

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 707	Press Mis.
175-176 Dated 14 - 5 - 1950	

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Revenue Department,
14th May 1870.*

No. 175. Read the following letter from J. W. HANDLEY, Esq., Government Pleader, Madras, to the Acting Secretary to Government, Revenue Department, Fort Saint George, dated 15th March 1870, No. 21 :—

WITH reference to the Proceedings of Government, Revenue Department, noted in the margin, I have the honour
Dated 15th February 1870, Nos. 143, 144. to report that the Criminal Regular Appeal therein referred to came on for hearing on the 11th instant before the Chief Justice and Mr. Justice Collett, when I appeared, as instructed, in support of the convictions.

2. The Court held that the legal objection taken by the Appellant's Counsel was fatal to the convictions; that the Court was bound to give to the words of the Notification in the *Gazette* of the 13th April 1869 their natural construction; that even taken by themselves, it would have been difficult to construe the words "for the purpose of making assessments under the Act" in any other way than as limiting the powers intended to be conferred upon Tahsildars to the primary assessment under Sections 14 to 16; and that the difference in the wording of the other Notices, issued on the same date, made such a construction the only possible one. The Tahsildar therefore having no power to hear petitions against his assessment, the appellants could not be convicted of making false statements before him, and the convictions were quashed accordingly.

3. In consequence of this decision, if it is still thought desirable that Tahsildars should exercise the full powers of a Collector under the Act, with the exception of the power of instituting prosecutions, it will be necessary to cancel the Notice in question and issue another, omitting the words "for the purpose of making assessments under the Act". There is a slight inaccuracy also in the latter part of the same Notice as it now stands; it vests Sub-Collectors, Head Assistants, etc., with the powers of a Commissioner of Revenue "for the purpose of trying objections to assessments made by Tahsildars". Strictly speaking, the power of a Commissioner under the Act is not to try objections to assessments, but to try appeals from orders made upon petitions of objections. Perhaps, the best way to word this part of the Notice would be "for the purpose of trying appeals from orders made by Tahsildars under Section 20 of the Act". The same remarks apply to the similar words in the Notice immediately preceding the one in question.

4. Upon the construction adopted by the High Court the Notice immediately following limits the powers of Sub-Magistrates in charge of Zemindaries, as the one in question does those of Tahsildars.

5. With reference to this subject I may observe that the Act, by making the immediate payment of the amount of the assessment on condition precedent to an appeal (Section 21), practically puts enormous and almost irresponsible power into the hands of the person empowered to make assessments and dispose of objections to them. Whether any evil is likely to result from so extensive a power being entrusted to persons in the position of Tahsildars and Sub-Magistrates in charge of Zemindaries, I am not in a position to judge. I can only direct the attention of His Excellency in Council to the point.

*Proceedings of the Madras Government, Revenue Department,
14th May 1870.*

No. 176.

ORDER THEREON, 14th May 1870, No. 707.

Miscellaneous.

REVISED Notifications have been issued under Act XVI. of 1870, and published in the *Fort Saint George Gazette* of May 3rd.

2. The considerations alluded to by Mr. Handley in paragraph 5 of his letter were not overlooked when the original Notifications were framed.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Government Pleader.
„ the Board of Revenue.

Exd. F. R. Battleman

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Memo: for order on £. 805

In this letter the Govt Pleader suggests that certain alterations should be made in the notification issued under the Income Tax act giving powers to Subordinate and Sub Magistrates as the High Court have ruled that these notifications bear a different signification to that intended to be given to them by Govt.

The notifications were originally prepared some years ago for the Licence Tax Act and have been adopted for the subsequent

Act

Govt. of ISTO Exhibs.

REVENUE.

THE GOVERNMENT HEADQUARTERS

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U. S. G. P. 11-1, 1977, No. 77

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FIG. 15-16

[illegible]

Acts with slight variations
without any objection having
been taken to them hitherto.

The differences in the wording
of the two notifications seems
to have been unintentional
though it is on this varia-
tion that the High Court
apparently base their view.

It is submitted that
no alteration is needed
at present as the Act expires
on the 31st instant, and new
notification will necessarily
be issued in April. The re-
commendation of the Govt.
Secretary may it is submitted

Act XXIII of 1869,
altering the date
of the Act. The Act
the 31st inst. in the Act
VI of 1869, under
which I believe
these notifications
were issued, is
not, as far as I
can see, limited
in its duration.

that as usual issue
past 12th Dec. 1869
10/1

I would just say that
the Act is not as late
than in the Act.
10/1

There will doubtless
be a fresh issue of
the Act in the course
of the present month.
We have to the right
to make the Act
known.

Yours
A. J.

be adopted when these are
published.

The remark made in
the concluding portion of the
Government Secretary's letter
is perhaps hardly worthy
of notice, as Mr. Stanley
can have little or no experience
of the officers whose integrity
he appears to doubt. They
were invested with the powers
deputed to by Government
on the recommendation of the
Board of Revenue, and after
due consideration.

Yours
J. H.

Recd Sept 50

707.

Proceedings of the Madras Court
under date the 14th May/70

Read the follow-
ing letter from the Court
Madras.

Reporting on the
result of the trial Reg: Ap-
peal Nos 10 & 11 of 1870 on the
file of the High Court.

(H.E. 15th March 1870
No 21)

Revised Notifi-
cations have been issued
under Act No. VI of 1870 &
published in the Fort St.
George Gazette of May 3rd.

2. The considerations
alluded to by Mr. Handley
in para 5 of his letter, are
not overlooked when the
Income Tax Act was
framed.

Mr.

3 To His Lordship the Chief Justice
14th May 1870

Ed. Bell

