M.R.O. 1—19,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 520 Press ~~Mis.~~

116-117

Dated 17.4.1861 19~~-~~.

5/6

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 17th April 1861.

No. 116. Read the following Proceedings of Government in the Revenue Department, dated 13th April 1861, No. 827.

Communicating the Resolution of the Government of India passed on certain papers relative to the question of exempting certain Funds from liability to Income Tax on the ground of their being Charitable Funds. (Vide Proceedings Revenue Department, dated 13th April 1861, Nos. 211 and 212.)

No. 117. ORDER THEREON, 17th April 1861, No. 520.

Communicated to the Inspector General and to the Commissioner of Police.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. T. O'Connor.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following :—

Extract from the Proceedings of the Government of India in the Financial Department, dated 16th March 1861, *No.* 3,213.

Read the undermentioned papers relative to the question of exempting certain Funds from liability to Income Tax, on the ground of their being Charitable Funds :—

Extract from the Proceedings of Government, in the Military Department, No. 569, dated the 14th September 1860.

Letter to the Solicitor to Government, No. 9,593, dated 24th September 1860.

Ditto from ditto, No. 318, dated 6th October 1860, with copy of the Advocate General's Opinion.

Ditto to ditto, No. 10,436, dated 12th October 1860.

Ditto from ditto, No. 382, dated 18th October 1860, with copy of the Advocate General's Opinion.

Ditto to Accountants General to the Governments of India, Fort Saint George, and Bombay, and to the Accountants to the Governments of Bengal, the North Western Provinces, and the Punjab, dated 20th October 1860, numbered respectively 10,768 to 10,773.

Ditto from the Officiating Accountant to the Government of Bengal, No. 239, dated 2nd November 1860.

Ditto from the Officiating Accountant to the Government of the Punjab, No. 1,814, dated 7th November 1860.

Ditto from the Accountant General to the Government of Bombay, No. 2,176, dated 22nd November 1860.

Ditto from the Accountant to the Government of the North Western Provinces, No. 373, dated 23rd November 1860.

Ditto from the Accountant General to the Government of India, No. 1,489, dated 13th December 1860.

Ditto from the Accountant General to the Government of Fort Saint George, No. 2,057, dated 22nd December 1860, and its enclosure.

Read also the following papers containing certain similar questions for the decisions of this Government :—

Letter from the Secretary to the Bengal Civil Fund, dated 24th September 1860, Order thereon, No. 9,687, dated 26th September 1860.

Letter from Officiating Solicitor to Government, No. 340, dated 5th October 1860, with copy of the Advocate General's Opinion.

Financial Resolution, No. 10,543, dated 12th October 1860, case No. 11.

Read also the undermentioned papers regarding the Bengal Civil Service Annuity Fund :—

Letter from Sub-Treasurer, Fort William, No. 558, dated 6th November 1860, and enclosure.

Ditto to ditto, No. 11,297, dated 12th ditto, and Ordor thereon, No. 11,298.

Ditto from ditto, No. 574, dated 12th December 1860.

Ditto from Solicitor to Government, No. 500, dated 14th December 1860, and enclosure.

Ditto to ditto, No. 12,503, dated 28th ditto.

Ditto from the Accountant General to the Government of India, No. 1,694, dated 15th January 1861, and enclosures.

Ditto from Sub-Treasurer, Fort William, No. 36, dated 25th January 1861, and enclosures, and No. 37, dated 26th ditto, and enclosures.

Ditto from the Managers, Bengal Civil Service Annuity Fund, dated 31st January 1861.

RESOLUTION.—His Excellency the Governor General in Council observes that, in September last, the Military Department forwarded, for consideration and orders, an application from the Directors of the Bengal Military Fund for exemption of the Fund from the Income Tax.

2. The application was referred to the Advocate General for his opinion.

3. The Advocate General gave his opinion that the Act does not authorize any exemption from duties incidental to the Fund, and that if the Government desired on special grounds to afford relief to the Fund, such relief should either be given in some other form than that of a remission of the Tax, or if it take that form, the law, as it at present stands, should be altered by a new or amending Act.

4. On receipt of the foregoing opinion, the several Accountants were requested to submit a return of Funds of the same character as the Military, Civil, Uncovenanted Service Family Funds, &c., which are held upon their Books as Book Debts, or on account of which interest is paid by Government on Promissory Notes belonging to those Funds.

5. The Accountants' returns have now been received, and the following is a summary of them:—

Accountant General to the Government of India.

Book Debt.

Civil Service Annuity Fund.
Appropriated Fund of the Medical Retiring Fund.
Uncovenanted Service Family Pension Fund.

Treasury Notes.

Civil Fund Ordinary.
Medical Retiring Fund.
Bengal Military Fund.
Military Orphan Fund.

Promissory Notes.

Civil Fund under Rules of 1st January 1850.
The following are also treated as

Book Debts.

King of Oude's Charity Fund.
Loan from Nabob of Lucknow.
Ditto @ 5 per cent. from ditto.
Perpetual Loan from ditto.
Bhow Begum's Stipend Fund.
Loan from Rajah Kali Sunker Ghosal.
Unclaimed shares of Rohilla Donation.
Lord Clive's Fund.
Poplar Fund.

Administrator General's deposits, and undistributed Prize Monies, such as the Rangoon, Lucknow, and Delhi Prize Monies.

Accountant General at Madras.

Civil Service Annuity Fund.
Civil Fund, Charity Branch.
Military Fund.
Medical Fund.
Apothecaries' Fund.
Metropolitan Police Superannuation Pension Fund.
Mofussil Police Superannuation Pension Fund.
Madras Infirmary and Native Poor Asylum.

Accountant General at Bombay.

Ahmedabad Native Female School	Fund.
Anderson's Scholarship	Ditto.
Annuity of Futteh Colah Khan	Ditto.
Bell's Prize	Ditto.
Bombay Education Society	Ditto.
Civil Annuity	Ditto.
Cattle Pound	Ditto.
Carnac's Scholarship	Ditto.
Clare's Ditto	Ditto.

David Sassoon's Industrial and Reformatory Institution	Fund.
Dhoolia English School	Ditto.
District Benevolent Society	Ditto.
Elphinstone Professorship	Ditto.
Ditto Institution	Ditto.
Fanish's Scholarship	Ditto.
Guicowar's Ditto	Ditto.
Gunput Row Wittull's Prize	Ditto.
Hemabhoy Vuckut Chand's Medal	Ditto.
Indian Navy	Ditto.
Kattywar Educational	Ditto.
Ditto Infanticide	Ditto.
Cutch Ditto	
Matheboye Hormusjee's Charitable Dispensary at Coorla	Ditto.
McLemon's Scholarship and Prize	Ditto.
Medical	Ditto.
Military	Ditto.
Mosinbadanee School	Ditto.
Municipal	Ditto.
District Municipal	Ditto.
Obstetric Institution	Ditto.
Provident	Ditto.
Perry Testimonial	Ditto.
Police Superannuation	Ditto.
Rajah of Dhar Prize	Ditto.
Reid's Scholarship	Ditto.
Guzerat Provincial College	
Sett Muggonbhoy Currumchund's 5 Scholarships'	Ditto.
Soonder Jevajee's Prize	Ditto.
Sir Jamsetjee's Medical Book	Ditto.
Ditto Ditto Prize	Ditto.
Ditto Native Hospital and Dispensary	Ditto.
Ditto Parsee Benevolent Institution	Ditto.
Ditto Gold Medal	Ditto.
Uncovenanted Service Family Pension	Ditto.
West's Scholarship	Ditto.
Willoughby's Deccan Vernacular Society	Ditto.
Ditto Guzerat Ditto	Ditto.
Sir Jamsetjee's School of Arts and Industry	Ditto

Add—
Unclaimed Estates, Administrator General.
Surplus Interest Ditto.
Family of the late Munsaram of Warkhara.
Ditto Bhacela Poonjah Wagree.

Accountants in Bengal, the North Western Provinces, and the Punjab.

None.—The Punjab Accountant, however, has promised to send up a further return when he receives replies from the Judicial and Financial Commissioners and the Director of Public Instruction, whom he has asked what investments have been made in Government Promissory Notes of Local Funds at their disposal, or for purposes of endowment.

6. The Governor General in Council observes that all the Funds mentioned in the several returns are not of the same character, as the Civil, Military, and Uncovenanted Service Family Pension Funds. Those which are of the same character, are as follows :—

Accountant General to the Government of India.

Uncovenated Service Family Pension Fund.
Civil Fund Ordinary.
Bengal Military Fund.
Military Orphan Ditto.
Civil Fund under Rules of 1st January 1850.
Lord Clive's Fund.
Poplar Ditto.

Accountant General to the Government of Madras.

Civil Fund, Charity Branch.
Military Ditto.
Medical Ditto.
Apothecaries' Ditto.

Accountant General to the Government of Bombay.

Indian Navy Fund.
Medical Ditto.
Military Ditto.
Provident Ditto, and
Uncovenanted Service Family Pension Fund.

7. Of the abovementioned Funds, the Military Orphan Fund at Calcutta, and the Civil Fund, Charity Branch at Madras, are already exempted under special orders passed by this Government, while there are some other exempted Funds in Madras, such as the "Military Orphan Fund," "Mount Cantonment Soldiers and Widows' Fund," "Widows and Orphans' Fund," which are not mentioned in the list submitted by the Accountant General at Madras.

8. As regards the remaining Funds enumerated in the returns, the undermentioned one has also been exempted already under Section 133 of the Income Tax Act, namely :—

Accountant General to the Government of India.

KING OF OUDE'S CHARITY FUND.

9. These Funds are exempted on the ground that they come fairly within the denomination of "Charitable," which are exempted by the Act.

10. But Family Funds in general do not fall within that denomination, and there would be no justice in exempting a widow, who had a pension of perhaps 1,000 Rupees a year from a Fund, while another widow, who had a pension of 200 Rupees a year from a private source was compelled to pay Income Tax.

11. All persons, therefore, who receive incomes of over 200 Rupees a year, paid in India from such Funds, are liable to Income Tax.

12. The only question is as to the mode in which this Tax shall be levied. Strictly speaking, so much of the pension as is derived from the interest on the Government Book Debt or other property of the Fund, should be assessed at the first source by deducting the Tax before the interest is paid to the Fund, and the remainder which is derived from subscriptions should be either deducted by the Trustees of the Fund or returned by the individual recipient as so much income.

13. But this course would obviously be attended with great inconvenience, and it will be for the advantage of all parties that the Income Tax should be levied as follows, viz :—

14. The Managers of all the Funds above enumerated, or any similar Funds (except in those cases which shall have been specially exempted as "Religious" or "Charitable") shall be subject to Income Tax on the available income of the Fund from all sources, *i. e.*, subscriptions as well as interest, deducting the same *prorata* from their payments in India, and claiming exemption in cases of annuities, &c., paid in England, which it is not intended to place on a different footing from other pensions paid there, although the strict conditions of the Law might possibly make them liable as being in the first instance paid to the Fund in India.

15. Parties receiving pensions in India, but not having total incomes equal to 200 Rupees, may claim exemption by application to the Ex-officio Assessor, by whom his or her annuity or pension may have been paid.

ORDERED, that a copy of the above Resolution be forwarded to the Military Department, and to the Governments noted in the margin ;* also to the Managers of the Bengal Civil Annuity Fund, and of the Civil Fund, in reply to the references submitted by them respectively.

* Governments of Madras and Bombay.
Government of Punjab, with a request that the Accountant in the Punjab be requested to submit the promised further return as soon as possible.

Ordered, also, that the papers be forwarded to the Hon'ble H. B. Harrington to be summarized for publication in the Gazette.

(A true Extract.)
(Signed) C. HUGH LUSHINGTON,
Secretary to the Government of India.

ORDER THEREON, 13th April 1861, No. 827.

Ordered to be communicated to the Managers of the several Funds named, the Board of Revenue, Income Tax Commissioners, Accountant General, and several Departments of Government Office.

(True Extract.)

Deputy Secretary to Government.

To the Civil Fund.
" Military Fund.
" Medical Fund.
" Apothecaries' Fund.
" Military Orphan Fund.
" Mount Cantonment Soldiers and Widows' Fund.
" Widows and Orphans' Fund.
" Board of Revenue.
" President of the Income Tax Commission.
" Special Commissioner Income Tax.
" Accountant General.
" Sub-Treasurer.
" Civil Auditor.
" Financial Department.
" Public Department.
" Military Department.
" Judicial Department.
" Metropolitan Police Superannuation Pension Fund
" Mofussil Police Superannuation Pension do.
" Madras Infirmary & Native Poor Asylum.

Exd. S. T. Augustin.

Dup. of April
Judicial 1861 Dept.

Pros: of Govt. in the
Rev: Dt. 827.

Dy. 13th }
Rg. 15th } April 1861.

3 spare copies

No. 627.

Copy the Resolution of the Govt. of India passed on certain papers relative to the question of exempting certain Funds from liability to Income Tax on the ground of their being Charitable Funds—

With an Order.

Dup. of April

21-2-2

116 & 117.

No. 520 17 April 1861.

Communicated to the Inspector General & to the Commissioner of Police.

J.P.

The Inspector General of Police. } Dup.
" Commissioner of Police } 17-4-61.