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Political (1895) Department.

ORDINARY MS.

G.O., No. 667

Dated 11th Oct. 1895.

INDEXED.

[Despatch Abstract.]

INCOME EARNED AND RECEIVED IN A NATIVE STATE

Communicating to all Political Officers Proceedings, Financial Department, on letter from the Government of India forwarding copy of the papers containing the opinion of the Hon'ble the Advocate-General on the question of liability to income-tax of --, but brought or remitted into British India.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
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Govt. of {1895} Madras.

FINANCIAL.

Order. 8th 11th October 1895 No 667
Mis

Communicated to all Political

Officers.

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Issued

Recd. 6/10/95 Encl.

Rec'd 5/10/95

G.O., 19th Sept. 1895, No. 704.

SEPTEMBER.

To
The Asstt in J.C.
" Post Agent, Radhakota
" " " Sandur
" " " Banganapalle.

Income earned and received in a Native State.

Communicating to the Revenue and Political Departments and to the Accountant-General letter from the Government of India forwarding, for information and guidance, copy of the papers containing the opinion of the Honourable the Advocate-General on the question of liability to income-tax of —, but brought or remitted into British India.

19TH SEPTEMBER 1895, No. 704, FINANCIAL.

GOVERNMENT OF MADRAS.

FINANCIAL DEPARTMENT.

READ—the following paper :—

From J. E. O'CONOR, Esq., C.I.E., Assistant Secretary to the Government of India, Finance and Commerce Department (Separate Revenue—Assessed Taxes—Income Tax), to the Secretary to the Government of Bombay, Financial Department, dated Simla, the 3rd September 1895, No. 4180-S.R.

With reference to the correspondence ending with your letter, No. 1940, dated the 8th June 1895, I am directed to forward copy of the papers noted in the margin, containing the opinion of the Honourable the Advocate-General on the question of liability to income-tax of income earned and received in a Native State, but brought or remitted into British India.

2. I am to request that, with the permission of His Excellency the Governor in Council, the opinion may be acted upon.

Letter to the Solicitor to the Government of India, No. 3511, dated the 24th July 1895.
 Letter from the Solicitor to the Government of India, No. 642, dated the 30th July 1895, and enclosure.

Copy, with copy of the papers noted in the margin, forwarded to several Local Governments and Administrations for information and guidance.
 Copy also to the Legislative Department.

(By order.)

(Signed) J. E. O'CONOR,
Asst. Secy. to the Govt. of India.

ENCLOSURES.

From J. E. O'CONOR, Esq., C.I.E., Assistant Secretary to the Government of India, Finance and Commerce Department, to the Solicitor to the Government of India, dated 24th July 1895, No. 3511-S.R.

I am directed to request that you will lay before the Honourable the Advocate-General, Bengal, for his opinion, the following statement of a case which has arisen regarding the levy of income-tax on the salary and fees received by the Honourable Mr. P. M. Mehta in the Junagarh State.

Mr. Mehta holds the appointment of Judicial Adviser to the Junagarh State or some appointment of that nature, and is paid a fixed salary in respect of such appointment by the Junagarh State. Mr. Mehta has a family residence in Bombay, his family reside there, and his salary after payment of it to him at Junagarh is from time to time brought by him to Bombay. It appears that during Mr. Mehta's absence from the State no payment of salary is made to him, but that his salary is allowed to accumulate at Junagarh until it suits him to go there, when it is paid to him and the whole or part of it is brought back to Bombay with him. Mr. Mehta disputes his liability to pay income-tax in respect of the salary while the Income-tax Collector claims to tax it.

The Honourable the Advocate-General should be referred to section 3 of the Income-tax Act, II of 1886, sub-section (5), and to the second Schedule to the Act, and his opinion should be requested whether the salary or portion of it so paid in Junagarh and brought to Bombay is assessable to income-tax.

2. A question has also arisen whether when a barrister, whose residence is in Bombay, earns fees by occasional practice in Native States, and such fees are paid in the Native States, but brought or remitted to Bombay, so as to form part of general funds there, the fees are liable to be charged with income-tax.

It has been ascertained that the practice regarding the levy of income-tax in such cases has not been uniform; and I am to request that you will obtain and furnish to the Government of India the opinion of the Honourable the Advocate-General on the question.

From W. K. EDDIS, Esq., Solicitor to the Government of India, to the Secretary to the Government of India, Finance and Commerce Department, dated 30th July 1895, No. 642.

Referring to your No. 3511-S.R. of the 21st instant, I have the honour to forward herewith copies of the questions submitted to the Honourable the Officiating Advocate-General and his opinion thereon.

Questions submitted to the Honourable the Officiating Advocate-General for his opinion.

Opinion of the Honourable the Officiating Advocate-General.

(1) Whether, under the circumstances stated, the levy of income-tax on the salary and fees received by the Honourable Mr. P. M. Mehta in the Junagarh State can be upheld?

(2) Whether, having regard to section 3 of the Income-tax Act, II of 1886, sub-section (5), and to the second Schedule to the Act, the salary or portion of it so paid in Junagarh and brought to Bombay is assessable to income-tax or not?

(3) Whether, when a barrister whose residence is in Bombay earns fees by occasional practice in Native States, and such fees are paid in the Native States, but brought or remitted to Bombay, so as to form part of general funds there, the fees are liable to be charged with income-tax?

(4) And generally as to the question raised in the letter now sent.

(Signed) W. K. EDDIS,

Solicitor to the Govt. of India.

The 27th July 1895.

(1) and (2).—I am of opinion that inasmuch as the salary and fees paid to the Honourable Mr. P. M. Mehta are earned by and paid to him in the Junagarh State, outside British India, they cannot be said to be income on profits accruing and arising or received in British India within the meaning of section 3 (5) of Act II of 1886, and therefore income-tax cannot be levied on them as insisted upon by Mr. Mehta.

(3) If the fees in question are earned by and paid to the barrister in Native States outside British India, they are not assessable for income-tax, for the reasons given in my answers to the previous question.

(4) Generally.—The law being clear the practice should also be uniform, and no income-tax can legally be levied in respect of such fees.

(Signed) G. H. P. EVANS.

The 30th July 1895.

ORDER—dated 19th September 1895, No. 704, Financial.

Communicated to the Revenue and Political Departments and to the Accountant-General.

(True Extract.)

To the Revenue Department.
" Political Department.
" Accountant-General.

Exd. Sheik Karem.

When given for copying —
When copied —
When examined —
When signed —

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READ AGAIN G.O., No.
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DATED

CURRENT No.

ENCLOSURES TO G. No

ORDER OF GOVERNMENT

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LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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

N.B.—

A = Copy in full.
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