

Local & Munl. (1898) Department.

MISCELLANEOUS.

G.O., No. 662-M

DATED 28-3-98

INDEXED.

DESPATCHED

[Despatch Abstract.]

Profession tax appeal. Stating that Government is not prepared to advise the Municipal Council, Cochin in the matter of the Asiatic Steam Navigation Company that it should take the best legal advice available fact on its own responsibility.

BACK PAPERS.

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

FURTHER PAPERS.

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

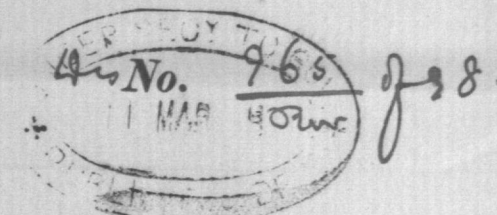
Local & Munl. (1898) Department.

CURRENT No. 1038M

From The Comptroller Godavari

Order. No. 662 dated 28/3/98

The Government is not prepared to advise the municipal council in this matter. It should take the best legal advice available and act on its own responsibility.



1/2
23/3/98

AT-3 98

Registered

Enclosures two

Spare copies

SUBJECT.

Submitting the Coconada Municipal Chairman's letter referring the Professional tax appeal of the Asiatic steam Navigation Co. for an authoritative opinion of Government.

Note

For precedent please see G.O. No. 1648-M, dated 24th September 1896.

To The Chairman, M. C. Coconada.
20/3/98

11/3/98
21/3/98
21/3/98

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Cur No. 2141 of 1897 2-12-97

Current No. 573 of 1898

Local & Munl. (1897) Department.

CURRENT No.

From

The Chairman,
Municipal Council,
Cochin

Order

No. 1189

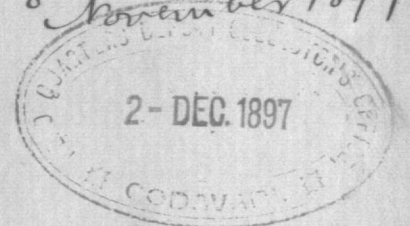
Dated 30 November 1897

Received

Registered

Enclosures 1

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SUBJECT.

Referring the professional
appeal of the Asiatic
Steam Navigation Company
for an authoritative opinion
of the Government.

inform
in
the

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No 1189

Municipal office

Cochin 30 November 1897.

LOCAL & MUNICIPAL DEPT.

From

M R R

1038M

Chairman, Municipal Council,

Cochin.

To

The Secretary to Government,

Local and Municipal Department,

Madras.

through the Head Quarters Deputy Collector

and Collector,

Godavari District

Cochin.

Sir,

In pursuance of the resolution of the Council dated 6 November 1897 (Copy enclosed), I have the honor to refer the following case for an authoritative opinion of the Government.

2. The Asiatic Steam Navigation Company Ltd. was assessed under class 1 Schedule A of the District Municipalities Act and served with demand notice on 27 August 1897. The Company paid the profession tax to the Binulipatam Municipality in April 1897 and informed the same to this Municipality in its letter of the 13th of that month.

The payment was made before the Amended Act was put into force.

In G.O. No. 1313 M., dated 31st May 1897, Government directed that the assessments should be revised with reference to the amended schedule and the revised assessments brought into force from the commencement of the first half-year.

Further, in G.O. No. 1627 M., dated 20th July 1897, Government sanctioned the levy of taxes on professions in accordance with the modified schedule.

The company claims exemption on the ground of payment to the Bimlipatan Municipality before the operation of the Amendment Act.

Section 54 of the Act empowers the chairman to decide in which class of the schedule a person ought to be placed and under section 56, if the tax remains unpaid after the person exercising the profession for 60 days in any half year, the chairman serves notice upon him to pay the amount of tax due for the half year. The person does not incur liability unless he exercises the profession for 60 days nor has the chairman power to demand the tax before the period

Proceedings of the
The tax was paid before the liability was incurred and probably before the chairman decides the classification. No person has a right to put himself under any particular class and tender the tax due thereunder. But in the present case the company paid the amount recoverable under class 1 and no chairman has power to put the company in a higher class and when it chooses to pay the maximum tax, any consideration of its classification is altogether unnecessary.

Section 60 of the Act before its amendment afforded to the company protection from liability to pay the tax to this municipality in consequence of its having paid the same to the Bimlipatan Municipality. The repeal of an Act does not affect any right or privilege accrued under any enactment so repealed and even if there be any doubt upon the subject the construction of the provisions of the enactment in favour of the tax payer will prevail.

I am therefore of opinion that the Asiatic Steam Navigation Company is not liable to pay any tax to this municipality for the first half year but as

the decision of the question involves loss of much revenue a reference to Government is considered desirable.

I have the honor to be,

Sr,

your most obedient servant

RSC

17 FEB 1898

17

Chairman

Asst. Collector

30.4.97. Dis on Cmt 2141 406 16.2.98

Submitted to the Collector of the Godavari District

2 I agree with the views expressed by the Chairman

3 The delay in the Submission of this report is due to the Government Orders referred to, not forthcoming in this office

Cocanada
16.2.98

Prinmah
Dy Collector

Dis. No: 965-Rev. of 98, dated, Cocanada, 5th March 1898.

Submitted.

DESPATCHED
-8 MAR. 1898

2. The undersigned thinks that the view expressed in the last para of the Chairman's letter is correct.

3. The explanation of the Head Quarters Deputy Collector for the inordinate delay of over 2½ months is not satisfactory.

[sd] V.A. Brodie.
Collector.

Prinmah
Dy Collector.

Extract from the Proceedings of the Municipal Council, Cocanada, passed at its meeting held on Saturday, the 6th November 1897.

present

- 1 Mr R. H. Raju gam — chairman
- 2 " Dewari Bahadur
- 3 Venkataratnamu naidu }
gam B.A. B.L. } Councillor
- 3 Captain F.W. Esicks - - - - - DO
- 4 Nathora Dada Sahib gam - - - - - DO.
- 5 Mr R. Venkataratnam gam - - - - - DO
- 6 " Mr. Somayajulu gam - - - - - DO.
- 7 " Mr. Admanabham gam - - - - - DO
- 8 " P. Chitaiya gam - - - - - DO
- 9 " Rao Bahadur Venkataratnam gam - - - - - DO
- 10 " B. Annappa gam - - - - - DO
- 11 " M. Sarvarayudu gam - - - - - DO.
- 12 " P. Venkatachela Patigam - - - - - DO.

14 Read letter dated 8th October 1897 from Messrs. Sumsen Bros, Cocanada, Agents of Asiatic Steam Navigation Company, against profession tax for the half year ending September 1897 addressed to the Collector, Godavari, together with the remarks of the Collector upon the Subject.

The chairman will make a

reference to Government.

(Sd) H. Benajir
Chairman

(True Copy)

Municipal office
Cocacasa 12th November 1897

H. Benajir
Chairman.

24
H.C. 13/11/97.

When sent for copying
When copied 29-3-98
When examined
When signed 29/3

Read again G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Copy in full.
B = Not to be copied.
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1038 H. Benajir

lector.

5.3.98