M.R.O. 14—13,000—27-9-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No.	95	Press ~~Mis.~~
186-87 Dated	13-1-	18 ~~68~~

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 13th January 1868.

No. 186. Read the following Proceedings of the Government of India, in the Financial Department, (Separate Revenue—Assessed Taxes,) dated Fort William, 30th December 1867, No. 3,200 :—

Read—

Extract from the Proceedings of the Government of Bombay, in the Financial Department, dated 18th November 1867, No. 1,400.

Read the following papers :—

From the Special Officer, License Tax, to the Collector of Tanna, dated 9th November 1867, No. 28.

I have the honor to solicit instructions on the following points :—

1. A trader (resident of a town in the Tanna Collectorate) takes out a license at Poona for the business he, or his authorized agent, carries on in that city, but omits to mention in his application (license) the other place or places within this Collectorate where he has got his shops or trade. On demanding the License Tax here, he states that he having taken out a license at one place is not liable to the tax a second time at another place. The question is whether or not he should be assessed for his profits elsewhere, as it is doubtless that his profits at other places were not inquired and calculated at the time of granting him a license at Poona.

The omission, as above described, will in one case make the party loser, and in another the Government.

For example :—

A.'s profit at Poona is estimated at Rupees 1,200, and accordingly an assessment is made under Class IV. (Rupees 20). His income from the shop at Tanna is about Rupees 1,500, and if he is *at all required* to pay at Tanna, he must pay the same amount a second time for his license. This latter sum he would not have been obliged to pay were he to mention in his license and declare before the License Tax Officer at Poona the fact of his carrying on trade elsewhere.

B. declared his income at Poona at Rupees 3,000, and obtained a license under Class IV. (Rupees 20). His income at Bhewndy amounts to about the same sum, and will, therefore, try to take out a second license at Bhewndy under the same Class (Rupees 20), and thus evidently evade the payment of Rs. 60.

A Marwaree states that his income in the shop he keeps is about Rupees 600, and has got several other partners (say six, out of whom few absent from this country), but the share due to each in the profit from the shop he is unable to determine or declare. He admits to be a representative for the whole shop, and agrees to pay the tax of Rupees 10 under Class V., and at the same time prays that any partner besides himself should be allowed to conduct the business in his shop.

2. If an individual income is considered, it is likely that the whole shop will be exempted. When there is no proof regarding the partnership, and when the representative of the shop volunteers himself to be responsible for the tax upon the whole amount of the profit in the shop, I see no objection to admit his application and grant one license.

Memorandum by the Acting Collector of Tanna, dated 6th October 1867, No. 2,892.

1. Submitted to the Revenue Commissioner for instructions.

2. In the first instance cited by the Special Officer, License Tax, the Collector is of opinion that an individual trading in two distinct Zillahs is bound, in taking out his license in either, to distinctly state other places where he intends to exercise his profession under Section 7, Clause 4 of the License Act. His not stating all the places where he carried on his trade renders him, no doubt, liable to the penalties of the Act, inasmuch as it cannot be held that he has taken out his license as required by the Act, Section 15.

3. In this case the Collector is of opinion the penalties of the Act should be enforced, and that the levy of the tax in both Zillahs is not justifiable.

4. In case second, B. would be equally liable to the penalties of the Act, having omitted to state distinctly the *places* where he was carrying on trade.

5. In the third instance cited, the ruling of Government in their Resolution No. 823, of the 8th July 1867, would seem to be applicable in the case of partners who may not be residing in the country.

6. When the names of all the partners are not given, and the head of the firm carrying on the business represents the interests of the firm only, he is evidently bound to state the whole earnings of the firm, and not the individual earning of himself alone.

7. Provided he does this I can see no objection, as the total profits will then be chargeable.

Memorandum by the Revenue Commissioner, N. D., No. 5,208, dated 4th November 1867.

1. Submitted for the orders of Government.

2. It appears to the Revenue Commissioner that the tax, being a payment by individuals for liberty to exercise certain trades or professions, is in its essence one to be assessed upon separate incomes. If this view is correct, there would be no difficulty in assessing each member of a firm separately in each place in which he might carry on his business.

Resolution.—The first point raised in this report should be submitted to the Government of India.

2. The Right Honorable the Governor in Council is of opinion that the spirit of a License Tax requires that a person who has once taken out a license in the manner required by law should be, as far as possible, exempt from liability to inquiry during the currency of the license, and that a license duly granted should entitle the holder to exercise during the year any trade or profession in any part of British India.

3. But as the law requires that the license shall specify the profession or trade of the licensee, and the place or places where he intends to exercise it, the power of enhancing the tax once paid may possibly have been intentionally reserved.

4. The Special Officer speaks of a trader omitting to mention all his shops, &c., in his application. It is not understood what application is referred to. The

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13th January 1868.

v is entirely silent as to any application. Section II. (as amended by Act XXIX.) quires the Collector to prepare a list of persons to be licensed, and no one, so far appears from the Act, is required to furnish any information, unless he objects the entry in that list. The Collector of Tanna, therefore, should explain what plication is referred to.

5. As regards the second point raised by the Special Officer, there seems no ubt that a license granted to one individual cannot be used by another.

Ordered that copies of the above be forwarded to the Revenue Commissioner, Northern Division, the Revenue Commissioner, Southern Division, the mmissioner in Sind, the Accountant General, Collectors, Sub-Collectors, the st Assistant Collector in charge Punch Mehals, the Special Officer, License x, Bombay, the Collector of Bombay.

No. 1,401.

Submitted to the Government of India.

Resolution.—The Governor General in Council observes that it has been eady ruled that License Tax is payable but once, and the licensee is exempt from econd charge.

In the first case, therefore, referred by the Government of Bombay for orders, Collector should have asked the applicant whether he had mentioned all his ises of business at the several stations in which he conducted business, and had en a return of his entire profits. If the Collector omitted to do so, and thus er-assessed, the Government has to submit to the loss.

As regards the second case, the shareholders of an ordinary partnership must rated upon their respective profits.

Ordered, that the foregoing Resolution be communicated to the Government Bombay and the other Local Governments and to the several Administrations.

(Signed) E. H. LUSHINGTON,
Secretary to the Government of India.

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187. Order thereon, 13th January 1868, No. 95.

Miscellaneous.

Communicated to the Board of Revenue and to the Accountant General.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

o the Board of Revenue.
the Accountant General.

Exd. F. R. Bantleman.

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Comm^d to the
Board of Revenue
for the Northern Divn.
Co. Lind. & Scotch Gen^l

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14 Copies To Mess^rs Offs of Revenue Sept^r 14
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