

Local & Munl. (1899) Department.

MISCELLANEOUS.

G.O., No. 1740 M

DATED 22-11-99

Sept 98

RECEIVED

[Despatch Abstract.]

Tax Communicating to the Deputy Adjutant General, Madras Command, the opinion of the Advocate General on the liability of the Regiments Shops to taxation by the Municipality of Bellary on their Soda water Factory.

BACK PAPERS.

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

FURTHER PAPERS.

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

J. 52.
2,000-5-3-97.

Local & Municipal
Public

Judicial (1899) Department.

Endorsement No. 2382 of 22-9-99

Transferred to the
local & municipal dept.

Adknap

Under Secretary

CURRENT No. 2533

Cy
12.3.99

No. 1057 of 10-10-99
Order

Referred to the Advocate General
for opinion.

Mammill

of Secretary to Government

1.2
3/10/99

From

D. A. I. Madras
Command

No. A
B.T. - 13953

Dated 15
Received 16 25
Registered 16
Enclosures Two
Spare copies -

SUBJECT.

Submitting correspondence
relative to a certain tax levied
by the Municipality at Bellary
on the Regimental Soda
Water Factory & requesting
to obtain the opinion of
the A. G. as to the liability
of the Regimental Shop
to such taxation.

The Government Solicitor.
(with India Army Regulations 1881,
and do. vol II.)

+ and expanded

2

BACK PAPERS.

G.O.	No.	Department.	Date.
10	978	wh	12-7-99

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Current 2533m + 2890m

This Order No. 1740 dated 11-11-99
The Advocate General's opinion
read above will be communicated to the
Deputy Adjutant General, Madras Command.

1.2
20/11/99
HT
27 4 99

10/11/99

To
The Deputy Adjutant General, Madras
Command, with 2 Enclosures returned.
Chairman, M.C. Bellary.
Dypt. 24/11/99

135

Regimental CURRENT NO. 2533
Ootacamund,
No. 1 Taxation 3 15th September 1899
B.T. - 13953.

CHIEF SECRETARY
16 SEP 1899
GOVERNMENT OF MADRAS

The DEPUTY ADJUTANT GENERAL, MADRAS COMMAND,

CURRENT NO. 2533m

To
The Chief Secretary to the Government of Madras.

Two ENCLOSURES.

SIR,

*
Return requested.

I am desired to forward herewith
correspondence relative to a tax levied
by the Municipality at Bellary on the Regi-
-mental Soda Water Factory of the
Wing 1/ Royal Warwickshire Regiment
at that station and to request that
the opinion of the Advocate General
may be obtained as to the liability of
regimental ^{shops} ~~traders~~ to such taxation
with reference to clause 231, India Army
Circulars of 1881.

I have the honour to be,
Sir,

Your obedient servant
G. L. H. B. S. O.

Br. General
Deputy Adjutant General

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MR

Local & Munl. (1899) Department.

CURRENT No. 2890m

Order

From

The Government Solicitor
Madras

No. 597

Dated 4-11-99

Received 7-11-99

Registered 8-11-99

Enclosures C. no 2533 m of 99

Spare copies .. returned

SUBJECT.

Forwarding the
opinion of the Advocate General
as to the liability of the
Regimental Soda water factory
of the Wing 1/ Royal Warwickshire
Regiment at Bellary to be taxed
by the Bellary Municipality.

BACK PAPERS

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Sections 188 & 264
80. No. 1740m dated 22-11-99.

Re the liability of the Regimental Shops to taxation by the Municipality at Bellary on their Soda Water Factory.

OPINION

2890m

- Under Section 188 (P) of the Madras District Municipalities Act (M. Act IV of 1884 as amended by Madras Act III of 1897) no place within the Municipality can be used by any person as a manufactory of aerated waters without obtaining a license from the Chairman authorising such use, and the license has to be renewed yearly. Under Section 267 the Municipal Council may, with the sanction of Government, fix a fee for the grant of licenses and levy the same. If I am right in assuming that the sum of Rupees 12 demanded by the Municipal Council of Bellary from the wing 1/ Royal Warwickshire Regiment at that Station is the fee prescribed under Section 267 for the grant of a license under Section 188 and not the tax payable under Section 53 and Schedule A (XIII) with reference to the income derived from the factory as a trade, the battalion is bound to pay the amount. Under Clause (1) Section 3 of Act XI of 1881, the Governor-General-in-Council is empowered to exempt the persons therein described from liability to pay to the Municipal Corporation any specified tax, and when such exemption is made the tax has to be paid under Section 4 of the said Act to the Municipal Corporation by the Secretary of State for India in Council.
- Under Notification No. 162 (Home Department Municipality) under date the 18th November 1881, the said persons have been exempted from payment of certain taxes therein specified which do not include fees payable for licenses granted under Section 188. If the demand were for the tax on trade in aerated waters the exemption would apply; but if the demand be, as I presume, for license fee, the exemption does not cover it, and it ought to be paid by the battalion concerned.
- Under the District Municipalities Act, taxes and tolls leviable under the Act are dealt with by Sections 47 to 112, and fees for licenses are provided for separately by Section 267 though under Section 269 such fees are made recoverable as if they were taxes payable under the Act. The license fee, therefore, may not be a tax within the meaning of the District Municipalities Act, but whether or

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not the word 'tax' as used in its general sense in Section 3 of Act XI of 1881 includes license fee prescribed by Section 267 of the District Municipalities Act, is a question on which it is unnecessary to express any opinion inasmuch as the Notification does not specify the same.

4. If the word 'tax' according to its general acceptance in which sense it must be interpreted in Section 3 of Act XI of 1881, be not applicable to fees payable for licenses granted under Section 188 of the District Municipalities Act, the Governor-General-in-Council will have no power under Clause I of Section 3 of Act XI of 1881 to exempt the persons therein mentioned from liability to pay the same.

Madras)
1st November 1899

V. Bhashyam Iyengar

Offr: Advocate General.

(True Copy)

Ernest Banton

Government Solicitor.

8
(1899) Department

From

Ernest Barclay
Government Solicitor
Madras

To
The Secretary to Government
Local & Municipal Department
Madras

N^o 597

Dated 4th November 1899
Recd

Enclos: 4.
with 2 Books

Forwarded with enclosures in the
reference to the endorsement of
Government N^o 1057, dated 10th
October 1899, Local & Municipal.
Ernest Barclay
Government Solicitor



Then given for copying

Then copied 22-11-99

Then examined 23/11

Then signed 23/11

READ AGAIN G.O., No.
189

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITHIN.

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

N.B.—

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