

Area Linked System as Introduced in Gujarat

- Following amendments were introduced in the Bombay Provincial Municipal Corporations Act, 1949 by the Bombay Municipal Corporation (Gujarat Amendment) Act, 1999 :

“141B. Property tax at what rate leviable. – (1) For the purposes of sub-section (1) of section 127*, *property tax shall*, subject to such exceptions, limitations and conditions hereinafter provided, *be levied annually on buildings and lands in the City at such rate per square metre of the carpet area of buildings and of the area of lands* (hereinafter referred to as “the rate of tax”) as the Corporation may determine.

(2) For the purpose of levy of tax on buildings in the City under sub-section (1), -

- (a) the buildings may be classified into residential buildings and buildings other than residential, and
- (b) the Corporation may determine one rate of tax for residential buildings and the other rate of tax for buildings other than residential :

Provided that it shall be lawful for the Corporation to determine for residential buildings, the carpet area of which does not exceed forty square metres, such rate of tax as is lower than the rate of tax determined, for residential buildings generally under this sub-section.

(3) The *rate of tax* determined under sub-section (1) read with sub-section (2) shall not -

- (a) in respect of residential buildings, be less than ten rupees per square metre of carpet area and more than forty rupees per square metre of carpet area, and
- (b) in respect of buildings other than residential, be not less than twenty rupees per square metre of carpet area and more than eighty rupees per square metre of the carpet area.

(4) The Corporation may, subject to rules, increase or decrease or neither increase nor decrease the rate of tax determined under sub-section (1) read with sub-sections (2) and (3), -

- (a) in the case of *residential buildings*, having regard to the following factors, namely :-
 - (i) the market value of the land in the area of the City in which the buildings are situate,
 - (ii) the length of the time of the existence of the buildings,
 - (iii) the type of the buildings, and
 - (iv) whether the buildings are occupied by owners or tenants,

* Section 127 relates to “Notice to be given to Commissioner of intention to layout lands or buildings and for private streets”.

- (b) in the case of *buildings other than residential*, having regard to the following factors, namely :-
- (i) the market value of the land in the area of the City in which the buildings are situate,
 - (ii) the length of the time of the existence of the buildings,
 - (iii) *the purpose for which the buildings are used*, and
 - (iv) whether the buildings are occupied by owners or tenants.

(5) In lieu of the property tax leviable under sub-section (1) read with sub-sections (2) and (3), there shall be levied annually on, -

- (a) residential huts, and
- (b) residential tenements in **chawl**, each such tenement having carpet area not exceeding twenty-five square metres,

such amount of tax as the Corporation may determine :

Provided that the amount so determined shall not be less than such amount as the State Government may, by notification in the *Official Gazette*, specify.

Explanation. – For the purpose of levy of tax under this section, where an addition is made to an existing buildings whereby the carpet area of that building is increased, such addition shall be treated as a separate building and the length of the time of its existence shall be computed from the year in which the addition is made.”

- It is noteworthy that unlike the Patna Model, the Gujarat Model relies only on one parameter for purposes of classification, namely, the “use classification”.

However, considering the Supreme Court’s views on the freedom given to the Executive in matters of classification, the system as proposed, may well meet the criteria of “classification”. The criteria regarding “delegation” with the specification of the upper and lower limits of the rate tax in the law itself as also of “reasonableness” thereof may also be judicially accepted. The Rules being framed, hopefully, would cover the “procedural” aspect also and as such this Model may pass the tests of judicial scrutiny.