M.R.O. 1—77,005—8-6-37.

(1) Number of pages 16

(2) Date of repair 14-2-40

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 1458 Press / Mis.

250-251.

Dated 25-10- 1872.

9/10

Not to be folded or roughly handled

No. 250. Read the following letter from the President of the Municipal Commission, Mangalore, to the Chief Secretary to Government, Fort St. George, dated Mangalore, 9th October 1872, No. 79:—

I have the honour to submit, for the decision of Government, a case in which the interests of the Municipality on the one side and those of private parties on the other are concerned.

2. The British India Steam Navigation Company, which is permanently established, once contended that it was not liable to the municipal tax here because the Company paid a similar tax at Madras, and the question having been submitted for the orders of the Government, a legal opinion (G. O., dated 1st February 1867, No. 114, Public Department) was given that the Company could not resist an assessment at this place, under the old Act X. of 1865, on the ground of being already assessed at Madras under Act IX. of 1865.

3. Now, the Agents of the same Company here, Messrs. Alstons and Co., who have hitherto paid the bill drawn against the principal Company, but served upon them as Agents here, bring forward another plea, under which they claim an exemption, and this is that the Company has no premises here of its own, and that its business is attended to by them as General Agents, a tax being separately exacted from them as such, and thus their plea is grounded, it seems, on Section 60 of Act III. of 1871, which provides that persons are chargeable under one designation only, though carrying on several kinds of business.

4. That Messrs. Alstons and Co. act here as General Agents, and at the same time carry on the business of the British India Steam Navigation Company, cannot be denied. But the Commissioners do not charge Messrs. Alstons and Co. for the Steam Agency, but the Company itself, the bill being delivered to them for payment on account of employers. This course seems reasonable, but the Commissioners are doubtful as to the proper course to be resorted to for ensuring realization of the demand, if the Agents refuse or withhold payment.

5. The only legal course seems to be the one provided by Section 62 of the Act, that is, of prosecuting the defaulter criminally. The Company, however, whose steamers anchor outside the bar, is not within the reach of the Commissioners for such a measure being adopted against it, and it is a matter of doubt whether the local Agents, Messrs. Alstons and Co., doing their business will be liable to prosecution in default of payment on account of their principals.

6. Under the above circumstances, I beg to request that the Government will be pleased to favour me with a decision, first, as to whether the Commissioners are right in charging the British India Steam Navigation Company (with a tax here as a Joint Stock Company); and, secondly, how the claim, if made, may be enforced when the original Company is not within the reach of the Commissioners, and the Agent or Agents refuse payment on the ground above set forth.

7. A form in which the bill for British India Steam Navigation Company is prepared is herewith forwarded in elucidation of the question put.

No. 251. ORDER THEREON, 25th October 1872, No. 1458.

The case submitted by the President of the Mangalore Municipality involves a legal question which the Government is not competent to settle.

2. In the event of the Commissioners resolving to assess and prosecute in default of payment, the Magistrate trying the case will have an opportunity of deciding the question at issue.

(True Extract.)

Acting Under Secy. to Govt.

To the President of the Municipal Commission, Mangalore.

Exd. J. Wright.

Municipal Commissioner's Office
Mangalore, 9th October 1872.

No. 79

From

H. S. Thomas Esqr.
President, Municipal Commission
Mangalore.

To

The Honorable R. S. Ellis. C.S.
Chief Secretary to Government
Fort St. George.

Sir

I have the honor to submit for the decision of Government a case in which the interests of the Municipality on the one side and those of private parties on the other are concerned.

The British India Steam Navigation Company, which is permanently established here, contended that it was not liable to the Municipal tax here, because the Company paid a similar tax at Madras and the question having been submitted for the orders of the Government, a legal opinion (G.O. dated 1st February, 1867. Pge 114. P.C.) was given that the Company could not resist an assessment at this place, under the old Act XI of 1865 on the ground of being

Govt. of {1872} Madras.

FINANCIAL.

To

THE PRESIDENT OF THE
MUNICIPAL COMMISSION,
Mangalore.

Dated October, 25th.

Recd. *Encl.*

G. O., 25th October 1872, *No.* 1458.

OCTOBER.
Nos. 250-251.

Declining to decide the question of the right of the Municipal Commissioners to assess the British India Steam Navigation Company as a Joint Stock Company.

already assessed at Madras under act IX of 1865.

Now the agents of the same Company, here, Messrs Alstons and Co. who have hitherto paid the Bill drawn against the principal Company, but served upon them as agents here, bring forward another plea, under which they claim an exemption and this is that the Company has no premises here of its own and that its business is attended to by them as general agents, a tax being separately exacted from them as such, and thus their plea is grounded, it seems, on Sec. 60 of Act III of 1871, which provides that persons are chargeable under one designation only — though carrying on several kinds of business.

That Messrs Alstons & Co. act here as general agents and at the same time carry on the business of the B. I. S. N. Company cannot be denied. But the Commissioners do not charge Messrs Alstons & Co. for the Steam Agency, but the Company itself, the bill

being delivered to them for payment on account of employers. This course seems reasonable, but the Commissioners are doubtful as to the proper course to be resorted to for ensuring realization of the demand, if the agents refuse or withhold payment.

The only legal course seems to be the one provided by Sec. 62 of the Act — that is, of prosecuting the defaulter criminally. The Company however whose steamers anchor outside the bar, is not within the reach of the Commissioners, for such a measure being adopted against it, and it is a matter of doubt, whether the local agents, Messrs Alstons & Co. during their business will be liable to prosecution, in default of payment on account of their principals.

Under the above circumstances, I beg to request that the Government will be pleased to favor me with a decision, 1st as to whether the Commissioners are right in charging the B. I. S. N. Company (with a tax here, as a Joint Stock Company) and 2ndly, how the claim, if made, may be enforced when the original Company is not within the

reach of the Commissioners and the agent or agents refuse payment on the ground above set forth.

A form in which the Bill for B. I. S. N. Company is prepared, is herewith forwarded in elucidation of the question put.

I have the honor to be
Sir,
Your Most Obt Servt.

M. Thomas.
President.

Form of Bill.

No

British India Steam Navigation Company — Dr.

Agents Messrs Adams & Co.

To The Municipal Commissioners of
Mangalore-

	Rs.	as	P
To amount of tax due by you under sec. 58 of Act III of 1871 for the half-year ending —			

station ..... }
date ..... }

M. Thomas.
President.

Financial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the President of the Municipal Commissioners, Mangalore, dated 9th October 1872, No. 79.

Order thereon of Octad 25th Octr 1872 No 1458.

The case submitted by the President of the Mangalore Municipality involves a legal question which the Government do not feel called upon to settle.

2. In the event of the Commissioners resolving to apeal and prosecute in default

Financial 1872.
Proceedings of Government.
From
The President
Municipality of Canara
Mangalore
To
The Chief Secretary
to Government
No 79 Dated Mangalore 9th October 1872.
Received 16th October 1872.
Consulting
Submitting for the Government decision the question whether the Commissioners are entitled to charge the British India Steam Navigation Company with the tax due as a Vessel touching at Mangalore; and
2nd) from the claim preferred by the aforesaid Company is not within the recent Police Commissioners

default of payment, the
Magistrate trying the
case will have an op-
portunity of deciding the
question at issue.

H

To
The Secretary of the Municipal
Commissioners, Mangalore

6 Dec 21.

356-140

Govt. of {1872} Madras.

Financial

To

The Presdt. Munl. Commrs.
Mangalore.

Dated Oct. 25
Recd. } 1872, No. 1458.

Nos. 250 - 257.

Declining to decide the question of the right of the Munl. Commrs. to assess the B. I. S. N. Co. as a joint-Stock Co.

C - 23 - 10
" 24 -