

Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 1594 M

DATED 4th October 1895

See 60

[Despatch Abstract.]

Profession-tax.

Stating that, in cases where questions arise as to the interpretation of Act IV of 1884 municipal councils should take legal advice and act on their own responsibility, and drawing the attention of the Municipal Council, Anantapur, to the decision of the High Court in Venkata Reddi v. W. Taylor (I.L.R. Madras, Vol. XVII, pp. 100-102) in connection with the levy of ---- on persons carrying on business in two municipalities.

BACK PAPERS.

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

FURTHER PAPERS.

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

Anantapur Collector's Office,

ated 26th August 1895.

Ref. No. 2022
26.8.95

Enclosure
28.8.95

From Mr. T. K. Srinivas

The Collector of

Anantapur.

To

The Chief Secretary

to Government,

Local and Municipal Department,
Fort Saint George.

Sir,

The Chairman of the Municipal Council
Anantapur has asked me to inform him whether in the
following case profession tax is leviable in this
Municipality.
2. The Act itself (Madras Act No. IV of 1884) provides
machinery for assessing municipal taxes and for
recovering them when assessed, and the Chairman's query
is rather more or less than a query as to how the Act
is to be construed.
Viewed in this light, the Government may be averse to
issuing any instructions to the Chairman on the ground
that it is the duty of the Chairman and the magistracy
to construe the Act, and not the duty of Government.

3. But as regards the Construct of the Income Tax Act Government have issued many rulings to clear up doubtful points, and on this analogy they may be ready to issue a similar ruling for the guidance of Municipal Chairmen in making their assessments and the point referred by the Chairman is one of great importance and of some doubt.

4. The facts are that one Mubay St. Lutchmanna Modalkar has been assessed to a profession tax of Rs 50 in Accantapur Municipality where he is executing large works as a D & W Contractor. He objects to pay it because he has been already taxed in the Bellary Municipality where he has a furniture shop. And the question is whether his objection is valid under Sec 60 Act IV of 1884 which runs thus:—

"No person shall be liable to the payment of the tax under Section 53 who shall prove that he has paid the tax for the same half year in any other Municipality."

5. My opinion is that his objection is invalid, and that Section 60 applies to persons like barristers, Vaidiks or Government Servants who carry their profession with them and whom the legislature intended to protect from additional taxation in cases of transfer, and that it does not apply to persons like Lutchmanna Modalkar who carries on continuously and simultaneously one business in Bellary, and another in Accantapur, and who resides sometimes in Accantapur and sometimes in Bellary. In other words I think that the tax to which he has been assessed in Accantapur is not the same tax to which he has been assessed in Bellary, and that therefore Section 60 does not apply to him and similar cases.

It may be noted that the finances of all municipalities are quite distinct, and that there can be no way under the Municipal Act (as there is under the Income Tax Act) of taking into consideration for purposes of taxation in one municipality income

income earned in another Municipality. Nor would
it be equitable that the Bellary Municipality (by)
should benefit because one of its residents carried on
a trade or profession in Channarayana.

6. If Government are not prepared to issue an order
for general guidance in this matter, I shall
inform the Chairman that the point he has raised
should be decided by himself and a prosecution
undertaken if the Council thinks right, and that I
am not prepared to advise him.

7. My recommendation is that Government should
issue a general order.

I have the honor to acknowledge,

Sir,

Your most obedient servant,

H. D. J.
Acting Secretary
28.8.75

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Revenue Department

Local & Municipal Dept.

From Current No. 2718M
The Acting Collector of
Anantapur

To
The Chief Secretary to
Government, (Local
and Municipal Dept.)
Fort St George.

Dated 26th
Sept 28th } August 1895
Recd. 30 AUG. 95

Ref No. 2022
28-8-95
Enclosures: 1

Subject.

Requesting Government to
issue a general order regu-
lating the levy of ^{profession} municipal
tax on persons carrying
on business in two dif-
ferent municipalities at
the same time.

193 LL 8-2-95
24 Feb 19-7-93

LOCAL AND MUNICIPAL DEPARTMENT.

Current No. 2718M/95.

From the Collector of Anantapur.

Mr. J. has overlooked
the fact that the case of the
Inc. Tax Act is essentially
different, since the Council are
barred (S. 39) with interfering
with assessments
MS

FOR ORDERS.

The Government has generally
declined to advise municipal councils in
matters of this description and told them
that they should act on their own res-
ponsibility taking legal advice, if ne-
cessary.

2. In the present case, however,
it is submitted that the council may
be referred to the decision of the High
Court in Venkata Reddi ^{vs} W. Taylor,
published at pages 106-107 of the Indian
Law Reports, Madras Series, Vol. VIII,
which appears to be a parallel case.

Vide G.O. 4/16-2-95 No 250-2M

X Lr G.O. No 260
dated 16.2.95

MS
26/9/95

MS
27/9/95
23/9/95
24/9/95

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FOR ORDERS.

27/8/11

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2/11

Order. 4-10-11 No. 1594

The Govt. agrees with the Collector in considering that in cases where questions arise as to the interpretation of Act III of 1884, Municipal Councils should take legal advice and act upon their own responsibility.

In the present instance, however, the attention of the Council will be drawn to the decision of the High Court in Venkata Reddi v. W. Paglar, published (I.L.R. Mad. Vol. XVII. Pt. 100-102).

M. S. a. 95 10 (for order)

11/10/11

To the Collector of Anantapur
The Chairman of Anantapur
Dated 9/10/11

1227/9

When given for copying
When copied
When examined
When signed

189.

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.

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