M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 666 Press
Mis.

396-397

Dated 21-3-1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
21st March 1861.

No. 396. Read the following letter from W. WATERFIELD, Esq., Officiating Civil Auditor, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 25th February 1861, No. 147:—

SIR,

I have the honor to request that I may be favored with definite instructions on the following points connected with the assessment of Income Tax:—

(1.) Whether this Office has acted rightly in granting exemptions under Section 127 to the Superintendent and Deputy Superintendent of the Madras Penitentiary. The Prison is under the orders of the Commissioner of Police, and the Officers have been transferred from that Force; but I am not sure that this entitles them to an exemption which is not accorded to any other Jailors.

(2.) Under Section 129 to the following classes of Military Officers who draw consolidated salaries in the Civil Department, on account of a sum equivalent to the tentage allowance of their Military rank.

Private Secretary to the Governor.
Military do. to. do.
Secretary to Government, Military Department.
Mint Master.
Assay Master.
Superintendent School of Arts.
Chief Engineer, Department Public Works.
Railway Consulting Engineer.
Conservator of Forests.
Commissioner of Police.
Police Magistrates.
Superintendents of Police.
Government Agent in Orissa.
Military Assistant Agent in Ganjam.
Superintendent of Revenue Survey.
Zillah and Civil Surgeons.
Inspectors of Schools.

Some of these appointments may be regarded as Military, though the salaries are passed by this Office; some necessitate frequent travelling, for which however extra allowances are of course granted; and some hold positions very analogous to those of the Revenue Department, in which a fixed tentage is expressly authorized. I have nevertheless included all in the list in order that our practice may in all cases be assimilated to that of the other Presidencies.

(3.) G. O. 19th September 1860, No. 1,651, Revenue Department, paragraph 4, explains the mode of assessment to be adopted in cases where the pay of a Government servant for some months in the year is raised so as to be within the incidence of the 2 or 4 per cent. rate from which during the remainder it is exempt. It also indicates how the excess is to be adjusted, if the individual at the end of the year considers that he has been overtaxed on his aggregate receipts. It does not however provide for the opposite case, in which the adjustment would be in favor of Government. Thus an Officer on Rupees 40 a month is taxed at 2 per cent. for ten months of the year. For the last two months his pay is raised to 60 Rupees, making an annual total of Rupees 520. For the latter period he is of course assessed 4 per cent., but he is legally liable to the same rate for the entire sum. Do Government waive their claim? and if not, by whom is the adjustment to be made? The returns to the local Assessors will probably be closed long before: and the Civil Auditor has not yet been directed in any case to take cognizance of the aggregate income of the year.

Proceedings of the Madras Government, Revenue Department,
21st March 1861.

No. 397. ORDER THEREON, 21st March 1861, No. 666.

1. The Officiating Civil Auditor asks for definite instructions on certain points connected with the Income Tax Act.

2. These are as follows:—

(1.) Whether exemption is rightly granted under Section 127 of Act XXXII of 1860, to the Superintendent and Deputy Superintendent of the Madras Penitentiary.

(2.) Whether the Military Officers of whom he furnishes a list, and who draw consolidated salaries in the Civil Department, are entitled to exemption under Section 129 on a portion of their salary equal to the tentage allowance of their Military rank.

(3.) In his third query the Civil Auditor points out that while paragraph 4 of the order of 19th September last, No. 1,651, settles the course to be followed when the pay of a Government servant is, for some months of the year, within the incidence of the 2 or 4 per cent. rate, while on the whole year it is exempt; no provision has been made for the converse case; viz., where for most months of a year the emoluments escape the 2 or 4 per cent. rate, but on the whole year are brought within it. He puts the case of an employé on Rupees 40 per mensem, who would, as he draws Rupees 480 in the year, be assessed month by month at 2 per cent. but who, during the last two months is promoted to Rupees 60, which would make his total income for the year Rupees 520, and therefore liable to a 4 per cent. duty: and he asks whether Government will waive their claim, or if not, how the adjustment is to be made?

3. As to the *first* query Mr. Waterfield explains that the Prison is under the orders of the Commissioner of Police, and that the Officers in question have been *transferred* from that Force, but he is not sure that this entitles them to an exemption not accorded to any other Jailors.

An order of the Government of India, 27th August 1860, No. 1,590, published at page 2,366 of the "Calcutta Gazette" for last year, expressly declares that "Jail Darogahs are *not* exempted" from Income Tax.

The Officers referred to by the Civil Auditor having been *transferred* from the Police Force, cannot be considered as any longer belonging to it. The fact of the Prison being under the Commissioner of Police would not make the Officials connected with it, *Policemen*; and as such, alone, can they claim exemption under the clause quoted. Even when *Policemen* are employed on duties other than Police, they are not exempt from Income Tax. See ruling of Government of India, 17th October 1860, No. 10,593. "Calcutta Gazette," page 2,438.

Under these circumstances, the Government are of opinion that the individuals referred to in this question have no right to exemption.

4. Regarding the *second* question it is observed that the Government of India have ruled (14th September 1860, No. 9,242. "Calcutta Gazette," page 2,429) that "*Military* men in Civil employ, whose *consolidated salary*, or whose Military pay and Civil allowance exceed a Captain's pay, are to be charged on the total, after *deductions* on account of *tentage* and horse allowance," as the latter are exempt under Section 129 Act XXXII of 1860.

This ruling must be considered as exempting the tentage of the Officers referred to.

5. On the *third* query proposed, His Excellency in Council observes that the claim of Government is quite a lawful one, and he sees no reason why it should be waived. In the order referred to by Mr. Waterfield, the Government have ruled that "the tax is chargeable on the yearly income" and this would seem to meet the Civil Auditor's remark that he has not yet been directed in any case to take cognizance of the aggregate income of the year." The Governor in Council considers that whenever the case arises, such adjustment should be made, and that the Civil Auditor is the proper person to make it.

(Signed) C. G. MASTER,
Deputy Secretary to Government.

R. D.

No. 666

Proceedings of the Madras Government
Under date the 21st March 1861.

Read the following Letter from
the Offg. Civil Auditor.

Requests the definite
instructions of Government
on a few points connected
with the assessment of Income
tax.

(Received 25th February & 1st May)

1. The Officiating Civil
Auditor asks for definite
instructions on certain
points connected with the
Income Tax Act.

2. These are as follows.

(1) Whether exemption is rightly granted
under Section 127 of Act XXXII of 1860, to
the Superintendent and Deputy Superin-
tendent of the Madras Penitentiary.

(2) Whether the Military Officers of whom
he furnishes a list, and who draw
consolidated salaries in the Civil De-
partment, are entitled to exemption
under Section 129 on a portion of their
salary

salary equal to the Centage allowance of their Military Rank.

(3) In his third query the Civil Auditor points out that while para 4 of the order of 19th September last, No. 1651, settles the course to be followed when the pay of a Govt. servant is, for some months of the year, within the incidence of the 2 or 4 per cent rate, while on the whole year ~~remains~~ it is ~~altogether~~ exempt, no provision has been made for the converse case; viz: where for most ~~for the refusal to such servant of that provision~~ months of a year the emoluments escape the 2 or 4 per-cent rate, but on the whole year are brought within it. ~~of the tax which many appears to have been paid, which he has total yearly exempt case to be known, no provision has been made should the adjustment be in favour of Govt; and~~ He puts the case of an employé on Rupees 40 per mensem, who would, as he draws Rupees 480 in the year, be assessed at month by month 2 per cent, but who, during the last two months is promoted to Rupees 60, which would make his total Income for the year Rupees 540, & therefore liable to a 4 per cent duty: and he asks whether Govt will waive their claim; or if not, how the adjustment is to be made?

3. As to the first query Mr. Waterfield explains that the Prisons is under the orders of the Commissioner of Police, and that the officers in question have been transferred from that power. But he is not sure that this transfer does away with the exemption not accorded to any other jailors.

An order of the Govt of India, Dept. August 1860, No. 1590, published at page 2366 of the Calcutta Gazette for last year, expressly declares that "Jail Darogahs are not exempted" from Income Tax.

The officers referred to by the Civil Auditor having been transferred from the Police Force, cannot be considered as any longer belonging to it. The fact of the prison being under the Commissioner of Police would not make (as the officials connected with it, policemen; and as such, alone, can the above exemption applies the Clause quoted. Even where policemen are employed

employed on duties other than
of police, they are not exempt
(3) from Income Tax - See ruling
pr of Govt. of India 17th October
19 1860, No. 10593 - Calcutta Gazette
to Page 2438.

is, Under these circumstances,
of the Govt. are of opinion that the
individuals referred to in this
question have
no right to exemption.

4. Regarding the second
question it is observed that the
Govt. of India have ruled
(11th September /60 No. 9312. Calcutta
Gazette Page 2429) that "Military
men in Civil Employ, whose
consolidated salary, or whose
Military pay and Civil Allowances
exceed a Captains pay, are to
be charged on the Total, after
deductions on account of Income
and Horse Allowance" as the
latter are exempt under section
129 Act XXXIII of 1860.

This ruling must be con-
sidered as exempting the
Income

tentage of the Officers referred to.

5. On the third
query proposed, His Excellency
in Council observes that the
claim of Govt. is quite a lawful
one, and he sees no reason
why it should be waived. In
the order referred to by Mr.
Wakefield, the Govt. have
ruled that "the tax is charge-
"able on the yearly income"
and this would seem to meet
~~the case of~~ the Civil Auditor's
remarks that he has not yet
been directed in any case to
"take cognizance of the aggr-
"gate income of the year."
The Governor in Council
considers that whenever the case
arises, such adjustment should be
made, & that the Civil Auditor
is the proper person to make
it.

C.G.W.

To Copies to the Civil Auditor - Dispt. 22d.
3 — Army Audr. Genl.

R-338-339

19-9-60

Draft

Order on certain points connected with the Income Tax

Revenue 1861 Departt.

Pro: of Govt. for March.

No. 666.

Pro: of the Madras Govt.

Dy 21st March 61.

Pro: of Govt on the Military Dept. dy 27 March 1861 & No 785 with Pro 24th April 61. No 408-409.

From the Govt of India dy 24th April 61. C. No 1807

Passing orders on the Civil Auditor's letter asking for definite instructions on certain points connected with the Income tax -

No 396 & 397.