M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2226 Press Mis.

437-440

Dated 24-11- 1860.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
24th *November* 1860.

Read the following papers:—

No. 437. From C. HUGH LUSHINGTON, Esq., Secretary to the Government of India, Financial Department, to J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, dated Fort William, 12th October 1860, No. 10,437:—

SIR,

I am directed to acknowledge the receipt of your letter, No. 1,652, dated the 19th ultimo, to the address of the Secretary in the Home Department, submitting for further orders copies of three letters from the Acting Civil Auditor at Madras on certain points connected with the levy of the Income Tax, together with the orders passed thereon by the Madras Government, and in reply to append the orders passed by the Governor General in Council on the points in question, as shown in the last column of the following tabular statement:—

Madras Auditor's questions.	Madras Government's orders.	Orders by the Governor General in Council.
1. Whether the Mechanical Engineers appointed by Warrant are to be considered as coming within the exemption laid down in Section 128 of the Income Tax Act, viz., that they are to be exempted if drawing less than Rupees 415, the pay and allowances of a Captain.	The Government are of opinion that Section 128 of the Income Tax Act exempts the Mechanical Engineers from the Tax.	Section 128 of Act XXXII of 1860 has been *repealed* by Section 8 of Act XXXIX of 1860. If the Mechanical Engineers were *Naval* or *Marine* Officers they would no doubt be exempted under Section 9 of the last mentioned Act. But as it appears from the annual statement of Increase and Decrease of Establishments for 1858-59, received from the *Civil Auditor* of Madras, that the Mechanical Engineers in question have been sent out from England for service in the *Public Works Department*, the Governor General in Council is of opinion that they *are subject* to the operation of the Income *Tax Act*.
2. Section 7 of Act XXXIX of 1860, says that no Military men in Civil employ (except in the Police) are to be exempted under Section 127 of the original Act. From this the Civil Auditor concludes that all the Military subordinates in the Public Works Department getting 200 Rupees a year and more will be liable to the Tax, and he inquires from what date the amended rule is to be enforced, suggesting at the same time that it be applied from the date of receipt.	The Madras Government consider the Auditor's interpretation correct and approve of his suggestion as to the mode of applying the new rule.	The Governor General in Council agrees with the Auditor in thinking that the Military subordinates in the Public Works Department whose incomes are 200 Rupees a year and upwards are liable to the Tax. His Excellency in Council however observes that it is not correct to apply the amendments of Act XXXIX of 1860 in the manner approved by the Madras Government. Act XXXII of 1860, took effect "from and after the 31st July 1860" and Act XXXIX of 1860 "shall be read and construed as part of the former Act." It follows therefore that the amendments of Act XXXIX of 1860, should take effect from and after the 31st July 1860.

Madras Auditor's questions.	Madras Government's orders.	Orders by the Governor General in Council.
3. Officers drawing salary in different Departments whenever this is known, are charged at the rate due on the whole. In many cases the total of an Officer's income is not known and consequently the tax may be levied at a lower rate than is correct. This incorrectness of rate may also occur in cases where persons have a private income of their own unknown to the Civil Auditor's Office.	(*a.*) The Government are of opinion that when an Officer draws his pay on two or more abstracts he should be required in each abstract to enter the total of his salary. (*b.*) With respect to income the Government are of opinion that the Civil Auditor has no concern with that, but that it will be dealt with in the same mode as the income of persons not in public employ.	The Governor General in Council considers that the Madras Government are right, but the entry should, His Excellency in Council is of opinion, be made in each abstract as a foot note. The Governor General in Council concurs in the opinion expressed by the Madras Government.
4. Exemptions on account of Insurances other than those regularly deducted in this office, how are they to be admitted? Is the simple statement of the party sufficient, if not, what proof is to be required?	The ex-officio Assessors have no concern with such deductions except for official funds.	There is, the Governor General in Council observes, no objection to the deduction by the Civil Auditor of premiums paid by Government servants from their salaries to Insurance Societies, provided the person making the payment supports the deduction with the regular receipt of the Insurance Society.
5. In the case of Acting Officers what rule is to be followed? Where for instance the simple pay of the employé is below the limit of taxation; but the acting allowance for the month or two for which it is drawn brings it within the incidence of the tax, or where in consequence of absence an employé who would pay the tax perhaps at the higher rate, draws for the month less than the lowest sum liable to taxation. These cases depend on the length of the leave and other particulars and can only be properly adjusted at the end of the year. In the mean time what rule is the Audit Office to observe? I am charging on each portion the rate which would be due on the whole salary of the absentee. The Acting Officer paying independently the tax due on his own proper salary.	The Government remark that the Tax is chargeable on the yearly income. The Offices of Audit, Military and Civil, will therefore deal with each month's salary, &c., by itself, and consider at the end of the year such claims to exemption as may then be put forward on grounds such as those stated by the Civil Auditor.	The Governor General in Council considers that the Madras Government are right.
6. Is Income Tax to be deducted on all religious or charitable grants audited, until orders of Government are received to exempt.	The Government have already under date 31st August, last resolved under Clause 133 of the Act to exempt from the Income Tax the property of all Hindoo and Mahomedan religious and charitable Institutions, as to other Miscellaneous Institutions application must be made	The Governor General in Council is of opinion that Local Governments should not be permitted to pass a *general* order under Section 133 of Act XXXII of 1860 exempting the property of all Hindoo and Mahomedan religious and charitable Institutions. The Governor General in Council would in this case rule

Madras Auditor's questions.	Madras Government's orders.	Orders by the Governor General in Council.
	individually, and until exemption is granted on such application the tax must be levied.	that all property clearly proved to be exclusively devoted to religious and charitable public purposes should be exempted from Income Tax, on the understanding however that the income of individuals derived therefrom will be taxed provided it be in excess of Rupees 200 a year.

No. 438. From Lieutenant-Colonel T. McGOUN, Military Auditor General, to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department, dated Fort Saint George, 3rd November 1860.

SIR,

With reference to the order of Government dated 12th ultimo, No. 1,852, referring a letter from the Acting Inspector General of Ordnance and Magazines, for my report as to the terms on which Mechanical Engineers in the Ordnance Department are engaged, I have the honor to observe that the question raised by Lieutenant-Colonel Simpson has been determined by the decision of the Governor General, published in the Calcutta Gazette of the 17th October 1860, page 2,214, that the Mechanical Engineers in the Public Works Department, not being Naval or Marine Officers, are subject to the operation of the Income Tax Act.

No. 439. From W. BALMAIN, Esq., Officiating Civil Auditor, to J. D. BOURDILLON, Esq., Secretary to Government, Public Works Department, dated Fort Saint George, 6th November 1860, No. 380.

SIR,

With reference to the order of Government No. 1,492 of 1st September last, and the subsequent orders of the Government of India 12th of October 1860, published in the Madras Gazette, page 852, I have the honor to inquire whether Mechanical Engineers are to be charged Income Tax or not. As the bills for pay and allowances for October are awaiting audit, I shall feel obliged if Government will send instructions on the matter as soon as possible.

No. 440. ORDER THEREON, 24th November 1860, No. 2,236.

1. In the first letter recorded above, the Secretary to the Government of India communicates the final orders of the Supreme Government on several questions relating to the Income Tax, upon which this Government had expressed their opinion.

2. One point alone seems to call for observation. On a question put by the Civil Auditor as to whether the Mechanical Engineers appointed by Warrant were to be considered as coming within the exemption laid down in Section 128 of the Income Tax Act, this Government considered* that the Section named exempted the Officers in question from the tax.

* 1*st September* 1860, *No.* 1,492.

3. The Government of India now point out that Section 128 of Act XXXII of 1860, has been repealed by Section 8 of Act XXXIX of 1860. Had the Mechanical Engineers been *Naval* or *Marine* Officers, they would, the Supreme Government consider, have been exempted under Section 9 of the last mentioned Act: but as it appears that they were sent out from England for service in the Public Works Department they must be held to be subject to the operation of the Income Tax Act.

4. It will be brought to the notice of the Supreme Government that this point was duly considered by this Government on the passing of Act XXXIX of 1860. It will be explained that after careful consideration, it was held that Mechanical Engineers were certainly exempt under Clause 4, Section IX of that Act, because they are liable to serve on board ship. It is true that they are not often called on so to serve, but two are now serving on board ship, and similar requisitions may at any time be made for their services, and such requisitions they could not decline. A second order was not issued because the conclusion arrived at agreed with the first order.

5. In the order of 12th October 1860, No. 1,852, Revenue Department, the Military Auditor General was directed to report on an application submitted by the Inspector General of Ordnance and Magazines, for the extension to Mechanical Engineers in the Ordnance Department, of the benefits of the exemption granted to Mechanical Engineers, by the order of 1st September, No. 1,492.

6. In the second letter recorded at the head of this paper, Colonel McGoun gives no reply to the order quoted above, but merely refers to the ruling of the Supreme Government as stated in paragraph 3 *supra*. The Military Auditor General will, under the opinion of this Government as expressed in paragraph 4 of these Proceedings, still make the report already called for; and when the answer of the Government of India is received, the question will be finally settled.

7. In the third letter recorded above the Civil Auditor inquires whether the order of 1st September 1860, No. 1,492, or the subsequent ruling of the Government of India, is to be acted upon, *i. e.* whether Mechanical Engineers are to be charged Income Tax or not. The Governor in Council directs that until orders are received from Calcutta on the reference about to be made, no deduction on account of Income Tax should be made from the pay and allowances of the Officers in question.

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

Ordered that the following letter be despatched.

No. 441. From J. D. SIM, Esq., Acting Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, in the Financial Department, dated 24th November 1860, No. 2,237.

SIR,

1. I am directed by the Honorable the Governor in Council to acknowledge the receipt of your letter under date 12th October last, No. 10,437, and with reference to the remarks of the Governor General in Council on the first question referred to therein to make the following observations in view to a reconsideration of their ruling, by the Supreme Government.

2. It is true that this Government were of opinion* that Mechanical Engineers were exempted from Income Tax, by Section 128 of Act XXXII of 1860, which has since been repealed by Section 8 of Act XXXIX of 1860: but I am to state that on the receipt in Madras of the last named Act, the question was duly considered by this Government, and after careful deliberation, it was held that Mechanical Engineers were certainly exempt under Clause 4 Section 9 of that Act, because they are liable to serve on boardship. It is true that they are not often called on in this way, but two are now serving on boardship, and similar requisitions may at any time be made for their services, and such requisitions they could not decline.

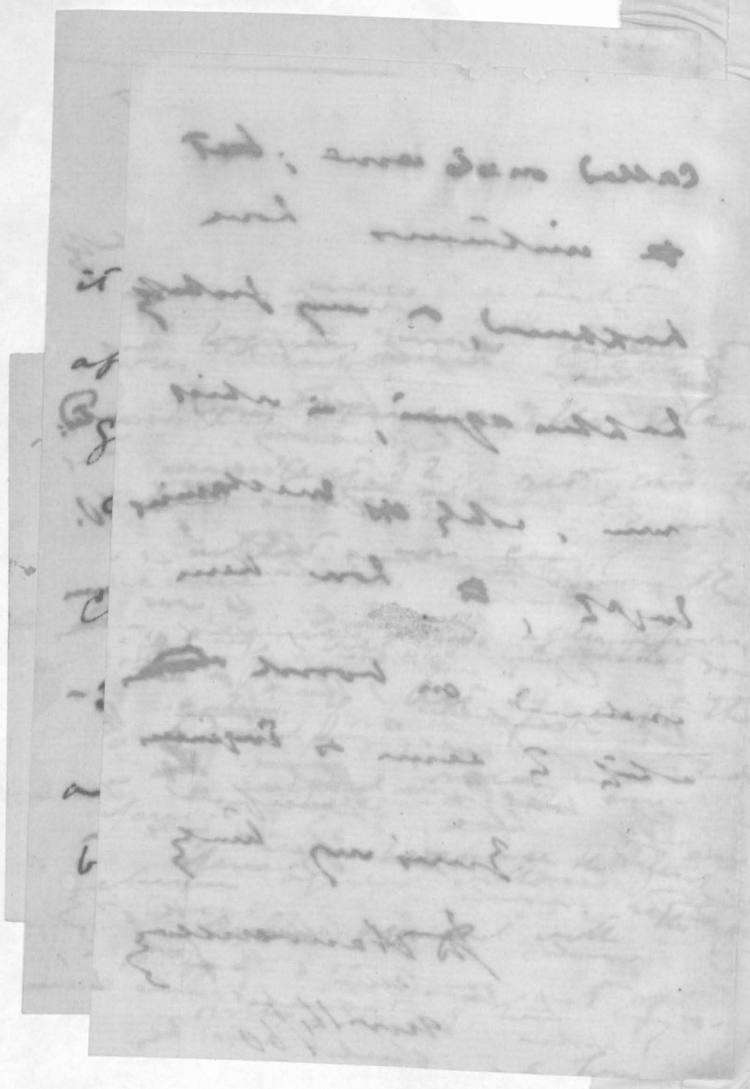
* *September 1st* 1860, *No.* 1,492.

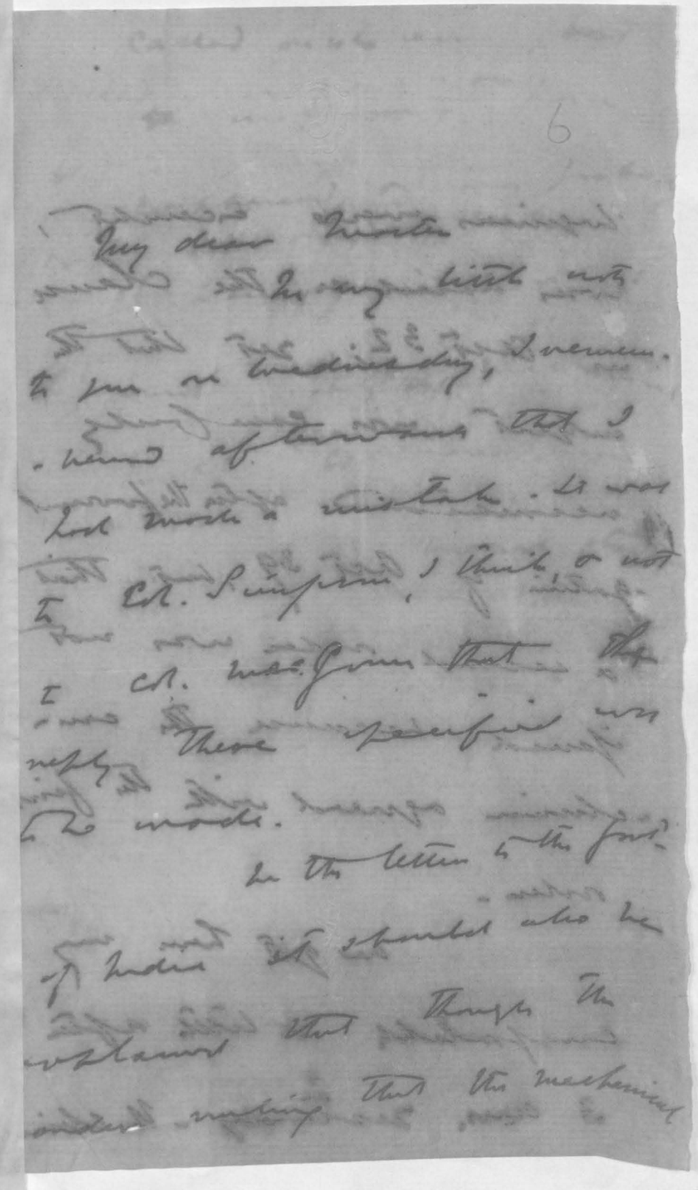
3. Under these circumstances I am instructed to request that the Government of India will confirm the decision arrived at by this Government.

it is the opinion that
after [illegible] that
Govt. held that they were
entitled, [illegible] under
Claim 4, Sec 9, Act
39 of 1860, because they
are liable to serve as
board ships - but in
that they are not eligible

called on to serve; but
in virtue have
forfeited, & may forfeit
further again, in which
case, only as mechanics
right, & have been
ordered on board when
ship is seen as Engineers

Yours very truly
J. Stevenson
Nov 14/60.





opinions were correct,
when stating on the claim
in Art 32, 2nd that the
subject was confirmed
reinstated after the promul-
-gation of Art 39, but that
a second order was not
issued because the con-
-clusion agreed with the first
order.

We got home my
comfortable a little after
3 a.m. yesterday - No chimney

R.D.

A-2237.

The Secretary to the Government
of India in the Financial Dept.

7

Sir,

Gen! Bowdillon's instructions have been followed in drafting this Proceedings & letter to the Govt of India - except on one point.

In his note of 14 Nov. Gen! Bowdillon desired that an answer couched in terms similar to the order of Oct 13/60 - No. 1860, 2d sent to Col. McEown, in reply to his letter of 3 Nov. 1860 - but in his second note, he said that he meant that this answer should be to Col Simpson - in reply, I presume to his letter of 8 Oct. 1860. No 145. recorded in G.O. 12 Oct. 1860. No. 1852.

As however the last-named order directed Col McEown to report

Rec'd 1st Nov 1860 & 11492.

concerning, as to Supreme Government.

2. It is true that this Government were of opinion that ~~certain persons~~ ~~of the Art of 1860 were exempted~~ Mechanical Engineers were exempted from

R.D.

4 Encls
Disp. Ltr. No 21
To

No 2237.

The Secretary to the Government
of India in the Financial Dept.

Sir,

1. I am directed by the Honorable the Governor in Council to acknowledge the receipt of your letter under date 12th October last No 10439, and with reference to the remarks of the Governor General in Council on the first question referred to therein to make the following observations in reason to a reconsideration of their ruling, by the Supreme Government.

2. It is true that this Government were of opinion that ~~certain persons of the class~~ Mechanical Engineers were exempted from

Sept 1st 1860 No 11492.

as to the manner in which the terms & service of the Mechanical Engineers in the Dept of Finance differ from those of the corresponding class in P.W. Dept: and as Col Ellis has not yet given a direct reply thereto; while the present reference to Calcutta shows that the question of the liability of Mechanical Engineers in general is still an open one; it may be well to defer giving a final answer to Col Simpson till the orders of the Supreme Govt are received. I have drafted his accordingly.

C.G.M.
Nov. 19.

3 ans. yesterday - Nothing

* September 1st 1860, [illegible]

Tax, by Section [illegible]
since been repealed by Section 8 of Act XXXIX of
receipt in Madras of the last named Act, the question
and after careful deliberation, it was held that Mech
under Clause 4 Section 9 of that Act, because they are
that they are not often called on in this way, but two a
requisitions may at any time be made for their servic
decline.

3. Under these circumstances I am instructed t
will confirm the decision arrived at by this Governme

from Income Tax, by section
128 of Act XXXII of 1860,
especially a fact that the
which
sections in question has since
been repealed by sections of
Act XXXIX of 1860: but I am to
state that on the receipt in
Madras of the last named Act,
the question was duly considered
by this Govt, and after careful
deliberation, it was held that
Mechanical Engineers were
certainly exempt under clause
4 Section IX of that Act, because
they are liable to serve on
boardship. It is true that
they are not often called on in
this way
to serve, but instances have
happened, and may probably
happen again, in which men,
solely Mechanical Engineers,
have been ordered on board
ship to serve as Engineers.

3. Under these circumstances
I am instructed to request that
the Govt of India will confirm
the decision arrived at
by this Government.

Fin Dept. 24 Nov 1860.

No. 1 Dated 24 Nov 1860.

Fin Dept. Geo. 24 Nov 1860.

No are now to serving
on board ship, and similar
requisitions may at any
time be made for
their services — and
such requisitions they
could not decline

To Govt of India
Regarding allechowances
being ubject to the Income
Tax

Revenue 1860 Dept.
Proceedings for 24th Nov.

No 2237.

To the Secretary to the
Govt of India in the
Financial Department.

Dated 24th November 1860.

Home Pol Dispatch dated 26th December
1860 No 2992.

Requesting the early
communication of the decision
of the Govt regarding
Mechanical Engineers from
the Income Tax.

24/11/60
12½ PM

Copied
Entered
Verified
Corrected

Copied by Messrs Ross & Co

A. D.

No 2236

Proceedings of the Madras Government
Under date the 24th November 1860.

Read the following Papers.

From the Secretary to the Govt of India.

Passing orders on certain reference from the Ag. Civil Auditor at Madras respecting the levy of the Income tax. (Here enter 12th October 1860 No 10,437)

From Lieut-Col E McGoun
Military Auditor General.

With reference to order of Govt 12th October No 1852 observes that the question raised by the Ag. Inspector General of Ordnance has been determined by the decision of the Governor General that Mechanical Engineers of the Ord Dept are subject to the operation of the Income tax. (Here enter 3rd November 1860)

From the Ag. Civil Auditor.

Awaiting the Instructions of Government as to whether the Mechanical Engineers are to be charged Income tax or not. (Here enter 6th ——— No 380)

Q1 In the first letter recorded above, the Secretary to the Government of India Communicates the final orders of the Supreme Government on several questions relating to the Income Tax, upon which the Government had expressed their

their opinion.

2 One point alone seems to call for observation. On a question put by the Civil Auditor as to whether the Mechanical Engineers appointed by warrant were to be considered as coming within the exemption laid down in Sec: 128 of the Income Tax Act, this Government considered* that the Section named exempted the officers in question from the tax. 1st September 1860 No 1492.

3 The Government of India now point out that Sec: 128 of Act XXXII of 1860 has been repealed by Sec: 8 of Act XXXIX of 1860. And the Mechanical Engineer been Naval or Marine officers, they would, the Supreme Government consider, have been exempted under Sec: IX of the last mentioned Act: but as it appears that they were sent out from England for service in the Public Works Department they must be held to be subject to the operation of the Income Tax Act.

4 It will be brought to the notice of the Supreme Govt. that this point was duly considered by this Government on the passing of Act XXXIX of 1860. It will be explained that after careful consideration, it was held that Mechanical Engineers were certainly exempt under Clause 4 Sec: IX of that Act, because they are liable to serve on board ship. It is true that they are not often called on do to serve, but† instances have happened and may probably happen again in which many solely Mechanical Engineers, have been ordered on board ship to serve as Engineers.*

5 In the order of 12th Oct. 1860. No 1852 Revenue Department the Military Auditor General was directed to report on an application submitted

*two are now serving on board ship, and similar requisitions may at any time be made for their services, and such requisitions they could not decline.

†

*A second order was not issued because the conclusion arrived at agreed with the first order.

submitted by the Inspector Genl of Ordnance and Magazines, for the extension to Mechanical Engineers in the Ordnance Departt, of the benefits of the exemption granted to Mechanical Engineers, by the order of 1st September No. 1492.

6 In the second letter recorded at the head of this paper, Colonel McGoun gives no reply to the order quoted above, but merely refers to the ruling of the Supreme Govt as stated in para 3 supra.

The Military Auditor General will, under the opinion of this Government as expressed in para 4 of these Proceedings, still make the report already called for; and when the answer of the Government of India is received, the question will be finally settled.

7 In the third letter recorded above the Civil auditor enquires whether the order of 1st September 1860 No. 1492. or the subsequent

subsequent ruling of the Govt of India, is to be acted upon, i.e whether Mechanical Engrs are to be charged Income Tax or not. The Governor in Council directs that until orders are received from Calcutta on the reference about to be made no deduction on account of Income Tax should be made from the pay and allowances of the officers in question."

C.E.M.C.

D.D.S.

12 Copies To the Pr. C. Tax Comr Circ. 29
2 — Pr. Comr. Tax
12 — Bds of Revs
10 — Chief Engrs
2 — Chief Audr Genl
3 — Civil Audrs

1st Sept 1860 Nos 11-12
19th Sept " Nos 338-339-
12th Oct " Nos 199-200.

Regarding Mechanics
being subject to the Income
Tax-

Revenue 1860 Depart.
Pro: of Govt. for November

No 2236.

Pro: of the Madras Govt.
Dy 24th November 1860
Forwg Military Aud Genl 20 Dec 60
No 3026-

From Secy to India 7th December to
Govt No 2992
-From the Secy to the Govt of India
D/17th May 61 No 1298
Pro of the Bd of Rev of 15th Octr 62
Nos 2954
Relating to Mechanical
Engineers being assessed
with Income tax-

Nos 437 to 440.

C19 Nov P. 22