

1. Number of pages 32
2. Date of receipt
3. Initials of Referencer
M.R.O. 1-88,000-18-10-23

MADRAS RECORD OFFICE.

Government of Madras.

Public DEPARTMENT.

G.O. No.	1701	Press Mis.
Dated	17-11-	19 1871

Not to be folded or roughly handled

Proceedings of the Madras Government, Public Department,

17th November 1871.

No. 38. Read the following letter from the Acting Consulting Engineer for Railways, to the Secretary to Government, Public Works Department, Fort St. George, dated Madras, 25th October 1871, No. 466:—

I have the honour to submit a letter* from the Agent of the Madras Railway Company, protesting against the assessment of the Company's property at Bellary by the Municipal Commission.

* No. 624, dated 20th October 1871.

The property has been assessed for the year at Rupees 2,161-3-4, being five per cent. on the annual rental of Rupees 43,224-2-4, which rental is calculated at fifteen per cent. upon Rupees 2,88,161, the cost of the buildings.

2. The Commissioners, in answering the Agent's appeal, pay no attention to paragraphs 9 and 10 pointing out that no notice had been given to the owners of the property of valuation and assessment being about to be made. Notice to this effect is required by Section 47 of Act III. of 1871; and the demand on the Railway Company would appear, therefore, to have been illegal. At the same time,

however, it is shown in paragraph 2 of the Agent's letter† of 4th August that there had been correspondence on the subject; and I am unable to give an opinion whether such correspondence is held legally to be equivalent to a formal notice.

† Enclosed No. 464.

3. As regards the rate of assessment, the Agent represents that no property of the Company is worth fifteen per cent. per annum.

The Commissioners reply that the rate of fifteen per cent. is put by them on all Government buildings, as well as individual house property.

The Act, however, reads, in Section 41, that the annual rent is that for which buildings may "reasonably be expected to be let;" and I certainly agree with the Agent in considering that fifteen per cent. is far beyond a reasonable rate to demand as rent.

4. The Government of India, on the question of rent being paid by the employes of Railway Companies for the occupation of houses built for their accommodation, have considered $7\frac{1}{2}$ per cent. as a suitable rental.

The Government are interested, together with the Railway Company, in opposing undue taxation on the part of a Municipality; and I would submit, for the consideration of the Government, whether a limit of $7\frac{1}{2}$ per cent. might be assessed by legislation for the rental of Railway property; or otherwise the Commissioners at Bellary should be asked to consider exceptionally the case of the Railway station there.

5. The Agent further protests, in paragraph 5, against the Trades-tax of Rupees 100, which the Company is called upon to pay for every Municipality through which the line runs. A claim of a somewhat similar nature was made as regards the License-tax three years ago; but, as shown in G. O., No. 3845, of 9th December 1868, a railway was held to be rightly assessed in a lump sum, and not on every one of its stations.

*Proceedings of the Madras Government, Public Department,
17th November 1871.*

From the Agent and Manager, Madras Railway Company, to the Acting Consulting Engineer for Railways, dated Madras, 20th October 1871, No. 624.

With reference to this office letter, No. 576, of the 29th ultimo, I forward, herewith, a copy of the petition which the Company made to the Municipality of Bellary, in view to a reduction of the assessment on the Railway property with a copy of the reply, and I have the honour to request that the matter may be submitted for the consideration of His Excellency the Governor in Council.

2. It may be that fifteen per cent. of the cost of the property is a correct estimate of the yearly value of Government property, but I would submit that the same rule should not be made applicable to a commercial undertaking like a Railway Company, the *actual* value of whose property can be easily ascertained, and it appears to me to be very obvious that no property possessed by the Madras Railway Company is worth fifteen per cent. per annum.

3. Under the provisions of Act III. of 1871 no appeal can be made against a municipal assessment unless the amount claimed has been previously paid, and then there appears to be no appeal except to the Commissioners themselves by whom the assessment is made.

4. I have, therefore, no alternative but to refer the matter to His Excellency the Governor in Council in the hope that the Municipality of Bellary may be ordered to re-consider their decision, and to value the Railway property within their municipal limits at a reasonable rate.

5. I beg also to point out that the Company is called upon to pay Rupees 100 per annum, the tax on trades, arts, and professions, to each of the Municipalities through which the railway passes; and, although there appears to be no redress under the Act mentioned above, I trust that the Government will concur with me in thinking that such a thing was never contemplated when the Act was framed, and that it may be revised in this respect as well as in its provisions relating to appeals.

6. As bearing upon the question of the tax on trades, arts, and professions, I beg to refer you to G. O. No. 3345, of the 3rd of December 1866.

To

The President and Members of the Municipal Commission of Bellary.

The humble petition of the Madras Railway Company.

SHOWETH,

That your petitioners have been assessed, by your Commission, at the sum of Rupees 2,161-3-4, upon the property of your petitioners at Bellary, for the official year ending the 31st of March 1872.

2. That such assessment has been calculated upon an erroneous annual value of such property, amounting, as your petitioners are informed and believe, to the sum of Rupees 43,224-2-4.

3. That such annual value has, as your petitioners have been informed and believe, been arrived at by calculating fifteen per cent. upon the cost of your petitioners' said property at Bellary.

4. That the cost of such property amounted to the sum of Rupees 2,88,161.

5. That, as your petitioners submit, fifteen per cent. upon the cost of such property is too high a percentage to be taken as the annual value of such property.

6. That, by Section 41 of Madras Act No. III. of 1871, it is provided that the annual rate shall be imposed by assessing a percentage which shall not exceed 7½ per centum on the annual rent for which the houses, buildings, and lands liable to the rate might be reasonably expected to be let.

7. That the property of your petitioners, within the municipal limits of Bellary, consists of a station-house and shed, a goods' shed, an engine shed, a tank house, a carriage shed, a single Engine Driver's bungalow, a double Engine Driver's bungalow, a Station Master's bungalow, guards' barracks, an Apothecary's bungalow, a gatekeeper's lodge, and a salt godown, and that such property could not reasonably be expected to let for the annual sum of Rupees 43,224-2-4.

8. That such property could not reasonably be expected to let for a larger annual sum than Rupees 21,612-1-2.

*Proceedings of the Madras Government, Public Department,
17th November 1871.*

9. That no notice, as required by Section 47 of the said Madras Act No. III. of 1871, has been given to your petitioners.

10. That your petitioners' said property is now assessed by your Commission for the first time.

Your petitioners, therefore, humbly pray that their petition may be received, and that the assessment of your Commission upon your petitioners' said property, within the municipal limits of Bellary, may be revised and amended. And your petitioners will ever pray, &c.

(Signed) B. ANDERSON,
Acting Agent and Manager.

From the Vice-President of the Municipal Commission, Bellary, to the Acting Agent and Manager of the Madras Railway, dated Bellary, 12th October 1871.

With reference to your appeal petition, regarding the assessment of the Railway buildings at Bellary, I have the honour to enclose extract from proceedings of the Municipal Commissioners on the subject, for your information.

Proceedings of the Bellary Municipal Commissioners held at a special Meeting on Tuesday the 10th October 1871.

Present.

W. S. Foster, Esq.		President.
Colonel H. E. Dyneley		Member.
B. A. Blake, Esq.		Do.
J. G. Firth, Esq.		Do.
M. Abraham, Esq.		Do.

I. Read petition from the Agent and Manager, Madras Railway Company, appealing against the assessment charged on their house property.

With reference to petitioners' statement in paragraph 2 of their petition, the Commissioners find that the assessment has not been calculated upon an erroneous annual value of the property, although it has been calculated as set forth by the petitioners in paragraph 1, the latter portion of paragraph 2, paragraph 3, and paragraph 4.

II. With reference to paragraph 5, the Commissioners observe that the rate of fifteen per cent. upon the cost of property is the rate at which the annual value of all Government, public buildings, and all individual house property is calculated.

III. The Commissioners are satisfied that the rate complained of in paragraph 6 of the petition is within the limit specified by Section 41 of Act III. of 1871.

IV. Lastly, the Commissioners see no reason for lessening the assessment, and dismiss the appeal accordingly.

Resolved that a copy of the above proceedings be sent to the Agent and Manager, Madras Railway Company, for his information.

(True Extract.)

(Signed) H. E. DYNELEY, Colonel,
*Member of the Municipal Commission,
for Vice-President.*

From the Acting Agent and Manager, Madras Railway Company, to the Acting Consulting Engineer for Railways, dated Madras, 4th August 1871, No. 464.

With reference to the conversation which passed at the meeting of the Stores' Committee held in my office to-day, I have the honour to address you on the subject of the excessive amount at which the yearly rental of the Company's property at Bellary is estimated for the purposes of the Municipal assessment.

Proceedings of the Madras Government, Public Department,

17th November 1871.

2. You will remember that the President of the Commission, notwithstanding the protests which I have made, insists in demanding an assessment upon a rental estimated at the rate of fifteen per cent. of the value of the property—a rate just double that which is received for such of the Company's property as is let, and very much in excess of what we are asked to pay by the Municipalities of Madras, Bangalore, and Ghooty.

3. I shall be obliged if you will communicate with the President of the Bellary Municipality on the subject, or, if you think it advisable, lay the matter before His Excellency the Governor in Council.

Referred to the Public Department.

(Signed) R. F. OAKES, Captain, R. E.,
Offg. Joint Secy. to Govt., P. W. D.

31st October 1871.

No. 39. ORDER THEREON, 17th November 1871, No. 1701.

The Government have not by law any authority to interfere as regards the assessment of municipal house-tax, which as fixed by the Commissioners is final (Section 85, Act III. of 1871); nor will they express any opinion on the question how far the assessment and subsequent proceedings may be invalidated by the omission to give the special notice required by law.

2. The only possible mode of remedying the Railway Company's grievance as to the taxes on arts and professions is new legislation, and the Government do not consider that any such should be initiated. The Railway Companies benefit as much as other municipal tax-payers by the improvement of the roads and sanitary condition of the towns.

(True Extract.)

Chief Secretary.

To the Public Works Department.

Ed. J. Wright.

No. 624

MADRAS RAILWAY.

AGENT AND MANAGERS' OFFICE.

Madras, 20th October 1871.

From

Robert D. Olwin Esq.
Agent and Manager. M. R. Co.

To

Major H. B. Prendergast, R.E.
Acting Consulting Engineer for Railways.

SIR,

With reference to this Office letter No. 576 of the 29th ultimo, I forward herewith a copy of the Petition which the Company made to the Municipality of Bellary in view to a reduction of the assessment on the Railway property, with a copy of the reply, and I have the honour to request that the matter may be submitted for the consideration of His Excellency the Governor in Council.

2. It may be that 15 per cent of the cost of the property is a correct estimate of the yearly value of Government Property, but I would submit that the same rule should not be made applicable to a commercial undertaking like a Railway Company - the actual value of whose property can be easily ascertained, and it appears to me to be very obvious that no property possessed by the Madras Railway Company is worth 15 per cent per annum.

3. Under the provisions of Act III

Bot. of 118713 *M. R. Co.*

PUBLIC.

To
THE PUBLIC WORKS DEPARTMENT.

Dated November, 17th.

Recd.

Encl.

G. O., 17th November 1871, No. 1701.

NOVEMBER.
Nos. 38-39.

Passing orders on the subject of a complaint made by the Agent of the Madras Railway Company regarding the high rate of assessment charged by the Municipal Commissioners of Bellary on the Company's premises at that station.

of 1877 no Appeal can be made against a Municipal Assessment unless the amount claimed has been previously paid, and then there appears to be no appeal except to the Commissioners themselves by whom the assessment is made.

4. I have therefore no alternative but to refer the matter to His Excellency the Governor in Council in the hope that the Municipality of Bellary may be ordered to reconsider their decision and to value the Railway property within their Municipal limits at a reasonable rate.

5. I beg also to point out that the Company is called upon to pay Rs 100 per annum - the tax on Trades, Arts and Professions to each of the Municipalities through which the Railway passes, and although there appears to be no express under the Act mentioned above I trust that the Government will concur with me in thinking that such a thing was never contemplated when the Act was framed, and that it may be revised in this respect, as well as in its provisions relating to Appeals.

6. As bearing upon the question of the tax on Trades Arts and Professions I beg to refer you to G. O. No 3845 of the 9th of December 1868.

I have the honour to be
Yours faithfully
J. H. M. S.
Agent and Manager.

Eight Anna
Stamp.

To

The President and Members of the
Municipal Commission of Bellary
The Humble Petition of the Madras
Railway Company.

Sheweth,

1. That your Petitioners have been assessed by your Commission at the sum of Rupees 2,161. 3. 4 upon the property of your Petitioners at Bellary for the official year ending the 31st of March 1872.

2. That such assessment has been calculated upon an erroneous annual value of such property amounting as your petitioners are informed and believe to the sum of Rupees 43,224. 2. 4.

3. That such annual value has as your petitioners have been informed and believe been arrived at by calculating 15 per cent upon the cost of your petitioners' said property at Bellary.

4. That the cost of such property amounted to the sum of Rs. 2,88,161.

5. That as your petitioners submit 15 per cent upon the cost of such property is too high a percentage to be taken as the annual value of such property.

6. That by Section 41 of Madras Act No. III of 1871 it is provided that the annual rate shall be imposed by assessing a percentage which shall not exceed seven and a half per

21901

MADRAS RAILWAY.

From

The Agent and Manager.

To

The Consulting Engineer

for Railways.

Dated 20th October 1871.

Recd. 27th

P. N. 5134/21 624.

Notwithstanding for the consideration of Government a copy of the petition which the Company made to the Municipality of Bellary in view to a reduction of the assessment on the Railway property at Bellary.

centum on the annual rent for which the houses, buildings and lands liable to the rate might be reasonably expected to be let.

7. That the property of your Petitioners within the Municipal limits of Bellary consists of a station house and shed, a goods shed, an Engine shed, a Tank House, a carriage shed, a single Engine Driver's Bungalow, a Double Engine Driver's Bungalow, a station master's Bungalow, several Baracks, an apothecary's bungalow, a Lakekeeper's Lodge and a Salt Pond and that such property could not reasonably be expected to let for the annual sum of Rupees 43,224. 2. 4.

8. That such property could not reasonably be expected to let for a larger annual sum than Rupees 21,612. 1. 2.

9. That no notice as required by section 47 of the said Madras Act No. III of 1871, has been given to your petitioners.

10. That your petitioners' said property is now assessed by your Commission for the first time.

Your Petitioners therefore humbly pray that their petition may be received and that the assessment of your Commission upon your petitioners' said property within the Municipal limits of Bellary may be revised and amended.

And your petitioners will ever pray &c.

/True Copy/

J. H. Ellis.

for the Agent & Bellary.

for Rensford Anderson,
Ag. Agent Bellary.

Municipal Commissioners' Office
Bellary 12 October 1871.

From

The Vice President
Municipal Commission
Bellary

To

The Ag. Agent and Manager
Madras Railway
Madras

Sir,

With reference to your appeal petition, regarding the assessment of the Railway buildings at Bellary. I have the honour to enclose Extract from Proceedings of the Municipal Commissioners on the subject, for your information.

I have &c.
H. B. Dyerley
Member Munc. Commission
for the Vice President
Munc. Commission

Proceedings of the Bellary Municipal Commissioners held at a special meeting on Tuesday the 10th October 1871.

Present.

H. S. Foster Esquire	President
Col. H. B. Dyerley	Member
B. A. Blake Esquire	do
J. G. Smith Esquire	do
Mr. Abraham Esquire	do

I. Read petition from the Agent and Manager Madras Railway Company, appealing

against the assessment charged on their house property.

With reference to petitioner's statement in para 2 of their petition, the Commissioners find that the assessment has not been calculated upon an erroneous annual value of the property, although it has been calculated as set forth by the petitioners in para 1, the latter portion of para 2, para 3, and para 4.

II. With reference to para 5 the Commissioners observe that the rate of 15 per cent upon the cost of property is the rate at which the annual value of all Government, Public buildings, and all individual house property is calculated.

III. The Commissioners are satisfied that the rate complained of in para 6 of the petition is within the limit specified by Section 41 of Act III of 1871.

IV. Lastly the Commissioners see no reason for lessening the assessment and dismiss the appeal accordingly.

Resolved that a copy of the above proceedings be sent to the Agent and Manager Madras Railway Company for his information.

True Extract

J. H. C. Dymally

Member M. C. for the Vice President.

1 True Copies

J. H. Mellis.

for the Agent & Manager.

Composers

No. 464

MADRAS RAILWAY.

AGENT AND MANAGER'S OFFICE.

Madras, 4 August 1871.

From

Reverend Anderson Esq.
Ag. Agent and Manager, M. R. Co.

To

Major H. L. Prendergast, R.E.
Ag. Consulting Engineer for Railways.

SIR,

With reference to the conversation which passed at the meeting of the Stores Committee held in my office today, I have the honor to address you on the subject of the excessive amount at which the yearly rental of the Company's property at Bellary is estimated for the purposes of the Municipal Assessment.

2. You will remember that the President of the Commission, notwithstanding the protests which I have made, insists in demanding an assessment upon a rental estimated at the rate of 15% of the value of the property, a rate just double that which is received for such of the Company's property as is let, and very much in excess of what we are asked to pay by the Municipalities of Bellary, Bangalore and Chooty.

3. I shall be obliged if you will communicate with the President of the Bellary Municipality on the subject, or, if you think it advisable, lay the matter before

17
before His Excellency the Governor in Council.

I have the honor to be
Sir
Your most Obedient Servant
Wm. J. A. A. A.
Ag. Agent & Manager.

CONSULTING ENGINEER'S OFFICE.

Railway Department.

No. 446.

From

Major H. L. Prendergast R.E.
Ag Consulting Engineer for Railways

To

Colonel J. Carpendale R.E.
Secretary to Government,
Public Works Department,
Fort Saint George.

I have the honour to
submit a letter from the Agent
of the Madras Railway Company,
protesting against the assessment
of the Company's property at
Bellary by the Municipal
Commission.

The property has been
assessed, for the year, at Rupees
2,161.3.4 being 5 per cent on
the

No 624 of 20th
October/71.

21476

MADRAS RAILWAY.

From

The Agent and Manager.

To

The Consulting Engineer

for Railways.

Per 2717 recd 1/71

Dec 13 1871

Dated 4th August 1871

Recd

PH. 5734/71 No 4464

Regarding the high
rate of assessment
levied by the
Municipality of
Bellary on the Company's
Buildings at that
Place.

Copy sent to President M. C. Bellary No 61878 Aug 1/71

See File No 624/71

the annual rental of Rs 43,224.2.4,
which rental is calculated at
15 per cent upon Rs 2,88,161 the
cost of the buildings.

2 The Commissioners in
answering the Agents appeal,
pay no attention to paragraphs
9 and 10 pointing out that no
notice had been given to the
owners of the property, of valua-
tion and assessment being about
to be made. Notice to this effect
is required by section 47 of
Act III of 1871: and the demand
on the Railway Company would
appear therefore to have been
illegal. At the same time,
however, it is shown in para-
graph 2 of the Agents letter
of

*Enclosed
No 464

of 14th August, that there had
been correspondence on the
subject; and I am unable
to give an opinion whether
such correspondence is held
legally to be equivalent to a
formal notice.

3 As regards the rate
of assessment, the Agent
represents that no property
of the Company is worth
15 per cent per annum.
The Commissioners reply that
the rate of 15 per cent is put
by them, on all Government
buildings, as well as indivi-
dual house property.

The Act however reads,
in section 41, that the annual
rent

rent is, that, for which buildings may "reasonably be expected to be let": and I certainly agree with the Agent in considering that 15 per cent is far beyond a reasonable rate to demand as rent -

4 The Government of India on the question of rent being paid by the employes of Railway Companies, for the occupation of houses built for their accommodation, have considered $7\frac{1}{2}$ per cent, as a suitable rental -

The Government are interested together with the Railway Company in opposing undue taxation on the part of

of a Municipality: and I would submit for the consideration of the Government, whether a limit of $7\frac{1}{2}$ per cent might be assessed by legislation, for the rental of Railway property: or otherwise of the Commissioners at Bellary, should be asked to consider exceptionally, the case of the Railway station there.

5 The Agent further protests in paragraph 5 against the Trades Tax of Rs 100, which the Company is called upon to pay for every Municipality through which the Line runs. A claim of

2. The only possible mode
of remedying the ^{Railway} Company's
grievance as to the taxes on
arts & professions is new
legislation, and the Gov^{mt}.

to not consider that any
such should be initiated.
The railway companies
benefit as much as other
municipal taxpayers by
the improvement of the
roads & sanitary condition
of the towns.

H.S.

To the Public Works Department

Public Department

Memo. for Orders.

From the Consulting Eng^r for Railways, dated 25th Oct^r 1891 No. 466.

The Madras
Railway Company com-
plain of the valuation
of their premises at Bellary
made by the Municipal
Commissioners of Bellary.
The rental is assumed at
15 per cent of the cost
and the rate is 5 per cent
on the rental.

They ^{do} complain
of the assessment of Rupees
100 levied on the Company
as trades tax in each
municipal town through
which the line passes.

They also, in
respect of the Bellary house-
rate assessment, raise the
objection that they have
not received the special
notice required to be
given

J. D. S.

given when property is assessed for the first time

2. As regards the first point, I submit that the Govt. has no authority or power to interfere. The assessment as fixed by the Commissioners is final (Section 85). The question how far the assessment and subsequent proceedings of the Commissioners to recover the rate assessed are invalidated by the omission to give the special notice of assessment, is one for the decision of the Courts of law.

3. The Company's grievance regarding the Grades tax has been brought about by the new law (proviso to Section 58.) and is the same as was recently under the notice of Govt. in connection with the Madras

Carrying

This to be a 10th
2nd - here it is
the tax of each Town -
1 an equivalent is
received for each
payment in better
roads - similar to

Carrying Company. The Govt. were of opinion that as the ^{Carrying} Company's payments come in reality out of the pockets of their customers no interference ~~was~~ ^{is} called for. The only way in which Govt. could interfere is by initiating legislation for the amendment of the Schedule. The decision as regards the license tax which is referred to as a precedent seems to have turned on the wording of the license tax Act which differed from that of Act III of 1871. H.S.

112

Objection of the Railway Co.
to be lost by the Mining
Company of Bellary

Oct. of 1871 } **Orders.**

Public

To
The Public Works Dept

Dated 17th Nov^r }
Recd. 1871, No. 1701

Nos. 3839

Referring orders
on the subject of a
contract made by
the Agent of Indian
Railway Company
regarding the repair
work of the Government
bridges by the Municipal
Commissioners of
Bombay on the Company's
premises at that place
etc.

5.9.76