

RAILWAYS (LOCAL AUTHORITIES' TAXATION), 1941

25 of 1941

[26th November, 1941]

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STATEMENT OF OBJECTS AND REASONS "S.135 of the Indian Railways Act, 1890, provided that no railway property could be subjected to a tax by a local body, unless the Governor-General in Council had by notification declared the railway administration concerned to be liable to pay the tax. The Governor-General in Council could at any time revoke or vary such a notification. Although the section is still in force, it can no longer be applied to State-owned railways because of the provisions of S.154 of the Government of India Act, 1935. This exempts State owned railway property from provincial or local taxation except in so far as legislation may otherwise provide, but all the taxes payable by virtue of notifications issued under the Indian railways Act before 1st April, 1937 continue to be payable until legislation otherwise provides. The position thus is that until such a law is enacted, no new tax can be imposed in respect of such property, nor can any existing notification in respect of such property be varied or revoked. A Bill to restore the position which existed prior to 1st April, 1937 was introduced in the Legislative Assembly in 1938 but a motion for its circulation was rejected. Fears were expressed that (he Bill would confer an unreasonable advantage on railways at the expense of Provincial Governments and local bodies, and objections were also based on the form which the Bill took. Actually, the

rejection of the Bill has resulted in railways benefiting at the expense of taxing authorities and representations have been made to the Government of India by Provincial Governments in favour of the enactment of legislation. Moreover, the Government of India have been advised that the proviso to S.154 of the Government of India Act, 1935, does not include property acquired by Government after the 31st March, 1937 and is confined to Crown property which was subject to taxation on that date, Local authorities have thus been deprived of revenue from taxation in respect of the property of several railway administrations recently purchased by Government and, in the absence of legislation, are likely to lose further revenue in the future. It is, therefore, desirable to restore the position that existed prior to the 1st April, 1937 by enabling the Central Government to issue, vary or revoke notifications regarding the liability to taxation by local bodies of all State-owned railways whether acquired before or after that date. The Bill in its substantial effect is similar to the Bill of 1938, but it has been modified in form to meet objections that were taken to that measure."-Gazette of India, 1941, Part V, page 130.

1. Short title and extent :-

(1) This Act may be called The Railways (Local Authorities Taxation) Act, 1941.

(2) It extends to the whole of India¹ (except the State of Jammu and Kashmir).

1. Substituted for the words "except Part B States" by the Part B States (Laws) Act, 1951 (3 of 1951), section 3 and Schedule (1-4-1951).

2. Definitions :-

In this Act,-

(a) "local authority" means a local authority as defined in General Clauses Act, 1897 . and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river;

(b) "railway administration" has the meaning assigned to the expression in clause (6) of S.3 of the Indian Railways Act, 1890.

3. Liability of railways to taxation by local authorities :-

(1) In respect of property vested in¹ [* * *] the Central

Government, being property of a railway, a railway administration shall be liable to pay any tax in aid of the funds of any local authority, if the Central Government, by notification in the official Gazette, declares it to be so liable.

(2) While a notification under sub-section (1) is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or in lieu thereof such sum, if any, as a person appointed in this behalf by the Central Government may, having regard to the services rendered to the railway and all the relevant circumstances of the case, from time to time determine to be fair and reasonable. The person so appointed shall be a person who has been a Judge of a High Court or a District Judge.

1. The words "His Majesty" for the purposes of 'were omitted by A.L.O., 1950(26-1-1950).

4. Modification of existing liability to taxation :-

The Central Government may, by notification in the official Gazette, revoke or vary any notification issued under clause (I) of S.135 of the Indian Railways Act, 1890; and where a notification is so revoked any liability arising out of the notification to pay any tax to any local authority shall cease, and where a notification is so varied the liability arising out of the notification shall be varied accordingly.

5. Saving :-

Nothing in this Act shall be construed as debarring any railway administration administering a railway from entering into a contract with any local authority for the supply of water or light or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.