

Commissionerate of Municipal Administration, Chennai 600 005

Roc.No.7699/2005/R1

Date 15 .04.2005.

CIRCULAR

Sub: Appeals- Taxation Appeal Committee- Disposal of appeals- instructions Issued- regarding.

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Instances have come to the notice of the Commissioner of Municipal Administration that the Executive Authorities of Municipalities are entertaining Petitions for tax revision in a routine manner without being aware that Rule 11 of Schedule IV of the TNDM Act was omitted six years back in 1999 and that half-yearly Revision petitions can no longer be entertained. Further, some of the Executive Authorities have also interpreted that half-yearly Appeals can be entertained as only half-yearly Revision Petitions have been dispensed with and are placing such appeals before the Tax Appeal Committee without realizing that without a Revision petition and a decision on it, no cause of action could arise for a tax appeal and that there can be no appeal without a revision petition. The Taxation Appeals Committees are also reducing tax without considering the legality or the provisions contained the Act and Rules or guidelines issued by this office.

Hence, it has become necessary to clarify the position in respect of taxation appeals committee's transactions and the status of revision petitions consequent on the deletion of Rule of Schedule IV of the TNDM Act, 1920 in G.O.Ms. No. 127 MAWS department dated 27.5.1999.

The existing provisions in respect of Taxation Appeal Committee, its composition, method of election of its members and the manner of transaction of its business are indicated below:

Constitution of the Taxation Appeals Committee :

For every Municipality, there is a Taxation Appeals Committee. It is a statutory Committee, as per Section 23-A of the TNDM Act, 1920 (Tamil Nadu Act.No.5 of 1920) constituted under the Tamil Nadu Act No.25 of 1989.

Members of the Committee:

The Taxation Appeals Committee consists of the Chairperson of the Municipal Council as Chairperson and four Councilors of the Municipal Council as members.

Election of Members :

The four members are elected by the Municipal Council through elections as per the "Tamil Nadu Municipal Councils (Election of members to the Taxation Appeals Committee) Rules 1989 framed by the Government in G.O.(Ms.) No.472, MA&WS Department dated 28.07.89.

Transaction of the Business:

The business of the Committee (i.e.) convening, issue of notice for the meeting, preparation of the agenda, president of the meeting, quorum of the meeting, decision of the committee and recording the minutes of the meeting are to be transacted as per the Tamil Nadu Municipal Taxation Appeals Committee (Transaction of Business) Rules 1988 framed by the Government in G.O.(Ms.) No.37, MA&WS Department dated 20.01.88.

Provision for appeal to the Taxation Appeals Committee:

a) Property Tax:

After the receipt of the orders from Executive Authority on revision petition under rule 13 of Schedule-IV of the TNDM Act 1920, appeal can be made to the Taxation Appeals Committee, as per rule 23 of Schedule-IV of the TNDM Act, 1920, only after the payment of amount fixed on the revision petition within the prescribed time limit of 15 days from the service of the notice. The above appeal petition should be heard by the Taxation Appeals Committee, as per rule 26 of Schedule-IV of the TNDM Act, 1920-.

b) Profession Tax :

If any person or employer is aggrieved by any order or decision of the Commissioner relating to the payment of tax including penalty, within thirty days from the receipt of such orders or decision of the Commissioner, the person may appeal in writing to the Taxation Appeals Committee, as per rule 14 of the Town Panchayats, Municipalities, and Municipal Corporations (collection of tax on Professions, Traders, Callings and Employment) Rules, 1999 framed by the Government in G.O.(Ms.)No.11, MA&WS Department dated 12.01.99.

Status of the Taxation Appeals Committee for the disposal of the appeal petition :

a) Property Tax :

The Committee may allow, modify or remit the appeal to the Executive Authority for reconsideration, as per rule 10-A substituted in the Tamil Nadu Municipal Taxation Appeals Committee (Transaction of Business) Rules, 1988 by the Government in GO (Ms) No.155, MA&WS Department dated 18.06.99.

b) Profession Tax :

As per rule 15 of the Town Panchayats, Municipalities, Municipal Corporations (collection of tax on Professions, Traders, Callings and Employment) Rules, 1999 framed by the Government in G.O.(Ms.)No. 11, MA&WS Department dated 12.01.99, appeal petitions should be disposed by the Taxation Appeals Committee before the end of the succeeding half-year.

Hence, all the Executive Authorities are hereby instructed that the property tax should be levied, as per guidelines issued by Commissioner of Municipal Administration, as per rule 6-A of Schedule IV of the TNDM Act, 1920 and that Revision petitions should not be entertained under rule 11 of Schedule-IV of the TNDM Act, 1920 which allows “any assessee, at any time, not being less than thirty days before the end of a every half-year, move by a revision petition to reduce the tax, since the assessment was last made or revised”. This rule was deleted by the Government in G.O.(Ms.) No.127, MA&WS Department dated 27.05.99.

When assessment books have been prepared for the first time and whenever a general revision of such books has been completed, in every case, if there is an enhancement in the assessment, the Executive Authority should give a special notice to the owner or occupier stating that revision petitions would be considered within sixty days from the date of service in the case of Government buildings and thirty days in other case, as per rule 9 of Schedule-IV of the TNDM Act, 1920.

In every case in which between one general revision and another, if the Executive Authority assesses any property for the first time or increase the assessment, otherwise than in consequence of a general enhancement of the rate at which the property tax is leviable, the Executive Authority should give a special notice to the owner or occupier stating that revision petitions would be considered within sixty days from the date of service in the case of Government buildings and thirty days in other cases, as per rule 10 of Schedule-IV of the TNDM Act, 1920.

While disposing petitions by the Executive Authority under rule 9 or 10 of Schedule-IV of the TNDM Act, 1920 as the case may be, if any defect in respect of the plinth area, nature and usage etc., of the buildings, then only the levy of tax should be modified in accordance with the rules in the Act and the guidelines issued by this office.

While disposing an appeal petition in respect of property tax by the Taxation Appeals Committee, under rule 10-A of the Tamil Nadu Municipal Taxation Appeals Committee (Transaction of Business) Rules, 1988, the Committee should examine the legality. Instances have come to notice that large-scale reduction of tax is being effected on Appeals without proper reason. Since the method of

taxation has been changed from discretion based to specific parameters like plinth area, usage, type of constructions appeal petitions on such new method of taxation should be carefully examined. Indiscriminate reduction without basis is against the provision of law and the loss is liable to be surcharged besides cancellation of resolutions concerned as per the provision of law (Section-6 of Tamil Nadu District Municipalities Act, 1920). Unless there is any violation of rules, the Committee should not modify the orders already passed by the Executive Authority and reduce the tax in any adhoc manner, which may attract action under Surcharge rules.

This Circular is issued to bring to light the provisions of Taxation Appeal Committee and to avoid any arbitrary entertaining and reduction of tax by the Committee, affecting the finances of the Municipalities.

Sd/- Hemant Kumar Sinha.
Commissioner of Municipal
Administration.

To

All the Executive Authorities of the Municipalities.

All Chairpersons of the Municipalities.

Copy to: All the Regional Directors of Municipal Administration.

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Superintendent