Date taken out.	For what purpose.			Initials of clerk taking the paper or of attender.	Date returned.	Initials of attender.
	Department.	C. No.	Year.			

[L. & M. 3,000—28-10-97.]

Local & Munl. (1897) Department.

MISCELLANEOUS.

G.O., No. 2851 M

DATED 18-12-97

INDEXED. CR

DESPATCHED

[Despatch Abstract.]

Levy of profession tax on Railway administration—

Requesting the advocate general to give his opinion regarding the levy by the Anantapur Municipality of the profession tax on the S.M. Railway & the levy of the same tax under the Dt. municipalities act, as recently amended, on Railway administration generally without the previous sanction of the Government of India.

Chairman

BACK PAPERS.

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

FURTHER PAPERS.

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

Local & Munl. (1897) Department.

MUNICIPAL OFFICE, 19 AUG. 97 ANANTAPUR.

CURRENT No. 2827 M 9 SEP. 1897.

ANANTAPUR COLLECTOR'S OFFICE. RECEIVED ON 22 AUG. 97 REGISTER No.....

ANANTAPUR COLLECTOR'S OFFICE. RECEIVED ON 7- SEP. 97 REGISTER No.......

Despd 8847

N. 1. Worn GLC 3623
Forwarded the Chairman
for [illegible]
R H Shipley
Collr
7.9.97

From

The Chairman, Munl: Council,
Anantapur

~~**Order**~~ Ref. No 871, dated 13th August 1897.

Returned to the Chairman for resubmission through the Collector as required in G. O. No 1162 M., dated 4th September 1893.

J. Shelton
For Secretary to Govt.

Fort St. George
18th August 1897

MUNICIPAL OFFICE, 3- SEP. 97 ANANTAPUR.

GLC 3623
1.9.97

The Chairman is requested to send copy of the correspondence referred to for the information of Government.
R H Shipley
7 M
K. S

GLC 3623
22.8.97
Cont. 168
19.8.97

Ar N 1919

To,
The Chairman, Munl: Council,
Anantapur

Submitted to Government
L & M. Dept.

Ag Collector

Tl
3.8.97

Shr

R. of No. 168.

Dated 2nd August 1897.

Received 4th August 1897.

Registered 4th August 1897.

Enclosures Six

Spare copies.

SUBJECT.

Requesting to move Government to obtain the sanction of the Govt. of India, if need be, for the imposition of profession tax on the S. M. Railway at Anantapur, under the circumstances stated therein.

Submitted through the Collector of Anantapur with copies of correspondence.
H J W Hawkins
Surgeon Major
Chairman

Anantapur Ml Office
19th August 97

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Regr C No. 162
2-8-97

ANANTAPUR MUNICIPAL COUNCIL'S OFFICE,

Dated, the 2nd August 1897.

LOCAL & MUNICIPAL DEPT.
2827/M

From
Surgeon Major [illegible]
CHAIRMAN, MUNICIPAL COUNCIL,
ANANTAPUR,

To
The Secretary to Government
Local and Municipal Department
Fort Saint George.

Sir,

The Southern Mahratta Railway Company has all along been paying profession tax to the Bellary Municipality. For the first time this year, under section 60 of the District Municipalities Act IV of 1884, as amended by Act III of 1897, it has also been assessed by this Municipality to the same tax, Rs. 50-0-0 per half year, being the amount of assessment fixed, taking its income here at Rs 2000-0-0 per mensem.

2. On service of a demand notice for the same on the Agent of the Company he referred me to para 3. of India Governments' resolution No:

No 4917
27-9-94

No: 434 R.T., dated 17th August 1894. and argued that, as the tax was not legally in force on the 30th April 1894, the Company was not liable to the same. In my further communication I pointed out that the tax could not be considered not to have been legally in force as stated by him, as the Company has all along been admittedly paying it in the Municipality and the authority quoted referred only to the imposition of a new tax which is not the case in the present instance. In his reply he repeats that the Company is not liable to the tax and suggests that if the claim is maintained, the Government of India should be moved to accord sanction for the same, and informs that copies of the Correspondence, on the subject will be submitted to Government for information.—

3. I have the honor to request that, in these circumstances, you will be good enough, if need be, to move Government to address the Government of India on the subject, as the law as it now stands and being of a ~~future~~ later date to the authority quoted above and also enacted under the authority of the Government of India, establishes the claim of the Municipality against such rulings.—

4. In this connection, I beg to submit that on my letter of the 12th June 1897, communicating my opinion to the Agent in reply to his contention, and requesting him that, if he, could not agree with me, he should appeal to the Council as required by the Act or move Government in the matter, he took no action, till the receipt of my 3rd reminder informing that steps will be taken for the recovery of the amount under Section 103. of the Act.—

I have the honor to be
Sir
Your Most obedient Servt.

Surgeon Major
Chairman

ANANTAPUR MUNICIPAL COUNCIL'S OFFICE,
Dated, the 3rd June 1897.

C No. 168/3.6.97, Enc one Dem: notice

From

The CHAIRMAN, MUNICIPAL COUNCIL,
ANANTAPUR.

To

The Agent, S. M. Railway
Dharwar.

Sir,

Under the District Municipalities Amendment Act III of 1897 - a person or company carrying on trade or profession in one, or more than one Municipality being liable to Profession tax in every one of such Municipalities, I have the honor to enclose herein a demand notice for Rs 50/-/- levied on your Company, as Profession tax for the half year ending 30th September 1897; taking the income at this Railway station, per mensem, at Rs 2000 or more. The tax should be paid within 15 days, as stated in the notice.–

I have the honor to be
&c &c
(Signed) H. M. Hakim
Surgeon Major
Chairman

(True Copy)

K S Rau

Surgeon Major
Chairman.

FROM
The Chairman
Municipal Council,
ANANTAPUR.

To
The

DATED
DESPATCHED
No.
ENCLOSURE

SUBJECT.

Southern Mahratta Railway Company (Ld)
Agent's office.
Dharwar - 8th June 1897.

No. 7578 / 5551.

To,

The Chairman
Municipal Council
Anantapur.

Sir,

In reply to your letter No. 168, dated 3rd instant, I have the honor to inform you that this Company has all along been paying Profession tax at Bombay, and, in consequence, we are not liable to pay it to any other Municipality, vide Section 60 of Act IV of 1884 - and that under Government of India Resolution No. 434 R.T. dated 17th August 1894, para 3, we are not liable for any taxes which were not legally in force on the 30th April 1890, and as on that date we were not liable for payment of Profession tax to more than one Municipality I regret I am unable to accept the bill which accompanied your letter under reply.—

I have the honor to be
&c &c
(True Copy)
(Signed) - Murdoch
Major. R.E.
Agent

Surgeon Major

ANANTAPUR MUNICIPAL COUNCIL'S OFFICE,
Dated, ~~the~~ 12th June 1897.

Rou C No. 488/12.6.97

From
Surgeon Major H. M. Hakim
CHAIRMAN, MUNICIPAL COUNCIL,
ANANTAPUR.

To
The Agent, S. M. Railway
Dharwar.

Sir,

In reply to your letter No. 7576/5551, dated 8th instant, I regret to inform you that I cannot agree with you in that that under ~~the~~ India Government's resolution quoted therein, you are not liable to pay the Profession tax levied by this Municipality. — This resolution refers only to a new tax - which is not the case with you since, admittedly, you have all along been paying Profession tax - not to ~~the~~ new imposition of this tax which is one that had, of course, been legally in force during the year ended 30th April 1890. The only difference that has now arisen in the matter is in regard to the application of the provisions of Law under which it ~~was~~ is levied. — Section 60 of Act IV of 1884 quoted by you as

another

another authority is no more as it was. The Government of Madras with the assent of the Government of India has substituted the Section, copy of which is herein enclosed, for the original section. Illustration 3 appended thereto determines your liability to the tax, beyond the shadow of doubt.—

However, were you to hold the same adverse view as expressed in your letter, I have the honor to request that as required by the Act, you may deposit the amount demanded and file an appeal to the Council or move Government for the issue of an authoritative ruling in the matter.—

I have the honor to be
&c &c
(Signed) H. M. Hakim
Surgeon Major
Chairman

(True Copy)

Surgeon Major
Chairman

K Rao

ANANTAPUR MUNICIPAL COUNCIL'S OFFICE,
Dated, the 1st July 1897.

Rou 6 No. 168/1-7-97

FROM
Surgeon Major H. M. Hakim
CHAIRMAN, MUNICIPAL COUNCIL,
ANANTAPUR.

To
The Agent, S. M. Railway
Dharwar.

Sir,

In continuation of my letter No. 168, dated 12.6.1897, I have the honor to request that you will be good enough to arrange for the very early payment of the Profession Tax of Rupees 50-0-0 levied on your Company for the current half year, ending 30th September 1897, as the same is overdue the notice of demand having been received by you on the 8th instant, and to draw your attention to Section 103 of the Act, regarding the prompt collection of taxes not paid or appealed against to the Council within the prescribed period of 15 days.—

I have the honor to be
Sir
&c &c &c
(Signed) H. M. Hakim
Surgeon Major
Chairman

(True Copy)

H M Hakim
Surgeon Major
Chairman

K Rao

FROM

The Chairman
Municipal Council,
ANANTAPUR.

To

The

DATED

DESPATCHED

No.

ENCLOSURE

SUBJECT.

12

ANANTAPUR MUNICIPAL COUNCIL'S OFFICE,
Dated, the 24th July 1897.

Ron. C No. 168 / 24-7-97

FROM
Surgeon Major H. M. Hakim
CHAIRMAN, MUNICIPAL COUNCIL,
ANANTAPUR.

To

The Agent. S. M. Railway
Dharwar.

Sir,

I have the honor to draw your attention agai to my letter No. 168 dated 12. 6. 97. and the reminders the and to inform you that if the Profession tax of Rs 50-: levied on your Company for its transactions in this cipality for the half year ending 30th September 18 not paid within 8 days from the date of the rece of this letter under Section 103 of the Municipal Act I regret I shall have the unpleasantness of ord a distraint of the moveable property of the for the realization of the said sum of Rs 50/0/ with 2 annas for warrant fee and Rs 5-0-0. for fee and such farther sum as may be suffic to defray the charges of taking. keeping or XX. such distraint.—.

I h—.

(True Copy) (Sig

H M Hakim

ne 1897, I have

18/9/97

From

The Chairman
Municipal Council,
Anantapur.

To

The

Dated

Despatched

No.

Enclosure

SUBJECT.

d,

ance

Major

Southern Mahratta Railway Company Ld

No. 7578/7374

Agent's office
Dharwar 28th July 1897

To,

The Chairman
Municipal Council
Anantapur.

Sir,

With reference to correspondence ending with your No. 168, dated 24th instant, I have the honor to inform you that, as we were not legally bound to pay profession tax at Anantapur on the 17th August 1894, I regret my inability to accept your claim, which, under the orders as they now stand, requires the sanction of the Government of India. If you wish to maintain it, I would suggest your moving the Government of India on the subject through the Government of Madras, in accordance with the orders contained in para 3 of Government of India Resolution XX. No 434. R.T. dated 17th August 1894.—

2.— In my No. 5551, dated 8th June 1897, I have to request that for "Bombay" occurring in the third line you will please read "Bellary." I much regret this error which was purely typographical.—

3.— Copies of the correspondence on this subject will be submitted to Government for information.—

I have the honor to be
&c &c &c

(Signed) Murdoch
Major R.E.
Agent.

(True Copy)

Surgeon Major
Chairman

Local & Munl. (1897) Department.

CURRENT No. 3201 M.

Order

From The Chairman, M.C.,
Anantapur.

RmC. No. C. 168

Dated 19-8-97
Received 9-9-97-
Registered
Enclosures
Spare copies.

SUBJECT.

Requesting the sanction of the Govt. of India if need be, for the ~~the~~ imposition of profession tax on the S. M. Railway at Anantapur, under the circumstances stated therein.

BACK PAPERS.

G.O.	No.	Department.	Date.
G.O.	1988	[illegible]	18-11-96
"	1917	L	27-9-94
"	658	L	25-3-94
"	205-6	L	22-2-94
"	861	[illegible]	3-7-93
"	1074	L	21-7-90

FURTHER PAPERS.

G.O.	No.	Department.	Date.

[illegible] Mahratta Railway Co to the payment of [illegible] tax in the Anantapur Municipality

Current No. 3201 M.

For Orders.

* Vide copy of the notification [illegible] and G.O. 1074 L 21-7-90 N

L

In notification No.270, dated 12th June 1890, published under section 135 of the Indian Railways Act 1X of 1890 (India) in the Gazette of India of the 14th June 1890, it is laid down that every Railway administration is "liable from and after the 1st May 1890 to pay every tax which it was lawfully required by or on behalf of any local authority to pay, in aid of the funds of such authority during the year ended on the 30th April 1890," and in para.3 of its resolution printed in G.O.No.1917 L, dated 27th September 1894, the Government of India directed "that when it is sought to ~~improve~~ impose any new tax on a railway, application should be made through the local Government concerned for the sanction of the Governor General in Council under sub-section (1) of section 135 of the Act referred to above."

M

2. The Municipal Council of Anantapur assessed the Southern Mahratta Railway, for the first time in the current year, to a profession tax of Rs.50 per half year, taking its income at Anantapur at Rs.2,000 per mensem. The Agent of the Company stated that as the tax was not legally in force on the 30th April 1890, the Company is not liable to the same, and suggested that if the claim is maintained,

the

the Government of India should be moved to accord sanction to the imposition of the tax.

3. The Chairman, however, contends that the resolution of the Government of India above quoted refers only to the imposition of new tax and cannot apply to the present case, as the Southern Mahratta Railway has been paying profession tax in the Bellary Municipality prior to 30th April 1890, that as the law under which the tax is now sought to be levied is of a later date than the resolution quoted by the Agent and has been enacted under the authority of the Government ~~no~~ of India, the claim of the municipality is valid, and that the sanction of the Government of India is unnecessary.

4. Under section 60 of Act IV of 1884, no person was liable to the payment of profession tax who had paid the tax for the same half year in any other municipality. The Southern Mahratta Railway was accordingly assessed to the tax only in the Bellary Municipality, and was in consequence, exempt from taxation in the other municipal towns where it carried on business. Section 60 of Act IV of 1884, as amended by Act III of 1897, however, lays down that "if, in any half year, any "person exercises in more than one muni-"cipality any such art, profession, trade "or calling or holds any such office or "appointment, he shall be liable subject to "the provisions of section 55, to pay the tax "leviable under section 53 ~~in every~~ each of such "municipalities; Provided that the tax pay-"able in each such municipality shall be "fixed with reference to the income derived "from the business carried on or the ap-"pointment held therein." The Southern Mahratta Railway is liable to the profession tax under the amended Act, but was not so under Act IV of 1884, and not having been lawfully required to pay it, by or on behalf of the Anantapur Municipal Council during the year ended 30th April 1890, it is not liable to the tax under the Government of India notification above quoted. The sanction of the Government of India seems therefore to be necessary for the imposition of the tax.

K.B.
21/10/97

H.H.

To come to a clear decision on the question it is necessary to consider the precise legal position.

I shall therefore recapitulate the relevant provision of the Act & the Resolutions thereunder.

2. Under sec 135 of the Railway Act of 1890 a railway admn. was not to be "liable to pay any tax in "aid of the funds of any local "authority[x] unless the G.G. in C. "has by notifn. declared the "railway admn. to be liable to "pay the tax"

---

x "Local authority" include a Dist. Board or a Municipality

3. Under this section the G. of India Notifn no 270 d 12 June 1890 (pending further orders under the section) the liability of every railway from & after 1st May 1890 to pay every tax which it was lawfully required by a local authority to pay in aid of the funds of such authority during the year ended 30th Ap 1890

Slip L

4. Doubts having arisen as to the scope of this Notifn the G of I in a reference from Madras explained that the Notifn was merely contemplated until further orders the liability to certain taxes, which as to their amount might be "altered or increased according to the law in force".

From Home Dept 31/12/91 no 123 in G.O. 28/1/92 L&M no 188

5. Then in 1893 a further Notifn was issued no 126 d. 5 Ap. 1893 ~~by the~~ D.P.W. of the G of India, ~~declaring~~ under the same section of the Railways Act declaring, inter alia, the liability of every Railway Admn to pay to a local Authority in respect of any railway or portion thereof [illegible] the local area a since

vide appendix to G.O. 25 May 1894 no 658 Or.-

fixed with

"from

30th Ap 1890 or hereafter opened the following taxes—

"(1) when such admn was
" during any part of the year ending 30 Ap 90 taxed by
" such local authority in respect of any railway or
" portion of railway ..... the same taxes .... as
" were actually levied from such Admn by such authority
" during such year, and

"(2) when such Admn was not
" during any part of such year, taxed or taxable by
" such authority in respect of any such thing as aforesaid, &
" all such taxes, & at such rates as such Admn wd have
" been liable to if such railway or portion ... had
" been open ... prior to the said 30th Ap 1890"

"The liability imposed by this Notifn shall be deemed to have arisen .... as from the date on wh. such railway .. was so opened ..."

6. Finally came the G. of I. Resoln of 17 Augt 1894 no 434-R.T. which after declaring that the G of I considered a general revision of the existing system of local taxation in regard to railways to be unnecessary, & drawing attention to the two preceding Resolns, directed that "when it is "sought to impose any new tax "on a railway application sd be

G.O. 27 Sept. 94 no. 1917L. (slip M)

3. Under this section the G. of India notified no 270 d 12 June 1890 (pending further orders under the section) the liability of every railway from & after 1st May 1890 to pay every tax which it was lawfully required by a local authority to pay in aid of the funds of such authority during the year ended 30th Ap 1890

Slip L

4. Doubts having arisen as to the scope of this notifn. the G of I. on a reference from Madras explained that the notifn. was merely continued until further orders & the liability to certain taxes, which as to their amount might be "altered or increased according to the law in force".

From Home Dept 31/12/91 no 123 in G.O. 28/1/92 L&M no 188

5. Then in 1893 a further notifn. was issued no 126 d. 5 Ap. 1893 ~~by the D.P.W.~~ of the G of India, ~~declaring~~ under the same section of the Railways Act declaring, inter alia, the liability of every Railway Admn. to pay to a local Authority in respect of any railway or portion thereof [illegible] within the local area a since

vide appendix to G.O. 27 May 1894 no 658

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"from

30th Ap 1890 or hereafter opened the following taxes —

"(1) when such admn. was "during any part of the year ending 30 Ap 90 taxed by "such local authority in respect of any railway or "portion of railway ...... the same taxes .... as "were actually levied from such Admn. by such authority "during such year, and

"(2) when such Admn. was not "during any part of such year, taxed or taxable by "such authority in respect of any such thing as aforesaid, & "all such taxes, & at such rates as such Admn. w. have "been liable to if such railway or portion ... had "been open ... prior to the said 30th Ap 1890"

"The liability imposed by this notifn. shall be deemed to have arisen .... as from the date on wh. such railway .. was so opened ..."

6. Finally came the G. of I. Resoln. of 17 Augt 1896 no 434-R.T. which after declaring that the G of I. considered a general revising of the existing system of [illegible] taxation in regard to [illegible]d, the [illegible] unnecessary [illegible] the attention to the two [illegible] under Resolns, directed the [illegible] 1897 is "except to impose [illegible] altogether; "on a railway applies this point

G.O. 27 Sept. 94 no. 1917L. (slip M)

"made this the Loc: Govt for the "sanction of the G of I"

7. The question in this case is whether the tax assessed on the railway by the Anantapur Mty. is a "new tax" within the meaning of the last Resoln so as to require the sanction of the G of I.

8. On 30 Sp. 1890 the "profession tax" was operative under the Act of 1884 & the Railwy Admn. was taxable under S. 53 in respect of it in the Mty. of Anantapur just as it is at the present day: but it was not in fact assessed to the tax in that Mty. in virtue of a provision in that Act (section 90) ~~that which operates~~ exempting from liability any person or company which had paid the [illegible] in any other Mty.; & this [illegible] having paid the tax section 9[illegible] was quit of liability declaring [illegible] Tapur.

of every Rai[illegible] amending Act of 1897 [illegible] local Act by declaring that any railway company shd for the future be liable to the tax in every Mty. in which business was carried on to the extent of the income derived in that Mty.

The amending Act thus changed by law a potential liability into an actual liability in every case. But as the liability had not been in fact "actually" enforced "by such local authority" (i.e. the Anantapur Mty.), as required by clause (1) of the Resoln of 1893 (set out in para 5 supra), it cannot now be imposed without the sanction of the Govt of India even tho the tax may not be in a sense a "new tax"; & accordingly the Govt of India must be addressed pointing out the reasons for imposing it.

10. But there is, behind, the larger question whether the tax as assessable under the amending Act of 1897 is not a new tax altogether; & the consideration of this point

is really the reason for my having gone into the question of railway taxation at the length I have done above, which is somewhat unnecessary for the actual decision of this particular case. The difficulty is this that if the profession tax is a new tax within the purview of the Resolutions of the Govt. of India we shall or may have the Railway Admns., now paying profession tax, objecting to the payt. of the tax ~~under the law~~ as recast; & it is as well to know where we are.

11. Under the Resoln. of 1893 (para 5 of this note *supra*) the liability to pay tax by railways already open on 30 Ap 90 was restricted to the same taxes which were *actually* levied – by *such* (local) authority" during 1890; and this is to be read subject, I take it, to the explanation given in 1891 (*vide* para 4 ~~ibid~~ of this note *supra*) that it included any increase or alteration in the amount of the tax "*according to the law in force*". If the

last words refer to the law in force in Ap. 1890 then that law was the Act of 1884. The law of 1897 ~~has~~ introduced a material difference in the incidence of the tax, which now depends not on the particular trade carried on, or on the rental of the premises but on the income derived.

If the ~~Board~~ explanation of 1891 ~~[illegible]~~ refers merely to the *rate* at which the tax ~~leviable~~ operative may be levied under the law in force in 1890 & does not ~~to~~ cover an alteration in the incidence or nature of the tax introduced by a new law, then all the railway taxation by Mties. or Dt. Boards on the railways open in 1890 may be contested & will require the fresh sanction of the Govt. of India.

12. – I do not know whether [illegible] Bd. wish the point raised in view of decisions, in making the present reference to the Govt. of India, which so far as the Anantapur case is concerned

can be restricted to the point that as the tax was not actually levied by that Naty it requires the approval of the Govt. of India

S. V. R. 22/11/97

Before we run the risk of stirring up the mud, wd. it not be safer to ask the Adv. Genl.'s opinion on the legal position?

H. L.
1/12/97

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[5]
700—6-4-96.

Papers to be read in Proceedings :—

Again G.O., dated 189 , No.

Current No 3201 M of 1897, dated 19-8-97 from the Chairman, M.C. Anantapur.

Current No. of 189 , dated from the

Misc.

Order. No. 2851 M. Misc. d/18/12/97

Section 135 of the Indian Railways Act IX of 1890, lays down that a railway administration shall not be liable to pay any tax in aid of the funds of any local authority, unless the Governor-General in Council has by notification in the official gazette declared the railway administration to be liable to pay the tax. Under this section, the Government of India in its Notification No. 270, dated 12th June 1890, declared, pending further orders under that section, every railway administration to be liable from and after the 1st May 1890, to pay every tax which it was lawfully required by or on behalf of any local authority to pay, in aid of the funds of such local authority, during the year ended 30th April 1890, and in Home Department letter No. 123 dated 31st December 1891, the scope of this notification was explained by the Government of India to be " merely to continue until further orders the liability to certain taxes which as to their amount might be altered or increased according to the law in force." Under the notification of the Government of India, Public Works

in G.O. No 1074 M / 21-7-90. N.

in G.O. No 188 M. / 28-1-92. K

Department

Department, No. 136 dated 5th April 1893, [illegible] of the liability to taxation of railways already open on 30th April 1890 was restricted to the same taxes and to similar rates of taxation as were actually levied from such administration by such local authority during the year 1890, and in its resolution No.434 R.T. dated 17th August 1894, the Government of India directed that " when it is sought to impose any new tax on a railway, application should be made through the local Government concerned, for the sanction of the Governor-General-in-Council ".

in G.O. no 658 M. 25-5-94 F

in G.O. no 1997 L. 27-9-94 M

2. The municipal Council of Anantapur assessed for the first time in the current year, the southern Mahratta railway to the profession tax. On the 30th April 1890, the profession tax was operative under Act IV of 1884 and the railway administration was taxable under sec. 53 thereof in the municipality of Anantapur, just as it is at the present day; but it was not actually assessed to the tax in that municipality in virtue of a provision in that Act (sec. 60) exempting from liability any person or Company that had paid the tax in any other municipality and and this railway administration having paid the tax the tax in Bellary was exempt from liability in Anantapur. The amending Act III of 1897 however, has altered this by declaring that a person or Company should ~~for the~~ in future be liable to the tax in every municipality in which business was carried on to the extent of the income derived in that municipality. The amending Act thus changed by law a potential liability into an actual

Vide. Sec. 60 of Act III of 1897.

one,

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one; but seeing that the liability had not been" actually" enforced by " such local authority" viz:-the Anantapur municipality, as required by the Resolution of 1893, the question for consideration is whether the tax can be now imposed on the railway administration in Anantapur, without the sanction of the Government of India?

in G.O. 658 M. 25-5-94

3. Again, under the Resolution of the Government of India of 1893 above referred to, a railway administration which was taxed by a local authority during any part of the year ended on the 30th April 1890, is liable to pay such tax and at similar rates of taxation as were actually levied from such administration by such authority during such year, and according to the explanation given in 1891, such liability included any increase or alteration in the amount of the tax according to the law in force. If this referred to the law in force in April 1890, then that law was Act IV of 1884. But the amending Act of 1897, has introduced a material difference in the incidence of the tax which now depends not on the particular trade carried on or on the rental of the premises, but on the income derived. Does the explanation of 1891, refer merely to the rate at which the tax operative under the law in force in 1890, may be levied or

K

does

does it cover an alteration in the incidence or nature of the tax introduced by a new law?

4. The Advocate General is requested to give his opinion on the questions raised in paragraphs 2 and 3 above.

(From orders)

V.R.
18/12/97

J.T.
18-12-97

TO

The Government Solicitor, B.O. ✓

with a copy of Gos. $\frac{\text{1074 M}}{\text{21-7-90}}$, $\frac{\text{1881}}{\text{28-1-92}}$

$\frac{\text{658 M}}{\text{25-5-94}}$ & $\frac{\text{1917 L}}{\text{27-9-94}}$.

Desp 21/12/97

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