M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2318 Press ~~Mis.~~

148-49

Dated 17-12-1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 17th December 1861.

No. 148. Read the following Endorsement from the Secretary to the Government of India, in the Financial Department, dated Fort William, 15th November 1861, No. 13,850:—

Read the following Extract from the Proceedings of the Government of India, in the Financial Department, under date the 15th November 1861.

OPINION of W. Ritchie, Esquire, dated 15th October 1861.

1. I am of opinion that the view taken by the Madras Government on the subject of setting off an excess of loss sustained upon a source of income included in one schedule of the Income Tax against the profits or income realized under another schedule, is quite correct: and that under the Act as it stands, no loss under one schedule can legally be set off against the income realized under another, but that the set-off allowed by the Act applies to a set-off of losses against profits upon the several sources of income falling within another schedule, such as schedule 2.

2. One main principle of the Act is to impose the duties upon each source of income or realized profits mentioned in the 4 schedules, without reference to the mode in which such income or profits are expended by the recipient. In assessments under schedules 3 and 4, no deduction whatever can properly be made from the sum actually received by the person assessed, as the incidence of the tax is upon the whole of the interest or dividends, salaries of pensions mentioned in those schedules, and realized by him. In assessments under schedules 1 and 2, deductions must necessarily be made in respect both of the expenditure by which the profits chargeable under the schedule is realized, and of losses arising from the same source from which the profits have arisen, for the incidence of the tax under these two schedules is only upon the net profits realized from the sources therein respectively mentioned, and not upon the gross receipts. But there is no greater reason for allowing a man who receives a fixed income from Government Securities or a salary, so as to be chargeable under Sections 3 and 4, to set-off against such fixed income or salary the losses sustained by him in the year from a speculation or trade, (for which, if profitable, he would have been assessed under schedule 2) than for allowing the same man to deduct from his fixed income or salary, for the purpose of assessment, the sum he has spent during the year in maintaining his family, or upon the necessaries of life, and so, the landholder assessed under schedule 1 upon the rental of his estates, can have no greater claim to a deduction from such assessment by reason of his carrying on a trade or profession in which he loses largely during the year, than if he had expended the whole of his rental in paying off old debts or in living up to his income.

3. The case of persons or companies who hold or use land for any purpose of the nature of trade or manufacture, is expressly provided for in Rule 3 of Section 98 of the Act. The profits derived from land so held or used are chargeable not under schedule 1 but under schedule 2, and of course any losses in the course of trade during the year may be set off against the profits realized from the land so held or used. But profits on lands not held or used for such purpose although owned by the same persons are chargeable under Section 1, and as to them, no deduction for losses on trade is allowable.

ORDER.—Ordered, that a copy of the Opinion of the Advocate General enclosed in the above letter, be forwarded to the Government of Madras for information and guidance, in reply to their Secretary's letter, No. 1,776, dated the 6th September 1861.

Ordered, also, that the Resolution passed in this Department, No. 115, dated the 6th November 1860, published in page 2,442 of the Calcutta Gazette, be cancelled.

(A true Extract.)

(Signed) C. H. LUSHINGTON,

Secretary to the Govt. of India.

Proceedings of the Madras Government, Revenue Department,
17th December 1861.

No. 149. ORDER THEREON, 17th December 1861, No. 2,318.

1. Communicated to the Income Tax Commissioners for the Town of Madras, with reference to G. O. 6th September 1861, No. 1,775, Revenue Department. The Resolution of the Government of India, dated 6th November 1860, No. 115, and cancelled by paragraph 2 of the foregoing order, was re-published at page 1,110 of the "Fort Saint George Gazette" of last year.

2. Copies of this order and the reference from the Commissioners which led to it will also be furnished to the Board of Revenue for information and guidance, and will be published in the Gazette.

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

6th Septr 61 No 59 to 61

Fort St George - Gazette of 11th
ember 61 Page 1110

Revenue 1861 Sept
Proc: of Govt for December -
No 2911

From the Secy to the
Govt of India
dated 15th November 61
Recd 17th Decr 61
No 13880

No 2318 - 17th December

Forwarding the opinion
of the advocate General
on the subject of setting
off an excess of loss sus-
tained upon a source of
Income under one Sche-
dule of the Income
Tax against the profits
under another Schedule -

With an Order -

No 1148 & 1149 -

No 2318

Communicated to the Income Tax Commissioners for the Town of Madras, with reference to G.O 6th September 1861, No 1775, R.D. - The Resolution of the Govt of India dated 6th November 1860, No 115 and cancelled by para 2 of the foregoing order, was republished at page 1110 of the Fort St George Gazette of last year. -

Copies of this order and the reference from the Commissioners which led to it will also be furnished to the Board of Revenue for information and guidance - and will be published in the Gazette.

Fort St George
17th Decr 61

13 Copies - President Income Tax Comrs Cir C/7
3 " Special Comrs of Do
14 " Board of Revenue - with Order No 1775.

Gazetted -