Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } 1898. *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2 000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19*th November* 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

1st November 1898.

A. EDGINGTON,
Ag. Assistant Secretary.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Ed. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. Raghava Charlu—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. Tremenheere—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[rundel]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

L. & M. 69—15-9-99.

Local & Munl. (1898) Department.

MISCELLANEOUS.

G.O., No. 2079 M

DATED 6-12-98

INDEXED.

RECORDED

[Despatch Abstract.]

Tax. Referring to the advocate General for favour of opinion certain papers regarding the levy of the profession tax on messrs Best & Co by the Negapatam municipality.

BACK PAPERS.

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

FURTHER PAPERS.

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

Sp 164 M/8-2-99

Gobernment {1898} of Madras.

LOCAL AND MUNICIPAL.

22/12/98

Proof for approval.

MISCELLANEOUS.

22/12/98 Strike off as ruled V.R. 23/12/98

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession **Tax.**

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the profession of Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers:—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1198, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the municipality of Negapatam. We have two causes of complaint against this municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the municipality assessed our principals in the first class, and, after paying the tax under protest on their account we appealed against the assessment as excessive. For the same period, the municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd. V. A. Rajavelu.

Proof for approval
Stroke off as read
23/12/03

LOCAL AND MUNICIPAL DEPARTMENT.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.
From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

For Orders—

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897-98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the municipal council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the chairman's argument that since the petitioners declined to produce their books the council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the municipal council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the municipal council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

To Honourable Member—

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the municipal council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O. (Mis.) No. 2079 M, dated 6th Dec. 1898.]

BEST & CO.
WHEN REPLYING PLEASE QUOTE
REFERENCE No. GLB 1/153

Send to Chairman &c
Related reports
N. I.
11 10 98

Madras, 8th October 1898.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 1353 of 98

SECRETARY TO GOVERNMENT
11. OCT. 1898
MUNICIPAL DEPARTMENT

MUNICIPAL COUNCIL
2- NOV. 1898
NEGAPATAM

The Chief Secretary
Government of Madras
Ootacamund

CHIEF SECRETARY
10 OCT. 1898
GOVERNMENT OF MADRAS

Sir,

E. We have the honor to refer you to Govern=ment Order No 1105 M. Mis: dated 20th June 1898 by which we were informed that it was under contemplation to amend the District Municipalities Act No IV of 1884, as amended by Act No III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No G L B 1/1 of 5th April 1898.

1105th 20-6-98

In view of this order we placed before Government on the 1st of September an account of the annoy=ance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the municipality of Negapatam. We have two causes of complaint against this Municipality, the first being in connection with the business in Kerosine oil at Negapatam

1664th F. 27-9-98

of

of the "Shell" Transport and Trading Company, of which we are the Agents. For the 1st half year of 1897/98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their a/c, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as Agents of the "Shell" Transport & Trading Coy: and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality, a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other Coast ports, in landing shipments of Coal on a/c of the Burrakur

Coal

Coal Company Limited of Calcutta, for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897/98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the Company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the 1st half of the year 1898/99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

1st. The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of Coal does not constitute the

Coal Company Limited of Calcutta, for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897/98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the Company for the same period. We had to pay both taxes under protest last April, and appealed against the assessement. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the 1st half of the year 1898/99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

1st. The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of Coal does not constitute the

48

the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

2nd- Even if the Company are liable the rate of the assessment is absurdly excessive.

3rd- Two parties are taxed for carrying on one and the same business.

4th- If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing Agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs 24,000- per annum, or roughly speaking the value of half a cargo.

In conclusion we beg to point out that as we have between 30 & 40 agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the high-handed, and inquisitorial proceedings of Mofussil Municipalities which has seriously interfered with and hampered our trade in the Presidency. In reply to our last appeal on this subject we were

informed

informed by order №1664 M Mis:, dated 27 September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the act.

We have the honor to be
Sir
Your most Obedient Servant

Hexter & Co

U E

Local & Munl. (189) Department.

CURRENT No. 3567 Mo

From The Ag. Collector, Tanjore.

Order

No. 583

Dated 19-11-98

Received 21-11-98.

Registered

Enclosures 3

Spare copies.

SUBJECT.

Forwarding with remarks letter from the Chairman Munl Council, Negapatam submitting reply to Govt No 1238 1-11-98 on the appeal of Messrs Best & Co to Govt

583
Mlg95

Local & Munl. (189) Department.

CURRENT No.

GOVT. OF MADRAS
16 NOV 1898
TANJORE

From
The Chairman
Municipal Council
Negapatam

Order.

No. 624
Rs 16 11 98

Dated 15th November 1898

Received

Registered

Enclosures one

Spare copies

SUBJECT.

Reply to Endorsement
No 1538 / 1. 11. 98 on the appeal
of Messrs Beaty & Co
to government ...

BACK PAPERS

G.O.	No.	Department.	Date.
Con	3495	6/98	Lodged
fo	1664	Mk	27-7-98
"	1105	Mk	2nd G 98

FURTHER PAPERS.

G.O.	No.	Department.	Date.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Envelope

OFFICE OF THE MUNICIPAL COUNCIL.

Negapatam 15th November 1898.

From

The Honourable M.R.R.P. Rabbanalipathipillai Avl

Chairman, Municipal Council,

Negapatam.

To

The Secretary to the Government of Fort Saint George,

Madras,

Local and Municipal Department,

Through the Head Assistant Collector and the Collector of Tanjore.

SIR,

I beg to acknowledge receipt on the 2nd instant of your endorsement No 1238 of the 18th idem on the petition to Government of Messrs Best & Co, and to report as follows.—

2. Messrs Best & Co, have been doing at Negapatam during 1897-98 business as agents for (i) the Burrakur Coal Company Ltd of Calcutta, & (ii) the "Shell" Transport & Trading Company Ltd. For these agencies Messrs Best & Co were assessed in the first class to Rs 100 for the past official year. They appealed a

the Council Confirmed the assess-
-ment in its resolution No 16/16.6-98.

3- The Burraker Coal Company
Ltd was assessed for the past year
for its Coal business at Negapatam
in the first class to Rs 100. The Company's
appeal was Confirmed by the
Council by its resolution quoted
above.

4- The "Shell" Transport and
Trading Company was assessed
for the Same year for its bulk
petroleum business at Negapatam
in the first class to Rs 100, and the
Company's appeal was also Confirmed
by the Council by a resolution
of the Same date.

5- Under Section 60 of the
amended Districts Municipalities
Act, if a person Carries on business
in Several Municipalities, he is
liable to be assessed Separately
in each Such Municipality.

98

In the Cases under reference Messrs
Best & Co have been assessed
for third agencies in Negapatam
in respect of Coal and petroleum.
In the absence of accounts, which
the petitioners Say, they were unable
to produce, the Council, I think,
was justified in Confirming
the assessment. In the absence
of Such accounts, it is presumed
that third monthly income under
the head of the agencies referred
to amounts to Rs 2000 & upwards,
which brings them in the 1st class.
In respect of these agencies, they
have two principals. Viz. The
Burraker Coal Company and the
"Shell" Transport Company. The
principals have each been
assessed in the 1st class. In
Support of the appeals no accounts
were produced.

6. In these Circumst-

I cannot see that any case has been made out by the petitioners. Under Section 262 of the District Municipalities Act, no assessment made by any Council shall be impeached, "provided that the provisions of this Act have been complied with, and that" no proceeding under this Act shall, for defect in form be quashed or set aside by any Court of justice"

7. I beg to return the petition

I have the honour to be

Sir

your most obedient Servant

P. Ratna Rao Pantulu

Chairman

6/

R. 583/98 (Enc: 1)

LOCAL [illegible] 3567 M

Forwarded.

2. So far as can be gathered from these papers, the Petroleum company carries on business in Negapatam, but the Coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and Agent seem to be taxable according to their respective profits: in the latter case the Agent alone is taxable.

3 The municipality has also wrongfully taxed messrs Best and Company separately as agent for the "Coal" and as agent for the Petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that messrs Best and Company make Rs 2000 a month by unloading coal at Negapatam or the same amount as agent for Petroleum; and the profits of the Petroleum and Coal com[illegible]

are probably very much over-estimated too. The Chairman's argument that since messrs Best and Company declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be prima facie reasonable, which in this case it was not.

Ag Collector.

Camp: Tiruttuvaipoondi
19th November 98

[G. 25] 250—18-2-98.

2079/M
6-1298

LOCAL AND MUNICIPAL DEPARTMENT.

C. Nos 3159 & 3567 M/98.

SUBJECT.

Complaint of Messrs Best and Co. against the improper assessment of profession tax by the Negapatam Municipality.

FOR ORDERS.

Messrs. Best and Company carry on business at Negapatam in kerosine oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur coal company, Limited, of Calcutta. For the first half of the year 1897-98, the Negapatam Municipality assessed both Messrs. Best and Company and the "Shell" Transport and Trading Company in the first class of schedule A to a profession tax of Rs100 each per annum, for the business carried on by them in kerosine oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best and Company for acting as agents of that company. The taxes

under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best and Company) state that apart from this double taxation, the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed as also the Petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply they derive an income of Rs 24,000, [illegible] for landing the coal

28

in Om. no. 1238. I.
1-11-98

2. The Chairman who was asked to report in detail on this petition states that under Section 60 of the District Municipalities Act as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such Municipality, that the Petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts, which the Petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs 100 for each branch of their agency and that the Petitioners' principals have also been assessed in the 1st class, as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the Petitioners, that under Section 262 of the Act, no assessment made by any Council should be impeached "provided "that the provisions of this act have "been, in substance and effect, complied "with" and that no proceedings "under this Act shall for de[illegible] form be set aside

justice".

3. The Collector states that the Petroleum company carries on business in Negapatam but that the Coal Company does not, the latter merely delivering purchased goods to its customer there, that in the first case both the principal and the Agent are taxable, according to their respective profits, while in the latter the Agent alone is taxable, that the assessment of the tax on the Petitioners separately as agents for the Coal Company and as Agents for the Petroleum Company is incorrect, that they should have been taxed only once on their total Agency business at Negapatam and that the profits derived by the Petitioners and by their principals are probably very much overestimated. The Collector further observes that the Chairman's argument that since the Petitioners declined to produce their books, the Council was justified in confirming the assessment, is not a complete defence and that the assessment is found to be prima facie reasonable [illegible] this case, it was not [illegible] 101 of the Act

H

ult the A.G. and if he [illegible] the view of the Coll. Br. C. will no doubt [illegible] ept it.

is not a case for pending a resolu. S.262 (2) er Sec 35.

H.A 2.12.98

the assessment or the demand of a tax, when no appeal is preferred against it, and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may however be drawn to the Collector's remarks in his Endorsement with an expression of concurrence therein, and the Petitioners informed with reference to the last para of their petition, that it will be at least six months before effect can be given to the projected amendment of the Act.

J.

V.R
23/11/98

Would it be like the Adv. Genl to be consulted?

But under S.53 it seems clear the asst was wrong. Being outside the authority of the Act, Board or Govt might sue, or Govt might suspend the resolution under S.35, or it might issue instructions which would no doubt be obeyed for the future.

W.T.

1894

CN^o 3159 and 3567 11/98.

Order No. 2079 Minn 6/12/98

The papers read above will referred to the Advocate Genral favour of opinion.

From orders

1/12/98

5/12/98

BACK PAPERS

G.O.	No.	Department.	Date.
	1664	Ord	27-9-98
"	1105	Ord	20-6-98

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Send to

The Govt Solicitor

with Copies of papers mentioned

Dispd 9/12/98

Local & Munl. (189) Department.

CURRENT No. ~~4059/96~~ 3159/96

MUNICIPAL COUNCIL
2- NOV. 1898
NEGAPATAM.

TO BE RETURNED WITH REPLY.

~~Order~~ No 12389/1-11-98

From Best & Co
Madras.

Rec'd 6th Cl.
Ltr, No 624
5.11.98

No. G. L. B 1/153.

Referred to the Chairman, Municipal Council, Negapatam for detailed report which should be submitted through the Collector.

By order

Dated 8-10-98

Received 13-10-98

Registered

Enclosures

Spare copies.

K.P
28/10/98

Ag Assistant Secretary

SUBJECT.

Complaining against the excessive assessments levied on them by the Negapatam Munl. And requesting Govt to reconsider their order.

To
The Chairman Munl Council
Negapatam

Ref No. 1664 in Mis 8/27/98

20/10.

for copying
ied 12 9 189
mined
ned 8/12

G.O., No. , DATED
89 .

o.

ER TO C. No.

OF GOVERNMENT .. .. .. A A A A A A A A

OF GOVERNMENT.

WITH DITTO.

FILLED UP, BEING MEANT FOR DESPATCH
RIGINAL.

N.B.—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.

6-12-98

t.

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Read. } 1898. *Enclosures*

Regd. *Spare copies*

G.O., No. 2079 M., 6th December 1898.

N. P.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

1*st November* 1898. A. EDGINGTON,
Ag. Assistant Secretary.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd. V. A. Rajavelu.

LOCAL AND MUNICIPAL DEPARTMENT.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. Raghava Charlu—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. Tremenheere—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[rundel]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Re[illegible]ng to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — [illegible]Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

1st November 1898.

A. EDGINGTON,
Ag. Assistant Secretary.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor,

Ed. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers:—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

Forwarded. R. C. No. 583-Ml.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor,

Exd V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two partics are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2.000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19*th November* 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. Raghava Charlu—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. Tremenheere—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[rundel]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

Forwarded. R. C. No. 583-Ml.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19*th November* 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Erd. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19*th November* 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business,

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

1st November 1898.

A. EDGINGTON,
Ag. Assistant Secretary.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Mi.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-MI.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19*th November* 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } 1898. *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

———

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

———

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

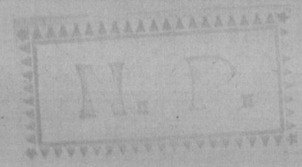
LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.



DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd V. A. Rajavelu.

LOCAL AND MUNICIPAL DEPARTMENT.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd.	1898.	*Enclosures*
Regd.		*Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business,

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Mi.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19*th November* 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Erd. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Ex. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

N. P.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order,)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

Forwarded. R. C. No. 583-Ml.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Rad. V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. Raghava Charlu—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. Tremenheere—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[rundel]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } 1898. *Spare copies*

G.O., No. 2079 M., 6th December 1898.

N. P.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

Forwarded. R. C. No. 583-Ml.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19*th November* 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Ead V. A. Rajavelu.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Profession Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the — on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1898, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the Municipality of Negapatam. We have two causes of complaint against this Municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the Municipality assessed our principals in the first class, and, after paying the tax under protest on their account, we appealed against the assessment as excessive. For the same period, the Municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the Municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this Municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the Municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1*st November* 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the Council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the Council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the Council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The Municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the Council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19th November 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd V. A. Rajavelu.

LOCAL AND MUNICIPAL DEPARTMENT.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, No. G.L.B. 1/153.

From the Acting Collector of Tanjore, dated 19th November 1898, No. 583.

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shell" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the Municipal Council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The Chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce, the Council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The Chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any Council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the Chairman's argument that since the petitioners declined to produce their books the Council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the Municipal Council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the Municipal Council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHEERE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the Municipal Council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[G.O., Mis. No. 2079 M., dated 6th December 1898.]

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

MISCELLANEOUS.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

G.O., No. 2079 M., 6th December 1898.

DECEMBER.

Tax.

Referring to the Advocate-General, for favour of opinion, certain papers regarding the levy of the profession-on Messrs. Best & Co. by the Negapatam Municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers :—

From Messrs. BEST & Co., Madras, to the Chief Secretary to Government, Ootacamund, dated 8th October 1198, Ref. No. G.L.B./1-153.

We have the honour to refer you to G.O., Mis. No. 1105 M., dated 20th June 1898, by which we were informed that it was under contemplation to amend the District Municipalities Act, No. IV of 1884, as amended by Act No. III of 1897, with a view to the removal of certain inconveniences to which we had drawn attention in our letter No. G.L.B/1-1 of 5th April 1898. In view of this order we placed before Government on the 1st of September an account of the annoyance to which we had been subjected by the Bellary Municipality, and we now beg to direct attention also to what we must call the system of persecution which we have undergone at the hands of the municipality of Negapatam. We have two causes of complaint against this municipality: the first being in connection with the business in kerosine-oil at Negapatam of the "Shell" Transport and Trading Company, of which we are the agents. For the first half-year of 1897–98 the municipality assessed our principals in the first class, and, after paying the tax under protest on their account we appealed against the assessment as excessive. For the same period, the municipality also assessed us in the first class, for acting as agents of the "Shell" Transport and Trading Company, and this tax we also had to pay under protest, and against it we also appealed. Both appeals were summarily rejected without any explanation being accorded to us of the grounds on which this was done. We have only to add that, apart from the double taxation, the assessment is quite absurdly excessive, and that our only recourse against it is to submit our books to the municipality—a step which local circumstances render quite impossible if we are to continue to carry on business at Negapatam. Our second cause of complaint against this municipality is a similar but an aggravated case.

We have been engaged at Negapatam, as at other coast ports, in landing shipments of coal on account of the Burrakur Coal Company (Limited) of Calcutta for the use of the South Indian Railway. On account of this the municipality assessed the Burrakur Coal Company in the first class, for the second half of 1897–98, as carrying on a trade at Negapatam, and have further assessed us also in the first class as acting as agents of the company for the same period. We had to pay both taxes under protest last April, and appealed against the assessment. No reply was vouchsafed to us, and last month demand notes on the same rating were sent both to us and to our principals for the first half of the year 1898–99. We wrote in remonstrance, and have just received a reply to the effect that, though no intimation of the fact had ever been sent us, our appeal had been rejected so long ago as last June.

We submit that such treatment is intolerable, and we respectfully claim the protection of Government against it, as also on the following grounds, against the assessment itself.

First.—The Burrakur Coal Company has no office at Negapatam, and the landing of a consignment of coal does not constitute the exercise of a profession. If it does do so, any tradesman who consigns by parcels post a parcel of goods to a purchaser in Negapatam is equally liable.

Second.—Even if the company are liable, the rate of the assessment is absurdly excessive.

Third.—Two parties are taxed for carrying on one and the same business.

Fourth.—If it be ruled that the Burrakur Coal Company are liable to the tax in the first class, and that we as their landing agents are also liable, we submit that to assess us in the first class is unjust, the implication being that our fees for landing the coal amounted to no less than Rs. 24,000 *per annum*, or, roughly speaking, the value of half a cargo.

In conclusion, we beg to point out that as we have between thirty and forty agencies in the Madras Presidency, we have been subjected to an amount of annoyance through the highhanded and inquisitorial proceedings of mufassal municipalities which has seriously interfered with and hampered our trade in the presidency. In reply to our last appeal on this subject we were informed by Order Mis. No. 1664 M., dated 27th September 1898, that Government was unable to interfere, and should this letter meet with a similar response, may we respectfully beg to be informed when effect is to be given to the projected amendment of the Act.

No. 1238.

Referred to the Chairman, Municipal Council, Negapatam, for detailed report which should be submitted through the Collector.

(By Order.)

A. EDGINGTON,
Ag. Assistant Secretary.

1st November 1898.

To the Chairman, Municipal Council, Negapatam.

From the Hon'ble M.R.Ry. P. RATNASABAPATI PILLAI Avargal, Chairman, Municipal Council, Negapatam, to the Secretary to Government, Local and Municipal department (through the Head Assistant Collector and the Collector of Tanjore), dated 15th November 1898, No. 624.

I beg to acknowledge receipt, on the 2nd instant, of your endorsement No. 1238 of the 1st idem on the petition to Government of Messrs. Best & Co., and to report as follows.

2. Messrs. Best & Co. have been doing at Negapatam during 1897–98 business as agents for. (i) the Burrakur Coal Company (Limited) of Calcutta, and (ii) the "Shell" Transport and Trading Company (Limited). For these agencies Messrs. Best & Co. were assessed in the first class to Rs. 100 for the past official year. They appealed and the council confirmed the assessment in its Resolution No. 16, dated 16th June 1898.

3. The Burrakur Coal Company (Limited) was assessed for the past year for its coal business at Negapatam in the first class to Rs. 100. The company's appeal was confirmed by the council by its resolution quoted above.

4. The "Shell" Transport and Trading Company was assessed for the same year for its bulk petroleum business at Negapatam in the first class to Rs. 100, and the company's appeal was also confirmed by the council by a resolution of the same date.

5. Under section 60 of the amended District Municipalities Act, if a person carries on business in several municipalities, he is liable to be assessed separately in each such municipality. In the cases under reference Messrs. Best & Co. have been assessed for their agencies in Negapatam in respect of coal and petroleum. In the absence of accounts, which the petitioners say they were unable to produce, the Council, I think, was justified in confirming the assessment. In the absence of such accounts, it is presumed that their monthly income under the head of the agencies referred to amounts to Rs. 2,000 and upwards, which brings them in the first class. In respect of these agencies, they have two principals: viz. The Burrakur Coal Company and the "Shell" Transport Company. These principals have each been assessed in the first class. In support of the appeals no accounts were produced.

6. In these circumstances I cannot see that any case has been made out by the petitioners. Under section 262 of the District Municipalities Act, no assessment made by any council shall be impeached, "provided that the provisions of this Act have been, in substance and effect, complied with," and that "no proceeding under this Act shall, for defect in form, be quashed or set aside by any court of justice."

7. I beg to return the petition.

R. C. No. 583-Ml.

Forwarded.

2. So far as can be gathered from these papers, the petroleum company carries on business in Negapatam, but the coal company does not; the latter merely delivering purchased goods to its customer there. In the first case, both company and agent seem to be taxable according to their respective profits: in the latter case the agent alone is taxable.

3. The municipality has also wrongfully taxed Messrs. Best & Co. separately as agent for the coal and as agent for the petroleum company. They should have been taxed once only on their total agency business at Negapatam.

4. It is absurd to suppose that Messrs. Best & Co. make Rs. 2,000 a month by unloading coal at Negapatam or the same amount as agent for petroleum; and the profits of the petroleum and coal companies are probably very much over-estimated too. The Chairman's argument that since Messrs. Best & Co., declined to produce their books, the council was justified in confirming the assessment is not a complete defence. The assessment is bound to be *primâ facie* reasonable, which in this case it was not.

CAMP, TIRUTTURAIPPUNDI,
19*th November* 1898.

J. TWIGG,
Ag. Collector.

ORDER—No. 2079 M., dated 6th December 1898.

The papers read above will be referred to the Advocate-General for favour of opinion.

(True Extract.)

H. TREMENHEERE,
Ag. Secretary to Government.

To the Government Solicitor.

Exd. V. A. Rajavelu.

LOCAL AND MUNICIPAL DEPARTMENT.

NOTES CONNECTED WITH G.O., MIS. No. 2079 M., DATED 6TH DECEMBER 1898.

[SUBJECT.—*Complaint of Messrs. Best & Co. against the improper assessment of profession-tax by the Negapatam Municipality.*]

From Messrs. Best & Co., Madras, dated 8th October 1898, *No. G.L.B.* 1/153.
From the Acting Collector of Tanjore, dated 19th November 1898, *No.* 583.

For Orders—

Messrs. Best & Co. carry on business at Negapatam in kerosine-oil as agents of the "Shell" Transport and Trading Company and in landing shipments of coal on account of the Burrakur Coal Company, Limited, of Calcutta. For the first half of the year 1897–98, the Negapatam Municipality assessed both Messrs. Best & Co. and the "Shells" Transport and Trading Company in the first class of schedule A to a profession-tax of Rs. 100 each per annum, for the business carried on by them in kerosine-oil, and in the second half of that year a similar assessment was imposed on the Burrakur Coal Company for doing business in coal and on Messrs. Best & Co. for acting as agents of that company. The taxes were paid under protest in all these cases and appeals were preferred to the municipal council, but they were summarily rejected. The petitioners (Messrs. Best & Co.) state that apart from this double taxation the assessments are absurdly excessive and also urge the following grounds:—

(1) The Burrakur Coal Company has no office at Negapatam and the landing of a consignment of coal does not constitute the exercise of a profession, for if this is so, any tradesman who consigns by parcel post a parcel of goods to a purchaser in Negapatam is equally liable.

(2) Even if the company is liable, the rate of assessment is absurdly excessive.

(3) Two parties are taxed for carrying on one and the same business.

(4) If it be ruled that the Burrakur Coal Company is liable to be taxed, as also the petitioners for acting as their landing agents, the assessment of the latter in the first class is unjust, as it would imply that they derive an income of Rs. 24,000 per annum from fees for landing the coal.

2. The chairman, who was asked to report in detail on this petition, states that under section 60 of the District Municipalities Act, as amended, a person who carries on business in more municipalities than one is liable to be taxed in each such municipality, that the petitioners have been assessed for their agencies in Negapatam in respect of coal and petroleum, that in the absence of accounts which the petitioners said they were unable to produce the council was justified in assessing them to a tax of Rs. 100 for each branch of their agency, and that petitioners' principals have also been assessed in the first class as no accounts were produced by them in support of their appeals. The chairman further points out that in these circumstances no case has been made out by the petitioners, that under section 262 of the Act no assessment made by any council should be impeached "provided that the provisions of this Act have been, in substance and effect, complied with," and "that no proceedings under this Act shall for defect in form be set aside by any court of justice".

3. The Collector states that the Petroleum Company carries on business in Negapatam, but that the Coal Company does not, the latter merely delivering purchased goods to its customer there; that in the first case both the principal and the agent are taxable, according to their respective profits, while in the latter the agent alone is taxable; that the assessment of the tax on the petitioners separately as agents for the Coal Company and as agents for the Petroleum Company is incorrect; that they should have been taxed only once on their total agency business at Negapatam, and that the profits derived by the petitioners and by their principals are probably very much over-estimated. The Collector further observes that the chairman's argument that since the petitioners declined to produce their books the council was justified in confirming the assessment is not a complete defence, and that the assessment is bound to be *prima facie* reasonable which, in this case, it was not.

4. Under section 101 of the Act the assessment or demand of a tax when no appeal is preferred against it and the adjudication of an appeal by the municipal council are final. It does not therefore appear that the Government has any power to interfere in this matter. The attention of the municipal council may, however, be drawn to the Collector's remarks in his endorsement with an expression of concurrence therein, and the petitioners informed with reference to the last paragraph of their petition that it will be at least six months before effect can be given to the projected amendment of the Act.

V. RAGHAVA CHARLU—28-11-98.

To Honourable Member—

Would Honourable Member like the Advocate-General to be consulted?

But under section 53 it seems clear the assessment was wrong. Being outside the authority of the Act [section 262(2)], Best & Co. might sue, or Government might suspend the resolution under section 35 or it might issue instructions which would no doubt be obeyed for the future.

H. TREMENHERRE—1-12-98.

Consult the Advocate-General and if he supports the view of the Collector the municipal council will no doubt accept it.

It is not a case for suspending a resolution under section 35.

A. T. A[RUNDEL]—2-12-98.

[R. O. / 10]

5,000—21-7-09.

MADRAS RECORD OFFICE.

Block No. 111

Paper taken out of the Records from the charge of the Referencer.

Dept. Secret Press / Mis. / Rout. No. 2080 M, dated 6-12-1888 Rack No. / Range.

Date taken out.	For what purpose. Department.	C. No.	Year.	Initials of Referencer.	Date returned.	Initials of attender.
28-2-10	Secret	990M	10			
	MR	567	10	[illegible]	30-3-10	
25-7-56	Taken for Research		Sue Dave D.Y.			
					28-8-56	[illegible]