

By E-Mail

Directorate of Municipal Administration, Chennai-9

Roc.No. 45462/ R4/ 2009-2

Date: 05 . 11.09

Circular

Sub: Property Tax – Levy of Property Tax to the properties owned by the statutory Corporations under the control of Government of India in stead of service tax-instructions reiterated.

Ref: This office earlier Circular no. 60804/05/R-1, dated 14.10.05

The extract of prevailing provision in the Article 285 of Constitution of India as follows:-

“285 exemption of property of the Union from State

Taxation

- 1 the property of the Union shall save in so far as Parliament may by law otherwise provide, be exempt, from all taxes imposed by a State or by any authority within a State.
- 2 Nothing in Clause (1) shall, until Parliament by law, otherwise, provide, prevent any authority within a State from levying any Tax on any property of the Union to which such property was immediately before commencement of this constitution liable or treated as liable, so long as that the Tax continues to be levied in that State.


Following this, a Circular was already issued in this office letter no. 60804/05/R-1, dated 14.10.05 to all the Commissioners of Corporations and Municipalities to take action to assess the Property Tax to the properties owned by the Statutory Corporations like Bharat Sanchar Nigam Ltd., Bharat Heavy Electricals Ltd., Indian Air Lines etc. as they cannot claim the exemption on the ground that their properties are Central Government concerned.

The property owned by Union Government Company or a statutory Corporation, which has a Corporate personality of its own, cannot be said to be a property of the Government of India. Therefore it is liable to State or Municipal Taxation.

But, some of the instances have been brought to the notice of this office that when the statutory Corporations of the Union Government claim the service tax in lieu of property tax, the Executive authorities are not acting according to the above provisions .

Hence, all the Executive authorities are instructed once again that the above provision should be followed strictly for bringing into the property tax net of all the Statutory Corporations and the same provision should be informed to all the Statutory Corporations concerned, if the same are housed within the jurisdiction.

Further, they are also instructed that if any appeal have been received from the above Corporations, the issue should be disposed of by the Executive authorities itself and such instances should not be brought to the notice of this office in future till the above provision is in force.


For Director of Municipal Administration.

To

1. All the Commissioners of the Corporations and Municipalities.
2. All the Executive Officers of the Municipalities,
3. All the Regional Director of Municipal Administrations.

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Commissionerate of Municipal Administration, Chennai-5

CIRCULAR

Roc. No. 60804/2005/R1

Date : 14.10.2005.

Sub: Property tax – Municipalities and Municipal Corporations
– levy of property tax for Public Sector Company under
Government of India – instructions issued – Regarding.

During the monthly review meeting conducted with Regional Directors of Municipal Administration and Commissioners of Corporations (except Chennai) on 26.09.2005, it is informed that Bharat Sanchar Nigam Ltd, the telecom company of Government of India is not paying property tax on the ground that the Company belongs to Government of India.

Kind attention of all Executive Authorities are drawn to the notes on Article 285 of the **Constitution of India**, wherein it is stated that property owned by Union Government company or a statutory Corporation, which has a corporate personality of its own, cannot be said to be "property of the Government of India" and may, therefore, be liable to State or Municipal Taxation. (Ref: *IAAI v Municipal Court, AIR 1991 Del 302 paragraph 35*)

Hence, all the Commissioners of Municipalities and Corporations are instructed to take action to assess the property owned by statutory corporations like Bharat Sanchar Nigam Limited, Bharat Heavy Electricals Limited, Indian Airlines etc. for levy of property tax as they cannot claim exemption on the ground that their properties Central Government concerns.

Sd/- Ambuj Sharma,
Commissioner of Municipal Administration.

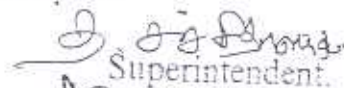
To

All Municipal Commissioners,

All Corporation Commissioners

Copy to : All Regional Directors of Municipal Administration.

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Superintendent.

30/10/05