

Public Works (1898) Department.

RAILWAY BRANCH.

G.O., No. 946-47. *Ly*

DATED 22nd July 1898.

[Despatch Abstract.]

Tax on S. M.

Ordered that copy of Pres. Lt. M. Deph, stating with remarks, that the — cannot be imposed on the S. M. by the Municipal Council of Mumbai without the previous sanction of the Govt. of India, & that it is not desirable to apply at present to that Govt. for sanction to levy the proposed tax, be forwarded to the Govt. of Bombay for information.

Forwarded

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

Stating, with remark, that
the — cannot be imposed
on the Southern Maharashtra
Railway Company by the
Municipal Council of Anan-
tapur, without the previous
sanction of the Govt. of
India, and that it is not
desirable to apply at
present to the Govt. of
India for sanction to
levy the proposed tax on
the Southern Maharashtra

LOCAL AND MUNICIPAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following paper:—

Again G.O. No. 2851 M., dated 18th December 1898.

Read the following paper:-

From the Government Solicitor, Madras, No. 46, dated 26th January 1898, forwarding opinion of the Advocate General regarding the sanction of Government of India if need be for the imposition of profession tax on the Southern Mahratta Railway at Anantapur.

Order No. 1131 M.Mis., dated 23rd June 1898

In the opinion of Government, the tax on arts cannot be imposed on the Southern Mahratta Railway Company by the Municipal Council of Anantapur, without the previous sanction of the Government of India; but as it is under contemplation to abandon schedule of the Madras District Municipalities Act IV of 1884, as amended by Act III of 1897, in favour of the schedule annexed to the Act of 1884, under which the tax was imposed on professions and not on incomes, the Government does not consider it desirable to apply at present to the Government of India for sanction to levy the proposed tax on the Southern Mahratta Railway Company.

(True extract)

A. Russell.

for Secretary to Government.

To

The Chairman, Municipal Council, Anantapur,
thro' the Collector.

Public Works Department (Railway Branch)

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following paper :—

From the Chairman, Municipal Council, Anantapur, R on C No. 168, dated 19th August 1897, requesting the sanction of the Government of India if need be, for the imposition of profession tax on the Southern Mahratta Railway at Anantapur, under the circumstances stated therein.

ORDER No. 2851 M. Mis., dated 16th December 1897.

Section 135 of the Indian Railways Act IX of 1890, lays down that a railway administration shall not be liable to pay any tax in aid of the funds of any local authority, unless the Governor-General in Council has by notification in the official gazette declared the railway administration to be liable to pay the tax. Under this Section, the Government of India in its Notification No. 270, dated 12th June 1890, declared, pending further orders under that section, every railway administration to be liable from and after the 1st May 1890, to pay every tax which it was lawfully required by or on behalf of any local authority to pay, in aid of the funds of such local authority, during the year ended 30th April 1890, and in Home Department letter No. 123 dated 31st December 1891, the scope of this notification was explained by the Government of India to be "merely to continue until further orders the liability to certain taxes which as to their amount might be altered or increased according to the law in force". Under the notification of the Government of India, Public Works Department, No. 136 dated 5th April 1893, the liability to taxation of railways already open on 30th April 1890 was restricted to the same taxes and to similar rates of taxation as were actually levied from such administration by such local authority during the year 1890, and in its resolution No. 434 R.T. dated 17th August 1894, the Government of India directed that "when it is sought to impose any new tax on a railway, application should be made through the

the local Government concerned for the sanction of the Governor-General-in-Council".

2. The Municipal Council of Anantapur assessed for the first time in the current year, the Southern Mahratta Railway to the profession tax. On the 30th April 1890, the profession tax was operative under Act IV of 1884 and the railway administration was taxable under sec. 53 thereof in the Municipality of Anantapur, just as it is at the present day; but it was not actually assessed to the tax in that Municipality in virtue of a provision in that Act (sec. 60) exempting from liability any person or company that had paid the tax in any other Municipality and this railway administration having paid the tax in Bellary was exempt from liability in Anantapur. The amending Act III of 1897 however has altered this by declaring that a person or company should in future be liable to the tax in every Municipality in which business was carried on to the extent of the income derived in that Municipality. The amending Act thus changed by law a potential liability into an actual one; but seeing that the liability had not been "actually" enforced by "such local authority" viz:- the Anantapur Municipality, as required by the Resolution of 1893, the question for consideration is whether the tax can be now imposed on the railway administration in Anantapur, without the sanction of the Government of India?

3. Again, under the Resolution of the Government of India of 1893 above referred to, a railway administration which was taxed by a local authority during any part of the year ended on the 30th April 1890, is liable to pay such tax and at similar rates of taxation as were actually levied from such administration by such authority during such year, and according to the explanation given in 1891, such liability included any increase or alteration in the amount of the tax according to the law in force. If this referred to the law in force in April 1890, then that law was Act IV of 1884. But the amending Act of 1897, has introduced a material difference in the incidence of the tax which now depends not on the particular trade carried on or on the rental of the premises, but on the income derived. Does the explanation of 1891, refer merely to the rate at which the tax operative under the law in force in 1890, may be levied or does it cover an alteration

alteration in the incidence or nature of the tax introduced by a new law?

4. The Advocate-General is requested to give his opinion on the questions raised in paragraphs 2 and 3 above.

(True Extract)

(Signed) H. Tremmenheere,

Ag. Secretary to Government.

To

The Government Solicitor,

with a copy of G.Os. 1074 M 188 M 658 M & 1917 M
21-7-90 28-1-92 25-5-94 27-9-94.

(True Copy)

A. K. M. S.

for Secretary to Government.