

Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 1904 m

DATED 18th November 1895.

[Despatch Abstract.]

Tax.

Declining, with remarks, to advise the Municipal Council, Cocanada, on the question regarding the liability of Joint Stock Companies to the-----on Arts.

BACK PAPERS.

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

FURTHER PAPERS.

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

No. 739.

MUNICIPAL OFFICE,
Cocanada 10th October 1895.

From *M. R. K. Seshachalapathi gar B.A.*
The Chairman,
Municipal Council,
Cocanada.

To *The Chief Secretary to Government*
Local and Municipal Department
Madras.
through the Divisional Officer
and Collector, Godavari District
Sir,
Cocanada.

I have the honour to
Solicit the favour of instructions on the
following points for my guidance.

2 In this municipality, besides
the mercantile firms, managed by
partners or paid agents, and having
their own places of business here, there
were in 1894-95 according to the Indian
Directory, 21 joint Stock Companies,
engaged in steam navigation and insurance
business and managed by agents, remun-
rated by a percentage of Commission,
on actual collections. Up to last year,
demand was made for payment of the tax
only from the British India Steam
navigation Company (agents Messrs Hall and

and the Asiatic Steam navigation Company (agents Messrs. Simson Brothers).

This year the former Company paid the tax in Tellicherry and the latter, here.

3. This year, in revising the lists of profession tax, I considered that the joint Stock Companies, (insurance & others), working by Commission agents, and deriving a profit here were liable to be taxed, in some moffusel municipality, and issued the bills. The late agents reported 6 Companies as having no transactions here in the current year. No tax can in any case be claimed for them, under Section 56, for this year. Three Companies paid the tax in Bimlipatam. Their local agents (Messrs. Hall Wilson & Co. for Lloyd's British & Foreign marine Insurance & Co. and Triton Insurance & Co. and Mr. Highton for Northern Assurance & Co.) claimed exemption under Section 59. Out of the other 10 Companies, "the Clan Line of Steamers" represented in Madras by Messrs. Gardon Woodroff & Co., general agents, and hereby Messrs. Hall Wilson & Co. Messrs. Gardon Woodroff & Co.

protest against the demand for the tax, and add that a similar claim has never been made by the Madras municipality. They say they cannot find any authority in Act IV of 1884, in support of the claim, but I think the case is covered by the wording in class I of Schedule A of the Act. I do not see any reason why the owners of the Clan Line should be exempted when the British India Steam Navigation & Co. and Asiatic Steam Navigation & Co. are paying the tax.

4. Messrs. Simson Brothers appealed, on behalf of Marine Insurance & Co., on the strength of Section 59 of Act IV of 1884, but the Section was considered by the Council, inapplicable to the case, as the tax was imposed on the original joint Stock Company and not on Messrs. Simson Brothers, for their transactions as Commission agents, though the bill was served on them, under Section 27(1). In their appeal, on behalf of the Guardian Fire, and Life Assurance & Co., Messrs. Simson Brothers, urged in addition, that this Company had

and the British Lt.

had no place of business here,
and that it was therefore entitled
to exemption, under a ruling of the
Calcutta High Court, regarding
Standard Marine Insurance &c.
The judgment was not referred
to in detail. The place where
agent systematically carries on
business is virtually the place of
business of the Company and it
makes no difference whether a
Special rent is paid for the place
of business, or whether all arrange-
ments are made by the agent for
his Commission.

5 Messrs Wilson &c on behalf of
Royal Insurance Company and
Commercial Union Assurance
Company, in their appeal, claimed
exemption, on the following grounds.
(1) That the Company has no Rupee
Capital as referred to in the Schedule,
but a Sterling Capital. (2) That it
has no place of business here, and
(3) that the business of insurance is
not one of the occupations mentioned
in Schedule A.

6 If the rupee value of the Sterling
Capital exceeds the limit given in class
I of Schedule A, I think the Company
rightly falls under that class in the
absence of other reasons to the contrary
as remarked already, the 2nd argument
cannot, in my opinion, stand. With
regard to the 3rd argument, we held
that the business of insurance was a
"Calling", under Schedule A, and
confirmed the tax.

7 Both Messrs. Gimson Brothers
and Messrs. Wilson &c presented
Civil Notices under Section 261,
threatening to sue the municipality
for recovery of the tax.

8 Messrs. Le Faucheur &c on behalf
of Netherlands Fire Insurance &c
and Indemnity Mutual Marine
Assurance &c appealed on the grounds
of having paid the tax in Madras
and of having realized a small
income. The arguments are
untenable, and the appeals will be
disposed of in due course. Messrs.
Hall Wilson &c have paid the tax
imposed on North British Mercantile

Merchandise Insurance Company without
any protest.

9. Mr. Highton, agent of the Standard
Life Assurance Company, and Mr. H.
P. Venkatachalapati, an agent of
Oriental Government Security Life
Insurance Company, protest against
their liability, on the strength of the
opinions, furnished by the legal
advisers of the original Companies
in Bombay. Some of the arguments
urged by Messrs. Leraiz, Ryuch
and Owen Solicitors of Standard
Life Assurance & Co. are vetoed
by Messrs. Ardeshir Hormasji
and Dinshaw, Solicitors of
Oriental Government Security
Life Insurance Company. The
Common argument adduced by
both the legal firms is that
Insurance, much more so, Life
Insurance, is not a trade, and
that it is not a Calling contemplated
under the Act. [The heading of the
Schedule provides for levying taxes
on "arts, professions, trades, and
Callings". I think that the word

word "Callings" includes every business
and that it does not exclude Life in-
surance. The mere use of the words "Trading
Company" in class I of Schedule A, does not
seem to exempt joint Stock Companies
engaged in the business of Insurance
from taxation. If the expression is
capable of such an interpretation, the word
"trade" may, I think be defined in the
new bill to include every business, carried
on for profit, as it is, the practice is
different in different towns. It is very
desirable to place all municipalities
on the same footing with regard to income
from taxation of joint Stock Companies
engaged in the business of insurance. The
Council is ^{very} unwilling to yield
to the objections, without obtaining final
orders of Government on the subject.

10. Copies of the opinions of the 2 legal
firms of Bombay are enclosed.

I have the honour to be
Sir
your most obedient servant

Venkatachalapati
Chairman 12-10

12/1/95
H.C.

Cur 3098
M.C. 895

1772-1895-95

From
THE CHAIRMAN,
MUNICIPAL COUNCIL,
COCANADA,

3455/M

To
The Chief Secretary to Government
Local Municipal Department
Madras

Dated 10th October 1895

Despatched 12th October 1895

Received
CHIEF SECRETARY
5 NOV 1895
No. 739
Enclosures
SUBJECT

Requesting instructions
on the liability of issuing
joint Stock Companies.

Dis on C 3098
Submitted
Collector



Dis on C. No. 1492
of 1.11.95
Forwarded

ad
23/10

21/10

5712
2/10

with

8/11/95

[5]
800-27-5-95.

LOCAL AND MUNICIPAL DEPARTMENT.

Papers to be read in Proceedings:—

Again G.O., dated 189 , No.

Current No. 3455 of 1895, dated 10th October 1895, from the Chairman, M.C., Cocanada
Current No. of 189 , dated from the

Order. No. 1904 Minis. 18-11-95

The Government is not prepared to advise the municipal council in this matter. It should take the best legal opinion available and act on its own responsibility.

2. The amendment suggested by the Chairman in the concluding portion of his letter has already been embodied in the Bill to amend Act of 1884.

Please see P.O. 912 110 Legislative, dated 20th October 1895.

V.R. 17/11/95
W.D. 16/11/95
H.D. 18/11/95

To, The Chairman, M.C., Cocanada.
11/12/95

... of the ...
... Stock ...
... Municipality

3455m

COB

Misc.

1904m

48314

8/11/11

BACK PAPER, No.

OF 110

READ AGAIN ORDER OF GOVERNMENT, DATED
189 No MISCELLANEOUS.

FURTHER PAPER, No.

OF 189

ENCLOSURES.

CURRENT No

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT

STATEMENT WITH DITTO.

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Examined by *W.A.*

INDEXED.

Miscellaneous.

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No. 1904 M.

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When signed

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

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STATEMENT WITH DITTO.

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