M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1570 — Press ~~Mis.~~

83 . 84

Dated 6 . 8 . 1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 6th August 1861.

No. 83. Read the following Proceedings of the Board of Revenue, dated 11th June 1861, No. 3,038 :—

Read the following letter from J. SILVER, Esq., Collector of Tinnevelly, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated 28th May 1861, No. 231.

SIR,

1. I have the honor to request you will obtain for me the instructions of the Board, as to whether a Gaoler is liable to Income tax on the house attached to the gaol which is occupied by him, and which he is obliged to occupy from the situation he holds.

2. Mr. Lovett, the Gaoler of the Tinnevelly gaol, having been assessed under the construction published in page 113 of the "Fort Saint George Gazette," dated 25th January 1861, on the house occupied by him, and which has been erected at the expense of Government, complained of the same to the Inspector General of Prisons, and I beg to forward herewith copy of his Proceedings, and of the letter addressed to me by the Session Judge with reference thereto.

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1. Ordered to be submitted for the decision of Government.

2. The Board consider that the spirit of the Ruling No. 48, at page 10 of the Income Tax Manual is more applicable to the case of a Gaoler residing in a gaol in public official quarters, than is that quoted by the Collector; and they would accordingly recommend that such persons be declared exempt to that extent from demand for Income tax on the assumed rent of their residence.

(A true Copy and Extract.)
(Signed) W. HUDLESTON, *Secretary.*

Ordered that the following letter be despatched.

No. 84. From J. D. SIM, Esq., Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, Financial Department, dated 6th August 1861, No. 1,570.

SIR,

1. I am directed to request the orders of the Government of India in a question connected with the assessment of Income Tax upon a person occupying a house, the property of Government.

2. Under the ruling of the Supreme Government, 4th January 1861, No. 7, Financial Department, which directs that an Officer occupying a house belonging to Government, as the abode of himself or his family, can claim no exemption in respect of the rent of such house from the duties he would otherwise be liable to, a Gaoler at Tinnevelly has been assessed on the house erected at the expense of Government, adjacent to the Gaol, and which as Gaoler he is obliged to occupy.

3. The Inspector General of Gaols objects because he considers that individuals so situated are compelled to live in the houses provided for them by Government, not as an indirect addition to their incomes, but in order to the efficient discharge of their duties.

4. The Board of Revenue in forwarding the case for the decision of this Government, expressed their opinion that the spirit of the ruling, marginally noted, under which Public Officers are wholly exempted from the tax on any allowance received by them in lieu of house-rent, was more applicable to a case of this kind than the ruling under which the assessment has been made, and they therefore recommended that persons in the position of this Gaoler should be declared exempt from demand for Income Tax on the assumed rent of their residences.

No. 48, Income Tax Manual.

5. It appears to this Government, I am to remark, that the two rulings referred to are inconsistent with each other, for, in the case of the Gaoler now reported, he would, if he drew an allowance in lieu of house-rent, pay no Income Tax on it, while when a house is found for him instead, he is called upon to pay.

6. This Government consider that a man in the position of the Gaoler referred to, should not be charged Income Tax for the official quarters in which he is obliged to live, and as it is a question of general interest, I am desired to ask a final decision upon it.

Memo.

Republished at page 113 of the Fort St. George Gazette for 1861.

The Supreme Govt ruled, under date 4 January 1861. No 7. that an officer occupying a house belonging to Govt, as the abode of himself or his family, can claim no exemption in respect of the rent of such house, from the duties he wd otherwise be liable to. Thus if an officer's salary be Rs. 500 per month, and he be allowed to occupy rent-free a house of Government worth Rs. 100 per month, he will be chargeable under Schedule 4, with the duties on Rs. 500 per month; and under schedule 1. and Rule 7 with Rs. 100 per month, as the actual profits to him of the house.

Under this ruling Mr Lovett, Jailor at Tinnevelly was assessed on the house occupied by him, and which had been erected at the expense of Govt.

20 April 1861.

The Jailor complained of this & the Inspector General of Jails, who held that if a house is the property of an individual or of Government, the land-lord and not the tenant pay, the Income Tax for the Income accrued as rent. "Jailors are not provided "with houses as an addition to their incomes, "but with the view to their efficiency they are "compelled to live in the houses provided for "them by Govt"

The house in question is attached to the jail, & may be considered part of it.

* 28 May 1861 - No 231.

In consequence of Mr Rohde's remarks the Collector of Tinnevelly referred the matter to the Board of Revenue who have now forwarded the case for the decision of Govt observing that in their opinion the spirit of the ruling No 48. Income Tax

Manual is more applicable to the case of a Jailor residing in a Jail in public official quarters.

The ruling in question is that all Pub. lic officers are wholly exempted from the Tax on any allowance received by them in lieu of House-rent.

11 Income Tax Manual. The Board therefore recommend that persons in the position of this Jailer be declared exempt from demand from Income Tax on the assumed rent of their residence.

The 2 rulings are certainly opposed to one another: for if the Jailor in question drew an allowance in lieu of House rent he wd have to pay no income Tax on it, but because a house is found for him instead, he is called upon to pay.

The fact of the liability of a person occupying a house the property of Govt to be assessed to Income Tax in respect of the rent thereof is repeated in Ruling #18. Page 27. Income Tax Manual: and it is added "the only case for deduction that "can arise is when an Officer pays rent, "whether to Govt or to some one else, for a "larger house than he would otherwise "occupy, because he uses part of the "house for a Govt Office. In such a case, "if the arrangement for the Office has been "recognized, the Officer who occupies the "house, is entitled to a pro rata deduction for "so much of the rent as is fairly due for "the office."

If it is determined that the strict letter of the ruling must be adhered to, the spirit of the last paragraph might be adopted. i.e. the Jailor might be called upon to pay income tax upon so much of the rent of the Govt building occupied by him as wd correspond to any rent which he might be supposed to pay, if he found his own quarters. and the tax on the remainder might be remitted on the ground of the building being used as a Govt Office—

CJ Ellis
19/7/01.

* The difficulty wd be in deciding on this point.

— This point should be referred to Calcutta to ascertain how it is settled there — A Jailor who is obliged to live in the Jail as a building attached to it, differs from other servants of Govt & should not I think be charged Income Tax for his official quarters.

— In making this reference we might point out the difference between the 2 rulings alluded to in this memo: in perplexing

CJ Ellis
19-7-01

Should Mr Hawksley decide the case in the way indicated by the H.-G. this would readily enable us while making the reference

(15)

Income Tax.
Question
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For Oile

Revenue Dept

No 1570.

To The Financial Secretary
to the Government of India

Sir,

I am directed to request the orders of the Government of India on a question connected with the assessment of Income Tax upon a person occupying a house, the property of Government.

Under the ruling of the Supreme Govt. 11th January 1861 No 7 Financial Dept which directs that an Officer occupying a house belonging to Govt,

&c

C 75 July & 30.

as the abode of himself or his family, can claim no exemption in respect of the rent of such house from the duties he would otherwise be liable to, as Jailer at Limerick has been assessed on the house, erected at the expense of Govt., adjacent to the Jail, and which he is obliged to occupy as Jailer.

3. The Inspector General of Jails objects because he considers that individuals so situated are compelled to live in the houses provided for them by Govt not with a view of providing them with an indirect addition to their income, but in order

× No 48. Income Tax Manual.

der to the efficient discharge of their duties.

The Board of Revenue in forwarding the case for the decision of His Govt, expressed their opinion that the spirit of the ruling marginally noted under which Public officers are wholly exempted from the tax on any allowance received by them in lieu of House rent - was more applicable to a case of this kind than the ruling under which the assessment had been made: and they therefore recommended that persons in the position of this Jailer should be declared exempt

exempt from demand for
Income Tax on the assumed
rent of their residences.

5 It appears to
this Govt., Jam to remark
that the two rulings re-
ferred to are inconsistent
with each other, for, in
the case of the Sailer
now reported, he would
if he drew an allowance
in lieu of House rent
pay no income tax on
it, while when a house
is found for him instead,
he is called upon to pay.

6 This Government
consider that a man in
the position of the Sailer
referred to, should not be
charged Income Tax for
the official quarters in
which

— which he is obliged
to live. and as it is
a question of general
interest I am desired
to ask a final decision
upon it. —

CGW

Sir Tatt Geo
to Augt 1867

I. D. S

Income Tax upon Houses the Property of Government

Revenue 1861 Depart^t
Gro: of Gov^t for August.

№ 1570.

To The Secretary to the Gov^t of India in the Financial Dep^t

Dep^t August 1861.

Dep^t of the Board of Rev: per Aug^t Ex
№ 1773 dated 26th Aug^t
№ 1715

Form Grant Off Judicial 27 Aug^t 61 № 2187
in pub^a Sept^r № 1876.

Requesting to know whether a person occupying a house the property of Gov^t, is subject to Income tax.

№ 83 & 84.