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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Rev. DEPARTMENT

G.O. No. / B.P. No.	385	Press / Mis.
Dated	25- 3- 1876 -196	

Not to be folded or roughly handled

385

1

Proceedings of the Madras, Government, Revenue Department, 25th March 1874.

No. 227. Read the following letter from H. G. PRICHARD, Esq., Government Solicitor, to C. G. MASTER, Esq., Acting Secretary to Government, Revenue Department, Fort St. George, dated Madras, 17th March 1874, No. 156 :—

I HAVE the honour to acknowledge the receipt of the order of Government, dated 11th March, instant, No. 332, Revenue Department, together with its enclosures, requesting the Advocate-General's opinion relative to the collection by distraint of penalties imposed under Section 7 of the Madras Abkari Act as to Toddy-shop licenses.

2. I submitted the matter for the consideration of the Advocate-General, and I now forward herewith a copy of his opinion, and return the enclosures which accompanied the above order of Government.

OPINION.

I CONCUR with the Board in thinking that the words "any arrears of tax, duty, or fee due on account of any license" in Section 13 of Act XIX. of 1852 cannot be construed to include penalties for which a license provides. The "duty or fee" is clearly that referred to in Section 6.

2. A provision in a license that penalties incurred under it shall be recoverable by distraint in cases in which no such provision exists by law would not, in my opinion, render such a distraint lawful, so as to supersede the ordinary procedure for the recovery of a penalty incurred under a contract. Such a provision should not accordingly, as it appears to me, be inserted in the license. The question, however, does not arise in the present instance, as Section 7, under which the penalty has been incurred, contains no provision for distraint.

MADRAS, 16*th March* 1874.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

No. 228. ORDER THEREON, 25th March 1874, No. 385.

Separate Revenue, No. 20.
Abkari.

COMMUNICATED to the Board of Revenue, with reference to G. O., 11th March 1874, No. 332.

(True Extract.)

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

To the Board of Revenue.
,, the Government Solicitor.

Exd. F. R. Bantleman.

Sept. of 1874 [illegible]

REVENUE.

To

The BOARD of REVENUE.

No. Ac. Ac.

Dated March 26th.

Recd. Encl.

G. O., 26th March 1874, No. 385.

MARCH.

Nos. 287-328.

Toddy-shop Licence under Madras School Act.—Communicates to Revenue Board Government Solicitor's letter forwarding Advocate General's opinion regarding the collection of penalties imposed under Section 7 of—

385

Opinion.—

1. I concur with the Board in thinking that the words "any arrears of tax, duty or fee due on account of any license" in Section 13 of Act XIX of 1852 cannot be construed to include penalties for which a license provides. The "duty or fee" is clearly that referred to in Section 6.

2. A provision in a license that penalties incurred under it shall be recoverable by distraint, in cases in which no such provision exists by law, would not in my opinion, render such a distraint lawful, so as to supersede the ordinary procedure for the recovery of a penalty incurred under a contract. Such a provision should not accordingly, as it appears to me, be inserted in the license. The question, however, does not arise in the present instance as Section 7, under which the penalty has been incurred, contains no provision for distraint.—

(Signed) H. S. Cunningham.
Adv: Genl.
16—3—/74.

(True Copy)
H. G. Pritchard
Government Solicitor.

Enclosure in Letter from the Government Solicitor to the Ag. Secretary to Govt. Revenue Department Fort St. George, dated 17th March 1874, No. 156.

Rev 888/74

P.I. D 25 March 1874

In B. No. 227

385/4

No. 156.

Madras, 17th March 1874.

From

H. G. Prichard
Government Solicitor
Madras,

To

C. G. Master Esqre.
Actg. Secretary to Government
Revenue Department,
Fort St. George.

Sir,

1. I have the honor to acknowledge the receipt of the Order of Government dated 11th March instant No. 332, Revenue Department, together with its enclosures, requesting the Advocate General's opinion relative to the collection by distraint of penalties imposed under Section 7 of the Madras Abkari Act as to Toddy Shop Licenses.

2. I submitted the matter for the consideration of the Advocate General and I now forward herewith a copy of his opinion and return the enclosures which accompanied the above Order of Government.

I have the honor to be,
Sir,
Your most Obedient Servant,
H. G. Prichard
Government Solicitor.

G.O. 11 March 1874 No 116-18

Rev: 1874. Deptt

From
The Government Solicitor,
No 888 Madras

To
The Actg. Secy. to Govt.
Revenue Department
Fort St. George

Dated 17th
Recd 17th March

No. 156.

Enclosures 5/4 on [illegible] to [illegible]

Forwards copy of the Advocate General's opinion relative to the collection by distraint of penalties imposed under Section 7 of the Madras Abkari Act as to Toddy Shop Licenses, and returns the papers relating thereto.

No 385

Comd. to the Board of Revenue with reference to G.O. 11th March 1874 No 332

25 March 1874

B to Rd. of Revenue 3 Ex. 26.3.74
3 to Govt. Solicitor 3 Ex. 26.3.74

G 21st March 74 - R 23