
GUJARAT EDUCATION CESS (VALIDATION) ACT, 1976**7 of 1976****[12.3.1976]**

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GUJARAT EDUCATION CESS (VALIDATION) ACT, 1976**7 of 1976****[12.3.1976]**

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. Short title :-

1. This Act may be called the Gujarat Education Cess (Validation) Act, 1976.
2. In view of the provisions contained in clause 2 of Art-357 of the Constitution of India, the aforesaid President's Act will cease to have effect on the expiration of a period of one year from the date of revocation of the President's Proclamation, dated the 9th February, 1974, issued under Art. 356 of the Constitution, i.e., from the 18th June, 1975.
3. The object of the present bill is to replace the aforesaid President's Act, before it ceases to have effect, by an Act of the State Legislature.

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

- (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 (Gujarat Act XXXV of 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 proceedings 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.

3. Repeal of Presidents Act No.11 of 1974 :-

The Gujarat Education Cess (Validation) Act, 1974 (Act No. 11 of 1974) is hereby repealed and the provisions of section 7 of the Bombay General Clauses Act, 1904 (Bom. 1 of 1904) shall apply to such repeal as if that Act were an enactment.