



The Gujarat Education Cess Act, 1962

Act 35 of 1962

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The Gujarat Government Gazette

EXTRAORDINARY

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and Regulations made by the Governor.

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The following Act of the Gujarat Legislature having been assented to by the President on the 5th October, 1962 is hereby published for general information.

M. G. MONANI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. XXXV OF 1962.

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 9th October 1962.

An Act to provide for the creation of a fund for the promotion of education in the State of Gujarat and for the levy of education cess for the purpose and for matters connected therewith.

It is hereby enacted in the Thirteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Education Cess Act, 1962.
- (2) It extends to the whole of the State of Gujarat.

Short title
and extent.

CHAPTER I

PRELIMINARY

Definitions. 2. In this Act, unless the context otherwise requires—

(i) “annual letting value” means the rateable value or annual letting value or gross annual letting value of lands and buildings as determined in accordance with the relevant local authority law and includes annual value as defined by ^{Bom.} section 64 of the Cantonments Act, 1924 ^{LIX of 1924.}

Provided that, in a case where the property tax is assessed on any building or land on its capital value, such percentage of the capital value as may be determined by the State Government shall be deemed to be the annual letting value;

(ii) “City of Ahmedabad” means the City of Ahmedabad as constituted ^{Bom.} for the time being under the Bombay Provincial Municipal Corporations Act, ^{LIX of 1949.} 1949;

(iii) “Collector” includes an officer appointed by the State Government to exercise the powers and perform the functions of the Collector under this Act;

(iv) “education cess” means a surcharge or tax on lands and buildings levied under this Act;

(v) “lands” and “buildings” shall have the meanings respectively assigned to them in the relevant local authority law;

(vi) “local authority” means a municipal corporation, municipality, notified area committee, nagar panchayat, village panchayat or gram panchayat or other body constituted under the relevant local authority law;

(vii) “prescribed” means prescribed by rules made under this Act;

(viii) “property tax” means in the City of Ahmedabad the general tax levied under the Bombay Provincial Municipal Corporations Act, 1949 and in other ^{Bom.} urban areas a tax or rate on buildings or lands or a tax or rate in the form ^{LIX of 1949.} of such tax or rate on buildings or lands levied under the relevant local authority law;

(ix) “relevant Code” means—

(i) in relation to the Bombay and Saurashtra areas of the State, the Bombay ^{Bom.} Land Revenue Code, 1879; ^{V of 1879.}

(ii) in relation to the Kutch area of the State, the Bombay Land Revenue Code, 1879 as applied to that area;

(x) "relevant local authority law" means -

Bom.
LIX of
1949. (i) in relation to the City of Ahmedabad, the Bombay Provincial Municipal Corporations Act, 1949.

(ii) in relation to a municipal borough -

Bom.
XVIII
of
1925. (a) in the Bombay area of the State, the Bombay Municipal Boroughs Act, 1925;

Bom.
XVIII
of
1925. (b) in the Saurashtra area of the State, the Bombay Municipal Boroughs Act, 1925 as adapted and applied to that area;

Bom.
XVIII
of
1925. (c) in the Kutch area of the State, the Bombay Municipal Boroughs Act, 1925 as applied to that area;

(iii) in relation to a municipal district or notified area -

Bom.
III of
1901. (a) in the Bombay area of the State, the Bombay District Municipal Act, 1901;

Bom.
III of
1901. (b) in the Saurashtra area of the State, the Bombay District Municipal Act, 1901 as adapted and applied to that area;

Bom.
III of
1939. (iv) in relation to a panchayat, the Bombay Village Panchayats Act, 1958;

Guj.
VI of
1962. (v) in relation to a nagar or gram, the Gujarat Panchayats Act, 1961; and

II of
1924. (vi) in relation to a cantonment, the Cantonments Act, 1924;

(xv) "surcharge" means a surcharge levied under section 5 or 7;

(xvi) "tax" means a tax on lands and buildings levied under section 12;

(xvii) "tenement" means a building or part of a building let or intended to be let or occupied separately;

(xiv) "urban area" means an area which is for the time being included in the limits of a city, municipal borough, municipal district, notified area, nagar or cantonment under the relevant local authority law and the population of which is not less than 10,000;

Explanation:— For the purpose of this clause, "population" means population as ascertained at the last preceding census;

(xv) "village industry" means an industry which is a village industry within the meaning of the Bombay Khadi and Village Industries Act, 1960;

Bom
XIX
of
1960.

(xvi) "village site" means the site of a village, town or city determined under section 126 of the relevant Code;

(xvii) words and expressions used but not defined in this Act shall—

(a) so far as the provisions of this Act relate to a surcharge on lands have the meanings assigned to them in the relevant Code and the rules made thereunder, and

(b) so far as the provisions of this Act relate to a tax on lands and buildings shall have the meanings assigned to them in the relevant local authority law.

CHAPTER II

EDUCATION CESS AND THE STATE EDUCATION CESS FUND

Education
Cess.

3. For the purpose of providing for the cost of promoting education in the State of Gujarat, there shall be levied and collected in accordance with the provisions of this Act an education cess which shall consist of—

(a) a surcharge on all lands except lands which are included within a village site and not assessed to land revenue;

(b) a tax on lands and buildings in urban areas.

State Edu-
cation Cesa
Fund.

4. (1) The proceeds of the education cess and penalties (other than fines) recovered under this Act shall first be credited to the Consolidated Fund of the State and after deduction of the expenses of collection and recovery therefrom shall, under appropriation duly made by law in this behalf, be entered in, and transferred to, a separate fund called the State Education Cess Fund.

(2) Any amount transferred to the State Education Cess Fund under sub-section (1) shall be charged on the Consolidated Fund of the State.

(3) The amount in the State Education Cess Fund shall be expended in such manner and under such conditions as may be prescribed, for the purpose mentioned in section 3.

CHAPTER III

SURCHARGE ON LANDS

A. Surcharge on agricultural lands.

5. (1) Subject to the provisions of this Act, with effect from the revenue year commencing on the 1st day of August 1962, on all lands (except lands included within a village site and not assessed to land revenue) which are assessed or held for the purpose of agriculture and not used for any purpose unconnected with agriculture, there shall be levied a surcharge at the rate of twenty naye paise on every rupee of every sum which is assessed on such land as land revenue or otherwise payable to the State Government as land revenue : ^{Levy of surcharge on agricultural lands.}

Provided that where any such land—

(i) is wholly or partially exempt from payment of land revenue, a sum which would have been assessed on such land, had there been no alienation of land revenue, or

(ii) is liable to the payment of land revenue but is unassessed, a sum which would have been assessed on such land as land revenue,

shall be treated as the sum, on every rupee of which the surcharge shall be leviable.

(2) For the purposes of this section "land revenue" shall include water rate levied under section 55 of the relevant Code but shall not include ---

(a) penalties and fines including any charge imposed under section 148 thereof as penalty or interest in case of default and any fine levied under section 65 thereof,

(b) occasional fixed payments, in commutation of all claims of the State Government in respect of a succession to or transfer of inams payable on each such succession or transfer,

(c) land revenue on service inam lands recovered from inferior village servants for periods of unauthorised absence from service and all other such charges of assessment on inams and watans for broken periods and past years, and

(d) fees for grazing when charged per head of cattle.

(3) For the purposes of this section, grass land, that is to say, land on which grass grows naturally or grass is raised, shall be deemed to be land used for the purpose of agriculture.

Assistance
to superior
holders.

6. The provisions of law relating to the assistance to be given to superior holders for the recovery of their dues from their tenants and occupants under them, shall be applicable to all superior holders, whether of alienated or unalienated land in respect of the recovery of the surcharge described in section 5 from their tenants, or occupants and shall be applicable also to occupants of land under the relevant Code, for the recovery of the said surcharge from their tenants or joint occupants.

B. Surcharge on lands used for non-agricultural purposes.

Lvy of sur-
charge in add-
ition to non-
agricultural
assessment in
respect of
certain lands.

7. (1) Notwithstanding any usage, custom or settlement or anything contained in any agreement, sanad or order or a decree or order of a court or any law for the time being in force, on all unalienated lands on which non-agricultural assessment is levied under the relevant Code and on all alienated lands (except lands included within a village site) which are used, or may hereafter be used, for a purpose unconnected with agriculture there shall be levied and collected a surcharge at the rate of—

(i) 12.50 per cent of the amount of non-agricultural assessment so levied or as the case may be which would have been leviable had there been no alienation of land revenue, if the land be used for a residential purpose or any purpose other than trade, commerce or industry or the carrying on of a profession or business and be situate in an area where the rates of non-agricultural assessment under the relevant Code have been fixed or revised within three years immediately preceding the 1st day of August 1962 ;

(ii) 25 per cent of the amount of non-agricultural assessment so levied or leviable, if the land be used for a residential purpose or for a village industry or for any purpose other than trade, commerce or industry or the carrying on of a profession or business, and be situate in any area to which clause (i) does not apply ;

(iii) 50 per cent of the amount of non-agricultural assessment so levied or leviable, where the land is used for any industry other than a village industry ;

(iv) 75 per cent of the amount of non-agricultural assessment so levied or leviable, where the land is used for a commercial purpose or for the purpose of any profession or business :

Provided that where any land is simultaneously used for two or more purposes and the part used for each such purpose is not separable, the surcharge shall be levied at the highest rate applicable in relation to any of the purposes for which the land is used.

(2) In the case of land on which because of its non-agricultural use the surcharge becomes leviable at the commencement of this Act, the surcharge under subsection (1) shall be levied and collected with effect from the revenue year com-

mencing on the 1st day of August 1962 and in any other case it shall be levied from the commencement of the revenue year during which the land becomes liable for the payment of the surcharge.

8. Should any question arise under section 7 as to the nature of use of any land, the Collector shall after holding a summary inquiry, decide the question.

Collector to determine questions as to nature of use of land.

C. *General provisions applicable to all categories of surcharges.*

9. The surcharge on lands described in section 5 or 7 shall be levied, so far as may be in the same manner and under the same provisions of law, as the land revenue:

Manner of levying surcharges.

Provided that in the case of land in the possession of a tenant liable to pay the land revenue thereon under the provisions of the relevant Code, he shall be primarily liable for payment of the surcharge on it under section 5.

10. Where any land which is liable to a surcharge under section 7 or a portion thereof or any building constructed thereon or any tenement therein or any part thereof is not in the occupation of the person primarily liable to pay the non-agricultural assessment and surcharge by virtue of the land or portion thereof or of the building or tenement or part of the building being let, then notwithstanding anything contained in any agreement or order or a decree or order of a court or any law for the time being in force but without prejudice to the primary liability of such person as aforesaid, such person shall be entitled to recover an amount equal to the amount of surcharge from the person in actual occupation of the land or portion thereof or of the building, tenement or part of the building in proportion to the area in the occupation of the person, as if the person in actual occupation were liable to pay the surcharge.

Right of holder to recover amounts of surcharge on non-agricultural assessment from actual occupiers.

11. The amount of the surcharge leviable under this Chapter shall, if it be not a multiple of five naye paise, be increased to the next higher multiple of five naye paise.

Amount of surcharge to be rounded to multiple of five naye paise.

CHAPTER IV

TAX ON LANDS AND BUILDINGS

12. (1) Subject to the provisions of this Act, there shall be levied and collected with effect from the 1st day of August 1962 a tax on lands and buildings situated in an urban area at the following rates, that is to say :—

Tax on lands and buildings

(a) where a building or land is used for residential purposes or any purpose other than trade, commerce or industry or the carrying on of a profession or business—

(i) if the annual letting value thereof be not less than Seventy Five rupees but less than two hundred rupees, at the rate of one and a half per cent of the annual letting value ;

(ii) if the annual letting value thereof be not less than two hundred rupees but less than one thousand rupees at the rate of two per cent of the annual letting value ; and

(iii) if the annual letting value thereof be not less than one thousand rupees, at the rate of three per cent of the annual letting value; and

(b) where a building or land is used for the purpose of trade, commerce, industry, profession or business, at the rate of three per cent of the annual letting value thereof:

Provided that in the financial year ending on the 31st March 1963, the amount of tax under this section shall be calculated on the basis of eight months of that year.

(2) Where any building consists of more tenements than one, irrespective of such tenements not being separately assessed to the property tax, the tax under this section shall be assessed on the annual letting value of each such tenement as if it were a building.

(3) Where any land, building, tenement or a part of a building is separately assessed to tax but is simultaneously used for two or more purposes mentioned in sub-section (1), the tax under this section shall be levied at the highest rate applicable in relation to any of the purposes for which the land, building, tenement or part of the building is used.

(4) In computing the amount of tax payable under this section, the amount shall, if it is not a multiple of five *naye paise*, be increased to the next higher multiple of five *naye paise*.

Exemption of certain lands and buildings from payment of tax. 13. The tax under section 12 shall not be leviable in respect of the following, that is to say—

(1) buildings and lands vesting in the Central Government;

(2) buildings and lands vesting in the State Government or belonging to a local authority, local board, taluka panchayat, district panchayat or a Cantonment Board and used solely for public purposes and not used or intended to be used for purposes of profit;

(3) any building or land or class of buildings or lands, which the State Government, may by notification in the *Official Gazette*, exempt from payment of the tax under section 12.

Provided that --

(i) every such notification shall be laid for not less than thirty days before the State Legislature as soon as possible after it is published, and shall be subject to rescission by the State Legislature, or to such modification as the State Legislature may make, during the session in which it is so laid or the session immediately following; and

(ii) any rescission or modification so made shall be published in the *Official Gazette* and shall thereupon take effect.

14. (1) Where the actual occupier of any land or building is the owner thereof or holds it on a building or other lease granted by or on behalf of Government or a local authority or on a building lease from any person, then the tax shall be leviable primarily on such occupier. Primary responsibility for tax on lands and buildings.

(2) In any other case, the said tax shall be leviable primarily as follows, that is to say --

(a) if the land or building is let, upon the lessor;

(b) if the land or building is sub-let, upon the superior lessor;

(c) if the land or building is unlet, upon the person in whom the right to let vests.

15. (1) The tax under section 12 shall be collected --

(a) in the Cantonment of Ahmedabad, by the Collector of Ahmedabad; and

(b) in other urban areas, by the respective local authorities concerned;

Authorities competent to collect tax, etc.

Provided that where a local authority is not for the time being levying a property tax or where a local authority has made a default in the collection of the tax or payment thereof to the State Government, the State Government may by order direct that the tax shall be collected by the Collector.

(2) The collection of the tax (including any penalty) under this Act shall be made --

(a) in the Cantonment of Ahmedabad, as an arrear of land revenue ;

(b) in any other urban area, in the same manner in which the property tax is collected in that area under the relevant local authority law or where a direction under clause (b) of sub-section (1) has been issued in such manner as may be prescribed.

(3) The collection of the tax and the recovery of penalty under this Act on behalf of any local authority shall be made by the appropriate authority appointed to collect the property tax on behalf of such local authority under the law under which the local authority is constituted.

(4) The local authority shall, in respect of the cost of collection of the tax, be entitled to such rebate as may be prescribed, and different rates of rebate may be provided for different urban areas.

Penalty for failure to pay tax.

16. (1) If any person, on being served with a notice of demand for the collection of tax in pursuance of the provisions of section 14, fails to pay within the period mentioned in the notice, any amount due from him on account of tax, the local authority, collector or, as the case may be, the Collector of Ahmedabad, on being satisfied that such person has wilfully failed to pay the tax, may, subject to the general or special orders of the State Government recover from him as penalty a sum not exceeding one fourth of the amount of the tax so unpaid, in addition to the amount of tax payable by him.

(2) Sums recoverable under this section shall be recovered in the manner provided in section 18 for the collection of tax.

Tax to be first charge on lands and buildings on which it is leviable.

17. Notwithstanding anything contained in any law and not withstanding any rights arising out of any contract or otherwise, the tax and any sums due as tax or penalty, in respect of any land or building shall, as to the amount of the land revenue (if any) thereon due to the State Government be a first charge -

(a) in the case of any land or building held immediately from the Government, upon the interest in such land or building of the person liable for such tax or penalty, and upon the goods and other movable property, if any, found within or upon such land or building and belonging to such person; and

(b) in the case of any other land or building, upon such land or building and upon the goods and other movable property, if any, found within or upon such land or building and belonging to the person liable to pay such tax or penalty.

Recovery of tax from occupier of portion of land or buildings.

18. On the failure to recover any sum due on account of tax from the person primarily liable therefor, there may be recovered from the occupier of any part of the land or building in respect of which the tax is due, such portion thereof as bears to the total amount of the tax due the same ratio which the rate annually payable by such occupier bears to the aggregate amount of the annual letting value thereof.

Person liable to pay tax entitled to recover amount from occupier of land or building etc.

19. (1) If any person from whom under the provisions of section 12 the tax is leviable pays the tax in respect of any land or building, he shall if he be not himself in occupation thereof during the period for which he has paid the tax, be entitled to recover the amount of the tax from the person, if any, in actual occupation of such land or building for such period.

(2) Where tax is paid in respect any building consisting of more tenements than one, by the person paying the tax or on his behalf, he shall be entitled to recover, from the occupiers of the tenements the amounts paid *pro rata* to the amount of rents for which such tenements are let.

Provided that, no such recoveries shall be made in respect of—

- (a) any tenement in occupation of such person or any person acting on his behalf, or
- (b) any tenement the tax on which by the terms of the tenancy, such person has agreed to pay for its occupier.

(3) The recovery of any amount of tax from an occupier under this section shall not be deemed to be an increase for the purposes of section 7 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, or any law corresponding thereto. Bom. XVII of 1947.

20. (1) If any land or building assessed to tax is let, and the rateable value thereof exceeds the amount of rent payable in respect thereof to the person from whom under the provisions of section 14 the tax is leviable, he shall be entitled to recover from his tenant the difference between the amount of the tax levied upon him and the amount which would have been leviable had the tax been calculated on a rateable value equal to the amount of rent payable to him. App. XI (Amended) 1957, Part II (by section 19) when such land or buildings are let at a rateable value less than the amount of rent.

(2) Where such land or building had been sublet and the rateable value exceeds the rent recoverable by the tenant from the sub-tenant, the tenant shall be entitled to recover from his sub-tenant the difference between the amount of tax levied and the tax which would have been leviable had it been calculated on a rateable value equal to such rent.

Provided that the amount recoverable shall not exceed the amount recovered from the tenant under the provisions of sub-section (1).

(3) Where such land or building is held by a person holding under a sub-tenant, the provisions of sub-section (2) shall apply *mutatis mutandis* as if the sub-tenant had been the tenant and such person the sub-tenant.

21. Any person entitled to recover any sum under section 19 or 20 shall have for the recovery thereof, the same rights and remedies as he would have if such sum were rent payable to him by the person from whom he is entitled to receive the same. Rights and remedies for recovery of sums under section 19 or 20.

22. Any amount which is liable to be recovered under section 19 or 20 shall not be deemed to be a part of the rent of the land, building, tenement or part of the building for the purpose of computing the annual let-out value thereof for the purpose of the levy of any property tax or a tax under this Act. Amount recoverable under section 19 or 20 to each be in computing annual let-out value.

Remission and refund.

23. (1) Where any land or building is assessed to tax, and if in respect of such land or building or portion thereof, a draw-back (if any) or remission or refund of property tax is sanctioned or granted on or after the 1st day of August 1962 under the relevant local authority law, then the local authority, or as the case may be, the Collector shall remit or refund such portion of the tax, in such manner and subject to such conditions as may be prescribed.

(2) Where any building assessed to tax is situated in the City of Ahmedabad and if such building or any portion thereof is demolished or removed otherwise than by order of the Municipal Commissioner and notice in respect of such demolition or removal has been given to the Commissioner under the relevant local authority law, the municipal corporation constituted under such law shall remit or refund such portion of the tax in such manner and subject to such conditions as may be prescribed.

(3) The burden of proving the facts entitling any person to claim relief under this section shall lie upon him.

Default of local authority in collecting tax.

24. (1) If any local authority makes default in the collection or payment to the State Government of any sum due in respect of the tax on lands and buildings under this Act, the State Government may, after holding such inquiry as it thinks fit, fix a period for the collection or payment of such sum or direct the recovery of the tax in such manner as may be prescribed.

(2) If the collection or payment of the sum is not made within the period so fixed the State Government may, notwithstanding anything contained in any law relating to the funds vesting in such local authority or any other law for the time being in force, direct any bank in which any moneys of the local authority are deposited or the person in charge of the Government treasury or of any other place of security in which the moneys of such local authority are deposited, to pay such sum from such moneys as may be standing to the credit of the local authority in such bank, or as may be, in the hands of such person or as may from time to time be received from or on behalf of the local authority by way of deposit by such bank or person; and such bank or person shall be bound to obey such order.

(3) Every payment made pursuant to an order under sub-section (2) shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

CHAPTER V.

MISCELLANEOUS.

Amounts of surcharges not to be included in and revenue in certain circumstances.

25. (1) In computing the average of the land revenue for the purposes of section 195 of the Gujarat Panchayats Act, 1961 the amounts of the surcharges levied under this Act and collected or recovered during any revenue year shall, notwithstanding anything contained in that Act, be excluded.

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1962.

(2) The amounts of surcharges levied under this Act shall not be treated as land revenue for the purposes of the levy of any cess on land revenue under the said Act or any other law for the time being in force.

26. Nothing in this Act shall, in any way be deemed to affect the application of any of the provisions of the relevant Code and the rules and orders made thereunder to lands to which this Act applies and to the rights and obligations of persons in respect of such lands, in so far as the said provisions are not in any way inconsistent with the express provisions of this Act. Savings as to application of relevant Code.

27. The State Government may in such circumstances and subject to such conditions as may be prescribed, reduce the rate of any surcharge or tax or remit wholly or in part any amount of surcharge or tax either generally or specially in respect of any land, or class of lands or any building or class of buildings. Power of Government to reduce rate or remit surcharge or tax.

28. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

(a) the manner in which and conditions under which the amount in the State Education Cess Fund shall be expended under section 4 ;

(b) the manner of collecting tax in urban areas where any property tax is not levied and the rates of rebate under section 15 ;

(c) the manner in which and the conditions subject to which, the tax shall be remitted or refunded under section 23 ;

(d) circumstances in which and conditions subject to which reduction in the rates of surcharge and the tax may be made or surcharge or tax may be remitted under section 27 ;

(e) such other matters which in the opinion of the State Government are required to be prescribed by rules.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the *Official Gazette* and shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the Legislature, or to such modification as the Legislature may make, during the session in which they are so laid, or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.



The Gujarat Government Gazette

EXTRAORDINARY

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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the President on the 3rd May 1963, is hereby published for general information.

AKBAR S. SARELA,
Secretary to Government,
Legal Department.

GUJARAT ACT NO. XXVI OF 1963. X

[First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 8th May 1963.]

An Act further to amend the Gujarat Education Cess Act, 1962.

It is hereby enacted in the Fourteenth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Education Cess (Amendment) Act, 1963. Short title.
2. To section 5 of the Gujarat Education Cess Act, 1962 (hereinafter referred to as "the principal Act"), the following explanation shall be, and shall be deemed always to have been, added, namely:— Amendment of section 5 of Guj. XXXV of 1962.

"*Explanation.*—In this section "alienation of land revenue" includes any concession granted by or under any law for the time being in force so as to render any land not liable to the payment of any revenue or liable to the payment of land revenue at a sum lower than the sum of full assessment leviable on such land; and such land shall be deemed to be wholly or, as the case may be, partially exempt from the payment of land revenue for the purpose of this section."

3. In section 7 of the principal Act, in sub-section (1)—

(i) in clause (i) after the words "residential purpose or" the words "for a village industry or for" shall be, and shall be deemed always to have been, inserted; and

(ii) in clause (iv), for the words "any profession" the words "any trade, profession" shall be, and shall be deemed always to have been, substituted.

Amendment of section 7 of Guj. XXXV of 1962.

4. After section 26 of the principal Act, the following section shall be inserted, namely:—

"26 A. Nothing in the relevant Code or the relevant local authority law shall affect the assessment, levy, collection or recovery of any surcharge or tax leviable under this Act for any year or part thereof merely by reason of the fact that the surcharge or, as the case may be, tax, was not assessed or the demand therefor was not made during the year or part for which it was leviable."

Insertion of new section 26-A in Guj. XXXV of 1962.

Validity of surcharge or tax not levied in the same year.



The Gujarat Government Gazette

EXTRAORDINARY

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FRIDAY, NOVEMBER 8, 1963/KARTIKA 17, 1885

Separate paging is given to this Part in order that it may be filed as a separate compilation

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 5th November, 1963 is hereby published for general information.

AKBAR S. SARELA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT No. XLIII OF 1963.

[First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 8th November 1963].

An act further to amend the Gujarat Education Cess Act, 1962.

It is hereby enacted in the Fourteenth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Education Cess (Second Amendment) Act, 1963. Short title.

2. In section 14 of the Gujarat Education Cess Act, 1962, to sub-section (1), the following proviso shall be and shall be deemed always to have been added, namely:— Amendment of Section 14 of Guj. XXXV of 1962.

"Provided that in the City of Ahmedabad, if any land has been let for any term exceeding one year to a tenant and such tenant has built upon the land, the tax assessed upon the said land and upon the building erected thereon shall be primarily leviable from the said tenant or any person deriving title from the said tenant by the operation of law or by assignment or transfer but not by sub-lease or the legal representative of the said tenant or person, whether the premises be in the occupation of the said tenant or person or legal representative or a sub-tenant."



Department of Public Relations

The Gujarat Government Gazette

EXTRAORDINARY

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Separate Paging is given to this part in order that it may be filed as a separate compilation

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 3rd December 1965 is hereby published for general information.

SUMANT M. VIDYARTHI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 29 OF 1965

(First published after having received the assent of the Governor in the "Gujarat Government Gazette" on the 6th December 1965.)

An Act further to amend the Gujarat Education Cess Act, 1962 for the purpose of increasing the rates of tax on lands and buildings.

It is hereby enacted in the Sixteenth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Education Cess (Second Amendment) Act, 1965.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In section 12 of the Gujarat Education Cess Act, 1962 (hereinafter referred to as "the principal Act"), in sub-section (1),—

Amendment of section 12 of Guj. XXXV of 1962.

(i) for the words "one and half per cent" the words "two and half per cent".

(ii) for the words "two per cent" the words "three per cent", and

(iii) for the words "three per cent" where they occur at two places, the words "four and half per cent",

shall be substituted.

Commence-
ment of
amend-
ments
made by
section 2.

3. The amendments made by section 2 shall be effective with effect on and from the 1st day of October 1965 and accordingly in the financial year ending on the 31st March 1966, the amount of tax under section 12 of the principal Act shall be calculated for a period of the first six months of that year at the rates prevailing immediately before the 1st October 1965 and for a period of the next six months of that year at the rates prevailing on the 1st October 1965.



The Gujarat Government Gazette
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Vol. XI]

WEDNESDAY, JULY 15, 1970/ASADHA 24, 1892

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following act of the Gujarat Legislature having been assented to by the Governor on the 4th July 1970 is hereby published for general information.

K. M. SATWANI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 8 OF 1970.

(First published after having received the assent of the Governor in the "Gujarat Government Gazette" on the 15th July 1970).

An Act further to amend the Gujarat Education Cess Act, 1962
for certain purposes.

It is hereby enacted in the Twenty-first Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Education Cess (Amendment) Act, 1970. Short title.

GUJ. 2. In section 12 of the Gujarat Education Cess Act, 1962 (hereinafter referred
XX- to as "the principal Act"), for sub-section (I), the following shall be substituted.
XV of 1962. namely :—

Amendment
of section
12 of Guj.
XXXV of
1962.

“(1) Subject to the provisions of this Act, there shall be levied and collected with effect from the 1st day of April 1970 a tax on lands and buildings situated in an urban area at the following rates, that is to say :—

(a) where a building or land is used for residential purposes or any purpose other than trade, commerce or industry or the carrying on of a profession or business—

(i) if the annual letting value thereof exceeds three hundred rupees but does not exceed one thousand rupees, at the rate of three per cent of the annual letting value;

(ii) if the annual letting value thereof exceeds one thousand rupees but does not exceed two thousand and five hundred rupees, at the rate of five per cent of the annual letting value;

(iii) if the annual letting value thereof exceeds two thousand and five hundred rupees but does not exceed four thousand and five hundred rupees, at the rate of six per cent of the annual letting value; and

(iv) if the annual letting value thereof exceeds four thousand and five hundred rupees, at the rate of seven per cent of the annual letting value; and

(b) where a building or land is used for the purpose of trade, commerce or industry, or the carrying on of a profession or business, at one and half times the rate specified in items (i) to (iv) in clause (a) above in respect of the building or land of corresponding annual letting value.”.

Amendment
of section
13 of Guj.
XXXV of
1962.

3. In section 13 of the principal Act, in clause (3), for the words “State Government, may” the words “State Government, if it considers it necessary to do so in the public interest, may” shall be substituted.

Amendment
of section 19
of Guj.
XXXV of
1962.

4. In section 19 of the principal Act,—

(1) in sub-section (1), for the words “be entitled to recover the amount of the tax from the person” the words “be entitled to recover an amount not exceeding half the amount of the tax from the person” shall be substituted;

(2) in sub-section (2), for the words “from the occupiers of the tenements the amounts paid” the words “from the occupiers of the tenements amounts not exceeding half the amounts paid” shall be substituted.

Amendment
of section
20 of Guj.
XXXV of
1962.

5. In section 20 of the principal Act—

(1) in sub-section (1), for the words “from his tenant the difference” the words “from his tenant not more than half of the difference” shall be substituted;

(2) in sub-section (2), for the words “from his sub-tenant the difference” the words “from his sub-tenant not more than half of the difference” shall be substituted.

6. Notwithstanding the amendments made in sections 19 and 20 of the principal Act by this Act, a person shall be entitled to recover the amount of tax under the said section 19 or, as the case may be, the amount of difference under the said section 20, in relation to the tax levied for any period prior to the commencement of this Act, whether the tax is paid before or after such commencement, as if this Act had not been passed. Savings.



The Gujarat Government Gazette
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Vol. XIII] MONDAY, SEPTEMBER 4, 1972/BHADRA 13, 1894

Separate paging is given to this Part in order that it may
 be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
 Regulations made by the Governor.**

The following Act of the Gujarat Legislature^r having been assented to
 by the Governor on the 30th August 1972 is hereby published for general
 information.

K. M. SATWANI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 17 OF 1972.

(First published after having received the assent^r of the Governor in the
Gujarat Government Gazette on the 4th September 1972.

An Act further to amend the Gujarat Education Cess Act, 1962.

It is hereby enacted in the Twenty-third Year of the Republic of India as
 follows :—

1. This Act may be called the Gujarat^r Education Cess (Amendment) Act, 1972. Short title.
2. In section 2 of the Gujarat Education Cess Act, 1962 (hereinafter referred to as "the principal Act"),—

Guj. XX- XV of 1962.	<ol style="list-style-type: none"> (i) after clause (iii), the following new clause shall be inserted, namely :— <p>“(iii-a) “disabled person” means a person who on account of injury, disease, physical or mental condition arising from imperfect development of any organ or otherwise, or congenital deformity is substantially handicapped in obtaining or keeping employment, or in undertaking work on his own account, of a kind which apart from that injury, disease, physical or mental condition or deformity would be suited to his age, experience and qualifications;”;</p> 	Amendment of section 2 of Guj. XXXV of 1962.
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(ii) after clause (x), the following new clauses shall be inserted, namely :—

“(x-a) “specified disabled person” means a disabled person whose principal means of livelihood is the income from the rent of land or building situated in an urban area and owned by him, the annual letting value of which does not exceed two thousand rupees;

(x-b) “specified widow” means a widow whose principal means of livelihood is the income from the rent of land or building situated in an urban area and owned by her, the annual letting value of which does not exceed two thousand rupees;”.

Amendment
of section
7 of Guj.
XXXV of
1962.

3. In section 7 of the principal Act, after sub-section (I), the following new sub-section shall be inserted, namely :—

“(1A) Where any land is leased by the Government for a purpose unconnected with agriculture and under the terms of such lease no non-agricultural assessment is leviable on such land, then, notwithstanding anything contained in the terms of such lease, there shall be levied and collected on such land a surcharge at the rate specified in sub-section (I) on the amount which would have been assessed on such land as non-agricultural assessment had such assessment been leviable thereon.”.

Amendment
of section
12 of Guj.
XXXV of
1962.

4. In section 12 of the principal Act, to sub-section (I), the following provisions shall be added, namely :—

“Provided that on any such land or building owned by a specified widow or a specified disabled person, the tax shall be levied and collected at half of such rate :

Provided further that no tax shall be levied on such land or building if it is actually occupied by such widow, or, as the case may be, disabled person, or if it is unlet.”.

Insertion of
new section
15A in Guj.
XXXV of
1962.

5. After section 15 of the principal Act, the following new section shall be inserted, namely :—

“15A. (1) Every person claiming to be a specified widow or a specified disabled person for the purposes of this Act shall apply to the officer authorised by the State Government in the prescribed form for the issue of a certificate that the person so claiming is a specified widow or a specified disabled person, as the case may be.

(2) On receipt of such application, the officer so authorised shall, after making such inquiry as he deems fit, decide whether such person is a specified widow or a specified disabled person, as the case may be, and the decision of such officer shall, subject to an appeal to the State Government, be final.

(3) If the officer decides that such person is a specified widow or, as the case may be, a specified disabled person, he shall issue a certificate to that effect in the prescribed form to such person.

Issue of
certificate
to specified
disabled
person and
specified
widow.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), if at any time, on receipt of an application or otherwise, the State Government or the officer authorised by the State Government under sub-section (1) is satisfied after making such inquiry as may be thought fit and giving reasonable opportunity to be heard to the person concerned, that any person to whom a certificate given under sub-section (3) has ceased to be a specified widow, or as the case may be, a specified disabled person, the State Government or such officer may, by order in writing, direct that with effect from such date as may be specified in the order such person shall cease to be a specified widow, or, as the case may be, a specified disabled person, and thereupon any certificate granted to such person under sub-section (3) shall stand revoked and such person shall be bound to surrender the same to the State Government."

6. In section 19 of the principal Act, in the proviso to sub-sections (1) and (2), for the words "Provided that" the words "Provided further that" shall be substituted and before the said proviso, the following proviso, shall be inserted, Amendment of section 19 of Guj. XXXV of 1962.

namely :—
 "Provided that if the person who has paid tax under the provisions of section 12 is a specified widow or a specified disabled person, such widow or disabled person shall be entitled to recover the full amount paid by her, or as the case may be, him, from the person in occupation of the land, building or tenement, as the case may be, in respect of which the tax has been so paid."

7. In section 20 of the principal Act, to sub-section (1), the following proviso shall be added, namely :— Amendment of section 20 of Guj. XXXV of 1962.

"Provided that where such person is a specified widow or a specified disabled person, he or she, as the case may be, shall be entitled to recover from the tenant not more than the full amount of such difference."

8. After section 23 of the principal Act, the following new section shall be inserted, namely :— Insertion of new section 23A in Guj. XXXV of 1962.

"23-A. Whenever from any cause the payment of the whole land revenue payable to Government in respect of any land or in respect of lands assessed for agriculture in any area is suspended, the collection of surcharge leviable under section 5, shall in respect of such land, or, as the case may be, in respect of all lands described in section 5 which are situated in such area, be suspended for the period for which the payment of land revenue is suspended." Suspension of collection of surcharge under section 5 in certain circumstances.

9. In section 28 of the principal Act, in sub-section (2), after clause (b), the following clause shall be inserted, namely :— Amendment of section 28 of Guj. XXXV of 1962.

"(bb) the form of application and the form of certificate under section 15-A;"

Removal of
doubt.

10. For the removal of doubt, it is hereby declared that nothing in this Act shall affect the recovery of the arrears of tax levied under section 12 of the principal Act on any land or building owned by a specified widow or a specified disabled person due for any period prior to the date of the coming into force of this Act (hereinafter referred to as "the said date") and any amount which any person is entitled to recover under the provisions of section 19 or 20 of the principal Act, which may be outstanding for any such period, on the date immediately preceding the said date shall be recoverable after the said date, as if this Act had not come into force.



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Separate paging is given to this Part in order that it may
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PART VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 28th September, 1974.

No. 19701/B.—The following President's Act assented on the 27th September 1974, is published for general information :

THE GUJARAT EDUCATION CESS (VALIDATION) ACT, 1974.

(Act No. 11 of 1974)

Enacted by the President in the Twenty-fifth Year of the Republic of India.

AN ACT

to validate the collection and recovery of tax on land and buildings under the Gujarat Education Cess Act, 1962.

In exercise of the powers conferred by section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1974, the President is pleased to enact as follows :—

1. This Act may be called the Gujarat Education Cess (Validation) Act, 1974. Short title.

Validation of collection and recovery of education cess by officers who were not Collectors.

2. (1) Notwithstanding anything contained in any judgment, decree or order of any court, no collection or recovery of tax made or purporting to have been made under section 15 of the Gujarat Education Cess Act, 1962 (hereinafter referred to as the said Act) or of penalty made or purporting to have been made under section 16 of the said Act and no proceedings taken for such collection or recovery and no other action taken or thing done in the course of such proceedings, by an officer, not being the Collector or an officer referred to in clause (iii) of section 2 of the said Act, in the exercise or performance, or purported exercise or performance, of the powers and functions of the Collector under the said Act, before the commencement of this Act, shall be deemed to be, or to have ever been, invalid or without jurisdiction, merely on the ground that the said officer was not the Collector as defined in clause (iii) of section 2 of the said Act and that the collection or recovery of tax or penalty made, the proceedings or action taken or the thing done as aforesaid by such officer was without jurisdiction, and accordingly,—

(a) the validity of any such collection, recovery, proceeding, action or thing made, taken or done or purported to have been made, taken or done shall not be called in question in any court merely on any of the grounds aforesaid ;

(b) no suit or other proceeding shall be maintained or continued in any court against the State Government or any officer or authority whatsoever for the refund of any such tax or penalty so collected or recovered ; and

(c) no court shall enforce a decree or order directing the refund of any such tax or penalty.

(2) For the removal of doubts, it is hereby declared that nothing contained in sub-section (1) shall be construed as preventing any person from claiming refund of any amount paid by him in excess of the amount due from him as tax on land and buildings under section 15 of the said Act or as penalty under section 16 thereof.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secretary to the Government of India.

REASONS FOR THE ENACTMENT

The Gujarat High Court in *Yatimkhana-E-Islamiah Vs. State of Gujarat* (Special Civil Application No. 733 of 1968) has held that the collection of tax on land and buildings as education cess made by certain officers acting as Collectors in the areas covered by Dhoraji Municipality under the proviso to subsection (1) of section 15 of the Gujarat Education Cess Act, 1962, is invalid on the ground that the said officers were not appointed by the State Government as Collectors under clause (iii) of section 2 of the said Act. It is, therefore, necessary to validate the collection of the education cess declared to be invalid by the High Court. The present measure is being enacted to give effect to this object.

2. The Consultative Committee constituted under section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1974 (11 of 1974) has been consulted before enacting this measure.

H. N. RAY,
Secretary to the Government of India,
Ministry of Finance.

By order and in the name of the Governor of Gujarat,

N. C. BUCH,
Joint Secretary to Government.



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PART IV

Acts of Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the Governor on the 5th March, 1976 is hereby published for general information.

S. L. TALATI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 7 OF 1976.

(First published after having received the assent of the Governor in the "Gujarat Government Gazette" on the 12th March, 1976).

An Act to re-enact the Gujarat Education Cess (Validation) Act, 1974
 (President's Act No. 11 of 1974).

It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Education Cess (Validation) Act, 1976. Short title

2. (1) Notwithstanding anything contained in any judgment, decree or order of any court, no collection or recovery of tax made or purporting to have been made under section 15 of the Gujarat Education Cess Act, 1962 (hereinafter referred to as "the said Act") or of penalty made or purporting to have been made under section 16 of the said Act and no proceedings taken for such collection or recovery and no other action taken or thing done in the course of such proceedings, by an officer, not being the Collector or an officer referred to in

Validation of collection and recovery of education cess by officers who were not Collectors.

Guj.
 XXX.
 of
 1962.

clause (iii) of section 2 of the said Act, in the exercise or performance, or purported exercise or performance, of the powers and functions of the Collector under the said Act, before the commencement of this Act, shall be deemed to be, or to have ever been, invalid or without jurisdiction, merely on the ground that the said officer was not the Collector as defined in clause (iii) of section 2 of the said Act and that the collection or recovery of tax or penalty made, the proceedings or action taken or the thing done as aforesaid by such officer was without jurisdiction, and accordingly,—

(a) the validity of any such collection, recovery, proceeding, action or thing made, taken or done or purported to have been made, taken or done shall not be called in question in any court merely on any of the grounds aforesaid;

(b) no suit or other proceeding shall be maintained or continued in any court against the State Government or any officer or authority whatsoever for the refund of any such tax or penalty so collected or recovered; and

(c) no court shall enforce a decree or order directing the refund of any such tax or penalty.

(2) For the removal of doubts, it is hereby declared that nothing contained in sub-section (1) shall be construed as preventing any person from claiming refund of any amount paid by him in excess of the amount due from him as tax on land and buildings under section 15 of the said Act or as penalty under section 16 thereof.

Repeal of
President's
Act No. 11
of 1974.

3. The Gujarat Education Cess (Validation) Act, 1974 is hereby repealed and the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply to such repeal as if that Act were an enactment.

Act
No. 11
of
1974.

Bom.
1 of
1904.

THE GUJARAT EDUCATION CESS (AMENDMENT) ACT, 1976.

[Act No. 9 of 1976]

Enacted by the President in the Twenty-seventh Year of the Republic of India.

AN ACT

further to amend the Gujarat Education Cess Act, 1962.

In exercise of the powers conferred by section 3 of the Gujarat State
44 of Legislature (Delegation of Powers) Act, 1976, the President is pleased to enact
1976. as follows:—

1. (1) This Act may be called the Gujarat Education Cess (Amendment) Act, 1976. Short title
and commen-
cement.

(2) It shall come into force on the 1st day of April, 1976.

Amendment
of section
12 of Guj.
XXXV of
1962.

2. In the Gujarat Education Cess Act, 1962, in section 12, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

Guj.
XXX-
V of
1962.

“(b) where a building or land is used for the purpose of trade, commerce or industry, or the carrying on of a profession or business,—

(i) if the annual letting value thereof exceeds three hundred rupees but does not exceed one thousand rupees, at the rate of seven percent. of the annual letting value;

(ii) if the annual letting value thereof exceeds one thousand rupees but does not exceed two thousand and five-hundred rupees, at the rate of eleven percent. of the annual letting value;

(iii) if the annual letting value thereof exceeds two thousand and five-hundred rupees but does not exceed four thousand and five-hundred rupees, at the rate of fourteen percent. of the annual letting value;

(iv) if the annual letting value thereof exceeds four thousand and five-hundred rupees, at the rate of sixteen percent. of the annual letting value.”.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secretary to the Government of India.

REASONS FOR THE ENACTMENT

The State Government in the Budget Session on 13-2-1976 and again on 26-2-1976 announced the taxation proposal to raise the rates of tax on lands and buildings used for the purpose of trade, commerce or industry or the carrying on of a profession or business, with a view to increasing income from education cess. The present measure seeks to give effect to the said proposal.

2. In view of the urgency of the matter, it is not practicable to consult the Consultative Committee of Parliament on Gujarat Legislation to be constituted under the proviso to sub-section (2) of section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1976. The measure is accordingly being enacted without reference to the Consultative Committee.

N. J. KAMATH,
Secy. to the Government of India,
Ministry of Works and Housing.

By order and in the name of the Governor of Gujarat.

S. L. TALATI,
Secretary to Government.



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Separate paging is given to this Part in order that it may
be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 30th July, 1977 is hereby published for general information.

N. C. BUCH,
Joint Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 14 OF 1977.

(First published after having received the assent of the Governor in the "*Gujarat Government Gazette*" on the 30th July, 1977).

An Act further to amend the Gujarat Education Cess Act, 1962.

It is hereby enacted in the Twenty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Education Cess (Amendment) Act, 1977.

Short title
and commen-
cement.

(2) This section shall come into force at once, section 2 shall come into force on the 1st day of August, 1977 and section 3 shall be deemed to have come into force on the 1st day of April, 1977.

Amendment
of section 5
of Guj.
XXXV of
1962.

2. In the Gujarat Education Cess Act, 1962 (hereinafter referred to as "the principal Act"), in section 5,—

(1) in sub-section (1), for the portion beginning with the words "there shall be levied" and ending with the words "payable to the State Government as land revenue", the following shall be substituted, namely :—

"there shall be levied a surcharge at the following rates, that is to say—
where the sum assessed on such land or otherwise payable to the State Government as land revenue is—

(i) not more than fifty rupees, twenty paise on every rupee of such sum,

(ii) more than fifty rupees, twenty five paise on every rupee of such sum ;"

(2) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) In computing the amount of surcharge payable under this section, the amount shall, if it is not a multiple of five paise, be increased to the next higher multiple of five paise."

Amendment
of section 12
of Guj.
XXXV of
1962.

3. In the principal Act, in section 12, in sub-section (1)—

(1) in clause (a),—

(a) in sub-clause (iii), the word "and" occurring at the end shall be deleted ;

(b) for sub-clause (iv), the following sub-clauses shall be substituted, namely :—

"(iv) if the annual letting value thereof exceeds four thousand and five hundred rupees but does not exceed six thousand rupees, at the rate of seven per cent. of the annual letting value ; and

(v) if the annual letting value thereof exceeds six thousand rupees, at the rate of ten per cent. of the annual letting value, and" ;

(2) in clause (b), for sub-clause (iv), the following sub-clauses shall be substituted, namely :—

"(iv) if the annual letting value thereof exceeds four thousand and five hundred rupees but does not exceed six thousand rupees, at the rate of sixteen per cent of the annual letting value ;

(v) if the annual letting value thereof exceeds six thousand rupees, at the rate of twenty per cent. of the annual letting value."



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Separate paging is given to this Part in order that it may
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PART IV

**Acts of the Gujarat Legislature and Ordinance promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 19th January, 1978 is hereby published for general information.

S. L. TALATI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 3 OF 1978.

(First published after having received the assent of the Governor in the "*Gujarat Government Gazette*" on the 24th January 1978).

An Act to validate the collection of tax under section 15, and the recovery of penalty under section 16, of the Gujarat Education Cess Act, 1962 in certain cases.

It is hereby enacted in the Twenty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Education Cess (Validation) Act, 1977.

2. In this Act, unless the context otherwise requires,—

(1) "Education Cess Act" means the Gujarat Education Cess Act, 1962;

Definitions.

(2) "section" means a section of the Education Cess Act;

(3) words and expressions used but not defined in this Act shall have the meanings assigned to them in the Education Cess Act.

Validation of collection of tax and penalty under the Education Cess Act in certain cases.

3. (1) Notwithstanding anything contained in any judgement, decree or order of any court, the collection of any tax under section 15 and the recovery of any penalty under section 16 made before the commencement of this Act, by the Collector in any urban area, in pursuance of a direction issued to him by the State Government under the proviso to clause (b) of sub-section (1) of section 15, shall, for all purposes, be deemed to be, and to have always been, validly made by the Collector as if, at all material times when such collection or recovery was made, clause (b) of sub-section (2) of section 15 had provided that where a direction under the proviso to clause (b) of sub-section (1) of section 15 has been issued, the collection of the tax (including any penalty) shall be made in such manner as the Collector may, having regard, as far as possible, to the provisions relating to the assessment and collection of property tax in the relevant local authority law, consider reasonably proper and appropriate in the circumstances of the case; and accordingly—

(a) the validity of the collection of such tax (including any penalty) or of any proceeding or action taken or thing done, or purported to have been taken or done, for the purpose of such collection, before the commencement of this Act, shall not be called in question merely on the ground—

(i) that no valid or effective rules were made or prescribed for the purpose of collection of such tax, or

(ii) that the Collector had collected the tax or penalty in such manner as he deemed reasonably proper or appropriate, or in accordance with the provisions of, or the principles underlying the provisions of, the relevant local authority law relating to the assessment or collection of property tax;

(b) no suit or other proceeding shall be maintained or continued in any court against the State Government or any officer or authority whatsoever for the refund of tax or penalty the collection or recovery of which is validated by this Act; and

(c) no court shall enforce any decree or order directing the refund of any such tax or penalty.

(2) For the removal of doubts, it is hereby declared that nothing contained in sub-section (1) shall be construed as preventing any person from claiming the refund of any amount paid by him in excess of the amount due from him as tax on lands or buildings under section 15 or as penalty under section 16.

Guj.
Ord.
No. 9
of
1977.
Bom. I
of
1904.

4. The Gujarat Education Cess (Validation) Ordinance, 1977 is hereby Repeal. repealed and the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply to such repeal as if that Ordinance were an enactment.



The Gujarat Government Gazette
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Separate paging is given to this Part in order that it may be filed as a separate
 Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
 Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the
 Governor on the 1st September, 1980 is hereby published for general information.

N. B. PATEL,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 15 OF 1980.

(First published after having received the assent of the Governor in the "Gujarat
 Government Gazette" on the 3rd September, 1980.)

An Act further to amend the Gujarat Education Cess Act, 1962.

It is hereby enacted in the Thirty-first Year of the Republic of India as follows:— Short title.

1. This Act may be called the Gujarat Education Cess (Amendment) Act,
 1980.

2. In the Gujarat Education Cess Act, 1962, in section 19,—

(1) for sub-section (1), the following shall be substituted, namely:—

“(1) If any person from whom under the provisions of section 12, the tax
 is leviable pays the tax in respect of any land or building, he shall, if he be
 not himself in occupation thereof during the period for which, he has paid the

Amendment
 of section 19
 of Gu J.
 XXXV of
 1962.

tax, be entitled to recover from the person, if any, in actual occupation of such land or building for such period,—

(a) an amount not exceeding half the amount of the tax, if such land or building is used for the public charitable purposes by a public trust registered under the Bombay Public Trusts Act, 1950, or for residential purposes, ^{Bom.} XXXIX of 1950.

(b) full amount of the tax, if such land or building is used for the purposes of trade, commerce or industry or carrying on of profession or business or for the purposes other than those specified in clause (a).";

(2) in sub-section (2), for the words "amounts not exceeding half the amounts paid" the words, brackets and figure "amounts recoverable under the provisions of sub-section (1)" shall be substituted.



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The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate
Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the
Governor on the 31st March, 2006 is hereby published for general information.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 10 OF 2006.

(First published, after having received the assent of the Governor in the "*Gujarat
Government Gazette*", on the 31st March, 2006).

AN ACT

further to amend the Gujarat Education Cess Act, 1962.

It is hereby enacted in the Fifty-seventh Year of the Republic of
India, as follows :-

1. (1) This Act may be called the Gujarat Education Cess
(Amendment) Act, 2006.

Short title and
commencement.

(2) It shall be deemed to have come into force with effect from
1st April, 2001.

Amendment of
section 2 of Guj.
XXXV of 1962.

2. In the Gujarat Education Cess Act, 1962 (hereinafter referred to as "the principal Act"), in section 2, -

(1) for clause (ii), the following clause shall be substituted, namely :-

"(ii) "City" means city as defined in the Bombay Provincial Municipal Corporations Act, 1949;" Bom. LIX of 1949.

(2) for clause (iv), the following clause shall be substituted, namely:--

"(iv) " education cess" means, -

(i) surcharge levied under section 5 or 7; or

(ii) tax on lands and buildings levied under section 12; or

(iii) surcharge on lands and buildings levied under section 24A;"

(3) for clause (vi), the following clause shall be substituted, namely :-

"(vi) "local authority" means a municipal corporation, municipality, nagar panchayat, notified area committee, village panchayat or other body constituted under the relevant local authority law;"

(4) for clause (viii), the following clause shall be substituted, namely :-

"(viii) "property tax" means, -

(i) in a city, where property tax is levied under section 129 of the Bombay Provincial Municipal Corporations Act, 1949, general tax, and where property tax is levied under section 141B of that Act, property tax, and

Bom. LIX of 1949.

(ii) in other urban areas a tax or rate on buildings or lands or a tax or rate in the form of such tax or rate on buildings and lands levied under the relevant local authority law;"

(5) for clause (ix), the following clause shall be substituted, namely :-

"(ix) " relevant code" means the Bombay Land Revenue Code, 1879; "

Bom. V of 1879.

(6) for clause (x), the following clause shall be substituted, namely :-

"(x) relevant local authority law" means -

- Bom.LIX of 1949. (i) in relation to a city, the Bombay Provincial Municipal Corporations Act, 1949;
- Guj. 34 of 1964. (ii) in relation to a municipality and notified area, the Gujarat Municipalities Act, 1963;
- Guj. 18 of 1993. (iii) in relation to a village panchayat, the Gujarat Panchayats Act, 1993;
- 11 of 1924. (iv) in relation to a cantonment, the Cantonments Act, 1924;"

(7) for clause (xi), the following clause shall be substituted, namely:-

"(xi) " surcharge" means surcharge levied under section 5 or 7 or under Chapter IVA;"

(8) for clause (xiv), the following clause shall be substituted, namely:-

"(xiv) "urban area" means an area which is for the time being included in the limits of a city, transitional area, small urban area, notified area, or cantonment under the relevant local authority law and the population of which is not less than fifteen thousand;"

3. In the principal Act, in section 3, in clause (b), the following shall be added at the end, namely :-

Amendment of section 3 of Guj. XXXV of 1962.

"levied on the basis of annual letting value or a surcharge on lands and buildings in a city levied on the basis of property tax".

4. In the principal Act, in section 5, sub-section (1A) shall be deleted.

Amendment of section 5 of Guj. XXXV of 1962.

5. In the principal Act, for section 11, the following section shall be substituted, namely:-

Substitution of section 11 of Guj. XXXV of 1962.

Rounding up of amount of surcharge.

"11. In computing the amount of surcharge payable under this Chapter, any amount less than fifty paise shall be ignored and any amount which is fifty paise or more shall be increased to one rupee."

Amendment of section 12 of Guj.XXXV of 1962.

6. In the principal Act, in section 12, -
- (1) in sub-section (1), for the words "a tax on lands and buildings situated in an urban area at the following rates, that is to say", the following shall be substituted, namely :-

"a tax on lands and buildings situated in an urban area where tax on lands and buildings is levied and collected on the basis of annual letting value, at the following rates that is to say";

- (2) for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) in computing the amount of tax payable under this section, any amount less than fifty paise shall be ignored and any amount which is fifty paise or more shall be increased to one rupee."

Amendment of section 14 of Guj.XXXV of 1962.

7. In the principal Act, in section 14, in sub-section (1), in the proviso, for the words "in the city of Ahmedabad", the words "in an urban area" shall be substituted.

Amendment of section 23 of Guj.XXXV of 1962.

8. In the principal Act, in section 23, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) Where any building assessed to tax is situated in a city and if such building or any portion thereof is demolished or removed otherwise than by an order of the Municipal Commissioner and notice in respect of such demolition or removal has been given to the Commissioner under the Bombay Provincial Municipal Corporations Act, 1949, the municipal corporation of the city shall remit or refund such portion of the tax in such manner and subject to such conditions as may be prescribed."

Bom. LIX of 1949.

Insertion of new Chapter IVA in Guj. XXXV of 1962.

9. In the principal Act, after Chapter IV, the following Chapter shall be inserted, namely :-

"CHAPTER IVA SURCHARGE ON LANDS AND BUILDINGS

Levy of surcharge.

- 24A. (1) In a city where property tax is levied and collected on the basis of carpet area under section 141B of the Bombay Provincial Municipal Corporations Act, 1949, there shall, subject to the provisions of this Act, be levied and collected with effect from the 1st day of April, 2001, a surcharge on lands and buildings in such city at the following rates, namely :-

Bom. LIX of 1949.

- (a) Where a building or land is used for residential purpose or any purpose other than trade, commerce or industry or the carrying on of a profession or business -
- (i) if the property tax exceeds two hundred rupees but does not exceed five hundred rupees, at the rate of five per cent. of the property tax;
 - (ii) if the property tax exceeds five hundred rupees but does not exceed three thousand rupees, at the rate of ten per cent. of the property tax;
 - (iii) if the property tax exceeds three thousand rupees, at the rate of fifteen per cent. of the property tax; and
- (b) where a building or land is used for the purpose of trade, commerce or industry or the carrying on of a profession or business,-
- (i) if the property tax exceeds two hundred rupees but does not exceed five hundred rupees, at the rate of ten per cent. of the property tax;
 - (ii) if the property tax exceeds five hundred rupees but does not exceed three thousand rupees, at the rate of twenty per cent. of the property tax;
 - (iii) If the property tax exceeds three thousand rupees, at the rate of thirty per cent. of the property tax:

Provided that on any such land or building owned by a specified widow or a specified disabled person, the surcharge shall be levied and collected at half of such rate:

Provided further that no surcharge shall be levied on such land or building if it is actually occupied by such widow or, as the case may be, disabled person, or if it is unlet.

(2) Where any land, building, tenement or a part of a building is separately assessed to property tax but is simultaneously used for two or more purposes mentioned in sub-section (1), the surcharge under this section shall be levied at the highest rate applicable in relation to any of the purposes for which the land, building, tenement or a part of a building is used.

(3) In computing the amount of surcharge payable under this section, any amount less than fifty paise shall be ignored and any amount which is fifty paise or more shall be increased to one rupee.

Authority
competent to
collect
surcharge.

24B. (1) The surcharge (including any penalty) shall be collected by the Municipal Corporation of the city in the same manner in which the property tax is collected in the city under the provisions of the Bombay Provincial Municipal Corporations Act, 1949. **Bom. LIX of 1949.**

(2) The collection of surcharge and recovery of penalty on behalf of the Municipal Corporation of the city shall be made by the appropriate authority appointed to collect the property tax on behalf of the Corporation under the Bombay Provincial Municipal Corporations Act, 1949. **Bom. LIX of 1949.**

(3) The Municipal Corporation of the city shall in respect of the cost of collection of the surcharge be entitled to such rebate as may be prescribed.

Application of
certain sections
to levy of
surcharge.

24C. The provisions of sections 13, 14, 15A, 16, 17, 18, 19, 21, 23 and 24 shall apply in relation to surcharge levied under section 24A subject to modifications specified in the Schedule."

Amendment
of section 25
of Guj. XXXV
of 1962.

10. In the principal Act, in section 25,-

(1) in sub-section (1),-

(a) for the words and figures "section 195 of the Gujarat Panchayats Act, 1961", the words and figures "section 219 of the Gujarat Panchayats Act, 1993 " shall be substituted;

**Guj. VI of 1962.
Guj. 18 of 1993.**

(b) for the words "surcharges levied under this Act", the words and figures "surcharges levied under sections 5 and 7" shall be substituted;

(2) in sub-section (2), for the words "surcharges levied under this Act", the words and figures "surcharges levied under sections 5 and 7" shall be substituted.

Amendment of
section 28 of Guj.
XXXV of 1962.

11. In the principal Act, in section 28, in sub-section (2),-

(a) in clause(c), for the word "tax", the words, figures and letter "tax levied under section 12 or, as the case may be, surcharge levied under section 24A" shall be substituted;

(b) after clause (c), the following clause shall be inserted, namely:-

"(cc) the rebate which the municipal corporation shall be entitled under sub-section(3) of section 24B;"

12. In the principal Act, after section 28, the following Schedule shall be added, namely :-

Insertion of
Schedule in
Guj. XXXV
of 1962.

"SCHEDULE
(See section 24C)

1. In section 13, for the words and figures "tax under section 12", occurring at two places, the words, figures and letter "surcharge levied under section 24A" shall be substituted.

2. In section 14, for the word "tax" occurring at three places, the word "surcharge" shall be substituted.

3. In section 16,-

(1) in sub-section (1),-

(a) for the word "tax" wherever it occurs, the word "surcharge" shall be substituted;

(b) for the words and figures "of section 15", the words, figures and letter "of section 24B" shall be substituted;

(2) in sub-section (2), for the words and figures "section 15 for the collection of tax", the words, figures and letter "section 24B for the collection of surcharge" shall be substituted.

4. In section 17, for the word "tax" wherever it occurs, the word "surcharge" shall be substituted.

5. In section 18, for the portion beginning with the words "in respect of which the tax is due" and ending with the words "the annual letting value thereof", the following shall be substituted, namely:-

"in respect of which the surcharge is due, such portion thereof as bears to the total amount of the surcharge due, the same ratio which the carpet area of the part of the land or building occupied by the occupier bears to the aggregate carpet area of the land or building".

6. In section 19,-

(1) in sub-section (1), -

(a) for the word and figures "section 12", the word, figures and letter "section 24A" shall be substituted;

(b) for the word "tax" wherever it occurs, the word "surcharge" shall be substituted;

- (2) in sub-section (2),-
- (a) for the word "tax" wherever it occurs, the word "surcharge" shall be substituted;
 - (b) for the words "pro-rata to the amount of rents for which such tenements are let", the words "pro-rata to the carpet area of such tenements" shall be substituted;
 - (c) in the first proviso, for the word and figures "section 12", the word, figures and letter "section 24A" shall be substituted;
- (3) in sub-section (3), for the word "tax", the word "surcharge" shall be substituted.
7. In section 21, for the figures and word "19 or 20", the figures "19" shall be substituted.
8. In section 23, -
- (1) in sub-section (1), -
 - (a) for the words "assessed to tax", the words "assessed to surcharge" shall be substituted;
 - (b) for the words "portion of the tax", the words "portion of surcharge" shall be substituted;
 - (c) for the words "the relevant local authority law, then the local authority", the words and figures "The Bombay Provincial Municipal Corporations Act, 1949, then the Municipal Corporation of the city" shall be substituted;
 - (2) in sub-section (2), for the word "tax" occurring at two places, the word "surcharge" shall be substituted.
9. In section 24, in sub-section (1), for the word "tax" occurring at two places, the word "surcharge" shall be substituted."

Bom. LIX of 1949.



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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 30th March, 2007 is hereby published for general information.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 5 OF 2007.

(First published, after having received the assent of the Governor in the "*Gujarat Government Gazette*", on the 30th March, 2007).

AN ACT

further to amend the Gujarat Education Cess Act, 1962.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Education Cess (Amendment) Act, 2007.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 2 of Guj. XXXV of 1962.

2. In the Gujarat Education Cess Act, 1962 (hereinafter referred to as 'the principal Act'), in section 2, in clause (iv), in sub-clause (iii), the word, figures and letter "or 24D" shall be added at the end.

Amendment of section 3 of Guj. XXXV of 1962.

3. In the principal Act, in section 3, for clauses (a) and (b), the following clauses shall be substituted, namely :-

- "(a) a surcharge levied on lands under section 5 or 7;
- (b) a tax levied on lands and buildings under section 12;
- (c) a surcharge levied on lands and buildings under section 24A or 24D."

Amendment of section 23 of Guj. XXXV of 1962.

4. In the principal Act, in section 23, after sub-section (2), the following sub-section shall be inserted, namely :-

"(2A) Where any building assessed to tax is situated in the municipal borough area and if such building or any portion thereof is demolished or removed otherwise than by an order of the Chief Officer and notice in respect of such demolition or removal has been given to the Chief Officer under the Gujarat Municipalities Act, 1963, the municipality shall remit or refund such portion of tax in such manner and subject to such conditions as may be prescribed."

Guj. 34 of 1964.

Amendment of Chapter IV A of Guj. XXXV of 1962.

5. In the principal Act, in the Chapter IVA, in the heading, the words "IN THE CITY AREA" shall be added at the end.

Insertion of new Chapter IVB in Guj. XXXV of 1962.

6. After Chapter IVA, the following Chapter shall be inserted, namely :-

"CHAPTER IVB

SURCHARGE ON LANDS AND BUILDINGS IN THE MUNICIPAL BOROUGH AREA

Levy of surcharge.

24D. (1) In a Municipal borough area where property tax is levied and collected on basis of carpet area under section 99A of the Gujarat Municipalities Act, 1963, there shall, subject to provisions of this Act, be levied and collected a surcharge on lands and buildings in such Municipal Borough area at the following rates, namely :-

Guj. 34 of 1964.

- (a) where a building or land is used for residential purpose or any purpose other than trade, commerce or industry or the carrying on of a profession or business --

- (i) if the property tax exceeds three hundred rupees but does not exceed one thousand rupees, at the rate of three per cent. of the property tax;
 - (ii) if the property tax exceeds one thousand rupees but does not exceed two thousand five hundred rupees, at the rate of five per cent. of the property tax;
 - (iii) if the property tax exceeds two thousand five hundred rupees, but does not exceed four thousand five hundred rupees, at the rate of six per cent. of the property tax;
 - (iv) if the property tax exceeds four thousand five hundred rupees, but does not exceed six thousand rupees, at the rate of seven per cent. of the property tax; and
 - (v) if the property tax exceeds six thousand rupees, at the rate of ten per cent. of the property tax.
- (b) where a building or land is used for the purpose of trade, commerce or industry or the carrying on of a profession or business -
- (i) if the property tax exceeds three hundred rupees but does not exceed one thousand rupees, at the rate of seven per cent. of the property tax;
 - (ii) if the property tax exceeds one thousand rupees but does not exceed two thousand five hundred rupees, at the rate of eleven per cent. of the property tax;
 - (iii) if the property tax exceeds two thousand five hundred rupees, but does not exceed four thousand five hundred rupees, at the rate of fourteen per cent. of the property tax;
 - (iv) if the property tax exceeds four thousand five hundred rupees, but does not exceed six thousand rupees, at the rate of sixteen per cent. of the property tax; and
 - (v) if the property tax exceeds six thousand rupees, at the rate of twenty per cent. of the property tax.
- (2) Where any land, building, tenement or a part of a building is separately assessed to property tax but is simultaneously used for two or more purposes mentioned in sub-section (1), the surcharge under this section shall be levied at the highest rate applicable in relation to any of

the purposes for which the land, building, tenement or a part of a building is used.

(3) In computing the amount of surcharge payable under this section, any amount less than fifty paise shall be ignored and any amount which is fifty paise or more shall be increased to one rupee.

Authority competent to collect surcharge.

24E. (1) The surcharge (including any penalty) shall be collected by the Municipality in the same manner in which the tax on lands and buildings is collected under the provisions of the Gujarat Municipalities Act, 1963.

Guj. 34 of 1964.

(2) The collection of surcharge and recovery of penalty on behalf of the Municipality shall be made by the appropriate authority appointed to collect the tax on lands and buildings on behalf of the municipality under the Gujarat Municipalities Act, 1963.

Guj. 34 of 1964.

(3) The Municipality shall in respect of the cost of the collection of the surcharge be entitled to such rebate as may be prescribed.

Application of certain sections with modifications for levy of surcharge.

24F. The provisions of sections 13, 14, 16, 17, 18, 19, 21, 23 and 24 shall apply in relation to surcharge levied under section 24D subject to the modifications specified in the Schedule.”

Amendment of section 28 of Guj. XXXV of 1962.

7. In the principal Act, in section 28, in sub-section (2), -

- (a) in clause (c), after the word, figures and letter “section 24A”, the word, figures and letter “or 24D” shall be inserted;
- (b) after clause (cc), the following clause shall be inserted, namely :-

“(ccc) rebate which the municipality shall be entitled under sub-section (3) of section 24E;”.

Amendment of Schedule to Guj. XXXV of 1962.

8. In the Schedule, -

- (1) in the heading, after the word, figures and letter “section 24C”, the word, figures and letter “and 24F” shall be added;
- (2) in item at serial No. 1, after the word, figures and letter “section 24A”, the word, figures and letter “or 24D” shall be inserted;

- (3) in item at serial No. 3, after the word, figures and letter "section 24B" occurring at two places, the word, figures and letter "or 24E" shall be inserted;
- (4) in item at serial No. 6, after the word, figures and letter "section 24A" occurring at two places, the word, figures and letter "or 24D" shall be inserted;
- Guj. 34 of 1964. (5) In item at serial No. 8, after the words "the City", the words "or under the Gujarat Municipalities Act, 1963, then the Municipality" shall be inserted.