

(K)

Edm. Fnt (1949) Department.

Ms SERIES.

(1)

(10)

G.O. NO. 2418 Edm.

Dated 26. 7 49

O. P. R. S.

Ref. 2000
H. 1949

[Despatch Abstract.]

Tax. Edm. Levy on Vacant Lands & etc.
Method of Calculation of Equivalent Int
Contribution. Paper Recorded

Back Papers.

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

Further Papers.

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

EXAMINER'S OFFICE.

Subject: Tax - Education - Vacant sites - Levy of - Alteration in basis of levy - Method of calculation of Government - subsidy - clarification requested.

40596

In G.O.No.530, Education, dated 6th April 1945, the decision of Government that contributions should be made available in respect of the average level of education tax which was in force in 1940-41, where contributions were not already made at that level, was communicated to all local bodies. On the question regarding the calculation of equivalent Government contribution under Section 37 of the Elementary Education Act, 1920 in respect of tax levied on lands being brought to the notice of Government, in Education and Public Health Department U.O. Note No. 37976A/45-1, dated 7th September 1945, it was stated that the income from lands assessed to education tax should continue to earn Government contribution only at the rate at which the tax was being levied before 8th July 1941. A reference is, in this connection, invited to the orders in Memorandum No.37017 A/45-1, Education, dated 3rd September 1945 on the same question raised by the Commissioner, Sivakasi Municipality.

Prior to 8th July 1941, the Vellore Municipal Council was levying education tax on vacant lands with reference to area (extent) at one anna per half-year per 320 sq. yds., and this continued till 31st March 43. From the year 1943-44 the tax was levied with reference to capital value at six pies per half-year per Rs.100 (capital value). The equivalent contribution is due only on the rates at which the tax was levied before 8th July 1941. The rates of levy before 8th July 1941 and after 1943-44 cannot be compared, as the method or basis of levy was changed and it is not clear, how, the Government contribution is to be calculated. This may perhaps be brought to the notice of the Education and Public Health Department and they may be requested to advise in the matter.

P.V.A./20.5.

Education and Public Health Department U.O.

Exams U.O. 121-1

1-6-48

11/6/48

Capital value — 100
 Annual value — 6

capital
 Rs 100
 Rs 6

100
 6/100
 6/100

143
 18/100

Engay
 14/10/45
 TS 10/45

7.1.45

(Indices from 1944
 onwards have also
 been looked into
 to trace converted
 papers)

L.P.H. (C) Dept.

T.M. No. 596-21/45 Edo. of 14-6-45

From the Asst. Secretary to Govt. L.P.H. Dept.
 To the Exe. L.P.A.

Ref. From the Exe. L.P.A.; u.o. No. 121-1 dated 1-6-45
 regarding Tax-Education-Vacant sites - Government
 Contribution. Method of calculation.

Please send very urgently a copy of Expt. 2
 note no. 37976. Apts 1 dated 7-9-45 and Memo No 37017/5
 Edo. dated 3-9-1945 quoted in your reference
 cited above.

15.8.45
 10/1/45

12/6/45

Note:- Neither the Memo nor the u.o. note is available
 in the C.R.B. The 1945 Register of 1945, C.P. 2

(former A. section Register) is also not available
in office. Copies of the references may be obtained
from the Exs. - L.P.A. T. H. above is for approval.

11.6.48
11/6/48

12/6/48



46987

To
The Assistant Secretary,
Education & Public
Health Department,
Madras. 9.

L.F. 2486

25.6.48

Subject:- Tax - Education - Vacant sites - Govern-
ment contribution - Method of calculation.

Reference:- Telephonic Message dated 14-6-1948.

A copy of Memorandum No. 37017-A/45-1 Edu-
cation, dated 3rd September 1945, called for, is enclo-
sed.

Deputy Examiner of Local Fund
Accounts.

24/6/48

Examiner's Office.

GOVERNMENT OF MADRAS.
Education and Public Health Department.

Memorandum No. 37017 A/45-1, Edn., dated 3rd September, 1945.

EDUCATION TAX ON BUILDINGS: Amount of Government contribution under Section 37 of the Elementary Education Act (realised in 1944 - 45) - Municipal Council, Sivakasi - Balance of contribution.

Reply to this memorandum is sent through the Secretary to G.O. NO. 1160, Education, dated 30th July, 1945.
From the Commissioner, Sivakasi Municipality, Rec. A. 37017 A/45-1, dated 11th August, 1945.

The Commissioner, Sivakasi municipality is informed that, as education tax on buildings was levied in the municipality at 5/8 per cent per annum of property rentals in 1943-44 and at 1 1/2 per cent in 1944 - 45, the council is eligible for Government contribution under section 37 of the Elementary Education Act only on that basis (i.e., at 5/8 per cent in respect of the current collections of 1944 - 45 and at 1 1/2 per cent in respect of the current collections of 1943 - 44). The Contribution in respect of agricultural lands and vacant sites will be equal to the amount of tax realised at the rate at which it was levied before 8th July 1941.

2. The Commissioner is requested to submit a claim for the balance of contribution due to the council furnishing following information.

EDUCATION TAX ON BUILDINGS: Arrears of 1943 - 44 collected in 1944 - 45 at 5/8th per cent of property rentals)
Current collections of 1944 - 45 at 1 1/2 per cent of property rentals.

/p.t.o./

EDUCATION TAX ON AGRICULTURAL LANDS: Amount of current collection 1944 - 45 realised at the rate in force before 8th July 1941.
EDUCATION TAX ON VACANT SITES: Amount of arrears and current collection realised at the rate in force before 8th July 1941 (Arrears and collections to be shown separately).

Reply to this memorandum should be sent through the Examiner of Local Fund Accounts.
S. A. S. I. SUPRAMANTAN,
Secretary to Government.

P. J. Lalabhai
Superintendent,
Office of the Examiner of L. F. Accounts,
Madras 2.
24/6/48

Subject: - Tax - Education Ml. Cl. Vellore - Levy on vacant sites - Method of calculation of equivalent Govt. contribution.

Read:- From the Exer. L.F.A; U.O. No.121-1 dated 1-6-48

Under section 37. of the Madras Elementary Education Act, 1920, before its amendment in 1941, the Govt. were under an obligation to make a contribution to local bodies in respect of the taxation levied by them under section 34. of the Act. In 1941 this obligation was withdrawn by amending the Act in so far as the taxation levied or increased after 8-7-41 was concerned. Thus the liability to pay the contribution was limited to the tax which was being levied prior to the date of coming into force of the Amendment Act. With a view to provide further funds to local bodies for expansion of elementary education the Govt. in G.O. No.530 Edn., dated 6-4-1945 passed orders that contributions to local bodies should be made available in respect of the average level of education tax which was in force in 1940-41 where contributions were not already made at that level.

This G.O. is applicable only in the case tax levied on buildings in the municipal area but not in the case of tax levied on vacant and agricultural lands; whereas vacant and agricultural lands assessed to education tax continue to earn Govt. contribution under section 37 of the E.E. Act only at the rate at which the tax was being levied before 8-7-41. (Vide p.p. 1-3 nf. of G.O. No.530, Edn., dated 6-4-1945).

The Exr. of L.F.A. has now brought to the notice of the Govt. that prior to 8-7-41 the Vellore Ml. Cl. was levying education tax on vacant lands with reference to the area at one anna per

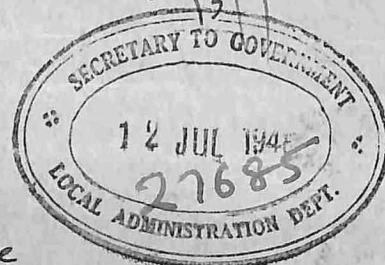
per half year per 320. sq. yards. This rate was in force till 31-3-43. From 1943-44 the tax was levied with reference to the capital value at six p^{ies} per half year per Rs.100. As the method of basis of levy since 1943-44 has changed, the Exr. requests orders as to how the Govt. contribution should be calculated. Though the present method of assessment is different from the method prior to 8-7-41, the date from which the 1941 Amendment Act came into force, in view of 'A' above the ~~right~~ right course seems to be to calculate the Govt. contribution with ref. to the old rate that was in force prior to 8-7-41.

L.A. and Legal may see.

12. 7.7.1948. 9/7/48 2A Legal

Ex P.H. No. 12
4596 C/1/48-1
10-7-48

L.A. Dept (A)



Please see the note of the E & P.H. Dept from P1 ante. and the file may be passed on to Legal. The course suggested by the E & P.H. Dept at 'A' on page 1 above and referred to at 'D' above does not seem to be correct. If the Govt contribution is to be calculated with reference to the old rate on the basis of extent, there will be no data available for such calculation, as the basis of levy has been changed and the figures in the property tax registers will show the taxes on the revised basis only. The figures for 1942-43 should be taken as the basis for payment of grant & it will be a fixed sum. The view expressed at 'B' on page 1 above also does not seem to be correct.

The G.O. seems to apply to taxes levied on ~~property~~ rentals of properties, whether buildings or lands. Agricultural lands are always assessed on rental value basis and the G.O. should apply to these cases. In the case of vacant lands assessed on the basis of capital value, it may be stated that 6 p.c. of the capital value is deemed to be

the annual value is annual rental values. The percentage ($1\frac{1}{3}$) of the property rentals referred to in G.O. No. 530 Edn & 6.4.45 up to which the cl. can claim equivalent Govt grant may be calculated assuming that 6 p.c. of the capital value is the annual value. In the present case, six p^{ies} education tax per half year of capital value of Rs.100 work out to $\frac{1}{32} \times \frac{100}{1} \times \frac{6}{100}$ i.e. $\frac{6}{32}$ or $\frac{3}{16}$ p.c. of annual value and the cl. will be eligible to grant equivalent to the taxes collected at this rate.

2. With these remarks, the file may be passed on to the Legal Dept.

14.7.48 21/7 Legal

Ans. 27685/48-14
21/7/48



LEGAL DEPARTMENT
(Education)
The Madras Elementary Act, as it stood before it was amended by Madras Act XV of 1941, cast an obligation on Government to make a contribution to an elementary fund constituted under section 32, a sum not less than the proceeds of the taxation levied under section 34 of on behalf of the fund - see the first paragraph of section 37. Section 34 of the Act, as it stood before amendment by Madras Act XV of 1941, empowered a municipal council or a district board to levy within its area taxes not exceeding 25% of the taxation levied by it in that area under certain heads. What Madras Act XV of 1941 did was to remove the upper limit of 25% up to which alone a local body was empowered to levy the education tax and to leave it to that body to levy the tax at such percentages as it considers suitable. In order, however, that the Government may not be made liable to pay to a local body as a result of the increased rates of taxes levied by it under new section 34 a sum greater than that contributed by them immediately before the commencement of Madras Act XV of 1941, a new

4.

proviso was added to section 37 of the Act. Thus, under new section 37, the liability of the Government to contribute to the elementary education fund a sum equivalent to the proceeds of the taxation levied by it under section 34 still remains. Where, however, the contribution payable under this provision happens to be greater than that which the Government had to pay immediately before the commencement of Madras Act XV of 1941, then the obligation of the Government is to pay the latter sum only. What sum the Government had to pay immediately before the commencement of Madras Act XV of 1941 to a local body is purely a question of fact ~~which~~ which can be ascertained from the records and any discussion as to the rate at which a local body levied taxes before and after such commencement ceases to have any bearing, for the contribution to be paid by Government is made dependent not on the rates of taxes levied but upon the proceeds of the taxation levied under section 34.

Any contribution made by Government in pursuance of G.O.No.530, Education, dated 6-4-45 in excess of the sum which they are statutorily liable to pay under section 37 (including the proviso added by Madras Act XV of 1941) is only a voluntary contribution made by Government. If for purposes of assessing this voluntary contribution, it is necessary to compare the rates of taxes in force immediately before the commencement of Madras Act XV of 1941 with the rates of taxes in force for the year for which such contribution is claimed, then ~~that~~ that procedure may be adopted.

E. & P.H. and L.A. Department may perhaps consider the point further in the light of these remarks.

27/7/48

EPH



Legal no 9009/48-1
22.7.48



L.A. may be the remarks of Legal at p.p.3-4. ante. They may be requested to state whether the position stated at E't p.3. ante requires any alteration in the light of the remarks offered by Legal at F and H at p.4. ante.

30.7.48

2/8/48 L.A.

L.A. Dept (A)

Though according to the Madras Edn Act, 1920 as amended by Madras Act XV of 1941, the obligation of Govt is to pay to local bodies the amount of contribution equivalent to the proceeds of edn tax which they had to pay immediately before the commencement of the latter Act, Govt contributions are now being paid on the basis of the edn tax realised & credited to ml funds at the rates mentioned in G.O. no 530 Edn & G.O. 45. Govt contributions will not be "fixed sum" based on the amounts paid immediately before the commencement of Madras Act XV of 1941 but will vary according to the amount of edn tax realised & credited to ml funds at the rates referred to above. Such of those ml cbs which were levying edn tax at rates lower than those prescribed in the G.O. are entitled to larger amounts of contributions, if they increase the rates up to those fixed in the G.O. ~~It is necessary to~~ It is necessary to compare the rates in force immediately before the commencement of Madras Act XV of 1941 with those in force for the year in order to see that the rates do not exceed the limit prescribed in the G.O. for claiming contributions. This dept may therefore adhere to the views expressed in the note on pp 2+3 above.

With these remarks, the file may be returned to the E & P.H. Dept.

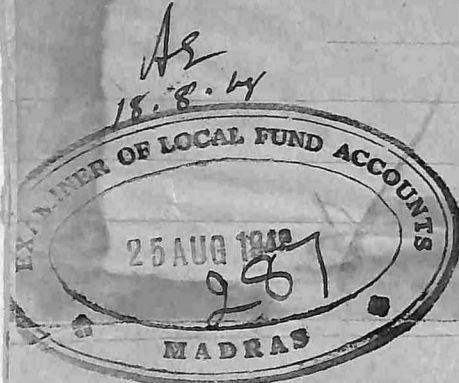
59628

L.A. no 30973-68-1A
9-8-48

6.8.48 E & P.H.

please see the note of L.A. at p.p.2-3. ante, (P.T.O.)

The remarks of legal at p.p.3-4. ante, and the further note of L.A. at p.5. ante. The view of L.A. at E. at p.3. ante may be accepted. This may be sent w.o. to the Exr. L.F.A. for perusal.



EXAMINER'S OFFICE.

According to the second proviso to Section 37 of the Madras Elementary Education Act 1920 the obligation of Government to pay contribution is restricted to the amount equivalent to the proceeds of the tax realised before 8th July 1941. In G.O.No. 530 Edn., dated 6th April 1945 Government ordered that contribution to local bodies should be made in respect of the average level of education tax in force in 1940-41 where contributions are not made at that level. In respect of tax on vacant lands, it was, however, ordered by Government in Memorandum No.37017 A/45-1 Edn., dated 3rd September 1945 that the contribution should be equal to the amount of tax realised at the rate at which it was levied before 8th July 1941. With reference to these orders in the case of municipalities in which the rates of taxation have been increased, the contribution is restricted to the amount of tax due at the rate in force before 8th July 1941, and in cases where municipalities, which were not levying education tax on vacant lands before 8th July 1941 began levying such taxes after that date, no contribution was considered to be due to them, as no tax was being levied by them prior to the Amendment Act of 1941.

2. In the notes above, it is, however, held that such of the municipal councils which were levying before 8th July 1941 education tax on lands at rates lower than those prescribed in G.O.No.530 Edn., dated 6th April 1945 are entitled to increased contribution if the rates of levy are increased subject however to the limit prescribed in the said Government Order. Further, in cases where the tax on lands is levied on the basis of capital value, it has been held in the above notes that annual rental value may be derived from capital value by taking 6 per cent of capital value, for the purpose of comparison with the maximum limits, laid down in the Government Order ibid. Accordingly even if a municipal council had not been levying education tax on vacant lands prior to 8th July 1941 but has been levying the tax after that date on capital value, contribution may have to be paid to that municipal council. If this presumption is correct, it involves a departure from the existing procedure and as there may be other municipal councils which may be similarly eligible for equivalent government contribution or enhanced contribution as the case may be by levying education tax on lands for the first time by increasing the rate of tax already levied. Education and Public Health Department may perhaps be requested to consider the desirability of issuing general orders embodying the present view.

T.K.S./25.10.
E. & P.H. Department U.O.
Exam No. 287-1

E.P.H. No. 40596.21/48

20.8.48

81431

M p.6 of

X

add Ba. 1/11/48

E.P.H. (C.I.) Dept

please see the ~~note~~ of the Exr. L.F.A. at p.6. ante. The case may be sent to L.A. w.o. for remarks with ref. to the Exr's note.

E.P.H. No. 40596.21/48

3.11.48



47628

3 OCT 1948

SECRETARIAT, MADRAS

1.12.48

2/12/48

LA

L.A. Dept (A)

[Previous remarks of this dept. at Mr 2-3 and p 5 above]

Please see the remarks of the examiner of L.F.A. on page 6 above. The decision communicated in G.O.No 530 Edn of 6.4.45 is that the contribution towards proceeds of edn tax should be made available to L.B. & M.C.s to the extent of average level of edn tax which was in force in 1940-41. The average was calculated and fixed in respect of edn cess levied on land revenue in District board areas and property tax levied on properties on the basis of annual rental value. The question that property tax is being levied also on the basis of extent or capital value so far as vacant lands (i.e. lands not exclusively used for agricultural purposes and not appurtenant or adjacent to or not occupied by buildings) are concerned was not considered for fixing the average rate for the purpose mentioned in G.O.No 530 Edn of 6.4.45. It has been decided that property tax on vacant lands should be levied only on the basis of their capital value or extent and it will not be legal to levy the tax on such lands on the basis of their annual value. It has therefore to be considered whether any average rate of edn tax based on capital value or extent

X

X

should be fixed in respect of vacant lands. It is understood that E. & P.H. Dept are considering the question of revising the rates of edn tax on vacant lands. E. & P.H. may be requested to consider ^{in that connection} the question of fixing a rate upto which contribution towards edn tax may be paid. That dept will doubtless consult Fin before arriving at a decision.

With these remarks, the file may be returned to the E. & P.H. Dept.

22/12/48

~~23.12.48 E & P.H.~~

See below
28/12/48

As to payment of equivalent contribution for taxes ^{levied} collected in excess of the rates in force prior to ^{upto specified limits} is only a non-statutory payment, the previous orders quoted at M or R above may continue to be followed where Edn Tax is levied on lands on the basis of extent or capital value.



please see the note of L.A. of P.P. 7-8. above. Their view at 'p' above may be accepted.

In the circumstances no general orders in the matter as suggested by the Exe. L.F.A. seem necessary.

This may be sent to the Exe. again for perusal and remarks if any.

21/12/48



L.A. U.O. 47628/48-1A
24.12.48

96738

21/12/48
40586/48

Sub: T.A X - Education - Municipal Council - Vellore (North Arcot Dt) - Levy on vacant sites - method of calculation of equivalent Government contribution.

Ref: Local Administration Department U.O. 47628/48-1A., dated 24th December 1948.

Seen and returned with thanks.

2. The procedure mentioned at "E" in para 1 of the Local Administration Department note on pages 2 and 3 ANTE will be adopted for effecting comparison.

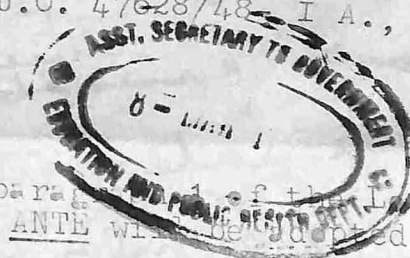
Education and Public Health Deptt U.O. 47628/48-1A

Exam No. 553-1

5-3-49.

21/12/48

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21/12/48



Edn Tax H. Dept. Secy

