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G.O., No. 6, 6th February 1897.

FEBRUARY.

Profession-tax in Municipalities.

Communicating to the Local and Municipal department letter from the Government of India making certain observations with respect to taxation of salaries in Municipalities.

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GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—again the following papers :—

G.O., No. 64, Legislative, dated 17th July 1896.

ABSTRACT.—Addressing the Government of India on the subject of the proposal to exempt military and naval officers from the municipal profession tax.

READ—also the following papers :—

Telegram to the Government of India, Home department, dated 5th January 1897.

Number 4. Please wire when reply may be expected to letter 64, Legislative, dated 17th July 1896, regarding municipal profession tax.

Telegram from the Government of India, Home department, dated 12th January 1897.

* Number 1 Municipalities. Your telegram number 4, dated 5th instant. Government of India will allow Bill to amend District Municipalities Act to proceed as it stands under a letter which will issue this week.

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home department (Municipalities), to the Chief Secretary to the Government of Madras, dated Calcutta, 14th January 1897, No. 4.

I am directed to acknowledge the receipt of your letter No. 64, Legislative, dated the 17th * July 1896, on the subject of the taxation of salaries in Municipalities

* Received on the 29th July. in the Madras Presidency, and in reply to communicate the following observations.

2. In the first place I am to point out that the original request of the Government of India for the general abolition of the profession tax in so far as it was in effect a salary tax, was withdrawn in paragraph 6 of the Home department letter No. 88, dated the 15th June 1896. The Government of Madras have again entered into detailed arguments in support of the tax, apparently because a doubt was felt as to whether the Government of India accepted the profession tax at the rates given in the schedule to the Bill. I am to express the regret of the Governor-General in Council that my letter did not explicitly state the intention of the Government of India, which was that they accepted that schedule.

The points dealt with in the paper follows :—

- (a) that it is doubtful whether the statement (contained in paragraph 2 of my letter of the 15th June last) that a salary tax is peculiar to the Madras Presidency is accurate;
- (b) that the nature of the objections which the Government of India took to a salary tax was unknown to the Madras Government until the receipt of my letter of 15th June, in paragraph 3 of which reference was made to the correspondence which had taken place in 1887 on the subject of the profession tax; and
- (c) that the correspondence of 1887 had no reference to the levy of taxation upon salaries or upon offices and appointments as opposed to professions, arts, trades and callings.

4. With reference to the first of the above points, I am to say that the Government of India had carefully examined the question before making the statement referred to. Although in other parts of India there are profession taxes, it is correct to say that in no other province, except the Hyderabad Assigned Districts, does the profession tax approximate to a salary or income tax, such as the tax in the Madras Municipalities. It is elsewhere a trades' license tax. The fact that the profession tax in the Berars partakes of the nature of a salary or income-tax has only recently been brought to the notice of the Government of India, and they intend to require a revision of the system of Municipal taxation there.

5. I am next to observe, with reference to the second and third points noticed above, that the correspondence which took place between 1887 and 1891 was not the first intimation of the views of the Government of India on the subject of taxation which resembled, or trenched on the field of, Imperial taxation. In paragraph 26 of Home department circular letter No. 2—96—103, dated the 28th September 1877, regarding Municipal octroi taxation, the Government of India, in requesting Local Governments and Administrations to take steps to alter the system of octroi taxation in towns where such taxation transgressed against acknowledged principles, observed as follows :—

Should this measure result in a serious falling off in Municipal revenues, it will be for Local Governments to decide whether it may not be desirable to combine direct with indirect taxation or to enhance the rates on articles of consumption. In 1870 the reports showed that there was a want of fertility in devising new forms of Municipal taxation, and some inclination was evinced to copy the Imperial income tax and introduce it for Municipal purposes. Such a tax is, however, not suitable for Municipalities.

The remarks of the Government of Madras with reference to the tax on arts, professions, etc., as recorded in paragraph 15 of their review of Municipal Administration for 1886-87, were as follows :—

The common complaint against it is that it is a double of the income tax, but the inquiry held in Trichinopoly . . . showed that this was not the case, and that the majority of the persons assessed were not affected by the Imperial impost. This, however, appears to be due in part to imperfection in the schedule, and in part to bad assessment. If the classes in the schedule represent income, all persons assessed above the eighth class ought to be liable to income tax.

In 1891 * the Madras Government expressed their intention of re-adjusting the incidence of the tax on arts and professions in connection with the revision of the District Municipalities Act, though in G.O., No. 692, dated the 3rd June 1889, the following remarks were recorded :—

His Excellency the Governor in Council has given his careful consideration to the question of altering the principles of assessment of this tax so as to equalize its incidence, and has arrived at the conclusion that this cannot be done without entirely changing the nature of the tax. Such an equalization would mean a graduation of the classes liable so as to make the rates of assessment proportional to income, and this would convert the tax into a regular income tax . . . it is such similarity as already exists between the arts tax and the Imperial income tax that is the chief cause of the unpopularity of the former.

Madras District Municipalities Act, in the Statement of Object and reasons accompanying Mr. Butterworth's letter No. 27, dated the 4th April 1893. In that paragraph it was remarked that "to convert the profession tax into a second income tax is for several reasons exceedingly undesirable."

In the light of the above-cited correspondence it does not seem to the Governor-General in Council that it can be contended that the Madras Government were unaware of the nature of the objections entertained by the Government of India to the salary tax. Moreover, the extract from the Government Order of 3rd June 1889 appears to the Governor-General in Council to sufficiently answer the contention of the Local Government that the discussions of 1887-91 had no bearing on the taxation of offices and appointments as opposed to trades, professions and callings. It is, on the contrary, evident that the Madras Government fully appreciated the drawbacks to the tax, and actually hesitated to re-adjust the schedule, because by doing so it would become still more open to the objections urged by the Government of India to it. Under these circumstances the Governor-General in Council, in the belief that the Madras Government had in mind the previous correspondence and their own orders on the subject, deemed it unnecessary more particularly to advert to the nature of the objections entertained by the Government of India to a tax which was assessed and levied in such a manner as to approximate to an income tax.

6. Paragraphs 10 to 13 of your letter deal with the question of the exemption of officers in the Army, Royal Navy, and Royal Indian Marine from the salary tax. The contention of the Madras Government is understood to be as follows:—By the Municipal Taxation Act, XI of 1881, power was taken by the Government of India to exempt persons in military employ from certain Municipal imposts, the loss to Municipal revenues being made good to the Municipalities by the Secretary of State in Council; and such officers were actually exempted from the profession and salary tax by the Home Department notification No. 162, dated the 18th November 1881, which was issued under section 3 of the Act referred to. Since the promulgation of this notification, military officers in Municipalities in the Madras Presidency have been exempt from the tax, but under section 4 of the Act of 1881 the loss has been made good by a contribution from general revenues. It is urged that the effect of the exemption now proposed is to deprive Municipalities of this compensation payment, and that this action would be a reversion to the original intention of the Government of India when the Bill, which became Act XI of 1881, was under consideration, but which was not carried out in deference to the objections then raised by the Municipal Councils in the Madras Presidency.

7. I am to say that on principle the Government of India object to the profession tax when it approximates to a salary tax. It appears to them that it is obnoxious in that it is an income tax falling upon a particular class of the community; that it falls upon persons only who work for their living and not on those who live on their private means; that it taps the same sources as the general income tax and diminishes the field for general taxation; that while it is from the point of view of the Government objectionable on this ground it is also resented, as the Government of Madras have on more than one occasion admitted, by the persons liable to pay it on the ground that it is a double of the income tax; and that it bears no proportion to the benefits conferred on the taxpayer by the Municipality. They entertain a special objection to it in its incidence on Government servants as they consider it anomalous to impose a tax for the privilege of exercising their profession in a particular place upon persons in the employ of Government who derive their income from general taxation, and are forced by Government to reside and do their duty in Madras.

8. The latter objection has, in the opinion of the Government of India, special force as regards the incidence of the tax on the incomes of soldiers. It is right and reasonable that all persons, military as well as civil, within Municipal bounds should contribute to the Municipal funds in correspondence with the Municipal services rendered. A conservancy tax such as is imposed in every province of India except Madras fulfils these conditions, and to taxation in some such shape the Government of

India would take no exception what place the Government of India have themselves by section 3 (1) (2) of Act II of 1886, which exempts from income tax the salaries of persons of Her Majesty's forces or Her Majesty's Indian forces, who are not in civil employ, when they do not exceed Rs. 500 a month, recognised that such salaries should be treated differently from those of officers, civil or military, employed on civil duties. This distinction was also originally recognised both in the Municipality of Madras and in the District Municipalities of the Madras Presidency. Under Schedule B to Madras Act III of 1871 military salaries were made liable to Municipal taxation only if they amounted to Rs. 800 a month, while the limit in respect of persons holding civil appointments under Government or in the service of public companies and trading firms was fixed at Rs. 30. The corresponding tax in Madras City, viz., the salary tax was, until the passing of Madras Act I of 1884, not leviable on the incomes of persons in military employ not exceeding Rs. 500 a month. By Madras Act IV of 1884, the tax was assimilated in District Municipalities in respect of civil and military salaries, and the limit of taxation was altered so as to render every person holding any office or employment, public or private, or employed in any capacity whose salary amounts to Rs. 25 a month liable to pay the tax. Under the schedule in the Bill now under discussion the minimum limit of taxation will be again raised to Rs. 30 a month, but all persons in military employ whose pay amounts to this sum will be liable to pay the tax. By Madras Act I of 1884 the salary tax is now leviable upon the incomes of all persons in military employ which exceed Rs. 100 a month.

9. Under the limit fixed by Madras Act IV of 1884 the pay of all private soldiers in the British Army resident within the limits of one of the District Municipalities in Madras was liable to the tax, and under the limit now proposed while the salary of a private of Infantry will, at the present rate of exchange, escape taxation unless he receives good conduct pay those of private soldiers of other arms and of all non-commissioned officers will remain liable to the tax. The possibility of discontent on the part of the soldiers has been avoided by the operation of the order issued in our Home Department, dated 18th November 1881, under section 3 of Act XI of 1881, which prohibits the levy by any Municipal Committee of Municipal taxes upon the salaries or professions of all persons exclusively in military employ or subject to the Army Discipline and Regulation Act or the Indian Articles of War, and compelled by the exigencies of military duty to reside within the limits of a Municipality. So long as the order remains in force the Municipalities of the Madras Presidency are conceded the privilege of exacting a contribution to their funds out of the general revenues. In the opinion of the Government of India the payment of this contribution by the general taxpayer throughout India to the funds of the Municipalities of the Madras Presidency cannot be justified on principle. But taking into account the fact that the Madras Government adhere to the opinion that it is impossible under present circumstances to devise any efficient substitute for the profession tax, they agree to withdraw the request that the Madras District Municipalities Bill should exempt all officers in the Royal Navy, Army or Royal Indian Marine from the profession tax. I am therefore to say that the Madras Government are at liberty to proceed with the Bill in its present form, but I am to commend to their renewed consideration the reasons that have been again stated by the Government of India for very strong objection to the exceptional system of taxation formulated in Madras, and to ask that, whatever their opinions as to the necessities of the immediate situation, they will not desist from devising an alternative method of raising the equivalent income in a manner free from objection.

10. In conclusion, and with reference to the last paragraph of your letter, I am to express the regret of the Governor-General in Council that there was delay in dealing with the Bill to amend the Madras District Municipalities Act, and the subject matter of the present correspondence. But I am to observe that the Government of India understood that the question of delay had already been disposed of elsewhere, and they did not desire to continue in official correspondence a discussion on a matter on which it was believed that they had themselves some grounds for complaint.

the Statement of Object and purposes accompn 1897.

Communicated to the Local and Municipal department, where the suggestion made by the Government of India in paragraph 9 of its letter regarding the profession tax will be considered.

(True Extract.)

G. S. FORBES,
Ag. Secretary to Government.

To the Local and Municipal department.

Exd. A. F. Eccleston.

Observations with respect to taxation of salaries in Municipalities.

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