

Non-Agricultural Assessment

Recovery of - from  
retrospective effect

GOVERNMENT OF MAHARASHTRA  
Revenue and Forests Department,  
Circular No. NAA 3172/262162 - L2  
Mantralaya, Bombay-400 032  
Dated : 26th July 1978.

Read : 1) Letter No. 1972/B.CTS.WS/1383-A, dated 24th August 1972 from the Collector, Dhule.  
2) Letter No. LNA 1386, dated 23rd July 1976 from the Commissioner, Bombay Division, Bombay.

C I R C U L A R

The Collector, Dhule has reported that in the Dhule Town standard rate of non-agricultural assessment was revised on 15th November 1949. This standard rate remained in force from time to time till it was revised and the revised rate of standard rate was published and brought into force with effect from 4th September 1970. Though the standard rates of non-agricultural assessment were revised in 1949 and again in 1970, no steps were taken to levy non-agricultural assessment at the revised rate in respect of certain non-agricultural plots in Dhule Town. The Collector, therefore, fixed non-agricultural assessment upto 1970 at a rate prevailing from 1949 and from 1970 onwards at the rate revised in 1970. Against this action of the Collector, some of the land holders filed civil suits and the matter is pending in Civil Courts. The Collector has, therefore, requested clarification on the following points :-

- 1) Whether non-agricultural assessment can be recovered with retrospective effect in respect of -
  - a) lands already converted into non-agricultural purposes and on which non-agricultural assessment is fixed and levied;
  - b) lands which are unauthorisedly converted to non-agricultural purposes and no non-agricultural assessment has been fixed and levied.
- 2) Whether prior notice to concerned persons is necessary.
- 3) Whether they should be heard and an order in writing be passed in each individual case.

2. So far as point No. 1(a) is concerned, even under the provisions of the Land Revenue Code, 1879 the legal position was that the assessments fixed at a survey settlement do not cease to be operative at the expiry of the period of guarantee unless and until they are revised. In the present case in the case of those non-agricultural plot holders whose guarantee periods have expired but the non-agricultural assessment was not levied under the rates revised in 1949, they will be liable to pay non-agricultural assessment at the rates at which they were paying before the expiry of the guarantee period. Although the standard rate of non-agricultural assessment was revised in the year 1949, since revised assessment was not levied from the date of revision, it would not be now open to the Collector to levy the revised assessment

of the year 1949 in the year 1970 with retrospective effect from the year 1949. Therefore, in such cases the correct way would be to revise the non-agricultural assessment in accordance with the standard rates fixed in 1970 with effect from the date of issue of demand notices and so far as the period prior to the demand notices, is concerned, the non-agricultural assessment could be recovered at the rates which the occupants were paying before the expiry of the guarantee period.

3. As regards point No. 1(b), in such cases both under the provisions of section 66 read with 43 of the Bombay Land Revenue Code, 1879 and section 45 read with 115 of the Maharashtra Land Revenue Code, 1966 it will be open for the Government to levy and recover non-agricultural assessment with effect from the date on which the non-agricultural use commenced but with the difference that it would be in accordance with the standard rate fixed in 1949 for the period from the date of the non-agricultural use upto 1970 and thereafter at the new standard rate brought into force from 4.9.1970.

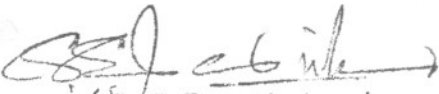
4. So far as point No. 2 is concerned, there is no specific provision of giving a notice for the purpose of revising the non-agricultural assessment to an individual land holder and only individual demand notices for payment of revised non-agricultural assessment according to the standard rate duly published would be sufficient.

5. As regards point No. 3, it is not necessary under the provisions of the Act as well as the rules to hear any party and to pass an order as such in writing ~~xx~~ in individual cases before revising the non-agricultural assessment.

6. The Collector, Dhule is, however, informed that in cases where civil suits have been filed by the parties, it is advisable to await the decision of the Court before taking any action in the said cases.

7. The Collectors are requested to bring the contents of this Circular to the notice of all concerned for information and necessary action.

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

  
(G.G. Pandirkar)

Under Secretary to Government,  
Revenue and Forests Department.