

[L. & M.]
[9,000-8-4-95.]

Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 765 *lv*

DATED 4th May 1895.

[Despatch Abstract.]

Tex.

Stating that the portion of the quay at Mangalore which has been leased to the Basel Mission is not entitled to any exemption under section 63 (1) of the Act, but that the---can not be imposed with retrospective effect.

BACK PAPERS.

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

FURTHER PAPERS.

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

INDEXED.

Miscellaneous.

LOCAL AND MUNICIPAL DEPT.	
G.O., DATED	4-5-96.
No.	765 m.

When given for copying.

[Despatch Abstract.]

Tax

Noting that the
portion of the quay at Mungiloe
which has been leased to the
Basel Mission is not entitled
to any exemption under S. 63(1)
of the Act, but that the
cannot be imposed with
retrospective effect.

BACK PAPER, No.

OF 119

FURTHER PAPER, No.

OF 150

READ AGAIN ORDER OF GOVERNMENT, DATED
1/3, No. , MISCELLANEOUS.

ENCLOSURES.

CURRENT No

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT

STATEMENT WITH DITTO.

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

N.B.-

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- Q - Copy heading only.

Copied by
Examined by

as to whether any wharf is a
'building' within the meaning of the
Act. It would appear to be regarded
as such from its inclusion in
sec 63(1) but it seems hardly to come
within the definition in sec 3(18).
Orders are solicited as to whether
the papers should be resubmitted to
H.H. with a further note to this effect.
It is regretted that the point was not
noticed before

GT
26/10.

No need. The definition ^{of building} is a loose one
which is distinct from section 63 that
states a wharf which is not public
is liable to taxation both respectively
though as a building as the section
applies to the tax on buildings and
lands. It is probably the land which
has in this instance been ^{agreed}

2/5/95

GT
1/11

Liability of portion of a quay at Man-
galem leased out to a private party
to municipal taxation for the year
in which assessment is imposed and
for previous years

Draft order and note for C.S.

DEPARTMENT.

Papers to be read in Proceedings:—

Again G.O., dated

189 , No.

Again G.O., dated

189 , No.

Current No.

of 189 , dated

from

Current No 1140 M of 1895, dated 18th March from the Chairman Municipal Council Mangalore

ORDER. 21.4.5.95 712 765 in this

The portion of the quay which has been leased to the Basel mission is not entitled to any exemption under sec 63(1) and may be taxed on its annual net value.

2. The tax, however, cannot be imposed with retrospective effect and the Municipality Council must bear the consequences of its failure to do so. ~~See that the tax was duly assessed~~

GT 26.11.

21

21/5/95

To

The Chairman Municipal Council 1140 Mangalore

Note orders are solicited as to whether any part 2 of the C.S. note should be embodied in the order. Submitted that the Board may be left to raise the question if they wish.

A new doubt has arisen in my mind

I agree as to the finding on the questions referred.

Have my doubts, however, whether the wharf is a public wharf. In the Mumb. area, the L. B. is a private person, take it — However, that question has not been raised, so need not be answered.

25/4/95

16. With regard to the second point the tax is an annual one (see 63(1)) lists of persons liable have to be prepared (see 52(1)), and notice must be given when any new house is added (see 71(2)) and retrospective effect cannot be given to alterations in value for purposes of assessment (G.O. 20 668 m). Presumably the same rule would apply to the case of an assessment made for the first time, though the property assessed was liable before. In this instance the Chairman appears to be in the wrong.

7. Submitted for orders on the two legal points raised. If the question whether the leased portion of the quay comes under the definition of a 'wharf' or not is considered material, the President District Board should perhaps be consulted before a decision is arrived at.

It is as I read Section 63(1) a public wharf alone which is liable to assessment. A wharf or a portion of a wharf which was originally a public wharf leased out to a private individual ceases to be a public wharf. I take it to be the intention of the law. The piece wharfed by the Dr. B. is clearly still a public wharf and as such is exempt from taxation. It matters not for purposes of assessment whether the piece leased out remains a wharf or not. It is not used as a public wharf and that is enough. As regards the claim for back assessment made by the Municipality I submit that it can claim only from the time of its acquisition. The Municipality

No.

From

Liability of portion of a quay at Mangalore leased out to a private party to municipal taxation for the year in which assessment is imposed and for previous years

H. H.

The acts have been included in the list drawn up by the Chairman; it was not until the claim for work was so it appears to me from the date of such entry. That no entry was made before is the result of the lack of the knowledge of which it must be the consequence.

There is as far as I can find no law regarding the period within which such taxes can be recovered. But judging from the analogy of rents (rule 110 Schedule 2 of Act XV of 1877) they could not be recovered for more than three years. The general rule is to write off all arrears over three years standing

24/4/95.

C 25/2 Van K. 18/4
R 26/4

Dated 23rd April 1894.

FOR ORDERS.

The District Board of South Canara owns a quay within the Mangalore municipal limits of which a portion is used for public purposes and a portion is leased to a private party and used as a place for storing tiles etc. The lease runs from 1888-89.

2. In 1891-92 the municipal council assessed this latter portion under sec 63 on the lease amount and demanded payment for back years.

3. The Board decline to pay anything more than the ^{years} assessment on the land on which the wharf is built on the ground that "wharves" are exempt and that the tax cannot be levied with retrospective effect.

4. The Chairman disputes both contentions and refers the matter to Government.

5. With reference to the first point "public pier, wharves, jetties" are exempted sec 63(1). From the way the section is worded the adjective seems to be intended to apply to all three, and the portion of the quay that has been leased out clearly cannot be called 'public'. Moreover it seems doubtful if it can be called a "wharf." The Board appear to be in the wrong on this point.

Local & Municipal Dept.

CURRENT NO. 1140. In.

From

The Chairman,
Municipal Council,
Mangalore.

H. H.

For orders

The facts of the case are clearly stated in the Chairman's letter. The municipal Council appears to be right in both the points.

18/4/95

No. 1259.

Dated 18th March 1895.Received 29th — D. —

Enclosures (4)

SUBJECT.

Soliciting orders as to whether, in the circumstances stated, a certain plot of land described in the letter, is liable to Municipal Assessment or not, and also whether the assessment when assessed for the first time, can be imposed for the previous years or not.

/ For orders/

assessment being imposed for the first time for past years. Moreover, there are instances where Government assessment on lands has been recovered from this Municipality on account of past years, when there was no assessment made in those years.

5. I suggested to the President of the District Board that the two points explained above, be referred by him to Government, for orders, but he has replied that, if I think the District Board is wrong, I may do so, and accordingly, I respectfully solicit the decision of Government.

I have the honour to be,
Sir,

Your most obedient Servant

J. M. Ramakrishna
Chairman,
Municipal Council,
Mangalore.

No. 1259.

MUNICIPAL OFFICE, Dept.
MANGALORE, 18th March 1895

CURRENT No. 1140

From,

M. R. V. J. M. Ramakrishna Aiyangar,

Chairman, Municipal Council,
MANGALORE.

To,

The Chief Secretary to Government,
Local and Municipal Department,
MADRAS.

(thru the Collector of South Canara).

Sir,

I have the honour to submit the following matter for the decision of Government:—

2. The District Board has, within the Municipal limits, a landing-place or bunder built about 17 years ago, in connection with its ferry at Jeppoo, for the use of the public. In the year 1887, however, it came to the knowledge of the Board that practically the bunder was made use of only by the Basel Mission, for the purpose of storing and shipping the tiles manufactured in its factory which is close by the ferry. Accordingly, the Board resolved ^{to} to levy a rent for the use of such portions of the quay as are not required for public use, and ^{* vide Enclosures II & III.} ultimately ^{*} a plot of the bunder was marked out and made over to the Mission for its exclusive use, on a rent of Rs 100 per annum, with effect from 1st April 1888.

3. On

of the quay as are not required for public use. The amount and rate of rent to be levied shall be determined at the next meeting.

True extract taken from the Local Fund Sheet published in the District Gazette dated 7th January 1888.

18th March 1895.J. M. Ramakrishna
Chairman,
Municipal Council,
Mangalore.

Enclosure I to Letter N° 1259
18-3-75

Extract from the Proceedings of the District Board of South Canara, dated 18th October 1887.

* * *

10. Read Memorandum by the President, recording his opinion that the present state of things with regard to the Jeppoo quay, is extremely objectionable, and recommending that the Board should either prohibit the storing of tiles or other property on this public place or charge rent from any persons who make use of it.

Read also letter, dated 14th October 1887, from the General Agent, Basel German Evangelical Mission, Mangalore, requesting that the decision of the above matter may be postponed until a certain order, said to have been passed by Government on the subject (a copy of which was communicated to the Basel Mission, but is not now forthcoming on their records having been mislaid) is found.

Resolution.— The Board resolve to levy a rent for the use of such portions of

Enclosure II.

In a letter, dated 18th March 1895, N° 1259, from the Chairman, Municipal Council, Mangalore.

South Canara District Board's Resolution, dated 13th December 1887, N° 7, appointing a sub-Committee for the purpose of marking out, out of the landing-place, what can be made available for private use and to propose a rent upon it.

Extract from the Proceedings of the
District Board of South Canara, dated 13th
December 1887.

* * *

7. Read Proceedings of the District Board,
South Canara, dated 18th October 1887, para
10, stating that they recognize the principle
of levying rent for the use of such portions
of the quay at Jeppoo as are not required
for the public, and leaving the question of
the amount or rate of rent to be fixed to be
decided at the next Civ. the present meeting.

Resolution:- A sub-committee consisting of
Mr. Arnot,
" N. Brito,
" N. Gundu Rao
will be requested to mark out what can be made
available for private use and propose a
rent upon it.

* * *

True extract taken from the Local Fund
Sheet published in the District Gazette, ^{dated} 4th Feb.
ruary 1888. —

18th March 1895.

J. M. Rama Rao
Chairman,
Municipal Council, Mangalore.

Enclosure III.

In a letter, dated 18th March 1895,
No. 1259, from the Chairman,
Municipal Council, Mangalore. —

Copy of the District Board's
Resolution, dated 30th January 1888,
No. 14, accepting the sub-committee
proposal to mark out a certain
portion of the landing-place for
the use of the Basel Mission and
to levy a rent of Rs 100 per annum.

Extract from the Proceedings of the District
Board of South Canara, dated 30th January
1888.

14. Read report, dated 26th January 1888,
from the Members of the Sub-Committee
appointed with reference to Proceedings of
the District Board, dated 15th December 1887,
para. 7, stating that plot No. 2 in the
Survey plan accompanying the report (meas-
uring guntas 3, aunes 3 $\frac{32}{121}$) has been marked
out and made over by them for the use of
the Basel Mission, to Mr. Elsaesser, their
agent, who offers to pay for it an annual
rent of Rs 100 and keep it in thorough re-
pair, and that plot No. 1 (measuring guntas 8,
aunes 4 $\frac{16}{121}$) has been set apart for the use
of the public, and recommending that
the rate of rent offered by Mr. Elsaesser
may be accepted, and that Rs 2. being fees
for preparing the Survey plan, may be
paid to the Tahsildar of Mangalore.

Resolution:- The proposal is agreed to.

* True extract taken from the Local Fund
Sheet published in the District Gazette, dated 3rd March
1888. —

18th March 1895.

T. M. Ramiah
Chairman,
Municipal Council,
Mangalore.

Enclosure IV.

In a letter, dated 18th March
1895, No. 1259, from the Chairman,
Municipal Council, Mangalore.

Copy of the District Board's
Resolution, dated 30th May 1892,
No. 7, contending that as under
section 63 (1) of the Act, wharves
are expressly excluded, the plot of
the bunds rented to the Basel
Mission is not liable to Muni-
cipal assessment, &c.

Extract from the Proceedings of the District Board of South Canara, dated 30th May 1892.

7. Read letter no. ¹⁵⁵⁶₂₈₋₃₋₉₂ from the Chairman, Municipal Council, Mangalore, enquiring the reasons which led the District Board to consider that it was not liable for arrears of land tax on the Jeppoo quay.

Resolution.— The Board considered that they were not liable for land tax on the Jeppoo quay for past years, because there was never any assessment, and there were, therefore, in point of fact no "arrears". They also observe that the payment of assessment this year, was sanctioned under a mistake. Under sec. 630, wharves are expressly excluded, and the assessment was therefore illegal. The most that could be assessed would be the land where the wharf was built, the tax on which would be a ^{merely} nominal sum, and the Board will decline to pay more than this in future.

18th March 1895.
 J. W. Ramiah
 Chairman,
 Municipal Council, Mangalore.
 / True Copy /
 (True Extract)
 / Signed / S. H. Wynne,
 President.

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189

READ AGAIN G.O., No.
 189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

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