

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	357	Press
	196-198	Mis.
Dated	15-2-18	61.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
15th February 1861.*

Read the following Papers:—

No. 196. Proceedings of the Government of India, dated 6th December 1860, No. 11,970, on the letter from the Acting Secretary to the Government of Fort Saint George, dated 24th November 1860, No. 2,237, regarding the liability of Mechanical Engineers to Income Tax.

Fort William, Financial Department.

1. With reference to the above letter from the Government of Madras, the President in Council observes that the liability of Mechanical Engineers to Income Tax depends on the terms of their Covenant. If the Covenant specifies liability to serve at sea then they are exempt. But if their liability so to serve is only incidental to their general engagement to serve Government, then they are not entitled to exemption as a *class*, an exception being made however in favor of those who are actually engaged on boardship for the period during which they are to serve.

2. Ordered that a copy of the above Resolution be sent to the Government of Madras for information, in reply to their Acting Secretary's letter, No. 2,237, dated 24th ultimo.

3. Ordered also, that a copy of the Resolution and the letter from the Government of Madras, be sent to the Honorable H. B. Harington for the purpose of being summarized.

By order of the Honorable the President in Council.

(Signed) C. HUGH LUSHINGTON,
Secretary to the Government of India.

No. 197. From Lieutenant-Colonel P. McGOUN, Military Auditor General, to C. G. MASTER, Esq., Deputy Secretary to Government, Revenue Department, dated Fort Saint George, 20th December 1860, C.

SIR,

1. In obedience to the Order of Government conveyed in paragraph 6 of No. 2,236 of the 24th November 1860, I have the honor to report on the subject therein referred to.

2. When originally referred for report under Order of Government No. 1,852 of the 12th October 1860, I considered the question at issue set at rest by the decision of the Government of India, and did not therefore enter into its merits. But as this is still desired by Government, I shall now proceed to supply the omission.

3. The Mechanical Engineers, whose cases are specially involved, serve under an Indenture, or Contract, which appears to me to be entirely of a Civil nature. I have had one of their Indentures or Contracts before me, and cannot perceive from the conditions of it, that the contracting party is thereby constituted either a "Naval" or a "Marine" Officer, in the meaning in which I understand these terms to be used in the Clause of the Act which exempts such classes from payment of the Income Tax. It is true they bind themselves to serve on board of ship, and they also bind themselves to accept on their arrival in India an appointment of Warrant "after the manner of the appointment by Warrant of the Officers of the Indian Navy," but I would respectfully submit that their so binding themselves, or so agreeing to serve on board of ship does not constitute them "Naval" or "Marine" Officers. Had it been the intention that they should be so considered it may be naturally assumed that provision would have been made for their being made amenable to the same pains and penalties as "Naval" or "Marine" Officers are, and which in a measure determines the class to which they belong.

4. I would beg, therefore, to submit with all deference that the Mechanical Engineers in question being neither "Marine" nor "Naval" Officers cannot be considered exempt from the payment of the Income Tax.

No. 198. ORDER THEREON, 15th February 1861, No. 357.

1. The first paper recorded above is a Resolution of the Government of India in reply to a letter * from this Government based on paragraph 4 of the Order of the 24th November 1860, No. 2,236, Revenue Department. The letter in question related

*Proceedings of the Madras Government, Revenue Department,
15th February 1861.*

to the exemption or non-exemption from Income Tax of Mechanical Engineers, and the Resolution rules that the liability of Mechanical Engineers to the Tax must depend on the terms of their Covenants; i. e. if the Covenant specifies liability to serve at sea, then they are exempt.

2. The Government have examined the Covenants entered into by the three Mechanical Engineers of the Public Works Department named in the margin; and they find it clearly stipulated in those Covenants that the men shall serve either at sea or on shore as required. These persons, as well as others under similar Covenants, must be therefore considered exempt from Income Tax under Section 9, Act XXXIX of 1860.

3. In the second paper recorded above, the Military Auditor General furnishes the report called for in paragraph 6 of the Order of 24th G. O. 12th October 1860, No. 1,852, R. D. November 1860, No. 2,236, "as to the terms and conditions on which the Mechanical Engineers in the Ordnance Department are engaged; and how far those terms of service differ from or agree with those of the corresponding class in the Public Works Department."

4. The Indenture to which Colonel McGoun refers in paragraph 3 of his letter, and which he considers to be entirely of a Civil nature, and containing nothing whereby the person concerned is constituted either a "Naval" or "Marine" Officer, or on that account exempt from Income Tax, appertains, the Government observe, to James Flockhart, a Mechanical Engineer in the D. P. W., who came out under the same rules as the others in that Department, and who must therefore be treated in the same manner. With reference to the Military Auditor General's remarks, it is to be noted that, for the purpose of exemption, it is not necessary that Mechanical Engineers should be declaredly "Naval" or "Marine" Officers. It is sufficient, under the ruling of the Government of India, that they should have incurred a "liability to serve at sea."

5. The Government have, besides, had under their consideration the Covenant of a Mr. Richard Davis, an Assistant Supervisor in the Small Arms Branch of the Arsenal at Madras and who is apparently one of the Engineers referred to in Colonel Simpson's letter. There is nothing in his Indenture to afford the slightest reason for exemption from Income Tax.

6. Resolved that this Order be communicated to the Civil Auditor in continuation of paragraph 7 of that of 24th November 1860, No. 2,236, and to the Inspector General of Ordnance and Magazines with reference to his letter of 8th October 1860, No. 145.

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

REVENUE DEPARTMENT.
FORT SAINT GEORGE,
24th November 1860.

No. 2,237.

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.

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.

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

I have the honor to be,

Sir,

Your most obedient Servant,

(Signed) J. D. SIM,

Acting Secretary to Government.

*No 11970
Fort Williams
Financial Department
The 6th Decr 1860*

*With reference to the above letter from the Govt
of Madras, the President in Council observes that*
Exd. S. T. Augustin.

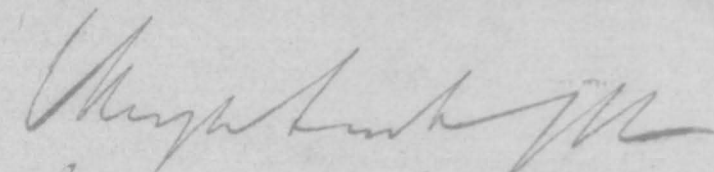
Mechanical

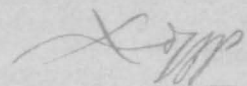
The liability of Mechanical Engineers to Income Tax depends on the terms of their Covenant. - If the Covenant specifies liability to serve at sea then they are exempt. - But if their liability as to serve is only incidental to their general engagement to serve Government, then they are not entitled to exemption as a Class, an exception being made however in favor of those who are actually engaged on board ship for the period during which they so serve. -

Ordered that a copy of the above Resolution be sent to the Government of Madras for information, in reply to their Acting Secretary's letter N. 2237 dated 24th Ultimo.

Ordered also, that a copy of the Resolution and the letter from the Government of Madras, be sent to the Honble H. B. Harrington for the purpose of being summarized.

By order of the Honble the Resident in Council


Secretary to the Government of India


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R. D.

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Proceedings of the Madras Government
Under date the 15th February 1861

Read the following papers.

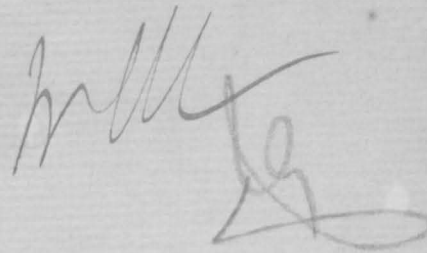
From the Secy to the Govt of India
Regarding the liability
of Mechanical Engineers to Income Tax
(Now enter 6th Decr 1860 No. 11940)

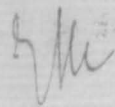
From the Military Auditor Genl

Adverting to para 6 of the
order of Govt dated 24th Novr 1860
N. 2236. Reporting that Mechan-
ical Engrs serve under an en-
dowment or contract which
appears to be of a civil nature,
that he cannot perceive from the
condition of their Indenture that
they are either naval or Marine
officers, & therefore cannot be exempt
from the payment of the Income Tax.

(Now enter 20th Decr 1860 C.)

24th Novr 1860 N. 2237. R. D.





1. The first paper re-
corded above is a Resolution
of the Govt of India in reply
to a letter from this Govt based
on para 4 of the order of 24th
November 1860 N. 2236. R. D.
The letter in question relates
to the exemption or non-exemp-
tion from Income Tax of
Mechanical

The Mechanical Engineers, and the
Resolution rules that the liability
to of Mechanical Engineers to the
tax must depend on the terms
of their covenants; i.e. if the
covenant specifies liability to
serve at sea, then they are
exempt.

2. The Govt have ex-
amined the Covenants entered
into by the three Mechanical
Engineers of the Pub. Works Dept.
named in the margin, and
they find it clearly stipulated
in those Covenants that the
men shall serve either at
sea or on shore as required.

These persons, as well as others
under similar Covenants,
must be therefore considered
exempt from Income Tax
under section 9 of Act XXXIX of
1860.

3. In the second paper
recorded above, the Military
Auditor General furnishes
the

Mr George Clements
" George Walker
" David Drummond

G.O. 12th Oct. 1860 A. 1852. R.D.

the report called for in
para 6 of the order of 21st Nov.
1860, A. 2236, "as to the terms
and conditions on which the
Mechanical Engineers in the
Ordnance Department are
engaged; and how far those
terms of service differ from
or agree with those of the
Corresponding class in the
Public Works Department."

1. The Indenture to which
Colonel McGoun refers in
para 3 of his letter, and which
he considers to be entirely of
a civil nature, and contain-
ing nothing whereby the per-
son concerned is constituted
either a "naval" or "marine"
officer, or on that account
exempt from Income Tax,
apart from the Govt observe,
to James Hockhart, a
Mechanical Engineer in
the D.P.W. who came out
under the same rules.

as

as the others in that Dept, and who must therefore be treated in the same manner. With reference to the Military Auditor General's remarks, it is to be noted that, for the purpose of exemption, it is not necessary that Mechanical Engineers should be declaredly "naval" or "marine" officers. It is sufficient, under the ruling of the Govt of India, that they should have incurred a "liability to serve at sea."

5. The Govt have, besides, had under their consideration the covenant of a Mr. Richard Davis, an Assistant Supervisor in the small arms Branch of the arsenal at Madras and who is apparently one of the Engineers referred to in Colonel Simpson's letter. There is nothing

2.

nothing in his Indenture to afford the slightest reason for exemption from Income Tax.

6. Resolved, that this order be communicated to the Civil Auditor in continuation of para 7 of that of 24th November 1869, No. 2236, and to the Inspector General of Ordnance and Magazines with reference to his letter of 8th October 1869, No. 115.

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[Signature]

*To the Chief Secy
first class*

- 10 Copies. Chief Engineer *26*
- 3 " Civil Auditor *26*
- 2 " Inspector Genl. of Ordnance & Magazines *26*
- 2 " Military Aud. Genl. *26*
- 7 " Military Dept. *26*
- 4 " Marine Dept. *26*

Marine Dept. 45
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Regd. Mechanical
Engineers.

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Revenue 1861 Department
Pro: of Govt. for February.

No 357.

Pro: of the Madras Govt.
D^d 15th February 1861.

Proceedings Govt of India
regarding the liability of Me-
chanical Engineers to Income
Tax; Communicated to the Civil
Auditor and to the Inspector
General of Ordnance and
Magazines.

No 196 at 198.