M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 231 — Press ~~Mis.~~

463-464

Dated 29-1-18 61.

Not to be folded or roughly handled

No. 463. Read the following Proceedings of the Madras Government in the Military Department, dated 19th January 1861:—

Read the following letter from J. J. FRANKLIN, Esq., Superintendent of Marine, to Colonel H. MARSHALL, Secretary to Government, Military Department, Fort Saint George, dated Madras, 18th January 1861, No. 194.

SIR,

1. I have the honor to forward the accompanying copy of a letter from the Acting 1st Assistant Military Auditor General to the Presidency Paymaster, which has been handed to me by Doctor Arthur, late Surgeon Superintendent on board the "Aliquis," and to inform you that in accordance therewith, the sum of Rupees 121-9-0 has been deducted on account of Income Tax from that gentleman's bill* for head money on the Government passengers landed from that vessel.

* *Rupees* 3,040.

2. It does not appear to me that any such deduction was contemplated by the Act. Doctor Arthur is not a resident of Madras, his head money is earned on the high seas, and he merely receives the amount due to him here, and proceeds elsewhere. In a few days he will leave Madras for the West Indies as Surgeon Superintendent of an Emigrant ship, and on his return thence to England he may be called upon to insert his year's earnings in a statement to be rendered to the Income Tax Commissioners in England. But be this as it may, the remuneration to Doctor Arthur for service performed on the passage seems to me to be no more subject to the Indian Tax than would be the passage money earned by the vessel and claimed on behalf of the owners. I therefore submit the circumstances to Government for their decision and orders.

From E. MAHONY, Esq., Acting 1st Assistant Military Auditor General, to Colonel W. P. MACDONALD, Paymaster Presidency, dated Fort Saint George, 16th January 1861, No. 128.

In returning the Abstract of Doctor Arthur, forwarded with your letter of this day's date, No. 1,185, I have the honor by desire of the Military Auditor General, to acquaint you that as head money claimed, is chargeable to the Indian Government, it seems liable to the Income Tax.

Referred to the Revenue Department for *early* consideration—Surgeon Arthur being about to quit Madras.

(Signed) H. MARSHALL, Colonel,
Secretary to Government.

No. 464. ORDER THEREON, 29th January 1861, No. 231.

1. Ordered that the foregoing Proceeding and its enclosures be referred for the opinion of the Advocate General.

2. Dr. Arthur was, it appears, appointed by the Emigration Commissioners at Home, to be Surgeon Superintendent of the Soldiers' families which came out in the "Aliquis," his remuneration being sixteen shillings for every person landed at Madras alive.

3. A deduction of Rupees 121-9-0 having been made from his bill of Rupees 3,040 on account of Income Tax he has protested against being brought under the operation of the tax.

4. It is understood that Dr. Arthur is not in the regular employ of Government. Allowing this to be the case, the opinion of the Advocate General is requested on the following points:—

(1.) Is Dr. Arthur liable under Schedule 4? *i. e.* is his employment on this occasion of such nature as to bring him under the operation of Clauses 1 and 7, Rule 2, also Rule 3, of Section 100 of Act XXXII of 1860? or of any other Rule in Part X of the Act? or

(2.) Is the payment to be considered as profits of a profession and therefore falling under Schedule 2 of the Act?

(3.) Do the facts of the payment having been made in pursuance of a contract: the remuneration arranged without any reservation as to a liability of deduction from Income Tax: and the duty performed on the high sea out of India, form any ground for exemption?

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

person landed Madras alive.

No 231

Revenue 1864 Dept.
Pro: of Govt. for January.
No. 176.

Proceedings of the Madras
Govt. in the Military Dep.

Dated 19th January 1864.
Rec.

1 Encl: Reports for orders a
letter from the Marine
Sup.t respecting the de-
duction made on ac-
count of the Income Tax
from Dr. Arthur's Bill
for head money on the
Gov.t Passengers landed
from the "Aliquis".

No 231. 29th January.
Letter from Govt

Under Schedule 4,
Clause 5, of the Income tax act,
the payment to Dr. Arthur referred
to in Captain Franklin's letter
is clearly liable to deduction for
the Income tax.

Stock in Trade - Tea Jars
& Measures paid Duties Dedn
at Madras as per Invoice
Jars Packages & Steel Yards
duty free & not subject
to Income Tax

Copy with Encls to
the Govt. of
29th Jany/64.

No 463.

19 Jany

for every [illegible] translat[illegible]

of characters [illegible] I dec[illegible]

not write out their

[illegible] letter[illegible]

[illegible] nothing but [illegible] the

[illegible] suggest [illegible]

[illegible] him. [illegible]

[illegible] back

[illegible] £50 [illegible] him

passage [illegible]

[illegible] not apply

[illegible]

for that here. [illegible]

I know of no [illegible] the

[illegible] of [illegible]

4

those I have mentioned

[illegible] still here and

will not leave for a

week or so.

Yours sincerely

[illegible]

Memo.

There is nothing in the Income Tax
Act which allows exemption on account
of payment made in pursuance of a
Parliament. Such exemptions have not
been claimed in like cases where parties
have claimed them on similar grounds.
But I think that if the Commissioners
were satisfied that the Income
was not liable to Income Tax
they would allow the claim.
Any deduction from the Income
on account of Insurance
Premiums would require
legislation. Insurance Companies
have called to the Treasury
for relief in the matter.
The payment made to Dr Arthur
appears from the Assistant
Military Auditor General's letter

to be chargeable to the Indian
Government, and as by Section 1
of the Act - Schedule 4. every salary
paid in India to any person whatever
by the Government of India is to be liable
to be liable to tax, I do not see how
[illegible] [illegible] [illegible]
of Government [illegible]
escape. [illegible]

The [illegible] under which [illegible]
appears [illegible]

Supposing [illegible] employ-
ment had been such as would have
fallen under Schedule 2, he might
have claimed exemption as a
"temporary resident" under the
45. Section 98 - the employment
[illegible] question not having been carried
on in India -

And it [illegible] I do not see how he can
be exempted.

[illegible]

[illegible] I circulate these
papers again. I do not quite
[illegible] what is intended by the
President's remark that the pay-
ment is made on account of
a Contract - Govt. Contractors as such
are certainly not exempted.

There may be a doubt
[illegible] whether the case falls
under Schedule 2 or Schedule 4.
In the former case [illegible] might
possibly be exempted, as a temporary
resident. It is a nice question
[illegible], and I beg to suggest that
the case should be referred for the opinion
of the Advocate Genl. [illegible] July 23

[illegible] these
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
Commissioner
[illegible]

Rev Depn 7

No 231.

Proceedings of the Madras Government
under date the 29th Jany 1864.

Read the following
Proceedings of the Madras
Govt Military Dept

Referring for orders
a letter from the Marine
Dept respecting the de-
duction made on acct
of Income Tax from
Dr Arthur's Bill for
Head Money &c.

Recd at India Office 19 Jany
1864. No. 112

1. Ordered that the fore-
going Proceedings & the
enclosures be referred
for the opinion of the
Advocate General.

2. Dr Arthur was, it
appears, appointed
by the Emigration Com-
missioners at Home,
to be Surgeon Superintendent
of the Soldiers' Families
which came out in
the "Aliquis", his remu-
neration being sixteen
shillings for every
person landed at
Madras alive.

Claim by Dr Arthur
for exemption from
Income Tax

I do not think Head
Dr A— or being no Lee.
a Member of Govt & not
being a Resident of Madras
but I would — but I
do not object to the
case being referred to
the Govt Law Officers

I understood the President to mean that this
money was due to Dr Arthur on an engagement
that a certain sum would be paid
or contract for certain duty & the person by
and as this duty was performed on the high sea
out of India, & the stipulated remuneration
was arranged without any reservation as to
liability of deduction for Income Tax, I do not
think that Dr Arthur should be subject to the
tax as respects this money but
a legal opinion can be taken if thought necessary.

Ch Jn Trevor

3. A deduction of Rs 121-9-0 having been made from his bill of Rs. 3040-0-0 on account of Income Tax he has protested against being brought under the operation of the Tax.

4. The Military Auditor General has expressed an opinion that the Head money in question, being chargable to the Indian Govt, is liable to Income Tax.

5. It is understood that Dr Arthur is not in the regular employ of Govt. Allowing this to be the case, the opinion of the Advocate General is requested on the following points.

(1) Is Dr Arthur liable to Schedule 4 i.e. to bring him under the operation of Clause 1 and 7, Rule 2. also Rule 3. of Section 100 of Act XXXII of 1860 or of any other Rule in Part X of the Act? or

(2) Do the payment to be considered as profits of a profession and therefore falling under Schedule 2 of the Act.?

(3) Do the fact of the payment having been made in pursuance of a contract: the remuneration arranged without any reservation as to a liability of deduction from Income Tax: & the duty performed on the high sea out of India form any ground for exemption?

Copy to the Advocate General Cirs. 30 Feb

Revenue 1861 Dept.
Pro: of Govt for January

No 231.

Pro: of the Madras Govt
Dt 29th January 1861

From the Advocate General
Dt 31st January 1861 No 284
Rec. 6 Feb.

Referring to the Advo:
Cate Generals opinion a
letter from the Marine Dept
respecting the deduction
made on account of
Income Tax from Dr Anthuni's
Bill for head money -

9: Anthuni's claim for
exemption from Income
Tax.

No 463 & 464: