M.R.O. 14—10,000—21-4-22.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2085 Press
~~Mis.~~

142-143

Dated 8 — 11 — 1869.

***Not to be folded or roughly handled***

## *Proceedings of the Madras Government, Revenue Department, 8th November* 1860.

No. 142. Read the following letter from R. S. ELLIS, Esq., C.B., Special Commissioner, to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated 7th November 1860, No. 46 :—

SIR,

*To the Income Tax Commrs., 27th Oct.* 1860, *No.* 40.
*From do. do. 6th Nov.* ,, ,, 157,
*with an enclosure.*

I have the honor to enclose the correspondence noted marginally and also certain questions relating to the Income Tax Act for reference to Government and to request, at as early a date as possible, an authoritative decision.

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From R. S. ELLIS, Esq., C.B., Special Commissioner, to A. HALL, Esq., President to the Income Tax Commission, dated 27th October 1860, No. 40.

SIR,

1. I have the honor to submit the following question, for the opinion of the Commissioners with the intention of referring the point at issue to Government should the Commissioners dissent from my interpretation of the Act.

2. The question is "what limitation is to be made as regards the deduction from profits "on account of bad debts for which provision is made in Rule 4 1st Case, Part VIII, "Schedule 2" (page 25) ?

3. As I understand this Rule, it has reference to bad debts which have been made by Merchants and Traders *during the year*, for which the profits are returned, namely 1859.

4. Parties making their Returns often claim to deduct bad debts which have been made many years back on the grounds that they have not written such debts off in their books as bad until 1859, the year for which they are making their Returns.

5. Again, when such bad debts are of very large amounts parties claim to write off these bad debts gradually, although they are known to be irrecoverable so that if the original bad debt is of very large amount, the portions thereof written off each year would so neutralize the profits, that they would be returned as *nil*, and no Income tax would be leviable from the parties making such Returns for several years.

6. I am of opinion that the intention of the Legislative as expressed in Part VIII, Schedule 2, Rule 4, will not admit of such interpretation and I would lay down as a principle "that the bad debts for which exemption can be claimed must be limited to the bad debts made "and ascertained during the year for which the Returns are made, and that bad debts made and "ascertained in years prior to that for which the Returns are made cannot be claimed as "exemption from the profits made during the year under Return" i. e. :

That no known loss of a previous year can be set off against the income of a subsequent year.

As these claims for exemption are daily made it will be of great advantage to me to receive at an early date the opinion of the Commissioners.

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From F. WALTHEW, Esq., Secretary to the Income Tax Commission, to R. S. ELLIS, Esq., C.B., Special Commissioner, Income Tax, dated Madras, 6th November 1860, No. 157.

SIR,

1. I am directed to acknowledge your letter dated 27th ultimo, submitting for the opinion of the Commissioners two questions as to the treatment of bad debts.

2. With reference to the first question the Commissioners are of opinion that no general rule can be laid down, and that each case under consideration must be treated on its merits.

3. As to the second question, a majority of the Commissioners are of opinion that a large loss met with in 1859 on the profits of which year the tax is assessed, may be carried on until absorbed by the profits of future years. As there has been some discussion on this point, I am requested to suggest, that the questions enclosed, the terms of which have been agreed to, between yourself and us in consultation, shall be referred to Government for authoritative decision.

(True Copies.)

(Signed) R. S. ELLIS,
*Income Tax Special Commissioner.*

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## QUESTIONS UNDER ACT XXXII OF 1860.

*Income Tax.*

1. In the year 1859 a person, say A. B., makes or ascertains a *bonâ fide* serious loss equal to many years profits, but which loss can only be roughly estimated or appraised. May he, in so far as regards Income tax Returns, after setting off against this loss his profits for 1859, carry forward the uncertain debit balance, and repeat each year this course, until the loss is absorbed or all the bad part of it ?

2. Can any Income tax be levied on a Public Company, which, under the same circumstances as set forth in question 1, refuses to make a dividend.

3. The Company in the interest of the shareholders declines paying dividends now or in future, until the serious loss is recouped.

(True Copy.)

(Signed) R. S. ELLIS,
*Special Commissioner.*

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Ordered that the following letter be despatched.

No. 143. From J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, in the Financial Department, dated 8th November 1860, No. 2,085.

SIR,

*From the Special Commissioner for the Income Tax, 7th November 1860, No. 46, with 2 enclosures.*

1. I am directed to submit for the orders of the Government of India the papers noted in the margin, having reference to the exact meaning of the permission given at the close of Rule 4 in Section 98 of Act 32 of 1860, to deduct bad debts from Returns of Profits. The question is one of great importance as regards the assessment of the Income tax at the Presidency towns in particular ; and this Government considers it better to solicit a decision of so general a question from the Government of India, than to pass any orders themselves, which might be at variance with the judgment of the Supreme Executive Authority.

2. The form in which the question is laid before Government in the two querries sent up by Mr. Ellis is narrow and special ; but this Government beg to be favored with instructions in more general and comprehensive terms, including a definition of the meaning of the phrase "bad debt."

3. I am directed to solicit the favor of a reply at the earliest practicable date, and by the telegraph if possible.

A Copied Desp. 9th.

Rev Dept

No 2085

To

The Secretary to the Govt of India
in the Financial Department

Sir,

I am directed to
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at the Presidency towns
in particular; and this
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to

From the Spl Comr for the Income tax 7 Nov 60 No 46 with 2 Encls.

to solicit a decision of so grave a question from the Government of India, than to pass any orders themselves, which might be at variance with the judgment of the Supreme executive authority.

2. The form in which the question is laid before Government in the two queries sent up by Mr. Ellis is narrow and special; but this Government beg to be favored with instructions in more general and comprehensive terms, including a definition of the meaning of the phrase "bad debt."

3 I am directed to solicit the favour of a reply at the earliest practicable

practicable date and by the telegraph if possible.

Fort St. Geo: 8 Nov.r 1860.

4 Copies to Spl Comr
Income Tax 59
12 Pt. J. Tax Comrs

To the Govt of India
Regarding bad debts

Revenue 1860 Despth.
Pro: of Govt for Nov.

No 2085.

To the Secretary to the
Govt of India in the
Financial Despth.
Dd 8 Nov. 60.

From Govt of India. 11 4/
Dated 60 No 3070 - in Prv.
29 Jany 1861

Submitting for orders certain Papers having reference to the exact meaning of the permission given in the Income Tax Act, to deduct bad debts from Returns of Profits.

No. 142 & 143.

Presented 29 Jan 1861