

11-27-104,006-4-11-40
Em (1950) Department.

MS SERIES.

G.O. NO. 2927 Em

Dated

31-10-1950

[Despatch Abstract.]

Tax - Education - Municipalities
levy at uniform percentage of property
tax - Notes - Records -

Back Papers.

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

Further Papers.

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

Extract of L.A. Department note from the file bearing C.No. 20654 re: B.E. for 1950-51 - Ele-
Edn. Fund - Municipal Council, Udipi.

28066

In para 3 (ii) of G.O.No. 1668 Edn dated 3-6-50, the Udipi Municipal Council has been directed to levy education tax at 33 1/3 per cent of property tax from 1-4-50 and the proposal of the Municipal Council to levy education tax at 30 per cent of property tax from 1-4-50 on vacant lands and agricultural lands has been approved. The Commissioner of the Municipality has raised the question whether the approval by Government of the rate of education tax on vacant lands and agricultural lands is a statutory direction under section 35 of the Elementary Education Act, 1920, or not. He doubts whether the tax on vacant lands and agricultural lands can be levied with retrospective effect from 1-4-50, if the approval of Government given in the said G.O. is not a statutory direction. He has requested permission to levy the tax on the said lands from 1st April 1951, if it is not a statutory direction. The following questions arise for consideration in this connection:

(1) Whether education tax can be levied as a sur-charge on property tax on buildings only postponing its levy on property tax on vacant lands and agricultural lands;

(2) Whether education tax can be levied at different rates for different kinds of properties namely, buildings, vacant lands and agricultural lands.

It seems that if education tax on property tax is once levied it should be levied on all kinds of properties and that the rate should be the same for all kinds of properties. Education Department may be requested to take necessary action in the matter after consulting Legal Department. So far as Udipi municipality is concerned, a statutory direction fixing the rate of education tax at 33 1/3 per cent of property tax on vacant lands and agricultural lands as in the case of buildings may be issued early before 30-9-50.

A.S. LADY.

R.K.

26.8.50

Edn(2)

The note of LA Dept may be
passed.

2. Separate action will be taken regarding the general questions raised. As for the present case, a statutory direction may be issued as suggested by LA. A draft is submitted.

A.G.

9.9.50

Start separate file immediately.

A.G.

9.9.50

1. Education tax is leviable as discharge on property tax in municipal areas under Section 34 of the Madras Elementary Education Act. The property tax is levied under the ~~provisions~~ ^{provisions} of the Madras District Municipalities Act on different classes of properties as indicated below:-

- 1) Buildings.
- 2) Agricultural lands within municipal limits
- 3) Vacant lands.

(1) above: Property tax is ~~levied~~ ^{levied} on these buildings with reference to the annual rental value of the buildings. Education tax is leviable on buildings as a percentage of property tax in accordance with the language of Section 34 of the Elementary Education Act. In practice, Education tax on buildings is levied at a percentage of property rentals so as to facilitate its collection along with the property tax.

(2) above: Property tax is levied on these lands with reference to ^{either the rental value or} the annual value of such lands calculated in accordance with the provisions of Section 79 of the ^{Madras} Local Boards Act. In effect, property tax ~~is~~ ^{may be} levied on agricultural lands with reference to the land revenue assessed on these lands. Education tax is leviable at a percentage of property tax levied on these lands. In practice, the rate of Education tax on agricultural lands is determined with reference to the annual rental value of these lands.

(3) above: Section 81(3) of the Madras District Municipalities Act authorises the levy of property tax on vacant lands either with reference to the capital value of lands or with reference to the extent. Education tax on these lands can be ~~levied~~ ^{levied} as a percentage of property tax. In practice the tax is levied with reference to the capital value of lands.

plan

2. L.A. Department raises the question

(a) Whether the municipal Council is authorised to levy Education tax on any one class of the property (i) on buildings alone, or on agricultural lands alone or on vacant lands alone or on buildings and agricultural lands together etc.

(b) Whether the rate of Education tax should be uniform if levied on all the classes of properties or can vary from property to property.

(a) above: Section 34 of the Elementary Education Act permits the municipal Council to levy Education tax as property tax. This section is not specific as to whether the tax should be levied on all properties where property tax is levied. It presumably gives direction to municipal Councils to levy Education tax on any particular class of property. For example, the income from Education tax levied on buildings will be comparatively high while that derived from the levy of Education tax on vacant lands may be very small. The Council may decide that ^{it} is not worthwhile to levy Education tax on vacant lands in view of the very small income derived by the levy of ^{the} tax and may be satisfied with the large income ^(which is made up) by the levy of tax on buildings alone. In the circumstances it appears that municipal Councils should be given discretion to levy Education tax on any class of property with reference to the income that it wishes to derive from the levy of Education tax. If the Act does not authorise the procedure, steps should be taken to amend the Act rather than

to fetter the discretion of local bodies in the matter of Education tax.

There is provision in the Act for the Government to direct a municipal Council to levy Education tax on property tax or increase the rate of Education tax levied on property tax. Here also it appears that Government should have power to decide the levy of Education tax on a particular class of property.

(b) on p. 3 ante: As explained in para 1 above, the ~~basis~~ ^{basis} of levy of property tax is different with reference to each class of property. In the circumstances it may not be possible to determine the rate of Education tax to be levied on all the classes of property at a uniform figure unless the rate of Education tax is determined as a percentage of property tax. It has already been explained that even though the rate of Education tax should be determined as a percentage of property tax, in practice, the rate is fixed with reference to the basis of levy of property tax itself. So long as this franchise is allowed to continue, it may be impossible to fix a uniform rate of Education tax on all the classes of property.

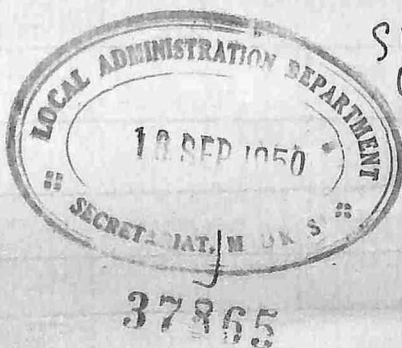
L.A. and legal may see for remarks.

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OP
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L.A.
Legre.

no: 28066/50-10EM
16.9.50



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P 70

P 70

L.A. Dept (4)

Please see on page 1 above the extract of notes of this Dept in the file dealing with the question of levy of education tax in the Udipi mof, and the further note of the Education Dept on pages 2-4 above.

2. In mof, property tax on agricultural lands is levied on the basis of their annual value as in the case of buildings, calculated either -

(a) under section 82(2) of the M.D.M. Act, 1920 with reference to the gross annual rent which they are expected to fetch from month to month or from year to year, that is, letting value; or

(b) under section 81(4) with reference to their annual value calculated in accordance with the provisions of section 79 of the M.L.B. Act, 1920 ie with reference to their land revenue.

But vacant lands, that is, lands not used exclusively for agricultural purposes and not occupied by a building and appurtenant to buildings ^{except railway vacant lands} should be assessed on the basis of either their capital value or extent and ~~not~~ on their annual value. All mof, excepting Virachapatnam & Hospet, however, levy the tax on the basis of their capital value only, as it has been considered that the levy of the tax on the basis of capital value will be more equitable and commensurate with the value, extent and location of the lands. The said two mof levy the tax on the basis of extent.

3. The Elementary Education Act, 1920 permits the levy of education tax at a certain percentage of taxation - vide section 34 of the Elementary Education Act. When education tax is levied as a percentage of property tax ~~on all classes of property~~, it should be levied at a uniform rate of property tax on all classes of property, viz. buildings, agricultural

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to lands and vacant lands. This dept may therefore adhere to the views already stated at A on page 1 above. Edn tax is levied as a ~~4 with these remarks, the file may be passed on to legal~~ surcharge on property tax and there can be no omission to levy edn tax on property tax on vacant lands, when it is levied on property tax on agricultural lands & buildings. As property tax under the M. D. M. Act is levied on different bases in respect of different properties, namely on the basis of annual value in respect of buildings and agricultural lands and on the basis of capital value or extent in respect of vacant lands, it is necessary to fix the rate of edn tax on property tax at a certain percentage of property tax in accordance with the provisions of the Ely Edn Act, though for certain purposes the rate of edn tax is converted into annual value and capital value basis.

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

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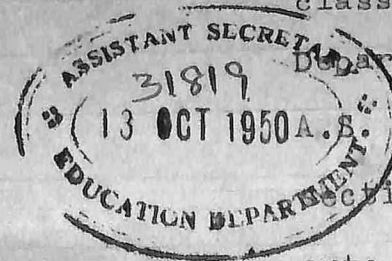
There should be no difficulty at all in following the provisions of the Ely Edn Act and accordingly levying Edn tax in any mpty at a uniform ~~certain~~ percentage ~~of~~ of property tax on all properties ~~subject to~~ liable to property tax. The practice referred to at A on p 2 above does not at all confer any special advantage and it shd be given up, being contrary

to the provisions of the Ely Edn Act. The correct and legal procedure will be that indicated at B on p 6 above. This dept may press that this procedure be adopted in all cases that come up for decision in future. ~~Edn may consult legal~~
2. The amendment suggested at M on p 3 above is not at all necessary.

M
28/9/50 Jey
Legal.

LEGAL DEPARTMENT.

4p 2/10
N.V.O. 37865/50-1A
3 X 50



Section 34 of the Elementary Education Act provides for the levy of education tax at a certain percentage of taxation under the various heads 'property', 'profession tax', etc. ~~XXXXXX~~ According to the section so far as a particular head of taxation is concerned the education tax should be levied at a uniform percentage of the tax under that head. ~~OR THE TAX UNDER~~ In the case of property tax, the education tax has to be levied at a specified percentage on all classes of property and the basis on which property tax is levied in respect of different classes of buildings and lands is not at all relevant. This Department, therefore, agrees with the view expressed by L.A.D. in parag. 1 of his note above. The question whether Section 34 may be amended as suggested by Education at M on p 3 ante is one of policy for consideration by the administrative Departments concerned.

Legal No. 15855/50-1
10.10.50

M
10/10/50 Edn.

Ed. (10)

- The notes on Ms 5-7 ante may be
 2. Education tax ^(on all classes of property) may be levied at a
 uniform ~~percentage~~ percentage of property
 tax while examining the Elementary Education
 Fund budgets of the municipal courts for
 1951-52.
 3. It does not seem necessary to
 amend Section 34 of the Elementary Education
 Act for the present.
 4. The papers may be
 2927 Ed. 1 31.10.50.

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Records.

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Saved.

Don. Education
 Municipalities -
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 property tax -
 notes recorded

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