

7-2-16 B.T.
6-12-18 B.T.

Local & Munl. (1897)

INDEXED ^{MS}
Department.

PRINTED.

G.O., No. 80/11

DATED 5-4-97

DESPATCHED

[Despatch Abstract.]

Taxation on Govt. buildings situated within Cantonment limits

Recording letter from the Govt. of India, ^{informing} ~~stating~~ that H. E. the Governor General in Council does not consider it necessary to modify the existing orders, prohibiting the levy in any Cantonment in British India, of any municipal tax whatsoever on public property.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Cuo 1572 In/o.2							

Government {1897} of Madras. LOCAL AND MUNICIPAL.

Recd.

Regd.

} 1897.

Enclosures

Spare copies

G.O., No. 801 M., 5th April 1897.

APRIL.

Taxation on Government Buildings situated within Cantonment Limits.

Recording letter from the Government of India stating that His Excellency the Governor-General in Council does not consider it necessary to modify the existing orders prohibiting the levy in any cantonment in British India of any municipal tax whatsoever on public property.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—again the following papers :—

G.O., Mis. No. 2110 M., dated 16th December 1895.

ABSTRACT—Communicating to the Collector of Trichinopoly, with remarks, copies of certain Government orders as requested, and requesting him to submit, after consultation with the Military authorities, proposals to exclude the Government buildings by notification from cantonment limits, so as to render them liable to taxation under the District Municipalities Act.

G.O., Mis. No. 1067 M., dated 24th June 1896.

Read—the following letter from J. ANDREW, Esq., Collector of Trichinopoly, to the Chief Secretary to Government, Local and Municipal Department, dated 30th March 1896, Dis. No.—Rev. :—

With reference to G.O., Mis. No. 2110 M., dated 16th December 1895, I have the honour to inform you that it is not quite clear whether Government means to suggest that the various Government buildings should be separately excluded from cantonment limits, or whether the cantonment limits should be revised so as to exclude all that portion which contains the buildings in question. I do not imagine that the former course is intended as the buildings are pretty well scattered all over the cantonment as is apparent from the sketch, which I herewith return (*vide* the twenty-nine houses marked therein as per list enclosed). If these buildings are to be separately excluded, we shall have to demarcate them all separately, and it will not be altogether convenient to have so many as twenty-nine pieces of land scattered here and there throughout the cantonment but excluded from it. It may also be doubtful if Trichinopoly can be treated in such an exceptional manner for the sake of giving the municipality not many hundreds of rupees income in the shape of house-tax. Probably, Bellary and other municipalities might make similar claims, and it might turn out to be a matter affecting all municipalities in India which have cantonments within their limits. I have, however, no personal knowledge of Bellary or other cantonments, and hence I do not speak on this point with any certainty. As to the other alternative, I have thought it best not to consult the Military authorities until I ascertain the intentions of Government on the point above mentioned. It appears to me that it would be easy enough to let the military lines remain in the cantonment and to exclude from cantonment limits all that portion (and it would be much more than half), which is west of the railway except, perhaps, the hospital and magazine (buildings Nos. 4 and 1), but I scarcely think that the Military authorities would view this proposal with favour. In asking for permission to levy house-tax on these buildings, the council was labouring under the erroneous impression that Trichinopoly had ceased to be a cantonment, and in endorsing their recommendation, I was under a similar impression which was only removed by G.O., Mis. No. 2110 M., dated 16th December 1895. Had I been aware of the real facts of the case, I would not have been prepared on the information before me to recommend that Trichinopoly should be treated differently from other municipalities. I may here mention that, although Trichinopoly is a cantonment, the only portion of the rules and regulations framed under the Cantonment Act that applies is chapter VI, which only relates to the registration of vital statistics (*vide* article 1969 of the Army Regulations), so that for

all practical purposes Trichinopoly is not a cantonment save in name. To raise now this question of house-tax on the Government buildings will most probably raise the question as to whether or not Trichinopoly should be made a cantonment *de facto*, or whether it should be even in name reduced to less than half its present size by limiting it to the portion east of the railway, or in such other way as might be found desirable after full consideration. This is a serious question, especially in the case of an important town like Trichinopoly which contains one of the largest civil populations of South India, including the very large railway staff of European, Eurasian and Native employes. All things considered I think it is as well to leave matters as they are for the present at least, and to abstain from levying house-tax on the Government buildings. I beg to be favoured with the orders of Government as to what action I should take.

Order—Mis. No. 1067 M., dated 24th June 1896.

On further consideration the Government is of opinion that it would not be expedient to exclude these Government buildings from cantonment limits, and therefore the proposal to charge them with municipal taxes cannot be approved as in no other way could this taxation be legally carried out under existing circumstances.

2. The Government of India will, however, be addressed on the question of exemption from taxation of such buildings in cantonments as are situated within the limits of a municipality.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Collector of Trichinopoly.

READ—also the following paper :—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Municipalities), to the Chief Secretary to the Government of Madras, dated Calcutta, the 3rd February 1897, No. 13.

I am directed to acknowledge the receipt of your letter, Mis. No. 1068 M., dated the 24th June 1896, recommending that the Home Department Resolution, No. 5—165 to 181 (Municipalities), dated the 21st December 1883, which restored paragraph 2 of the Order, No. 163, dated the 18th November 1881, prohibiting the levy in any cantonment in British India of any municipal tax whatsoever on public property, may be modified so as not to apply to cantonments included in municipalities.

2. In reply, I am to say that the argument of the Government of Madras on which the above recommendation is based apparently proceeds on the assumption that the orders in the resolution of the 21st December 1883 were issued under section 3 of the Municipal Taxation Act XI of 1881. I am, however, to invite a reference to the first paragraph of that resolution and to the preamble in which the order in the Home Department, No. 163, dated the 18th November 1881, is recited. The Government of Madras will see that the exemption from taxation sanctioned by the resolution in question was ordered in exercise of the power conferred on the Governor-General in Council by section 24 of the Cantonments Act III of 1880. The authority contained in that section was retained and expressed in more precise terms in sub-section (1) of section 20 of the Cantonments Act, XIII of 1889, and the resolution of the 21st December 1883 still has, by virtue of the saving clause contained in section 2 (2) of the existing Act, full force and effect.

3. I am to mention that the statement that, in the case of cantonments which are not included in municipal limits, the Government can be compelled to contribute to the Cantonment fund under section 5 of Act XI of 1881, appears to be incorrect, inasmuch as this Act deals only with taxes levied by municipal committees. In

cantonments of this class the Government pays contributions, but such contributions are independent of the provisions of section 5 of the Act of 1881. So far as cantonments within municipal limits are concerned, the Government of India are advised that sub-section (2) of section 20 of the Cantonments Act, 1889, has the effect of absolving the Government from any legal liability to the municipal committee in cases in which the exemption from taxation of Government property in such cantonments is ordered.

4. The existing law and orders on the subject under consideration appear to be clear, and the Governor-General in Council, as at present advised, does not consider it necessary to modify the Home Department resolution of the 21st December 1883. The law and the instructions that have issued under it are based on the general principle that a public building is a building which exists for the benefit of the community at large including the particular branch of the community which endeavours to tax it, and that its nature is such as not to admit of the application of ordinary principles in assessing thereon the payment of any particular tax. These principles would be in a greater or less degree barred by such considerations as the fact that the Government building chiefly ministers to the advantage of the residents of the neighbourhood, that it is served little or not at all by the municipal staff and institutions, or that the tax itself, being a tax on letting values, is inapplicable to a building which is never let.

5. His Excellency in Council observes from paragraph 1 of your letter under reply that the present question has been raised in regard to *civil* buildings in cantonments included in municipalities. Such buildings are so few that their inclusion in the general exemption from taxation can hardly have an appreciable effect on the cantonment or municipal revenues, but I am to suggest that any cases which have occurred in the Madras Presidency in which the exemption of the civil buildings in a cantonment has had any appreciable effect on the contributions of the cantonment may, with the permission of His Excellency the Governor in Council, be brought to the notice of the Government of India.

ORDER—No. 801 M., dated 5th April 1897.

Recorded.

(True Extract.)

G. S. FORBES,
Secretary to Government.

To the Collector of Bellary.

" " of Chingleput.
" " of Malabar.
" " of Nilgiris.
" " of Trichinopoly.
" " of Vizagapatam.

Copy to the Chairman, Municipal Council, Trichinopoly.

Government {1897} of Madras. LOCAL AND MUNICIPAL.

Proof for approval

*The Govt of India letter would be
immediately without any letter to India. Would
think be better to print it also?*

Recd.

Enclosures

Regd.

1897.

Spare copies

G.O., No. 801 M., 5th April 1897.

APRIL.

Taxation on Government Buildings situated within Cantonment Limits.

Recording letter from the Government of India stating that His Excellency the Governor-General in Council does not consider it necessary to modify the existing orders prohibiting the levy in any cantonment in British India of any municipal tax whatsoever on public property.

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LOCAL AND MUNICIPAL DEPARTMENT.

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(Signed) J. F. PRICE,
Chief Secretary.

To the Collector of Trichinopoly.

READ—also the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Municipalities), to the Chief Secretary to the Government of Madras, dated Calcutta, the 3rd February 1897, No. 13.

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2. In reply, I am to say that the argument of the Government of Madras on which the above recommendation is based apparently proceeds on the assumption that the orders in the resolution of the 21st December 1883 were issued under section 3 of the Municipal Taxation Act XI of 1881. I am, however, to invite a reference to the first paragraph of that resolution and to the preamble in which the order in the Home Department, No. 163, dated the 18th November 1881, is recited. The Government of Madras will see that the exemption from taxation sanctioned by the resolution in question was ordered in exercise of the power conferred on the Governor-General in Council by section 24 of the Cantonments Act III of 1880. The authority contained in that section was retained and expressed in more precise terms in sub-section (1) of section 20 of the Cantonments Act, XIII of 1889, and the resolution of the 21st December 1883 still has, by virtue of the saving clause contained in section 2 (2) of the existing Act, full force and effect.

3. I am to mention that the statement that, in the case of cantonments which are not included in municipal limits, the Government can be compelled to contribute to the Cantonment fund under section 5 of Act XI of 1881, appears to be incorrect, inasmuch as this Act deals only with taxes levied by municipal committees. In

Local and Municipal
Department,

Recd
Phaseprint here
letter No. 1068 M.
dated 24. June 96
to the Govt of India
& show revised para

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4. The existing law and orders on the subject under consideration appear to be clear, and the Governor-General in Council, as at present advised, does not consider it necessary to modify the Home Department resolution of the 21st December 1883. The law and the instructions that have issued under it are based on the general principle that a public building is a building which exists for the benefit of the community at large including the particular branch of the community which endeavours to tax it, and that its nature is such as not to admit of the application of ordinary principles in assessing thereon the payment of any particular tax. These principles would be in a greater or less degree barred by such considerations as the fact that the Government building chiefly ministers to the advantage of the residents of the neighbourhood, that it is served little or not at all by the municipal staff and institutions, or that the tax itself, being a tax on letting values, is inapplicable to a building which is never let.

5. His Excellency in Council observes from paragraph 1 of your letter under reply that the present question has been raised in regard to *civil* buildings in cantonments included in municipalities. Such buildings are so few that their inclusion in the general exemption from taxation can hardly have an appreciable effect on the cantonment or municipal revenues, but I am to suggest that any cases which have occurred in the Madras Presidency in which the exemption of the civil buildings in a cantonment has had any appreciable effect on the contributions of the cantonment may, with the permission of His Excellency the Governor in Council, be brought to the notice of the Government of India.

ORDER—No. 801 M., dated 5th April 1897.

Recorded.

(True Extract.)

Secretary to Government.

To the Collector of Bellary.
 " " of Chingleput.
 " " of Malabar.
 " " of Nilgiris.
 " " of Trichinopoly.
 " " of Vizagapatam.

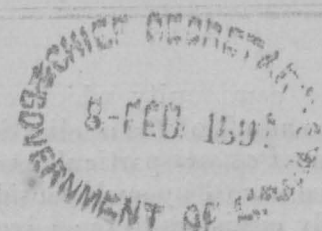
Copy to the Chairman, Municipal Council, Trichinopoly.

Exd. A. Raith.

LOCAL & MUNICIPAL DEPT.

CURR. No. 62/11

No. 13



FROM

J. P. HEWETT, Esq., C.I.E.,

Secretary to the Government of India,

TO

THE CHIEF SECRETARY TO THE GOVERNMENT OF MADRAS.

Home Department.
 Municipalities.

Calcutta, the 3rd February 1897.

SIR,

I AM directed to acknowledge the receipt of your letter No. 1068-M.-Miscellaneous, dated the 24th June 1896, recommending that the Home Department Resolution No. 5—165 to 181 (Municipalities), dated the 21st December 1883, which restored paragraph 2 of the Order No. 163, dated the 18th November 1881, prohibiting the levy in any cantonment in British India of any Municipal tax whatsoever on public property, may be modified so as not to apply to cantonments included in municipalities.

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The same principle is a wrong, I think, shown in England where buildings (Sf) were exempt B.T.

of the community which endeavours to tax it, and that its nature is such as not to admit of the application of ordinary principles in assessing thereon the payment of any particular tax. These principles would be in a greater or less degree barred by such considerations as the fact that the Government building chiefly ministers to the advantage of the residents of the neighbourhood, that it is served little or not at all by the municipal staff and institutions, or that the tax itself being a tax on letting values is inapplicable to a building which is never let.

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I have the honour to be,

SIR,

Your most obedient Servant,

J. P. Hermett.

Secretary to the Government of India.

Local & Munl. (1897) Department.

CURRENT No. 621 M

Again G.O. No 1067 M. d/24.6.1896
+ C. No 621 M of 1897

Order (1) H.H.
(2) H.S. the Governor
No 801 M d/5/4/97
Recorded.

P.S.
23/2/97

25/2/97

From

The Secretary to the Govt. of
India, Home Deptt

No. 13 -

Copy to the Chairman, M.C. Trichinopoly
Copy to the Collector of Trichinopoly, Bellary,
Chingleput, Malabar, Nilgiris,
" " Chairman, M.C. Trichinopoly,
Trichinopoly and Votakapalam.
(Copy 4/5/97)

Dated 3-2-1897.

Received 15-2-97

Registered 15-2-1897

Enclosures

Spare copies 7

Note.

In his letter in G.O. No 1067 M d/24.6.96
the Collector of Trichinopoly states that
the taxation of Government buildings
within the Trichinopoly Cantonment
will give the municipality "not
many hundreds of rupees income
in the shape of house tax." The
total income from house tax
derived by the municipality
in 1895-96, was Rs 28,217. No
further

SUBJECT.

Stating that the Governor Genl. in
Council does not consider it neces-
sary to modify the Home Deptt. Reso-
lution of 20-21-83, which restored
para. 2 of the Order No 163 d/18-11-87
prohibiting the levy in any Can-
tonment in British India of any municip-
al tax whatsoever on public proper-

The Hunt concerned can
more but: if it wants a further
refa made.

G.O.	No.	Department.	Date.
S.O.	919-20	General	23-5-81
"	2399	"	8-12-81
"	2442	"	17-10-84
"	1282	"	10-5-84
"	1045	"	15-1-84
"	2257	"	19-4-83
"	1860	"	22-8-89

G.O.	No.	Department.	Date.

Communicating to the collector of Trichinopoly
of certain G.D.s as requested and requesting him to
(cur. no. 1090 be in full)
order

submit, after consultation with the military authorities, proposals to exclude the Govt. buildings by notification from Cantonment limits so as to render them liable to taxation under the District Municipalities Act.