

**THE PUDUCHERRY MUNICIPAL DECREE (LEVY AND VALIDATION OF
TAXES, DUTIES, CESSSES AND FEES) ACT, 1973.**

(No. 1 of 1973)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement.
 2. Definitions.
 3. Levy of taxes, etc., for the purpose of Municipal Decree.
 4. Validation of certain taxes, etc., levied, assessed or collected in Municipal Communes.
 5. Repeal and saving.
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TAXES, DUTIES, CESSSES AND FEES) ACT, 1973.**

(No. 1 of 1973)

21st March 1973.

AN ACT

to provide for the levy, assessment and collection of taxes, duties, cusses and fees for the purposes of the Municipal Decree dated the 12th March, 1880 and for the validation of taxes, duties, cusses and fees levied thereunder.

BE it enacted by the Legislative Assembly of Puducherry in the Twenty-fourth year of the Republic of India as follows: --

1. Short title, extent and commencement.- (1) This Act may be called the Puducherry Municipal Decree (Levy and Validation of Taxes, Duties, Cesses and Fees) Act, 1973.

(2) It extends to the whole of the Union territory of Puducherry.

(3) It shall be deemed to have come into force on the 18th day of January, 1973.

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

(a) 'Government' means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution;

(b) 'municipal commune' means a commune mentioned in article 1 of the Municipal Decree;

(c) 'municipal council' means the body constituted to manage the municipal affairs in a municipal commune;

(d) "Municipal Decree" means the Decree of French Government dated the 12th March, 1880, as amended from time to time.

3. Levy of taxes, etc., for the purpose of Municipal Decree.- Any tax, duty, cess or fee which the Legislature of the Union territory of Puducherry has power to levy may, subject to any general or special order which the Government may make in this behalf, also be levied, assessed and collected for the purposes of the Municipal Decree in accordance with the provisions contained in or made under the Municipal Decree and notwithstanding the provisions of section 7 of the Puducherry (Administration) Act, 1962 (Central Act 49 of 1962), or of any provision of any Act passed by the Legislature of the Union territory of Puducherry, the Municipal Decree shall have, and shall be deemed to have had on and from the 16th day of August, 1962, effect accordingly.

4. Validation of certain taxes, etc., levied, assessed or collected in municipal communes.- Notwithstanding any judgment, decree or order of any court, all taxes, duties, cesses and fees (being taxes, duties, cesses and fees which the Legislature of the Union territory of Puducherry has power to levy) levied, assessed or collected or purporting to have been levied, assessed or collected under the Municipal Decree before the commencement of this Act shall be deemed to have been validly levied,

assessed or collected in accordance with law as if the provisions of section 3 had been in force at all material times when any such tax, duty, cess or fee was levied, assessed or collected; and accordingly,-

(a) all acts, proceedings or things done or taken by the municipal councils or by any other authority, officer or person in connection with the levy, assessment or collection of any such tax, duty, cess, or fee shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any court against the municipal councils or any other authority, officer or person whatsoever for the refund of any tax, duty, cess or fee so collected; and

(c) no court shall enforce any decree or order directing the refund of any tax, duty, cess or fee so collected:

Provided that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this Act had not been passed.

5. Repeal and saving. - (1) The Puducherry Municipal Decree (Levy and Validation of Taxes, Duties, Cesses and Fees) Ordinance, 1973, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act was in force on the date on which such thing was done or action taken.

STATEMENT OF OBJECTS AND REASONS FOR ACT 1 OF 1973

Under the Municipal Decree dated 12-3-1880 which continues to be in force by virtue of section 4 of the Puducherry (Administration) Act, 1962 (Act No. 49 of 1962), the municipalities in the Union territory of Puducherry have been levying various taxes, duties, cesses and fees in exercise of the powers conferred on them under article 52 read with article 46 and 47 of the said Municipal Decree.

The High Court at Madras in Writ Petition No. 244 of 1971 (P) held that the Mahe municipal council had no power to provide for the levy of impugned tax and even otherwise, after the Puducherry General Sales Tax Act, 1967 no such powers are available to the municipal council as that subject has been legislated upon by a competent legislature and the municipal council cannot, therefore, invoke the Municipal Decree of 12-3-1880 and impose such a levy. Basically, an identical view was expressed by the High Court in Writ Petition No. 3433 of 1970 (P).

For validating the taxes etc., which have been levied under the Municipal Decree from 16-8-1962 upto now, it is proposed to over-ride section 7 of the Puducherry (Administration) Act, 1962 and to provide expressly that any taxes, duties, cesses and fees which the legislature of the Union territory of Puducherry may levy, may also be levied for the purposes of the Municipal Decree, in accordance with the provisions of the Municipal Decree and to validate the levy, assessment and collection of such taxes, duties, cesses and fees from 16-8-1962 upto now.

This Bill seeks to achieve the above objects.
