

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1236	Press
		~~Mis.~~
<u>600-67</u>		
Dated 5 th May 1869		

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
5th May 1869.*

No. 100. Read the following Proceedings of the Board of Revenue, dated 2nd April 1869, No. 2,180:—

Read the following letter from the Collector of North Arcot, to the Acting Secretary to the Board of Revenue, dated Chittoor, 4th March 1869, No. 46:—

In returning Board's Petition No. 2,971 of 1868, which accompanied the Proceedings of the Board, dated 18th November last, No. 8,156, I have the honor to state, that as the petition from the Mahaut was not engrossed on stamp paper, nor presented in the manner and within the time prescribed by Act IX. of 1868, it was disposed of simply by endorsement as an ordinary petition.

2. The sums assessed were Rupees 30,000, pertaining to the revenues of the Tripathi Temple, of which the Mahaut is sole master, and Rupees 10,000 on account of the assets of the Hati Ram Ji Mattam at Tripathi, of which he is Hierarch. The Tahsildar of the Chendragiri Talook, who assessed petitioner, reports that the former of these items is the interest payable to petitioner on a sum of Rupees 5,00,000, lent by the Mahaut on mortgage to the Zemindar of Karvetnuggur from the trust moneys belonging to the Tripathi Pagoda, and that [the latter item is partly made up of the interest on certain Promissory Notes pertaining to the assets of the Hati Ram Ji Mattam, and partly of the fees received by the Mahaut from his disciples. Thus, petitioner was assessed under Classes 1 and 2 of Schedule A. of Act XXI. of 1867, and, after its repeal, under Classes 5 and 6 of Schedule A. of Act IX. of 1868.

3. Under the orders noted in the margin, the revenues of these two institutions were exempted from Income-tax on the ground that they are devoted to religious and charitable purposes, and as the mere change of the particular laws under which these revenues have again been taxed, does not affect the principle on which they were exempted from the operation of the Income-tax Act, the assessment against which the Mahaut now appeals should not, in my opinion, be enforced.

G. O., dated 4th October 1866, No. 2,647, in Board's Proceedings, 9th idem, No. 7,270.
G. O., dated 9th August 1867, No. 1,847, in Board's Proceedings, 13th idem, No. 5,251.
G. O., dated 12th January 1869, No. 76, in Board's Proceedings, 21st idem, No. 369.

tions were exempted from Income-tax on the ground that they are devoted to religious and charitable purposes, and as the mere change of the particular laws under which these revenues have again been taxed, does not affect the principle

ENCLOSURE No. 1.—Petition.

SUBMITTED for the orders of Government.

2. No regular appeal was preferred against the assessment.

3. The Board are of opinion that the Mahaut should be exempted from the License-tax, as he was from the Income-tax, because the funds assessed belong to religious institutions.

No. 101. ORDER THEREON, 5th May 1869, No. 1,236.

Miscellaneous.

On perusal of the Board's Proceedings, dated April 2, 1869, the Government are of opinion that sufficient grounds have not been adduced to warrant the Mahaut's disregard of the course laid down in the License-tax Act. They, therefore, decline to sanction the refund of the amount levied from him.

(True Extract.)

(Signed) R. A. DALYELL,

Acting Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

Officer

RD

Orders on A^o 1150.

Rs 4 Oct 1866 Rs 5000
" 9 Aug 1867 " 188-9
" 12 Jan 1869 " 187-8

Rev- 1869.
Board of Revenue,
MADRAS.
N^o 1150.

PROCEEDINGS, 2ND APRIL 1869, No. 2,180.

Supd. *[Signature]* Encl. 2
Received *[Signature]*

Oct 1286. 5th Dec 1869

APRIL.
No. 2,180.

License-tax on income of Tripally Pa-
goda, in North Arcot District.—Collector's
report on Petition No. 2,971 of 1868, appeal-
ing against assessment of —, submitted for
orders of Government.

Oct 1869

REVENUE
MADRAS
2nd April 1869
No. 2,180
To the Collector of North Arcot District
From the Board of Revenue
MADRAS

RD 3

Memo for Orders on N^o 1150.

On September 20th 1868,
Petitioner Sri Mahant
Dharmadas, who is stated
by the Collector to be Mahant
and sole master of the
Revenues of the Tripathi
Temple which amount to
Rs. 30,000 and Hierarch
of the Kati Raimji Mattam,
the assets of which are esti-
mated at Rs. 10,000, presented
a Petition to the Board
of Revenue, praying for the
refund of Rs. 700 which had
been levied from him under
Clases 5 & 6 Schedule A of
Act IX of 1868 (the License
Tax Act). He had previously
addressed a similar Petition
to the Collector, but that
officer

officer, finding that it was unstamped and not preferred as an appeal within the time prescribed by Act 18 of 1862, dismissed it by endorsement as an ordinary petition.

2. The Petition returned by the Board was referred by them in Proceedings dated 10th November 1868 to the Collector for report. The latter returned it with a letter dated March 4th 1869, in which he stated his opinion that the assessment ought not to be enforced against the Mahant, because the revenues of the two institutions of which he is manager were devoted to religious and charitable purposes, and because they had been exempted from the operation of the old Income Tax Act, viz. Act 32 of 1860. It is clear

clear, however, that exemption from the Income Tax affords no precedent for a similar measure under the License Tax Act. The two Acts are of a totally distinct nature. Section 133 of the former Act provides for the exemption of property dedicated to religious and charitable purposes: but no such provision is to be found in the latter Act.

3. The Board of Revenue in Proceedings dated April 2nd 1869, which are now immediately before Govt., support the recommendation of the Collector that the Mahant be exempted from the License Tax, altho' they admit that no regular appeal had been preferred against the assessment.

4. It appears doubtful whether the imposition of

of the assessment upon Petitioner was in accordance with the License Tax Act, inasmuch as the question whether the occupation of a Mahant or Hierarch can be construed as a "profession or trade" may possibly be open to dispute.

Moreover, in this case, Rs. 40,000 in all have been taxed, which amount can hardly have been intended as the yearly income of the Mahant or the "profits" arising to him.

5 Nevertheless, it might be inexpedient to accede to the recommendation of the Collector and the Board and refund to the Mahant the sum of Rs. 700 which he has already paid up. The License Tax Act in sections 14, 15 & 16 lays down a regular course of

of procedure for those who object to the class under which they are assessed or deny their liability. Petitioner, in a most marked manner omitted to follow this course, for, instead of in the first place presenting a stamped Petition to the Tahsildar, he presented one without a stamp to the Collector, and that too after the period allowed for appeal had expired.

6. If such requests as Petitioner's were frequently complied with, all prescribed forms would be rendered nugatory

mandatory. As Trustee of two important institutions, it is his duty to make himself acquainted with such laws as may from time to time be promulgated.

7. This, moreover is not Petitioner's first offence against formality. In 1868 he appealed, in an equally informal manner against the operation of the Income Tax Act. He was successful, but his present application shows that he has not profited by leniency.

8. Non-compliance with the Petitioner's request, will have no prospective effect. For Section 4 of the new Income Tax Act

(Act IX of 1869), which is now coming into force, exempts from taxation property solely employed for or dedicated to religious or charitable public purposes. Petitioner therefore will only have to prove what he asserts in his Petition.

The foot does not appear to me to have power to comply with Mr. Mahant's application. This person had before him for observance, a course prescribed by law, which he has chosen not to follow. No further course in which the foot can want relief, is found in the License Act. Under such circumstances I would state that the foot is at liberty to make the refund solicited.

I offer this opinion without any reference to the propriety of the original assessment, &c. Should any opinion, have been made.

W. R. I quite agree

W. R. Hall

Memo

License Tax on
Carns of Tripetty
Payable in North
Arcot District -

Revenue Department.

No. 1236.

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 5th May 1869.

Read the following
Proc of the Board of Revenue

Submitting Petition from
Mri Mahomet Durrani & Co,
appealing against apportionment
of license tax on income
of Tripetty Pagoda, in
North Arcot District.

H. 2nd April 1869, N^o 2180.

On perusal of the
Board's Proceedings dated
April 2nd 1869, the Govt
are of opinion that suffi-
cient grounds have not
been adduced to warrant
the Mahomts disregard
of the course laid down
in the License Tax Act.
They therefore decline to
sanction the refund of
the amount levied from him.

H.

ca 11/6/69 R. H. 17/1/69

Exd. 11/6/69 R. H. 17/1/69