

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	27	Press
	51	~~Mis.~~
Dated	7-1-	1861.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
7th January 1861.*

Ordered that the following letter be despatched.

No. 51. From J. D. SIM, Esq., Acting Secretary to the Government of Fort Saint George,
to the Secretary to the Government of India, dated 7th January 1861, No. 27.

SIR,

1. I am directed by the Honorable the Governor in Council to solicit a reconsideration of the ruling of the Supreme Government, which declares that Ryots holding lands paying less than 600 Rupees annual assessment are liable to Income Tax on their profits from such lands, if receipts from other sources raise their total income above the minimum prescribed by the Act.

2. As to the equity of subjecting to Income Tax profits derived from sources already so heavily taxed as are the Ryotwary lands of this Presidency, I am instructed to request the attention of the President in Council to the subjoined extract from a report of the Board of Revenue which was forwarded to the Government of India on the 27th April last. Since this report was written, the minimum of assessment has been raised from Rupees 400 to Rupees 600, but this does not affect the principle involved.

3. I am to state that this Government entirely concur in the views of the Board of Revenue, and that they consider the Ryotwary lands of this Presidency to be already too highly taxed. The imposition of further taxation in the manner now ordered will indubitably be regarded by the people as a breach of faith and will undo much of what, with the sanction and indeed at the urgent call of the Home Authorities, this Government have done of late years towards alleviating the pressure of the land assessment.

4. It is not, however, wholly on this ground that this Government solicit a reconsideration of the subject. The Act is now being brought into full operation in the provinces, and the Government find their difficulties very seriously enhanced by the ruling above mentioned. The natural meaning to be attached to the words of Section 130 of the Act, is that profits from Ryotwary Estates of the extent there mentioned are wholly exempt from the operation of the Act, and the Government cannot but regard with apprehension the effect on the agricultural community of the intimation that this exemption is only conditional, and that Ryots are after all liable to be required to make returns of their income and to comply with the requirements of the Act just as if no such exemption existed.

5. The inquiry which must be made into private Titles, Mortgages, &c., will, though conducted with the utmost care and consideration, be highly distasteful to the land-holders, especially those of the Malabar and Canara Districts, who are peculiarly sensitive on this point. In those provinces the possession of land is valued much beyond its intrinsic worth, the titles of the holders often rest on prescription and any insight into them is greatly dreaded from fear of consequent litigation. The disquietude and apprehension which the serving of the Income Tax Forms on the numerous holders of petty properties throughout the provinces will cause, will be extreme, and the passive opposition which may be expected, will be most embarrassing to Government.

6. The attempt to bring the small Ryotwary holdings of this Presidency within the scope of the Income Tax Act will overwhelm the Collectors, whose duties are already sufficiently onerous, and will place in the hands of the Assessors powers which with little danger of detection they may easily misuse. Much must of necessity be left to the discretion of an Assessor, whose proceedings cannot be reduced to rule, and whose conduct towards illiterate agriculturists will not be subject to that wholesome restraint which in the case of other classes of the community is imposed by their greater intelligence and independence.

✓
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7. Another consideration of importance, though temporary in its nature, is the unfavorable character of the present season. The monsoon has failed wholly in some Districts and partially in many others, the Ryots will have difficulty in paying their land assessment, and the pressure of this additional taxation will be severely felt.

8. The Government are aware that the ruling to which they here object has been applied to the Bombay Presidency, but the circumstances of the two countries are widely different. There a Survey has recently been completed and an extremely moderate assessment imposed on the land liable to periodical revision. Here the assessments are still based on the old native system, and notwithstanding that much has been done to reduce them are still admitted to be high. The new settlement which is to remedy this state of affairs has not yet been introduced and will proceed on the principle of taking $\frac{1}{3}$ of the net produce of the land—a proportion which this Government believe to be far above what is taken in any of the other Presidencies. This assessment it must be remembered is paid on every acre of land occupied—the waste is not here given over to the villagers free of charge as in the North West. These considerations appear to this Government fully to warrant the adoption of a different course in Madras from that pursued in Bombay.

9. On every ground of equity and expediency this Government hope that the Supreme Government will reconsider their decision on this very important question.

Extract from a Report of the Board of Revenue, dated 24th April 1860, No. 1,993.

1. The Board would earnestly press on Government the injustice of taxing incomes derived from lands held on the Ryotwary principle. This system is little understood out of the Madras Presidency, and to this is probably owing the proposition to tax persons holding lands under it. Under the Zamindari system of Bengal and Madras, the Zamindar's Assessment or Peshkash was fixed on the rent of the land then cultivated or occupied, less a varying percentage for expenses of collection, profit, &c., and less the future rent of all waste land. Under the village system of the North Western Provinces the whole of the waste is thrown in, free of Assessment for the period of the Settlement, viz., 30 years. Under the Ryotwary system even the "moderate" Assessment now being imposed absorbs two-thirds of the net produce, and every acre is taxed from the outset. With the exception of the remissions granted for improving leases and topes, which are comparatively insignificant, the "Ryot" of this Presidency has not the free use of waste land, like the Zamindar of Bengal and the village Proprietor of the North West. To tax the former, therefore, on the same principle as the latter, without reference to this material difference in their position, is manifestly unjust. Moreover, the tax will virtually be an enhancement of the Land Tax, while Government have, during the last few years, reduced the Assessments because they were too high. That they were too high, and by absorbing too large a share of the Ryot's profits, repressed cultivation, has been abundantly proved by the beneficial result of the reductions which have led to a very large increase of Revenue, and placed the Agricultural population in a position of contentment and comparative independence. To re-impose any portion of the Land Tax is simply to undo to that extent the good already done, and to raise unpleasant doubts in the minds of the Agricultural population of the permanency of the Land Assessment. It is no answer, the Board submit, to this objection, to say that it is only the more affluent Ryots, those paying an Assessment of Rupees 400 or £40 per annum, who will now be taxed. The income, whether £40 or more, is not drawn from a valuable untaxed reserve of waste land as in Zamindaris, but from land every foot of which is taxed at two-thirds, at least, of its net produce. Equally futile is it to maintain that the "Ryots" of Madras are like the Tenant Farmer of England paying only a rent for his land. The Government here strictly occupies the position of Landlord and State, and the Ryot pays what can only be called a combination of rent for the land and tax to the State. To impose an Income Tax on the profits of land held on this tenure is clearly to tax a second time and in a peculiarly vexatious way, land, which experience shows, is in general too highly taxed already. Further, the Ryot will indubitably regard the imposition of the Income Tax as a breach of faith. They have

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repeatedly been assured by the Home and Local Governments that they may do what they please with their lands, and enjoy the full benefit of any improvements made by their own means, provided they pay the regulated Assessment. On this assurance they have acted, investing capital largely in the improvement of their lands, in full confidence that the pledge would be respected. They cannot but regard this fresh tax on their profits from these lands as a breach of the pledge voluntarily given, and their confidence in the faith of Government cannot but be shaken. Unrepresented in the Government, and unable to influence the Imperial Legislature they will also see the frail tenure on which their rights depend; they will apprehend that if necessity—a plea the correctness of which they have no means of testing—can only be urged, the Income Tax may be indefinitely prolonged; its rates enhanced; its incidence enlarged and that the same plea may lead to other taxation. Future reduction of Assessment and other concessions will be regarded as dictated by interested motives and preliminary to future taxation, and that confidence in the moderation of Government, which it has taken years to secure, will be seriously shaken. Lastly, the Board would remark that the proceeds of the tax from Ryotwary land-holders will be very small, and unworthy of consideration even if it could be collected without a breach of faith and violation of the principles of the Settlement. The number of those liable to the tax does not exceed 4,000, and their payments will not amount to Rupees 30,000, adding, for argument sake, as much more for Ryots having incomes from other sources the whole proceeds will be under £6,000. In all probability they will be less, for the tendency of the Act will be to induce families to divide their Estates and to resort to other expedients in order to escape its operation. The Board trust that these reasons will lead to the entire exemption of incomes derived from Ryotwary lands.

(Signed) J. D. SIM,
Acting Secretary to Government.

at the majority of opinions was the other way

Memorandum

Calcutta
22 Dec 1860

Dear Mr. [unclear],

I have written you more
fully by the next mail in
reply to, & thank you for your
last letter - but I wish
now to send you a hurried
line to say that I spoke to
Mr. [unclear] here on Sat.
I told him regarding
the Madras Ryot ^{law} ~~the~~ ^{being}
made subject to the schedule
of the Income Tax under
a resolution of the Govt of
India that ~~the~~ income

from all sources is to be
taken into account in
determining whether they
come under the exemption
accorded to those paying
a tax previous than 1800
"or not"

There is no very much
that the Madras Govt.
would add to the Govt.
of India upon the
question officially - a

Memorandum

that you would send me
a memorandum such
as the Govt. here may act
upon - He considered the
question influential - &
wishes much to put it
right -

I have no time for
more, as the business of
the Council is going on -

Yrs
B. D. S. L.

Ryteau
 we have been
 The Dowry
 Edward Mallet
 Black
 Madras
 Mrs. L. L. L.

Heard

Memo

1 It has always been to me the most redeeming feature in the Income Tax that the 130th Section exempted from its ^{operation} the Ryotwary landholders of our Provinces whose lands are already heavily assessed.

2 The wording of this Section seemed to me precise & clear, and ⁱⁿ the Index of the Official copy of the Act which has been furnished to me I find that "Ryots" paying less than Rs 600 yearly are placed among the exemptions without any reservation.

The private letters of our Member Mr H. Forbes, of Sir H. Montgomery of the India Council, & of Sir C Wood himself strengthened me in taking this view of the Act - and our ^{Police} Commissioner Mr W Robinson who was in Calcutta when the Act was under discussion told me that it was generally understood in this manner.

3 I felt therefore both surprise & uneasiness when the Revenue Board brought forward the question whether the lands of small Ryotwary ^{who paid less than Rs 600} proprietors were not to be taxed, when their entire income, swelled from other sources such as trade, manufactures, &c, amounted to or exceeded Rs 200. - I argued against ^{such a construction of the Act} ~~the question~~ but the majority of opinions was the other way.

6
At my request however ^{was made} a reference to Calcutta, whence we received a brief reply referring us to an answer which had been sent on the same point to Bombay.

Thus our Ryotwary lands have been declared liable to Income tax, and I have been anxious on the subject, knowing that difficulty & trouble are almost sure to arise, especially in Canara & Malabar, while I believe that the pecuniary gain to Govt will be insignificant. Indeed after the receipt of Mr. P. Grant's late letter from Malabar, the thought had occurred to me of again bringing the subject before the Supreme Govt & I mentioned this idea to Mr. P. Grant & Sir, but doubt whether the Govt of India would be inclined to review their decision, & the thought that the blank returns would be given to the people before a reply could be received deterred me.

6 Now however I have received by the steamer the enclosed letter from Mr. H. Forbes, to whom I had mentioned the subject among other Madras topics, and the question is whether any step is to be taken in the matter.

7 - I can only say that my opinion remains unchanged as to its being desirable both in equity

Income tax.

In this Presidency the land tax is based upon a certain ~~portion~~ ^{portion} of the produce, & not only is that portion admittedly too high, but ^{the land tax} it has been swelled by additions made to it by the Native Govts which preceded our own. - We are therefore now carrying out a revision of the assessment, & it would be ~~therefore~~ surely inconsistent to relieve the burdens on the land with one hand & add to them with the other. - The people would also look on it as a breach of faith ^{shaking the value of property} since land has been purchased heretofore on the understanding that the limit of the Govt demand for assessment was known. - This point was stated in our letter to the Supreme Govt arguing against a tax on the growth of tobacco & it is one on which the people are very sensitive.

7 - (Mr. Bourdillon argued that a tax on income derived from land is different from a land tax, but I am sure that if our ryots are called upon to pay both they will not admit any practical difference or acquiesce in the measure without complaining if no other objection existed. ^{if no other objection existed} Then again it does not seem to me equitable that income derived from heavily taxed land ^{as respects the income tax with other} should be placed upon a level with incomes derived from untaxed sources.

These are my views as to the equity of the Tax - In policy also it ought I think to be declared inapplicable to our Ryotwary lands for 2 main reasons - 1st It is not advisable to create discontent among

the agricultural community, when we have to
introduce direct taxation among the commercial
other classes

2nd in attempt to bring our small Ryotwary lands
within the Income tax would overwhelm the Collectors
who have already too much work on their hands,
it would lead to partiality & oppression. We should
be anxious that the Blended forms should be only
sent to Ryots in clear cases, but this must be left
mainly to the discretion of the officers, & what a
fatal engine would thus be placed in their hands.
Even if the Collectors had more leisure to watch
proceedings, how difficult it would be in such a
matter of avowed discretion, to prevent their exempting
some Ryots from any call when from favor or
corrupt consideration, and to send blank forms
to others whom they had an object for doing a
turn to -

M. P. Grant's late letter has
shown us how alarming these Forms are for
the questions of Title which they excite.

11 Another consideration of importance though
easy in its nature. - The Monsoon has failed
in some districts & partially in many others.
Time is not therefore favorable for adding the
burden of the Agriculturists.

12 I will only add one remark. It was said before how
we in consistency ask for the exemption of small Ryot
lands, when those paying more than Rs 500 are the
I can only express my opinion on this point that all Ryot
lands ought to have been exempted, but it pleased the
Legislature to take another course. - If there is inconsistency
the Govt is not connected with it. - The Legislature perhaps
that land held in large masses must be of unusual value or must
be dependent to contract the range of an unpopular taxation

If it is thought advisable to make a fresh reference
to Calcutta & argue for the construction placed by
me on Section 130, I would suggest telegraphic
instructions being sent to Collectors ordering
them to leave out Ryotwary lands from their
Income tax operations for the present. Otherwise
the circulation of the Forms may ^{be} more
trouble than it will be easy to set right.

29th Dec/60

Wm

I do not object to a reference
being again made to the Supreme Govt
- just to the instructions passed when Sect.
130. by Mr. Wally -

I must remark however that I do
not view the question in the same
light that ^{Mr. Wally} ~~Mr. Wally~~ does -

any Ryots who may be called on
unless the present ruling & say
success on their lands - can be but
less in number - the same plea
said must be made, & the chances
are that they are well able to afford
it -

The Forms must all have
been before this circulated & to
issue any orders now in regard
to them would occasion much
confusion -

Yr. L.

31

The President of the Council Calcutta
writes a reference on this point - I
think it should be made therefore

If the Forms have been circulated it
is not advisable I think to recall them
- but if they have not been sent out it
would be well to withhold them
till a reply is rec^d from Calcutta

I have to observe that this Paper is
supposed to have been promptly despatched,
but only this day has been brought to me
though the President's note is dated

31st

LG

3. Aug 4 Pm.
1861.

2 Copies
Diff. by Post 15

To The Secretary to the
Government of India.

Sir,

I am directed
by the Hon^{ble} the Gov^r.
in Council to solicit
reconsideration of
the ruling of the Su-
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clares that Ryots hold-
ing lands paying less
than 600 Rs. annual
assessment are liable
to Income Tax on their
profits from such
lands, if receipts from
other sources raise
their total Income
above the minimum
prescribed

dated 2. Nov. 1860
No. 10980.

W M
LG

prescribed by the Act.
 2. — As to the equity
 of subjecting to
 Income Tax profits
 derived from services
 already so heavily tax-
 ed as are the Ryot-
 wary lands of this
 Presidency, I am in-
 structed to request
 the attention of the Pre-
 sident in Council to
 the subjoined extract
 from a report of the
 Bd. of Rev. which
 was forwarded to the
 Govt. of India on
 the 2nd April last.
 Since

Since this report was
 written, the minimum
 of assessment has
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 Rupees 400 to Ru-
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3. — I am to state
 that this Govern-
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 cures in the views
 of the Board of
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 they consider the
 Ryotwary lands of
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See also
 to Sup. Int.
 11 June 59
 N 774. par 2
 with accompanying
 Minutes.

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6. — The attempt to bring the small Ryotwary holdings of this Presidency within the scope of the Income tax Act will overwhelm the Collectors, whose duties are already sufficiently onerous and

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sued in Bombay.

Under the cir-
cumstances above
stated the Governor
informed the President
that the President
informed will re-
consider the matter
in

is ~~in question~~ and as
~~and~~ ~~who~~ On every
ground of equity
and expediency this
Govt ~~unwisely~~ ~~re~~
~~commenced~~ ~~the~~ ~~case~~

~~later compensation from~~
Income Tax of pro.
fits derived from
Ryotwary lands, ~~apart~~ and they must
at less than Rs 500 per
annum: the minimum
presented in the Govt

hope that the Govt
will take into consideration
their decision on
this very important
question.

Fort St. George Jan^y 1860.

(Here enter para II of
Board's letter to Govt
of 24 April 1860 & 1861)

Will be entered.

To the Govt of India

Exemption from Income
Tax of profits de-
rived from Ryotwary
lands assessed at less
than 600 Rs per annum

Revenue Dept
Pro: of Govt for Jan 1861

No 27.

To the Secy: to the Govt
of India.

D. 7 January 1861.

From No of Mem 8th Jan'y/61 No 79.
in Pro: 71st " " " 16th.

From the Secy to the Govt of India
of 11th March 1861 (No 873 in Pro:
13/1/61)

Soliciting a reconsider-
ation of the ruling of the Supreme
Government which declares that
Ryots holding lands paying
less than 600 Rs annual assess-
ment are liable to Income
Tax on their profits from such
lands.

No 51.

Schmitt
at 11/11/61