M.R.O. 14—5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 3103-3104 Press ~~Mis.~~

Dated 22-12-1865.

Not to be folded or roughly handled

No. 241. Read the following Endorsement of the Consulting Engineer for Railways, dated Madras, 30th November 1865, No. 591.

Read the following letter from the Agent and Manager, Madras Railway Company, to the Consulting Engineer for Railways, dated Madras, 29th November 1865, No. 842 :—

1. I have the honor to submit, for the views of His Excellency the Governor in Council, a copy of some correspondence which has passed between the Income Tax Commissioners and myself, regarding the payment of Income Tax by the officers and employés of this Railway, upon their salaries for the month of July 1865, which, in ordinary course, were not paid until the second week in August, and which under the provisions of the Notification of the Government of India, published at page 1,155 of the "Fort Saint George Gazette," dated 6th June 1865, No. 3,967, are not liable to such tax.

2. Mr. Morison in his letter of the 13th instant, No. 230, explains that the Notification of the Government of India, alluded to by me, is applicable only in cases where the salaries for July 1860 were taxed, but inasmuch as it appears from the Return furnished by this Company, at the commencement of the Income Tax, that the salaries of their employés for that month, had not been assessed, it is necessary for me to remit the tax for the month of July 1865.

3. With regard to this, I would simply remark, that there does not appear to me to be any connection between July 1860 and July 1865, from the fact that our staff of employés now is totally different to what it was when the Income Tax came into force, five years ago, and that it would be manifestly unfair to tax men who have joined the service since July 1860, because the Income Tax Commissioners failed to collect the tax, at the time it was due in 1860.

4. I shall be glad, therefore, to be favored with an expression of opinion by His Excellency the Governor in Council for my guidance.

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1. I submit this letter and the correspondence sent with it for the orders of Government.

2. The Consulting Engineer was appointed a special Assessor under Act XXXII. of 1860, in Order of Government, Revenue Department, No. 77, dated 11th January 1861; and in Order of the 18th idem, No. 135, the appointment was cancelled.

3. Had the Consulting Engineer been an Assessor in conformity with the provisions of the Act, he would have deducted the Income Tax from the Pay Bills audited by him, in the same manner as the Civil Auditor deducted it from the salaries of the servants of Government. But this was not done. The Commissioners appointed for the Town of Madras dealt with the tax, and I presume that they are merely asking Mr. Elwin to conform to the same terms which the merchants and residents in Madras have conformed to.

4. The tax was enforced for five years. The servants of Government paid it from the 1st of July 1860 to the 30th June 1865. It is shewn in Mr. Morison's letter to Mr. Elwin, dated the 13th instant, No. 230, that the tax on the incomes of the Railway employés for July 1860, was not paid. Mr. Elwin admits this, but argues that there is no connection between July 1860 and July 1865. The connection, is, I think, clearly formed by the Act referred to.

5. It seems but fair that all those servants of the Railway Company sent out to India after the introduction of Act XXXII. of 1860, should be exempted, in common with Mr. Elwin, from the payment of tax from their incomes for July 1865.

See paragraph 2 of Mr. Brett's letter, No. 245, 28th November 1865.

(Signed) J. C. ANDERSON, Lieut.-Colonel, R. E.,
Consulting Engineer for Railways.

Referred to the Revenue Department.

(Signed) CHARLES A. ORR, Colonel, R. E.,
Secretary to Government, P. W. D.

FORT SAINT GEORGE,
2nd December 1865.

No. 242.

ORDER THEREON, 22nd December 1865, No. 3,103.

Miscellaneous.

Ordered that the question raised in the foregoing correspondence be referred to the Government of India.

(True Extract.)

(Signed) J. D. SIM,
Secretary to Government

To the Public Works Department.

Exd. S. T. Augustin.

REVENUE DEPARTMENT.
FORT SAINT GEORGE,
22nd December 1865.

No. 3,104.

No. 243.
To

THE SECRETARY TO THE GOVERNMENT OF INDIA.

SIR,

Miscellaneous.

1. The Income Tax Commissioners for the Town of Madras have called upon the officials of the Madras Railway Company to pay Income Tax on their salaries for the month of July last. The Railway officials object to the charge on the ground that those salaries were not payable till August, when the Income Tax Act had ceased to be in force; and maintain that they are exempt under the Notification of the Government of India, dated 16th May 1865, No. 212, Financial Department. This Notification clearly refers only to Officers in the service of Government, who paid the tax on their salaries for July 1860, when audited in the following month, whereas the Commissioners did not assess the salaries of the servants of any public Company for that month.

2. The claim to exemption so far as it rests on this Notification is evidently untenable; but it is doubtful whether the salaries of these officials, which though earned in July 1865, were neither payable nor paid till August, can be held to have been assessable before the 1st August 1865, so as to come within the scope of the proviso attached to Section 249 of Act XXXII. of 1860.

3. As the question affects the liability of the officials of all public Companies in all the Presidencies, and probably has already been raised in Calcutta, I am directed to request the early instructions of the Supreme Government on the subject.

I have the honor to be,
Sir,
Your most obedient servant,

(Signed) J. D. SIM,
Secretary to Government.

Exd. S. T. Augustin.

No 280

Madras Dy. Collector's Office
25th October 1865.

From

V. Rungasawmy Iyengar
Deputy Collector of Madras

To

The Agent and Manager of the
Madras Railway Company

Sir.

The Income Tax due by the Railway Company for July last not having been as yet remitted to this office I have the honor to request that you will be good enough to transmit the amount, at your earliest convenience

I have &ca

(Signed) V. Rungasawmy Iyengar
Deputy Collector

No 1180.

Madras Railway
Madras, October 27th 1865

From

R. B. Elwin Esquire,
Agent and Manager of the.
Madras Railway Company

To

V. Rungasawmy Iyengar
Deputy Collector of Madras

Sir,

In reply to your letter of the 25th instant, No 280, I have the honor to request your perusal of the Notification of the Government of India, published at page 1155 of the Fort St George Gazette, No 3967, June 6th 1865, by which you will observe, that salaries for the month of July, payable in August, are exempt from the imposition of Income Tax. As the salaries of this Company's employés

for

for July were paid, in the usual course of business, during the month of August, it will not be necessary for this Company to remit Income Tax thereon

I have &c.a
(Signed) Walter F Hooper
for Agent and Manager

№ 227

Office of the Income Tax Comr.
Madras 1st November 1865

From

The Secretary to the
Income Tax Commission - Madras

To

The Agent and Manager, M R C.

Sir,

The usual return shewing the amount of Income Tax realized from the employés of the Madras Railway Company for the month of July 1865, not having been as yet received by this Department, I have the honor to request that you will be good enough to expedite the transmission of the same as early as possible

I have &c.a
(Signed) N. Morrison
Secretary

№ 1203

Madras Railway
Madras, 2d November 1865

From

R B Elwin Esquire
Agent and Manager of the M R C.

To

N Morrison Esquire
Secy. to the Income Tax Comrs., Madras

Sir,

I have the honor to acknowledge the receipt of your letter of the 1st instant, № 227 and in reply to state, that in accordance with the provisions of the Notification of the Government of India published at page 1155 of the Fort St George Gazette, dated 6th June 1865, № 396, Income Tax is not leviable upon the salaries of the employes of this Company, earned in July, but not paid until August.

As the salaries of the several officers and servants of this Company for July, were paid in August, in the usual course of business, it will be unnecessary for me to remit Income Tax thereon.

I have &c.a
(Signed) R. B Elwin
Agent and Manager

№ 230.

Office of the Income Tax Comr.
Madras, 13th November 1865

To

R. B Elwin Esquire,
Agent and Manager of the M R C.

Sir,

With reference to your letter of the 2d instant № 1203, I have the honor by desire of the Income Tax Commissioners for the Town of Madras, to inform you that the Notification of the Government of India therein alluded to, is applicable only in cases where the salaries for July 1865 were taxed, but as it appears from the returns furnished by the Railway Company at the commencement of the Income Tax that the salaries of their employés for the above month have not been assessed, it is necessary for you to remit the tax for the month of July last

I have &c.a
(Signed) N. Morrison
Secretary

№ 1233

Madras Railway
Madras, 15th Nov 1865

From

R. B. Elwin Esquire
Agent and Manager of the M.R.C.

To

N. Morison Esquire
Secy. to the Income Tax Comrs. - Madras

Sir,

In reply to your letter of the 13th instant № 230, I have the honor to state that the Notification by the order of the Governor General of India, № 212, dated Simla, the 16th May 1865, contains no exceptional provisions, and as the Act № 32 of 1860 for imposing duties on profits arising from property, &ca &ca, declares that the Act shall continue in force till the 1st day of August 1865, and no longer, I must decline to remit Income Tax on the salaries of the employés of this Company for the month of July, such salaries not having been paid until the second week in August

2. Besides I may mention that I did not arrive in this country until February 1862, and further that I paid Income Tax in England to the 31st December 1861

3 I will, however if the Commissioners desire it, refer the question at issue, for the views of His Excellency the Governor in Council

I have &ca
(Signed) R. B. Elwin
Agent and Manager

№

№ 215

From

W. A. Brett Esquire
President of the Income Tax Commission

To

R. B. Elwin Esquire
Agent and Manager, Railway Company
Madras

Sir,

In reply to your letter of the 15th instant to the Secretary to the Income Tax Commission, I have the honor to inform you that the Notification referred to by you does not apply to the employés of the Railway or any other Public Company but solely to Government servants whose salaries for July 1860 were taxed in August

2 In your own individual case the Commissioners consider you liable to special exemption under the circumstances stated in para 2 of your letter.

3 The Commissioners have no objection to your referring the question should you deem it necessary to His Excellency the Governor in Council

I have &ca
(Signed) W. A. Brett
President

Office of the Income Tax Commission,
Madras, 28th Nov. 1865

(True Copies)
Agent and Manager

Compd Cow

Rev. Sltg. 9.

Revenue Department

No. 3103.

Proceedings of the Madras Government

Under date the 22nd December 1865.

Read the following letter from the Consulting Engineer for Railways.

Observation No. 591 on Agent and Manager's letter No. 842 of the 29th instant with enclosure submitting it for the orders of Govt. on Income Tax.

(Here enter 29th Nov. 1865)

The Governor in Council observes that the Income tax year 1864/5 (being the fifth and last of the operation of Act XXXII of 1860) extended from the 1st August 1864 to the 31st July 1865, both days inclusive. The salaries of the officers of the Madras Railway Company for each and every month between these dates are

Section VI CCXLIX

Whether no officer ought to pay the Income Tax. that the Railway last to be called upon to pay the Income Tax.

therefore liable to the tax.

The circumstance that the tax on the July salaries of these officers was not assessed and levied before the 1st August 1865 does not affect the question, because section 249 of the act specially provides that the act and the duties it imposes shall not cease on the 1st August 1865 "with respect to any assessment which ought to have been made before the said last mentioned day but shall not then have been made and completed."

The Governor in Council therefore sees no reasons to doubt the liability of the officers of the Railway Company to Income tax on their salaries for July 1865.

The notification of the

the Government of Ind
dated 16th May 1865 fr
Financial Department
no reference to the servan
Public Companies, and i
upon Section 100, Rule 1st, w
only applies to official
ries paid by Govt. The
missioners will be requ
to re-consider the opinio
prefsed in para 2 of th
letter to the Agent and
Manager of the Madr
dated 28th November 18
way

3. Had the Consulting Engineer been an Assessor in Conformity with the Provisions of the Act, he would have deducted the Income Tax from the Pay Bills awarded by him, in the same manner as the Civil Auditor deducted it from the Salaries of the Servants of Government. But this was not done. The Commissioners appointed for the Town of Madras dealt with the Tax, and I presume that they are merely ~~enacting~~ requiring Mr Elwin to Conform to the same terms which the Merchants and Residents in Madras have Conformed to.

4 The Tax was enforced for five Years. The Servants of Government paid it from the 1st of July 1860 to the 31 June 1865. It is shown in Mr Morrison's letter to Mr Elwin, dated the 13th instant, N. 230, that the Tax on the Incomes of the Railway Employés for July 1860 was not paid. Mr Elwin admits this, but argues that there is no Connection between July 1860 and July 1865. The Connection is I think clearly formed by the Act referred to.

5 It seems but fair that all those Servants of the Railway Company sent out to India after the introduction of Act 32 of 1860 should be Exempted, in common with Mr Elwin, from the payment of Tax from their Incomes for July 1865.

see para: 2 of Mr Morrison's letter. N 245. 28 Nov 65

Madras
6 November
1865

R Anderson Lieut Colonel R E
Consulting Engineer for Railways

To
The Secretary to Government P.W.D.
Fort Saint George

MADRAS RAILWAY.

From No. 3469

The Agent and Manager.

To

The Consulting Engineer

for Railway

Dated 29th November 1865

Recd.

No. 842

Submitting for the views of H.E. the Governor in Council Copy of Correspondence passed between the Income tax Commissioners & the agent & Manager regarding the payment of income taxe by the officers & employés of this Railway upon their Salaries for July 1865

No. 3109

Ordered that the question raised in the foregoing correspondence be referred to the Government of India.

J.A.

22nd December 1865

21 Feb 66 E W Dept Dec 6th Jan 1866

Pro 11 January 1861 A 350-351
18 " " 65 " 269-
2 e " " " 53-54

Referred to the
Revenue Department
Chas. H. Elliott Col. RE
Secy to Govt. Pub. Wks

2nd St George
2nd Dec. 1865

No 241 & 242.

13 Dep Sec Rly.
2nd-2.1865

Mar. Dept
Pub. 1865
Rly. of Govt for Dec
Trans. No 3104

Re Consolidation Cos
for Railways.

To the Secretary to Govt
Public Works Dept.

Dated 29th Nov 1865
Recd:- 2nd Dec.
4 Encs.

E.I.

Observations
on Agent and Manager
letter No 843 of the 29th ult
with enclosures submitting
it for the orders of Govt. on
Income Tax.-

1 With Order.

Referred

No 3103 - 22nd Dear

Rev. Department

No. 3104. 22nd December. 1865.

To

The Secretary to the Govt. of India

Sir,

~~I have the honor~~

~~to inform you that~~ The Income Tax Commissioners for the town of Madras have called upon the officials of the Madras Railway Company to pay Income Tax on their salaries for the month of last July, ~~and that~~ the Railway officials object to the charge on the ground that the ~~July~~ salaries were not payable till August, when the Income Tax Act had ceased to be in force; and ~~that~~ maintained they are exempt under the notification of the Government of India dated 16th May 1865, No. 212, Financial Department.

~~I am to observe that~~

This

this Notification clearly refers only to officers in the service of Government, and that they who are paid the tax on their salaries for July 1860, whereas the Commissioners did not assess the salaries of the servants of any Public Company for that month.

It is evident either that the Commissioners ought to have taxed the salaries of employees of the Indian Railway Company for July 1860, or that they are entitled to tax the salaries for July 1865; and as the question is of a general character and has probably been raised in the other Presidencies, I am directed to refer it for the orders of the Government of India.

J.

20/12/64

when audited in the following month,

The claim to Exemption so far as it rests on this interpretation is evidently untenable - but it is doubtful whether the salaries of these officials - which they earned in July 1865 were neither payable nor paid till August - can be held to have been assessed before the 1st Sept 1865 so as to come within the scope of the proviso attached to Sect 249 of Act 32 of 1860.

As the question affects the liability of the officials of the Public Companies in all the Presidencies it probably has already been raised in Calcutta, I am directed to request the instructions of the Govt. of India on the subject.

JD

Revenue 1865 Dept.
Pro: of Govt for Decr

No. 3104.

To
The Secretary to the
Govt. of India.

Dd 22d Decr/65

Requesting instruc-
tions on the subject of the
liability of the Railway
Officials for July 1865
to Income Tax.

From the Secy to the Govt
of India dd 7th Jany 66
Col 328.

No 243.