

Common Paper

12
Sectt. II-27-33,001-27-10-47.

Edu. (1948) Department.

No. SERIES.

G.O. NO.

1606 Edu.

P.T.C.

Dated

22-6-1948.

[Despatch Abstract.]

Tax Education Levy in Municipal Areas.
Instructions issued.

Back Papers.

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

Further Papers.

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

Government of Madras
Education & Public Health Department
G.O.Ms.No.1606, Education, Dated 22nd June 1948.

Abstract.

Abstract.
Tax - Education - Levy in Municipal areas - Instructions issued.

Read:

From the Examiner of Local Fund Accounts, L.F.405, dated 15-4-48.

ORDER:

The Government observe that certain municipal councils are levying education tax on buildings alone, while the tax is not levied on other classes of properties such as vacant sites and agricultural lands. The Executive Authorities of municipal councils are informed that no class of property in municipal areas is exempt from the levy of education tax under the Madras Elementary Education Act, 1920, as amended. They are, therefore, requested to send to Government before 20-8-48, proposals for the levy of the education tax on vacant and agricultural lands within their respective ~~in~~ jurisdiction if no tax is levied on them at present. The additional income likely to be derived by such levy in each case should also be furnished.

2. It has been brought to the notice of Government that there is no uniformity in the procedure adopted by municipal councils in the levy of education tax in municipalities. For instance some councils are levying the tax on the annual value of properties, while others are levying it at a certain percentage of the property tax. The former practice is not in conformity with the provisions of section 34 (1) of the Madras Elementary Education Act, 1920 as amended, the Government consider that the rate of education tax should be fixed in all cases at a certain percentage of the property tax as contemplated in section 34(1) of the Madras Elementary Education Act.

3. The Executive Authorities are requested to send through the Examiner of Local Fund Accounts not later than 15-8-1948 proposals for fixing the rate of education tax at a certain percentage of the property tax if the tax is otherwise levied by them on any class of property within their jurisdiction. The financial implications of the proposals should also be explained. The Examiner is requested to consolidate the proposals and forward them to Government not later than 15-9-48.

(By Order of His Excellency the Governor)

To
All Executive Authorities of Municipal Councils through Chairman Municipal Councils.
The Examiner of Local Fund Accounts.
*The Inspector of Municipal Councils and Local Boards.
The Director of Public Instruction.

True copy/Forwarded/By Order

Superintendent.

Mscl.

LOCAL FUND AUDIT DEPARTMENT.

From (name): SRI B.B. SHANKER RAO, B.A., B.L.,
Designation : Examiner of Local Fund Accounts,
Station: Mount Road, Madras - 2.

To THE SECRETARY TO GOVERNMENT,
EDUCATION AND PUBLIC HEALTH DEPARTMENT,
FORT ST. GEORGE: MADRAS.

Sir,

L.F. 405 / 15.4.48.

Sub: LEVY OF EDUCATION TAX - Kumbakonam
Municipal council - Vacant sites and -
lands exempted - Irregularity brought
to notice.

Consequent on the introduction of Compulsory Education in the municipality and levy of Education Tax with reference to G.O. No. 855, Law (Education) Dated 21st July 1922, the Kumbakonam municipal council resolved to levy education tax at 2½% of the annual rental of properties. But the tax was actually levied on buildings only and all lands were exempted. The defect was pointed out in this Department letter No. 19 - A - 46 . 7828, dated 24th March 1923 whereupon the sanction of Government was obtained exempting lands and vacant sites from liability to assessment of Education Tax - V I D E G.O. No. 133 Law (Education) dated 28th January, 1925 (Copy enclosed.)

In this connection, a reference is invited to the Education and Public Health Department U.O. Note 21530 - C1/46 - 3, dated 21st November 1946 indicating the latest legal opinion in the matter in accordance with which the exemption of any class of property from education tax will not be in order.

The

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- 2 -
M
The Municipal council is levying property tax on agricultural lands on the basis of annual value and on vacant sites on the basis of capital value. In-as-much as the levy of education tax was resolved to be levied at a percentage of the annual rental of properties, the tax should have been levied on agricultural lands which are assessed on annual value unlike the vacant sites which are assessed on capital value. But the municipal council has not been levying the education tax on the agricultural lands relying on G.O.No. 133 Law (Education) dated 28th January 1925.

K
It is, therefore, submitted for consideration of Government whether the orders in the Government order of 1925 ibid may not be modified and the municipal council advised to levy education tax on lands which are assessed on the basis of annual value.

B.B. Shanker Rao

(B.B. SHANKER RAO)
Examiner of Local Fund Accounts.

Mvl.

G.O. Nos. 855 Edn. d 21.7.22 and 133 Edn. d 28.1.25

required for the disposal of this case have been called for from R.R.O. but the 40s have not yet been received.
Ch. Mo. A reminder has also been sent today. This may be an ill
18.5.48.

18/5/48
15.5.48
15/5/48

17/5/48

Government of Madras.
Abstract.
Tax - Education - Exemption of lands and vacant sites from payment of education tax - Proposal of Municipal Council, Kumbakonam - Sanctioned.

Law (Education) Department.
G.O.No. 133 dated 28th January 1925.

O R D E R :-

The Government approve of the resolution of the Municipal Council, Kumbakonam, No. 8, dated 12th October 1922 to levy the education tax as a surcharge on property tax, only on buildings and to exempt lands on vacant sites from liability to taxation.

(By Order of the Government, Ministry of Education)

V.T. Krishnama Achariyar,
Secretary to Government.

/True Copy/

N. Balasubramanian
Superintendent,
Office of the Examiner of Local Fund Accounts,
Madras.

SUB:- Tax - Education - Levy in Municipal areas -
Instructions issued.REF:- From the Exr. of L.F.A., L.F.405, dated 15--4--48.

ORDER (MS) NO. 1606 EDUCATION, DATED 22.6.48

The Government observe that certain municipal council are levying ~~the~~ Education tax on buildings alone, while ~~the~~ taxes ^{is not} levied on other class of properties such as vacant sites and agricultural lands. The Executive Authorities of municipal councils are informed that no class of property in ~~the~~ municipal areas is exempt from the levy of Education tax under the Madras Elementary Education Act, 1920, as amended. They are therefore, requested to ^{Send to Govt} ~~submit~~ before 20-8-48, proposals to Govt. for the levy of the Education tax on vacant and agricultural lands within their respective jurisdiction if ~~at present~~ no tax is levied on them ^{at present}. The additional income likely to be ^{by such levy} derived in each case should also be furnished.

2. It has been brought to the notice of Government that there is no uniformity in the procedure adopted by the ~~M. C.~~ ^{municipal councils} in the levy of Education tax in ~~the~~ ^{municipalities} ~~M. C.~~ ^{councils} areas. For instance some ~~M. C.~~ ^{councils} are levying the tax on the annual value of properties, while others are levying it at a certain percentage of the property tax.

~~This practice has resulted in certain complications.~~
~~With a view to be~~ ^{in conformity with the provisions of} section 34 of the M.E.E. Act, 1920, as amended, ~~the~~

Goyt. consider ~~it desirable~~ ^{in all cases} that the rate of Education tax be fixed at a certain percentage of the property tax ~~in all cases~~ ^{as contemplated in section 34(1) of the Madras Ele. Edu. Act}

3. The Executive Authorities of ~~M. C.~~ ^{Said} are requested to ~~submit~~ through the Exr. of L.F.A. not later than 15--8--1948 proposals for fixing the rate of Education tax at a certain percentage of the property tax if the tax is otherwise levied by them on any class of property within their jurisdiction. The financial implications of the proposals should also be explained. The Examining

Two
drafts

I draft

p.p.1-2 of

30-31
22/6
Mys

p.3 of

p.p.1-2 of

para 3. of p.1 of

the former

p.3 of

which contemplate
the levy of
education tax
at

is requested to consolidate the proposals
~~should be considered~~ and forward the proposals to Govt. not
later than 15--9--48.

18.6.48
19/6/48
18/6/48

To
✓ All Exe. Authorities of
✓ Ml. Cls. thr C.M.C.
✓ the Exr. of L.F.Accts
✓ The Inspector of Ml.Cls.
and L.Bds.
✓ The D.P.I.
15 s.cs.
30/6/48

II draft
E. & P. H. (Cl)
Memorandum No. 28201.C/48-2. Edn., dated 21.6.48

18/6/48
22/6/48
21-1-48

SUB:- Tax - Education - Kumbakonam Municipal Council -
Levy on agricultural and vacant lands.
REF:- From the Exr. of L.F.A., No.405, dated 15-4-48.

(K)
p.10.

In modification of the orders issued in G.O.No.133
Law (Education), dated 28--1--1925, the Commissioner,
Kumbakonam Municipality is informed that no class of
property in the ^{municipal} area is exempt from the levy of Edu-
cation tax under the Madras Elementary Education Act,
1920, as amended. He is, therefore, requested to obtain
and forward ^{to Govt.} before 15--8--1948 the resolution of the
~~Municipal Council~~ to levy the Education tax on vacant
and agricultural ~~x~~ lands within the ~~Municipality~~. The
rate of education tax should be fixed at a ~~certain~~ per-
centage of the property tax.

To
The Commr.,
Kumbakonam Mlty.
thr' C.M.C.
The Exr. of L.F.A.
The D.P.I.
The Collector of
Tanjore.
18.6.48
19/6/48
20/6/48

18/6/48
19/6/48
20/6/48

C-200-28201/48

Tab. Edu. Rel. cl. Kumbhakoram - denyar agriculture
and vacant lands - Exemption from
pages 1-2 c.f. from the Exams of L.F. Accts. No. 405 d 15-4-48

The reference of the
Exams of L.F. Accts. at pages 1-2 c.f. may be
perused. With reference to this, the following points
arise for consideration:-

(1) Whether Govt. have power to exempt the
agricultural and vacant lands in the Kumbhakoram
Rly. from the levy of education tax, and

page 10 of (K)

(2) Whether the orders issued in G.O. No. 133
Law (Edu) d 28-1-25, require modification.

page 612 of Bk. No.
17 (not put up)

in this

(A)

2. Item (1) above. The Madras Elementary
Education Act, 1920, does not contain any provision
empowering the Govt. to exempt any class of
property, from the levy of education tax. The Act
gives power only to fix the rate i.e. the percentage
at which education tax shall be levied, as a
surcharge on property tax. Reference is, in this
connection, solicited to the remarks of legal at page
20 n.f. of G.O. No. 513, Edu., dated 23-3-42. Any
order issued by the Govt. exempting a class of property
from the levy of education tax will not, therefore, be in
accordance with the provisions of the Act.

20-11-48

21-11-48

page 112 of Bk. No.
17 (not put up)

3. Item (2) above. As stated above,
The Edu. Act, provides for the levy of education
tax, by a local authority, at a percentage of the
property tax, already levied in its area. But in
actual practice, this provision is not strictly
adhered to. In almost all cases, education tax
was levied at a percentage of the annual value
(annual rental value) of properties. This has
resulted in certain complications, like the one in
practice. There seems to be no legal objection to continuing
the practice, but it seems desirable to

A

issue orders ^{in such cases} at least in future, so as ^{which will} to be in conformity with the provisions of section 34 of the E.E. Act. and to avoid complications.

Legal may be requested to advise whether the view expressed at 'A' on page 1 ante is correct.

4. As regards the levy of educational Tax on agricultural and vacant lands in the Kumbhakaram Mflty., it is submitted that the view expressed by the Examiner of F. Accts at 'M' on page 2 c.f. is correct. The orders issued in G.O. No. 133 (Edn) of 28.1.25 may be ~~modified~~ ^{cancelled and fresh sanction may be accorded} ~~as suggested by~~ ^{the levy of edu. tax on properties other than vacant lands.} ~~the~~ ^{Attention is} ~~drawn to the~~ ^{in this} connection, invited to paragraphs 4 and 5 of the order at pages 9 and 10 of G.O. No. 174 (Edn) of 30.1.47. If the view expressed at 'A' on page 1 ante is correct, there seems to ~~be~~ ^{be} no need to advise the M.C., Kumbhakaram, to levy educational Tax, on vacant lands also. Otherwise, this Council and many others which do not levy educational Tax, at present, on vacant lands will have to be advised to move in the matter.

5. d.A. and Legal may see for remarks.

(u)
 26.5-68
 26/5/68
 27/5/68
 L.A. Dept (A)
 Please see the note of the E.P.H. Dept.
 from p. ante. "B" above may be agreed
 in this Dept; with these remarks.
 This may be passed on to legal too.

It is desirable
that the rate of Edm tax
is fixed ~~at~~ at a certain
percentage of the property tax
levied instead of at a ~~per~~
percentage of the annual value

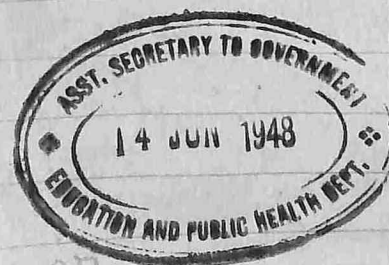
of properties. This will be in conformity with the provisions of section 34 of the Madras Elementary Education Act, 1920.

LA UD22024-48-1A
3-6-68



'A' on p.1 ante: Section 34 (1) of the Elementary Education Act contemplates the levy of education tax at such percentages of the taxation levied in the municipality under the law governing the same under all or any of the heads specified therein, namely, property tax, tax on companies and profession tax. If education tax is to be levied at a percentage of the property tax, then the levy of education tax on the basis of annual value of the property is not in order for property tax may be levied on the annual value of the property in order for property tax may be levied on the annual value of the property in certain cases, e.g., buildings, and on the capital value in certain cases, e.g., vacant lands. The existing practice of levying education tax at a percentage of annual value does not therefore appear to be correct.

'B' on p.2. ante: As there is no provision for the grant of exemption from the education tax, it follows from the position stated above that education tax should also be levied on vacant lands.



Legal n.º 6919/48-1
d. 11.6.48



C7564/44
2.12.44

E.P.H. (C1) Draft

please see the remarks of L.A. and Legal at p.p. 2-3 ante.
Legal have stated that the existing practice followed
adopted by many M.C.s of levying Education tax at
a percentage of the annual value of properties does
not appear to be ~~in~~ ^{correct} ~~order~~. In view of this it seems
necessary to urge local bodies to levy the tax
at a percentage of the ^{property} tax in all cases
in which it is not ^{done now} so ~~to~~ ^{the} ~~fixation~~. The fixation
may take effect from 1-10-48.

A draft order and a draft memo are subd.

AL
18.6.48
18.6.48

OSM
19/6/48 S WJ
N.W.