[L. & M.
9,000-8-8-96.]

Local & Munl. (1896) Department.

MISCELLANEOUS.

G.O., No. 92 M

DATED 17th January 1896

[Despatch Abstract.]

Taxation of vacant sites in the Vizianagram Municipality.

Passing oredrs on the subject of the -----.

BACK PAPERS.

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

FURTHER PAPERS.

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

Dis No. 697.

Office of the Principal Astt. Collr. Viza
Dated Vizagapatam; 5th October 18
Despatched 10th October 189

From
R. Morris Esqr.
Ag Principal Assistant Collector,
Vizagapatam

To
The Collector,
Vizagapatam

Sir,

With reference to your Endorsement Re No 1181 dated the 25th March 1895, on G.O. No 288 M dated 26th February 1895, I have the honor to report that strictly speaking almost all the vacant pieces of land referred to are liable to taxation. I am, however, doubtful whether the land round the fort ditch aggregating 20,000 square yards should not be regarded as part of the fort compound. I believe the compounds of houses which are taxed to house tax are regarded as exempt from Land Tax. If so these spaces are not taxable, nor is the "Site round thana School" measuring 1089 square yards, which is the compound of

This has been decided in I. L. R XVIII Madras. P. 310 received since the draft was written
(Initialled) R.M.

a building already taxed. The remainder of all within Municipal limits is strictly speaking liable to taxation. A "site below the Red Tank in Dasannapeta" was said not to be the property of the Maharaja by one of his Officials who accompanied me when I inspected the sites.

2. A large area, however, aggregating 26,828 square yards is really public roadway. These roads are built on private land, and possession has never been transferred to the Municipality, and they are repaired by the Maharaja from his own funds. They are open to and freely used by the general public, and if payment of tax on them is insisted upon, the Maharaja may very possibly make them over, with the burden of repairing them, to the Municipality, which will thus be a loser by insisting on its rights. It is open to doubt whether some of these roads are within the Municipal limits. I shall refer to this later on.

3. Another large area 1,98,138 square yards in all, consists of Rocks, utterly useless for any purpose but drying clothes and bratties on. A tax of 4 annas for every 80 square yards the maximum allowed by the Act seems in their case preposterously high.

4. The various markets in the town and the Cart Stand are upon the Maharajah's private property. He pays house tax in respect of the buildings in them and license tax on all of them. The town has the advantage of these markets without having had to pay anything for them. Their aggregate area is 49,610 square yards. It seems hardly fair that any land tax should be paid on them.

5. An area of about 75,882 square yards constitutes a public play ground under the names of Ayodhya, Parade ground, ground near Industrial School. Considering that the public have free

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access to this ground and that dramatic representations are held here, taxation though lawful seems rather inequitable.

6. Another class of lands the aggregate area of which is 39546 Square yards consists of small recesses of the Streets which can be used for no purpose at all, a large open Square in front of the Fort, small plots of land at places where three roads meet and similar plots which can neither be built on nor cultivated, and which are practically public lands, but as poramboke in a Zamindari are regarded as private property.

7. These classes exhaust all but 8000 Square yards "site above the Supply Channel" which is cultivated land and to the taxation of which no exception can be taken and 26,922 Square yards of Miscellaneous land which is I think taxable.

8. The notification defining the boundaries of the Municipality is very defective. A number of objects are mentioned, some of which by custom

are

are regarded as within Municipal limits and others as outside. But as the notification is worded there is nothing to show that one piece of land is included and another not. If the "Maharaja's jirayati" (Zarúate or direct tenure lands) are regarded as outside the town, why not the Ayodhya and the road running along the northern and Eastern sides of the Pedda Cheruvu which are however regarded as within the town. If outside the town then these places ought not to be taxed. In any case the notification of the boundaries requires revision.

9. I regret the delay in replying to your reference, which is due to the very long delay on the part of the Chairman in supplying certain information.

I have &c.

(Sd) R Morris

Ag Principal Ast. Collector

3232

True Copy

Dis No $\frac{2045}{1895}$.

Local & Municipal Dept.
CURRENT No. 3232 M

Submitted.

2. There is nothing I think in the Act which gives power to the council to exempt any taxable land from taxation except on the ground of the poverty of the owner, a ground which is of course inapplicable in the present case. Consequently if the lands under discussion are taxable they must be taxed.

3. I am not aware of any decision to the effect that the compound of a house cannot be taxed as land: I believe that when a compound is anything more than a mere backyard it is usual to tax it as land separately from the house or at any rate to fix the tax with reference to the value of the land as well as of the house. The case of Clarke v Ootacamund Municipal Council (1) does not decide against such taxation; in fact the remarks of Mr Justice Best on page 315 of the Report, "If in consequence "of the profit thus derived, the annual value "of the lands is enhanced, it is open to the "Municipality to assess the land at such "enhanced value," seem to favor the view that compounds are separately taxable. The words immediately above those I have quoted shew that the learned Judge was speaking of lands appropriated to a building and at page 312 of the Report the Chief Justice remarks that the words of Section 67 of the Act are wide enough to cover all land in the Municipality. It would seem therefore that the land round the Fort ditch and the site round the Thana School referred to in para 1 of the Principal Assistant Collector's Report are taxable and must be taxed.

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(1) Indian Law Report XVIII Madras. 310.

The Thanna School is evidently not a building exempted by Section 63 (1) for the Principal Assistant Collector states that it is taxed. The "site below the red tank at Dasannapeta" referred to in the same paragraph is also taxable though it may be that the Maharaja is not the person from whom the tax is to be levied. Of course if the tax has been fixed on the Fort or the School on Estimate of its letting value as a building with compound attached the tax should not be separately levied on any land included in the Estimate as compound.

4. Para 2. Private roadway open to the public and over which it may, for the purpose of this Report, be assumed that the public has a right of way, are streets, and I do not think the intention of the Act was to tax streets: at the same time the

words

words of Section 47 are perhaps wide enough to cover even the case of Streets and would certainly cover Street Margins. No doubt a private roadway e.g. a carriage drive through the compound of a house leading to the house and not open to the public, would be taxable, but I doubt if it was intended that taxes should be levied on quasi-public property like private streets used by the public. I think such cases may fairly be held not to come within the meaning of "lands" taxable under Section 47.

5. Para 3. The rocks referred to in this para are evidently lands unappropriated to buildings and as such they, though taxable, need not be taxed at the full notified rate — Section 63 (2). — It is open to the Council to charge any rate it pleases so long as it does not amount to

more

more than 7½ per cent of the value of the land, or than 4 annas per 80 square yards. The rate might be fixed at an anna a square mile if so desired for as I read the Section the Council is not bound to adopt 80 square yards as the unit of assessable land: otherwise there should be a comma after the figure 4. There need therefore be no hesitation about taxing such lands, and the rate selected for them could be applied to the roadways mentioned in the previous para if they are held to be taxable. Section 63(2, I think gives power to differentiate between the various lands to be taxed under it and does not require that one rate be fixed for all lands falling under the description given in the Section throughout the town.

6. Para 4. Private Markets and Cartstands are not exempt from taxation

taxation as lands but possibly the house tax now charged on them has been fixed with reference to their letting value as markets and cartstands and not merely as stalls or shelters. In that case a separate land tax should not be imposed.

7. Para 5. Unless the Ayodhya play ground can be held to be exclusively used for charitable purposes which does not appear to be the case, it cannot escape taxation, but it may be taxed lightly under Sec 63(2).

8. Para 6. Such pieces of land as pure 'recesses in streets', squares, or small plots at cross roads, can be treated as streets and will not be taxable if public.

9. Para 8. The boundaries seem to require revision. In a recent Communication the Principal Assistant Collector has pointed out

out that there is some land between the Municipality and the cantonment to which at present the Towns Nuisances Act does not apply and which should be governed by it.

Vizagapatam Collector's Office 21st October 1895 }

(Sd) L. C. Miller
Ag Collector

For Ag Collector

VS

[V. C. P.—17-11-94.—700.]

Local & Municipal Dept.

CURRENT No. 3232 M

DEPARTMENT.

Cur No 3039 M/95 ✓
1744 M 24-10-95 ✓
288 M 26-2-95 ✓
415 M 23-3-93
963 M 2-6-92

FROM

THE COLLECTOR OF VIZAGAPATAM.

To

The Chief Secretary to Govt
Local & Municipal Deptt
Madras.

CHIEF SECRETARY
25. OCT. 1895
GOVERNMENT OF MADRAS

Dated 21st } October 1895.
Received }

Rfd / Please send this paper ... with the orders on C. No 3039 complete ... 6/11

Ent 17720/95

~~Re. C.~~
Dis. No. 2045

ENCLOSURES. 1

Subject.

Submitting with remarks the Report of the Principal Assistant Collector, on the taxation or otherwise of the vacant sites in the Vizianagram Municipality

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LOCAL AND MUNICIPAL DEPARTMENT.

Again G.O., dated 26th February 1895, No. 288 M

Current No. 3,232 M of 1895, dated 21st October 95 from the Collector of Vizagapatam

Current No. of 189 , dated from the

FOR ORDERS.

Certain lands belonging to the Vizianagram ~~Samasthanam~~ Zemindari, situated within Muni. limits were ~~last~~ this year exempted from taxation on the ground that they were open to the public & were not used as private property. These lands are of six different kinds as follows:-

(1) Land round the Fort ditch & round the Maharaja School.

These lands had never been taxed before, but were proposed to be taxed this year by the Chairman, but the Council did not approve.

This land should not be separately taxed, provided that in taxing the Fort & the school the value of this land has been taken into account. For in this case the tax will be on the building with compound attached.

The H.C. held in the Ooty case that the tax imposed under s. 63(2) must not exceed the rate per cent which could be imposed under ss. 47(ii) & 63(1) upon the annual value of the houses & lands; and the annual value must be found under s. 65(1), i.e., it is the amt. at which the buildings & lands might reasonably be expected to let. The test must, I take it, be applied in all cases.

(2) A site below the red tank at Dasanapeta. This is said not to belong to the ~~Samasthanam~~ Zemindari & no reason is given for not taxing it.

It appears that this should certainly be taxed.

Note. This was allowed to lie over pending the orders on Cur No 3039 M, which has now been transferred to the Revenue Deptt with Endt No 1720 M/5-12-95

1/9
7/10

(3) Roadways made on private land, aggregating 26,828 sq. yds. These roads belong to & are maintained by the Zemindar ~~[illegible]~~. If they are taxed they will probably be given up, & the maintenance of the roads will devolve on the Council. The roads are open to the public, & if it is held that they must be taxed, it is submitted that a light tax, say of 2 or 4 as. per 1000 sq. yds, under sec 63 (2) may be imposed. This tax might also be imposed on

(4) Land consisting of rocks, useless for any purpose but drying clothes & bathing, aggregating 1,98,138 sq. yds.

(5) Markets & cart stands. A tax is paid on the buildings. It therefore seems unnecessary to levy a further land tax upon them.

(6) Ground reserved for the public as play ground &c. 75,852 sq. yds. This might be taxed as (3) or (4). There is also another class of lands aggregating 39,546 sq. yds. This consists of (1) recesses of streets (2) plots of land at the meetings of roads, & (3) a square in front of the Fort. ~~These~~ The first two may be regarded as part of the streets, & as such are not liable to taxation. The third would be

I don't see that such lands as these can be reasonably expected to let for any price. Ergo, they are not taxable at all

Do

Do

Do

7/1/96

I wish the C.S. had gone into the matter more. It is by no means a clear one & deserved more at his hands ~~than the entry of his~~ initials

included in the Fort compound.

A further point is raised in this current as to the boundaries of the Municipality, which are stated by the ~~Sub-~~ Principal Asst. Colr. to be very vague, & a revision of them is suggested. Further there is a piece of land between the Municipality & the Cantonments to which the Towns Nuisances Act does not apply. This, as far as I remember, includes two or three bungalows, the Principal Assistant Colr.'s Office, & the Railway Station (?).

The Colr. might be asked to revise the boundaries of the Municipality, & report his views as to the desirability of including this land within municipal limits, or perhaps Cantonment limit, in order that its conservancy may be undertaken.

A question as to rights over poramboke in Zemindaris has been raised lately (Current No. 3039 M) with special reference to Vizianagram, & has been transferred to the Rev. Dept. Orders on this may be deferred pending a decision on the other papers.

WWS
9/12/95

24/12/95.

Taxation of vacant sites in the Vizianagram Municipality 20

FOR ORDERS.

H. 911

3232 M

[G./24.]
1,000—15-11-95.

DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated 26th February 1895, No. 288 M

Again G.O., dated 189 , No.

Current No. 3232 M of 1895, dated 21st Oct., from Collector of Vizagapatam

" " " 189 , " , "

" " " 189 , " , "

ORDER. No. 92 Muni of 17.1.96.

~~The question is raised in the~~ ~~current~~ letter read above raises the question as to the liability to taxation of certain lands belonging to the Vizianagram Zemindari and situated within Municipal limits. These lands ~~are~~ ~~of the 7~~ ~~may be divided into~~ are of seven different ~~kinds~~ descriptions ~~as follows~~ viz: (1) Land round the Fort ditch & ~~round~~ the Thanna School (2) ~~Ca site~~ Land below the Red tank at Dasamapeta _ (3) Roadways made on private land, & maintained by the Zemindar (4) Land consisting of rocks, useless for any purpose other than drying clothes & bathing (5) Markets & Cartstands. (6) Ground reserved for the public as playground etc. (7) (a) Recesses in streets & plots of land at the ~~meetings~~ junctions of roads (b) a square in front of the Fort. 2. No (1) should not be separately taxed, provided that in taxing the Fort & the school, the value of this land has been taken into account, for in that case, the tax will have been levied on the building with the compound attached. There appears to be no reason why No (2) should not be taxed, & it should ~~be taxed~~ be assessed accordingly. 3. Nos. (3) (4) (6) & (7) consist of lands which cannot reasonably be expected to let for any price & ~~consequently~~, ~~as they have no annual value~~, they are not liable to taxa~~ble~~tion ~~[illegible]~~, as ~~for~~ the High Court has held that no tax on land shall exceed 7½ per cent. of the annual value of such land (Clarke v Chairman, Ootacamund Mun. Council I.L.R. Madras XVIII p. 310.), & these ~~lands~~ have no annual value, as defined in Sec 65 (1) of the Dt Municipalities Act IV of 1884, ~~for~~ since they

4. With regard to (5), a tax has been paid on the buildings thereon, it is unnecessary to levy a further land-tax on them

5. As the boundaries of the municipality are reported to require revision

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[G./24.]
1,000—15-11-95.

FROM ORDERS.

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
" " " 189 , " , "
" " " 189 , " , "

ORDER.

The Collector will be requested to ~~do~~ ~~this~~ revise them, & report his views as to the desirability of including within municipal limits & the land between the municipality & the cantonment referred to in para. 9. of ~~the above current~~ his endorsement.

(From orders)

Wd
10.1.96.

Id
16.1.96

To
The Chairman M.C. Vizagapatam & Collector of Vizagapatam
405
P.
Despd. 21/1/96

Taxation of land. Vizianagra
Mut 7

FROM ORDERS.

3232 M

C. S.

92

en given for copying ______
copied ______
en examined ______
en signed ______
} 189 .

AD AGAIN G.O., No. DATED
189 ,

RRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A
LETTER OF GOVERNMENT.							
STATEMENT WITH DITTO.							
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.							

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