

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 1864

DATED 6th April 97

[Despatch Abstract.]

According to the report received from the Municipal Council, Mayavaram, the Chairman of the Coll. of Tanjore with regard to the right of the municipal council to levy tax on trees standing on the sides of roads & streets within municipal limits.

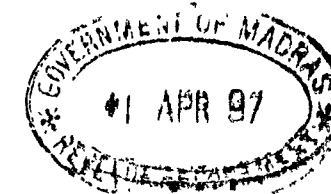
BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government (1897) of Madras LOCAL AND MUNICIPAL.



6/4/97

Recd. } 1897. Enclosures
Regd. } Spare copies

G.O., No. 400 M., 6th March 1897.

MARCH.

G.O. No. 1864 of 6 Apr. 97

Recorded.

5-4-97
List

6/4/97

Tax.

Communicating to the Municipal Council, Mayavaram, the remarks of the Collector of Tanjore with regard to the right of the municipal council to levy — on trees standing on the sides of roads and streets within municipal limits.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

READ—the following papers:—

From M.R.Ry. T. A. ALAGA PILLAI Avargal, Chairman, Municipal Council, Májavaram, to the Secretary to Government, Local and Municipal Department, dated 1st December 1896, No. 1088.

I have the honour to state that, in regard to the levy of tax on trees within municipal limits, the Board of Revenue (Land Revenue) has, in its Proceedings, Mis. No. 1960, dated 29th April 1896 (copy enclosed for perusal), expressed that Government reserves to itself the right of levying tax on trees held on tree-pattas.

2. So far as trees standing on places other than the public roads and streets are concerned, the Board's view may be correct. But as regards trees standing alongside of public roads and streets within municipal limits, the council has, I submit, its undisputed ownership under section 23 of the Municipal Act, which enacts that all things provided for the public streets shall vest in, and belong to, the municipal council. It is evident, therefore, that not only the trees which are the property of Government, but also those held on tree-pattas on the sides of roads and streets, have been transferred to the municipal council.

3. In these circumstances, I am of opinion that the council has the right to levy tax, &c., on trees on the sides of roads and streets, and I respectfully solicit the order of Government establishing such a title.

In regard to the taxing of other trees, I submit the matter for the orders of Government.

No. 2.

Referred to the Collector of Tanjore for remarks.

FORT ST. GEORGE,
6th January 1897.

(Signed) G. S. FORBES,
Secretary to Government.

From J. ANDREW, Esq., Acting Collector of Tanjore, to the Secretary to Government, Local and Municipal Department, dated 24th January 1897, No. 322-Rev.

In reply to endorsement, No. 2, dated 6th January 1897, I have the honour to report as follows.

2. In 1893 one Ganapati Subba Aiyar, of Májavaram, put in an application to the Sub-Collector for the refund of tree-tax collected from him on some cocoanut trees planted by his ancestors in the Madavilagam street within the Májavaram Municipality. Mr. Hamnett, the then Sub-Collector, passed the following order:—

"As the trees stood in a public street within municipal limits, the Revenue Department have no right to levy any assessment on these trees. The sums collected should, therefore, be recommended for refund and the Chairman of the municipal council asked to take necessary steps in the matter to enforce the rights of the municipality."

This order was communicated to the Chairman of the Májavaram Municipality. The Chairman, thereon, asked the Sub-Collector to let him know under what orders the municipal council have a right to collect the tree-tax and requested that the amount collected in previous years might be paid to the municipality. The Sub-Collector laid the whole matter before the then Collector, Mr. Winterbotham, who, in his reply, dated 22nd December 1893, stated as follows:—

"I think Mr. Hamnett's order directing that the levy of tree-tax should be discontinued is correct. Under section 23 of the Municipal Act 'all things provided for streets' belong to the municipal council. It is a question of fact whether the trees in question were provided for streets for shade and ornament or not. The limitation for the refund of erroneous credits is three years only under Board's Proceedings, No. 51, dated 9th February 1893, and if the Chairman can show that the right in trees vests in the council the usual refund application may be submitted accordingly. If the trees are private property, the refund is due to the tree-owners if they apply for it."

3. The Sub-Collector thereon issued the following order to the Tahsildar of Májavaram and the Chairman of the Májavaram Municipality:—

"Under the authority of the Collector's order, in future no tree-tax must be collected by Government. The municipality should now assert their rights (if they exist) over such trees as have hitherto been paying tax to Government. The Chairman can obtain all information from the taluk office and village officers. As regards the question of refund of tree-tax, if the municipality can show that it is entitled to it and not the private individuals from whom it was collected, the Chairman can apply for refund of the collections of three preceding years."

The tree-tax lost to Government under this order in the Májavaram Municipality amounted to Rs. 27-0-9 a year. The Sub-Collector then brought to notice that tree-tax amounting to Rs. 70-11-0 was also being collected by the Revenue Department on trees standing on roads and porambokes within the Kumbakónam Municipality, and requested to be informed whether the tax should be foregone irrespective of whether the trees were taxed prior to, or subsequent to, the date on which the lands became vested in the council. He argued that, as regards trees that were planted and have come to bearing subsequent to the formation of the municipality, the Revenue Department had obviously no right to collect tree-tax; but that, as regards trees that were taxed by the Revenue Department prior to the roads and streets being vested in the municipality, the Revenue Department had the right to collect tree-tax, as the trees are private property, as they could not be vested in the municipality and as the District Municipalities Act does not authorize the levy of a tree-tax by the municipality, which, therefore, is no gainer by the Government giving up the tree-tax. Further inquiries were made, and it was found that there were also cases in the Tanjore, Negapatam and Mannárgudi municipalities in which tree-tax, amounting in all to Rs. 62-2-1 on trees standing on roads, streets and other porambokes lying within municipal limits, was being collected by the Revenue Department and credited to Government. Thereupon, Mr. Stokes applied to the Board for orders as to whether tree-tax on trees standing on roads, streets and other porambokes within municipal limits, and which had been taxed by the Revenue Department prior to the roads and streets being vested in the municipal council, should continue to be collected by Government, bringing to notice at the same time the correspondence in G.O., No. 448, Revenue, dated 20th April 1885, communicated in Board's Proceedings, No. 1411, dated 12th May 1885. Upon this the Board passed the following orders:—

"The Board is of opinion that trees which are the property of Government were made over to the municipal council along with the roads and streets on which they stand. As regards trees held on tree-patta which are the property of the pattadar, the right to levy an assessment thereon was not transferred to the council. There is no reason why the Government should forego the collection of this tax, which, as observed by the Collector, cannot be collected by the council. Tree-tax should, therefore, continue to be collected as at present."

4. With reference to the above resolution of the Board, the Chairman, Municipal Council, Májavaram, in paragraph 2 of his letter to Government, No. 1088, dated 1st December 1896, says that "so far as trees standing on places other than the public roads and streets are concerned, the Board's view may be correct. But as regards trees standing alongside of public roads and streets within municipal limits,

No. 400 M., 6TH MARCH 1897.

the Council has, I submit, its undisputed ownership under section 23 of the Municipal Act, which enacts that all things provided for the public streets shall vest in, and belong to, the municipal council. It is evident, therefore, that not only the trees which are the property of Government, but also those held on tree-pattas on the sides of roads and streets, have been transferred to the municipal council."

5. There is nothing in section 23 of the District Municipalities Act quoted to justify the conclusion that the ownership of taxed trees, which in this district vests in the tax-payers, was transferred to the municipality along with the streets and roads on which they stand. On the contrary in paragraph 3 of G.O., No. 448, Revenue, dated 20th April 1885, Government, in a similar case, has observed as follows:—"If the trees, as is probable, belonged to the Mirasidars, their rights were, no doubt, unaffected by the transfer of the streets to the Municipal Commissioners and they would be entitled to the sale-proceeds." And as already pointed out by the Sub-Collector, tree-tax is not one of the taxes which can be levied under the District Municipalities Act, and the municipal council does not gain anything by the Government giving up their right to collect the tax.

6. The Government endorsement under reply is returned.

ORDER—No. 400 M., dated 6th March 1897.

The Collector's remarks, in which the Government concurs, will be communicated to the Municipal Council, Mayavaram.

(True Extract)

[Signature]
Secretary to Government.

To the Chairman, Municipal Council, Mayavaram.
" all other Chairmen of Municipal Councils.
" all Collectors.
" the Revenue Department.

Exd. A. Rant.

When given for copying _____

When copied _____

When examined _____

When signed _____

189.

READ AGAIN G.O., No
189

UATHD

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Copy in full.

B = Not to be copied.

P = Copy abstract only

Q = Copy heading only

A A A A A A A