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Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 1636 M

DATED 11th October 1895

[Despatch Abstract.]

Bill to amend Act IV of 1884. (The Madras District Municipalities Act).

Communicating to the Municipal Council, Ootacamund, G.O., Legislative Department, communicating to the Legislative Council Proceedings of this Department passing orders regarding the assessment of land in the Ootacamund Municipality.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

[7]

INDEXED. Miscellaneous.

LOCAL AND MUNICIPAL DEPT.	
G.O., DATED	11-10-95
No.	1636/m

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(The Madras Dist. Municipalities Act)

Communicating to the Muni.
council, Ootacamund, G.O. L.D.
Communicating to the Secretary
Council Proceedings of the Dist.
passing orders regarding the
assessment of land in the Ootacamund
Municipality.

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RECAP AGAIN ORDER OF GOVERNMENT, DATED
1891, No. MISCELLANEOUS.

ENCLOSURE.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL (not paged).

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BACK PAPER, No.

OF 119

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OF 150

11TH SEPTEMBER 1895, No. 88, LEGISLATIVE.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

Read—the following paper :—

G.O., dated 24th August 1895, Mis. No. 1386 M., Local and Municipal.

Read—the following papers :—

From the Chairman, Municipal Council, Ootacamund, dated 17th July 1895, No. 1367.

ABSTRACT.—Transmitting, for sanction of Government, the resolution of the municipal council regarding the levy of land-tax for 1895-96.

From the Collector of Nilgiris, dated 2nd August 1895, No. 1483-D.

ABSTRACT.—Forwarding copy of the letter from the Chairman, Municipal Council, Ootacamund, regarding the above subject.

From the Chairman, Municipal Council, Ootacamund, dated 5th August 1895, No. 1594.

ABSTRACT.—Transmitting, in original, Mr. Winterton's letter, dated 26th July 1895, enclosing copy of judgment in the case of Mr. Clarke *versus* the Ootacamund Municipality.

Order—dated 24th August 1895, Mis. No. 1386 M., Local and Municipal.

The resolution of the council to tax land within the municipality which is not let with any residence under section 63 (1) of the Act, instead of under section 63 (ii), is approved.

2. The proposal, however, that the gross annual rent of all such land should be assessed at a uniform rate of Rs. 20 per annum, owners of properties who consider this excessive in their cases being left to appeal under the Act, is neither equitable nor in accordance with law. Land within the municipality differs in value and should in equity be taxed at different rates, and moreover the wording of section 65 (1) of the Act necessarily requires that for purposes of assessment the gross annual rent of each property should be ascertained by a detailed enquiry into the circumstances of each case.

3. This portion of the council's resolution will accordingly be cancelled under section 35 of the Act as being in excess of the powers conferred upon it by law, and it should at once proceed to undertake the enquiry referred to and should assess the land-tax in accordance with the results thereof.

4. The proposal of the council that in the case of land included in the compound of a house and let with it, the rent for which the house and compound together are let should for purposes of assessment be taken as the gross annual rent, appears to be the only course legally permissible under the recent ruling of the High Court, and is approved.

5. Such land will not escape taxation by the adoption of this method of assessment, inasmuch as its taxable value is in each case included in the rent of the house with which it is let, which rent is already assessed to the tax on buildings, and the council do not therefore appear to be legally able to claim to assess it again under the land-tax. The clause, therefore, in the resolution which decides that "individual

Copied by

Examiner.

cases in which this rent is considered too small will be disposed of after due enquiry as may seem proper", is in the opinion of Government in conflict with the provisions of the Act, and so in excess of the powers conferred by law upon the council. It will accordingly be also cancelled under section 35.

6. The suggestions of the sub-committee of the council with regard to the Bill to amend Act IV of 1884 will be referred to the Legislative Department.

(True Extract.)

(Signed)

J. F. PRICE,
Chief Secretary.

To the Chairman, Municipal Council, Ootacamund,
through the Collector of Nilgiris.
Legislative Department.

ENCLOSURES.

EXTRACT from the Proceedings of a special meeting of the Ootacamund Municipal Council, dated 16th July 1895.

I. Read report of the sub-committee regarding the taxation of lands within the municipality.

Resolution.—The recommendations of the sub-committee are accepted.

In regard to the Bishopsdown and other uses the procedure of section 63 (i) will accordingly be adopted, instead of section 63 (ii). For the sake of convenience in these cases "the gross annual rent" referred to in section 65 (i) will be taken at a uniform rate of Rs. 20 per acre per annum, the 7½ per cent. on which will amount to Rs. 1-8-0. Individual cases in which it is contended that this rate is excessive should be brought before the council on appeal under section 97 *et seq.* of the Act and will then be dealt with on their merits.

In regard to lands appropriated to buildings, that is to say, lands included in the compound of a house and let with it, however extensive and for whatever purpose utilized, the rent for which the house and compound together is let shall usually be taken as the "gross annual rent." Individual cases in which this rent is considered too small will be disposed of, after due enquiry, as may seem proper.

In regard to the new draft Bill, the recommendations of the sub-committee will be submitted for the consideration of Government.

"Carried unanimously."

Note regarding Bishopsdown and other similar cases.

1. The High Court have held that both section 63 (i) and section 63 (ii) are controlled by section 47 (ii), i.e., are both subject to the 7½ per cent. limitation.

This seems to be so and may be accepted, section 47 (ii) being the general, and section 63 (i) and (ii) the specific section, and the contrast being not between section 47 (ii) and 63 (ii), but between 63 (i) and 63 (ii). This seems brought out by the previous Act III of 1871 (the first Act in which any special mention of unappropriated lands or huts is made) where both the present section 63 (i) and 63 (ii) together form only section 41.

2. The High Court has held, also, that lands situated in the compound of a house, however extensive and let with that house, are appropriated to that house, and therefore come under section 63 (i) and not section 63 (ii).

This also seems correct and may be accepted.

3. The cases of Bishopsdown and similar lands may, therefore, be settled on this basis, viz., under section 63 (i) and not under section 63 (ii).

Even, also, in the case of lands, which are not let with a building, it would seem preferable to make use of section 63 (i); for, for one thing they admittedly can come under this sub-section, and, for another, as section 63 (ii) is subject to the 7½ per cent., but little is gained by using that sub-section.

4. How this will be carried into effect, leave to be settled at the special meeting which we understand is shortly to be called; but probably a rough and ready rate based either on locality or on crop can be framed, which would obviate the necessity of going deeply into each particular case; only this rate must not exceed 7½ per cent.

The wording of section 65 (i) "the rent at which land might reasonably be expected to let" will cover anything, from capabilities to actuals.

5. As to the new Act, it is doubtful what particular difficulty this particular sub-section that we are considering was originally intended to meet: it is absent from the first Madras Act X of 1865—appears for the first time in section 41 of Act III of 1871, as a mere proviso, the rate being 4 rupees—has grown into a sub-section 63 (ii) in our present Act IV of 1884, with a rate of 4 annas—and now promises to be elaborated into a sub-section, with two clauses, in the new draft—yet nothing is said about it in the reports of the drafting Committee, in any case, except the last.

6. The suggestion has been made that it was intended to more clearly bring in under the taxing section certain lands which were doubtful before: and this is to a certain extent borne out by the extension of the definitions in the various Acts, e.g., "houses" in the first Act includes only "shops and warehouses"; in the second Act it includes "huts" also; in the present Act the word is omitted, and "building" is made to include any "house, hut, shed," etc.; and in the draft, the same becomes "walls, houses, huts, sheds," etc.

"Land" in the same way commences with "buildings with their appurtenances", then omits the "buildings", and then altogether disappears.

In the first Act the tax is leviable on "houses, buildings and lands"; in the second Act, it is the same; in the third, it becomes "buildings and lands"; and in the new draft, it is "buildings or lands or both."

It does seem, therefore, as if the importation of section 63 (ii) and its various developments has been partly due to the desire to make it clear that huts were taxable as "houses;" and that waste or cultivated lands or porambores not included in the usual "compound" were taxable as "lands."

7. If, however, that was the original idea, it has certainly developed since then, and the main idea in the new Act is clearly one of convenience viz., the convenience of being able to tax certain lands by area, instead of by value; the idea seems to be that houses and their compounds have an easily-ascertainable rent-value, which may be taken as the basis of taxation, but that ordinary arable lands have not such easily-ascertainable value, and that, therefore, in their case, —to avoid troublesome enquiries into income and profits—a rough acreage rate may be taken.

8. We can see no other reason for it, for surely section 63 (i) as amended to include "all buildings or lands or both" will catch anything and everything in its net. The suggestion is certainly made that porambores and municipal land would not come under it, and that a sub-section is needed, empowering the council to tax squatters on such lands, or to lease them out, but this will be noticed later.

9. Looking at the matter from the point of view both of the council and of the rate-payers, we consider that it would be a convenience to both parties, in doubtful cases, to tax by area rather than by value, as proposed. The only thing is that in that case some safeguard is needed that the rate levied shall be approximate to the 10 per cent. which is all that is leviable in the case of taxation as the basis of rental value; that, indeed, is the cause of the Bishopsdown dispute, for Mr. Clarke naturally objects to paying Rs. 1-8-0 on a grass crop which a committee has already valued at only 6 annas.

10. In the new draft Bill, however, this safeguard is very deliberately removed, for the 10 per cent. limitation is carefully shifted from the general section 47 (ii) and is put into the specific section 63 (i), so that section 63 (iii) is, *ipso facto*, released from the operation of it; nor is any sanction, other than that of the municipal council itself, needed for the imposition of this tax a possible Rs. 15-4-0 per acre—in the Act of 1871, was sixteen times as much—and we are all agreed that though such a rate might be suitable for a bazaar or a pancherry (probably its first intention) it is much too high for arable lands.

11. While we think, therefore, that for convenience sake the power to charge by area, instead of by rent value, might be retained, we certainly think that the rate leviable should require the special sanction of the Governor in Council, and that it should vary accordingly to the conditions of each case, e.g., a bazaar might pay higher rate than arable lands, and arable lands of rich soil might pay a higher rate than such lands of poor soil; in other words, a rough approximation to a fair percentage on the rental value might be made. This, however, is exactly what the new section 63-A of the draft Bill proposes if that section be enlarged by adding after "buildings" the words "or lands," it meets all requirements, and sections 63-A and 63 (3), (a) and (b), may be erased from the Bill altogether.

12. In regard to the view that porambores and municipal lands should be specially provided for in a special sub-section, we note that the new section 63 (i) would include porambores, that section 268 would meet the case of squatters with permission on municipal lands and that squatters with permission on such lands would presumably pay an agreed-on rent to the municipality, in spite of the exception from taxation of municipal lands or buildings contained in section 63 (i), clause C.

11TH SEPTEMBER 1895, No. 88, LEGISLATIVE.

ORDER—dated 11th September 1895, No. 88, Legislative.

Communicated to the Legislative Council in continuation of G.O., Nos. 36 and 80, Legislative, dated 27th February and 20th June 1894, respectively.

(True Extract.)

Wm. D. Dutton
Ag. Under Secy. to Govt. 26.8

Local & Municipal Dept.

CURRENT No. 2944

Govt. of {1895} Madras.

LEGISLATIVE.

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G.O., 11th September 1895, No. 88.

SEPTEMBER.

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Communicating to the Legislative Council
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949 sub 24-7-94
320 sub 15-3-94.

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Order 11-10-95 No 1636
Communicated to the
Municipal Council, Ootacamund

P.A.
7/9/95
W. G. G. G.

with order

The Chairman M.C. Ootacamund
O.P. 18/10/95

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189.

READ AGAIN G.O., No.

189

DATED

CURRENT No.

ENCLOSURES TO G. No.

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STATEMENT WITH DITTO.

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