

The Borough Municipalities (Validation of Certain taxes on Buildings and lands) Act 1965

MAHARASHTRA

India

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Act 3 of 1966

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The Borough Municipalities (Validation of Certain taxes on Buildings and lands) Act 1965 Maharashtra Act No. 3 of 1966 [Dated 18th February, 1966] For Statement of Objects and Reasons see Maharashtra Government Gazette, Part 5, Extraordinary, page 776. An Act to validate the levy and collection of taxes on buildings and lands levied and collected by certain Borough Municipalities, and for matters connected therewith. Whereas, Borough Municipalities constituted under the Bombay Municipal Boroughs Act, 1925, are empowered to levy a rate on buildings and lands situated within their jurisdiction, and water rates in the form of a rate assessed on buildings and lands or in any other form; And Whereas, certain Borough Municipalities have during certain periods purported to levy and have collected the taxes aforesaid in respect of Mills, Factories and buildings and lands connected therewith, by calculating the annual letting value on the basis of a uniform rate on the floor area thereof; and in respect of vacant lands by determining the rate as a certain percentage of the capital value thereof; And Whereas, the Supreme Court, in *Loktanya Mills v. Barsi Borough Municipality*. (Civil Appeal Nos. 125 to 129 of 1957) decided on the 14th March, 1961, held the relevant rules made by the Barsi Borough Municipality for calculating the annual letting value in respect of Mills, Factories and buildings and lands connected therewith on the basis of the floor area to be ultra vires the said Act, on the ground that those rules did not prescribe a method of valuation warranted by the Act; And Whereas, similar rules, have been made and enforced by certain other Borough Municipalities in the State, and taxes purported to be levied accordingly have been collected; And Whereas, the Supreme Court, in *Gordhchindas v. Municipal Commissioner, Ahmedabad*, (Civil Appeal No. 253 of 1956) decided on the 28th March, 1963, further held that the relevant rules made by the former Ahmedabad Municipal Borough for arriving at the valuation of vacant lands on the basis of a percentage of the capital value to be ultra vires the said Act, on the ground that the rules did not prescribe a method of valuation warranted by the Act, and that in view of the use of the word "rate" in clause (i) of sub-section (1) of section 73 of the said Act the tax had to be fixed on the basis of annual value, and not on the basis of capital value directly; And Whereas,

similar rules have been made and enforced by certain Borough Municipalities in the State in respect of vacant lands and taxes purported to be levied accordingly, have been collected; And Whereas, it is necessary to validate the levy and collection of all such taxes by the Borough Municipalities in the State and to provide for recovery of such taxes and for purposes connected with the matters aforesaid; It is hereby enacted in the Sixteenth Year of the Republic of India as follows

1. Short title.

- This Act may be called the Borough Municipalities (Validation of certain Taxes on Buildings and Lands) Act, 1965.

2. Definitions.

- In this Act, unless the context requires otherwise, -(a)"Boroughs Act" means the Bombay Municipal Boroughs Act, 1925;(b)"Borough Municipality" means a municipality constituted under the Boroughs Act, and specified in the Schedule to this Act;(c)"Chief Officer" means the Chief Officer of a Borough Municipality and includes any other officer of that municipality to whom the Chief Officer may delegate his powers in this behalf; and in the case of the Sholapur Borough Municipality, means the Municipal Commissioner of the successor Municipal Corporation of the City of Sholapur, and includes any other officer of that Corporation to whom the Commissioner may delegate his powers in this behalf;(d)"House tax" means the tax on buildings and lands, by whatever name called, which a Borough Municipality was or is empowered to levy under clause (i) of subsection (1) of section 73 of the Boroughs Act;(e)"Provincial Corporations Act" means the Bombay Provincial Municipal Corporations Act, 1949;(f)"Water tax" means the water rates, by whatever name called, which a Borough Municipality was or is empowered to levy in the form of a tax assessed on buildings and lands under clause (x) of sub-section (1) of section 73, of the Boroughs Act.

3. Amendment of sections 3 and 75 of Bombay XVIII of 1925.

- In the Boroughs Act, -(a)in section 3, after clause (17), the following clause shall be inserted, and shall be deemed always to have been inserted, namely;"(17A) 'rate on buildings or lands' includes any tax imposed on buildings or lands;"(b)in section 75, for the Explanation at the end, the following Explanation shall be substituted, and shall be deemed always to have been substituted, namely"Explanation. - For the purposes of a rate on buildings or lands, the basis of valuation may be -(i)the annual letting value;(ii)the annual value;(iii)the floor area, in the case of Mills, Factories and buildings and lands connected therewith;(iv)the capital value, in the case of vacant lands."

4. Validation of levy and collection of taxes by certain Borough Municipalities in respect of Mills, Factories and connected buildings and lands and in respect of vacant lands.

(1) Any house tax and any water tax levied or purported to be levied, and collected, in respect of any Mills, Factories and buildings and lands connected therewith, or in respect of any vacant lands, under the Boroughs Act and rules made thereunder, at any time before the commencement of this Act shall be deemed to have been levied and collected by or under the Boroughs Act as amended by this Act; and accordingly notwithstanding anything in any judgement, decree or order of any Court any such house tax or water tax levied and collected shall, for all purposes, be deemed to be, and always to have been, validly levied and collected, and shall not be called in question merely on the ground that the tax was not levied on the basis of the annual letting value, or was levied on the basis of a uniform rate on the floor area, or that it was levied on the basis of capital value or a percentage on such value, or on the ground that any procedure laid down in the Boroughs Act or in the rules was not followed. (2) Anything done or any action taken, by or on behalf of any Borough Municipality or any officer of such Municipality, acting or purporting to act under the provisions of the Boroughs Act or any rules made thereunder, for or in connection with the levy or collection of the said taxes, shall be deemed for all purposes to have been validly done, or taken; and no suit or other legal proceedings whatsoever shall be entertained or continued in any Court on any or all of the grounds mentioned in sub-section (1).

5. Sums due on account of such taxes to be paid to and recovered by municipal authority concerned.

(1) Notwithstanding anything contained in the Boroughs Act, the Provincial Corporations Act or the Limitation Act, 1963, or in any judgement, decree or order of a Court, if any sum, by way of any tax referred to in the last preceding section levied or purported to be levied has not been paid to the Borough Municipality or, as the case may be, the successor Municipal Corporation (hereinafter in this section referred to as "the local authority"), such tax shall be payable to the local authority concerned within thirty days of a demand being made therefor, as hereinafter by this section provided: Provided that, the liability of any person to pay tax on such demand shall not extend - (a) where the local authority has before the commencement of this Act discontinued to levy it on any basis referred to in the Explanation to section 75 of the Boroughs Act as amended by this Act other than the basis of annual letting value to any period prior to six years immediately preceding the date of such discontinuance; (b) in other cases, to any period prior to six years immediately preceding the date of commencement of this Act. (2) As soon as may be after the commencement of this Act, but before the expiry of three years therefrom, the Chief Officer of the local authority concerned, shall cause to be served on the person liable to pay any such tax, a bill for the sums due from him. (3) The Chief Officer may prepare and serve a consolidated bill for all the taxes due from the person liable, or he may prepare separate bills in respect of different taxes or for different periods, or for different properties, in such form or forms, as he may determine. Every such bill shall, however, specify the period or periods for which the tax is due, the property or the service in respect of which the tax is payable, the amount of tax assessed thereon or in respect thereof, the amount (if any) already paid, and the balance due, and also the time within which an appeal may be preferred as provided in the next succeeding sub-section. (4) (a) An appeal shall lie in respect of any claim made under sub-section (1), within thirty days of the service of the bill for the taxes, to the Judicial Magistrate or Bench of such Magistrates by whom under the direction of the Sessions Judge such class of cases is to be tried, on any one or more of the following grounds, that is to say, - (i) that the appellant is not the

person liable for the payment of the tax in respect of the property or service in question in that he was neither the owner nor the occupier of the property during any period of tax;(ii)that the property is exempt from tax;(iii)that the floor area adopted, or the capital value determined, or the amount of the tax, is not correct.(b)The decision of the Magistrate or Bench of Magistrates in any appeal made under the last preceding clause shall, on an application made by either party within thirty days from the date of the decision, be subject to revision by the Court to which appeals against the decision of such Magistrate or Bench ordinarily lie.(5)Save as otherwise provided in this section, the provisions of the Boroughs Act and in the case of the Sholapur Borough Municipality, of the Provincial Corporations Act and the rules and orders made or deemed to be made under the relevant Act and for the time being in force shall, mutatis mutandis, apply to the service of any bills and the recovery of any sum claimed and any appeal or revision application made under this section.

6. Saving.

- Nothing in this Act shall render any person liable to be convicted of any offence in respect of any act done by him, or in respect of anything omitted to be done by him, before the commencement of this Act, if such act or omission was not an offence but for the provisions of this Act.The Schedule[See clause (b) of section 2]

1. The Amalner Municipal Borough

2. The Barsi Municipal Borough

3. The Bhusawal Municipal Borough

4. The Chalisgaon Municipal Borough

5. The Jalgaon Municipal Borough

6. The Karad Municipal Borough

7. The Sholapur Municipal Borough, as constituted before the 1st May, 1964.