profession tax paid in excess is three years from the date of payment and that as the period of three years had expired, no refunds need be made by the M.L. Cl. The suggestion of legal may be accepted.

Portion marked 'K' on p 4 ante. In the

circumstances stated in the note on p 5 ante, the Cl. may be allowed to retain the compensation drawn by it towards the loss of edn. tax levied as surcharge on profession tax and to refund to Govt. the contribution under Section 37 of the E.E. Act drawn in respect of edn. tax collected without authority. The Commr. may be asked to report the amount of excess contribution drawn.

Portion marked 'N' on p 4 ante. The

8 draft was amended as ordered by A4 and
closed.

With reference to 'X' on p7 ante,
a draft memo is submitted.

For orders as to circulation.

dealt with
separately

CPro. 2105261

46

15/4/46
16/4/46
17/4/46

(Nds per 6.1
at)

17/4/46

17/4/46

A4

17/4



Approved

17/4/46

15