

Revenue (1897) Department.

PRESS SERIES.

G.O., No. 36

DATED 20th Jan'y. 1897

[Despatch Abstract.]

Income Tax Act II of 1886

Issuing instructions as to how the income of a company that started business late in the year and whose accounts are not made up until on the 31st March should be taxed

BACK PAPERS.

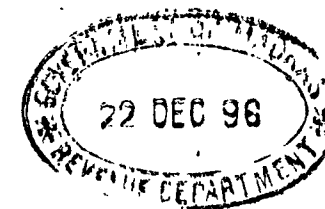
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Revenue (1896) Department.

CURRENT No. 9500



The Hon. Mr. Bliss C. Jr.

From the Secretary to the
Commissioner of Salt, Alkali
& Separate Revenue

Press No. 481

Order - misc

Recorded

18
5.1.97

Dated 18th December 1896

Received 22-12-96

Registered 24-12-96

Enclosures

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A Company under Part II of the
Act must be assessed in its profits
as ascertained on ^{that} book date
in which the Co's assets were
made up. Provided book date is
within 12 months of the beginning
of the year in which the
assessment has to be made.
If the assets have not been made
up must be assessed on its next
profits for the 12 months preceding
the 1st day of the year in which the
assessment is to be made.

SUBJECT.

Informing the Collector of
Madras of the mode of
assessment for 1896-97 a
Company which started work
on 1st September 1894 and
which makes up its
accounts for the fiscal
year

Thus in the year of assessment being
1896-97 the Co. will have

1896-97 C. 7/1/97

have assessed on its net profits
from 1st Sep: 94. to 31st March
95. presuming its net: had not been closed during that time
In this year not beginning
1st April 96. it shall have
been assessed on the net profits
shown in its books on the
31st June 96. including its net as
closed on the last mentioned date
In this year not beginning 1st
April 97. it shall be assessed
on the net profits shown in its
books on the 31st June 96.
+ &c on

BACK PAPERS.

G.O.	No.	Department.	Date.

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There is no injustice in if it
is twice assessed on its profits
from Sep: 94 to March 95. it
will at the last escape
assessment for as long a period.
That whether it is just or not
is not the question which is
what the law requires. The
W. is intended to assess on an
average & erroneous. The ass:
ment be on the actual profit.
Under of the W. except the
Co's accounts he is bound to
follow the figures in them &
for as he ~~assess~~ ^{accept} them I think so
B.S.
8/1/97

BOARD OF REVENUE (SEPARATE REVENUE), No. 481, 1st DECEMBER 1896.

PROCEEDINGS OF THE BOARD OF REVENUE
(SEPARATE REVENUE).

READ—the following letter from J. TWIGG, Esq., Collector of Madura, to the
Secretary to the Commissioner of Salt, Abkari and Separate Revenue, dated
2nd November 1896, R.C. No. 2946-Genl.:—

- I have the honour to request the Board's orders on the following point.
1. A company started work on 1st September 1894, and makes the fasli year its year of account.
 2. Last year the company was taxed on the income derived from 1st September to 31st March (arrived at by taking seven-tenths of the profits shown in the balance sheet of 30th June 1895).
 3. For the current year it is the profits of the year ending 30th June 1895 that I should assess, but seven-tenths of this amount has already been taxed in last year. I beg to enquire whether for this year I should tax the company on the profits of the year ending 30th June 1895 less the amount (seven-tenths) already taxed.
 4. The difficulty only occurs at starting. In future the assessments each year will be made upon the profits accruing in the preceding fasli year.

RESOLUTION—No. 481, dated 1st December 1896.

The Company should have been assessed in 1894-95 and 1895-96 on the average of its income for such period as the Collector, having regard to the circumstances, might direct. In 1896-97, the assessment should have been made on the 1st April 1896 on the basis of the income accruing to the company in the fasli year 1894-95, i.e., on twelve-tenths of the income which appeared from the company's books, made up on the 30th June 1895, to have accrued from 1st September 1894 to 30th June 1895. But as the assessment has apparently not yet been made, the day on which the company's accounts have been last made up is the 30th June 1896 and the assessment for the current year should therefore be based on the profits accruing to the company during the fasli year 1895-96. If, however, there is good reason to suppose that the company's income for the current official year will be larger or smaller than would appear from the latest accounts available, the Collector is not, in the Board's opinion, bound to adhere to the exact figures ascertainable from them but must use his own discretion.

(True Copy and Extract.)

(Signed) N. S. BRODIE,
Acting Secretary.

(True Copy.) *Ramamurti*
Assistant Secretary.

To the Collector of Madura.
„ all other Collectors.
Copy to the Secretary to Government, Revenue Department.

Ed. P. Seetharam.

REVENUE DEPARTMENT.

1896.
Board of Revenue
(Separate Revenue),
MADRAS.

Printed December 17th.

Proceedings, No. 481, 1st December 1896.

Informing the Collector of Madura of the mode of assessing for 1896-97 a company which started work on 1st September 1894 and which makes up its accounts for the fasli year.

See
(from order)

In the particular case now under consideration, the Collector was therefore right in assessing the Company for the year 1895-96 on the income derived from the 1st March 1895. If, however, the accounts had been made up during the two months interval preceding the year for assessment, the two remedies that the assessment should be fixed with reference to the net profit derived during the year for ending on the day on which the accounts were last made up. In the case under consideration, the Collector has assessed the Company on the profits derived for the year 1895-96.

Read case 9500 of 96

Order

The Court is unable to agree with the Board of Revenue under the terms of Part II, Schedule II of the Income Tax Act, if a company's annual accounts have not been made up on any date within the ^{within months in} year ending the immediately preceding the year for assessment 31st March is the year immediately preceding that for which the assessment is to be made, the assessment should be fixed with reference to the ~~should be assessed on its net~~ ^{net} profits derived during those ^{within months} year ending the said 31st March; if, however, the accounts have been so made up, then ^{the} on the net profits during the year ending on the date on which the accounts have been last made up. While therefore the Collector was perfectly correct in ^{taking in 1894-95} assessing the Company referred to by him on the ^{profitable} income derived ^{by} it from 1st Sept 1894 to 31st March 1895, the law requires ~~that~~ that during the current year and ensuing year so long as its accounts are made up on 30th June it should be taxed on its net profits.

profits for the year ending the 30th June without any abatement whatever on account of the portion already taxed. The Board's instruction to assess on an average is, in the opinion of Govt, ^{also} erroneous. The assessment should be on the actual profits made and the Collector is bound to follow the figures given in the Company's accounts so far as he accepts them.

(From orders)

To

The Board of Rev: ~~Rev~~ Sep Rev:

Note

All reference to the question whether the present decision is just or unjust is omitted from the draft G.O. as the Secy has not expressed a definite opinion on the point and as it does really appear that a portion of the Company's profits will be twice taxed unless it winds up on 31st March in any year.

in the profits shown in the Co's accounts for the year ending 30th June 1895, as far as he accepted those accounts is correct.

~~The method of assessment is correct.~~

Printed
2/1/97

Read C.No.9500 of 96.

Let

Order:-

N^o 36 dt 20th June 1897

The Government is unable to agree with the Board of Revenue. Under the terms of Part II, Schedule II of the Income Tax Act, if a Company's annual accounts have not been made up on any date within the twelve months immediately preceding the year of assessment, the assessment should be fixed with reference to the whole nett profits derived during those twelve months. In the particular case now under consideration, the Collector was therefore right in assessing the Company for the year 1895-96 on the income derived from the first September 1894 until the 31st March 1895. If, however, the accounts of a company have been made up during the twelve months immediately preceding the year of assessment, the law requires that the assessment shall be fixed ^{with} reference to the nett profits derived during the year ending on the day on which the accounts were last made up.

In the case under consideration, the Collector should therefore have assessed the Company for the year 1896-97 on the profits shown in the Company's accounts for the year ending 30th June 1895, in so far as he accepted those accounts as correct.

Query:-

Does "the day on which the accounts were last made up" mean a day within the preceding 12 months preceding the year of assessment?

Should anything be said about the justice or equity of the provision?

To,

The Board of Revenue: S:R: Secy 22.1.97

P.C. Secy 11.2.97

11.5.97
17.1.97

Government { 1897 } of Madras.
REVENUE.

<i>Recd.</i>	} 1897	<i>Enclosures</i>
<i>Regd.</i>		<i>Spare copies</i>

G.O., No. 36, 20th January 1897.

JANUARY.

Income-tax Act II of 1886.

Issuing instructions as to how the income of a company that started business late in the year and whose accounts are not made up on the 31st March should be taxed.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following Proceedings of the Board of Revenue (Separate Revenue), No. 481, dated 1st December 1896:—

Read—the following letter from J. TWIGG, Esq., Collector of Madura, to the Secretary to the Commissioner of Salt, Abkari and Separate Revenue, dated 2nd November 1896, R.C. No. 2946-Genl.:—

I have the honour to request the Board's orders on the following point.

2. A company started work on 1st September 1894, and makes the fasli year its year of account.
3. Last year the company was taxed on the income derived from 1st September to 31st March (arrived at by taking seven-tenths of the profits shown in the balance sheet of 30th June 1895).
4. For the current year it is the profits of the year ending 30th June 1895 that I should assess, but seven-tenths of this amount has already been taxed in last year. I beg to enquire whether for this year I should tax the company on the profits of the year ending 30th June 1895 less the amount (seven-tenths) already taxed.
5. The difficulty only occurs at starting. In future the assessments each year will be made upon the profits accruing in the preceding fasli year.

Resolution—No. 481, dated 1st December 1896.

The company should have been assessed in 1894-95 and 1895-96 on the average of its income for such period as the Collector, having regard to the circumstances, might direct. In 1896-97, the assessment should have been made on the 1st April 1896 on the basis of the income accruing to the company in the fasli year 1894-95, i.e., on twelve-tenths of the income which appeared from the company's books, made up on the 30th June 1895, to have accrued from 1st September 1894 to 30th June 1895. But, as the assessment has apparently not yet been made, the day on which the company's accounts have been last made up is the 30th June 1896 and the assessment for the current year should therefore be based on the profits accruing to the company during the fasli year 1895-96. If, however, there is good reason to suppose that the company's income for the current official year will be larger or smaller than would appear from the latest accounts available, the Collector is not, in the Board's opinion, bound to adhere to the exact figures ascertainable from them, but must use his own discretion.

(True Copy and Extract.)

(Signed) N. S. BRODIE,
Acting Secretary.

To the Collector of Madura.
„ all other Collectors.

Copy to the Secretary to Government, Revenue Department.

ORDER—No. 36, Revenue, dated 20th January 1897.

Separate Revenue No. 2.

The Government is unable to agree with the Board of Revenue. Under the terms of Part II, Schedule II of the Income-tax Act, if a company's annual accounts have not been made up on any date within the twelve months immediately preceding the year of assessment, the assessment should be fixed with reference to the whole net profits derived during those twelve months. In the particular case now under consideration, the Collector was therefore right in assessing the company for the year 1895-96 on the income derived from the 1st September 1894 until the 31st March 1895.

If, however, the accounts of a company have been made up during the twelve months immediately preceding the year of assessment, the law requires that the assessment shall be fixed with reference to the net profits derived during the year ending on the day on which the accounts were last made up. In the case under consideration, the Collector should therefore have assessed the company for the year 1896-97 on the profits shown in the company's accounts for the year ending 30th June 1895, in so far as he accepted those accounts as correct.

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

To the Board of Revenue (Separate Revenue).

Exd. Shaik Karim.

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GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following letter from T. W. HOLDERNESS, Esq., C.S.I., Secretary to the Government of India (Department of Revenue and Agriculture—Land Revenue), to the Secretary to the Government of Madras, Revenue Department, dated Calcutta, the 31st December 1898, No. 2731-375-2. :—

I am directed to acknowledge the receipt of your letter No. 760, dated the 8th December 1898, with which you forward for approval a draft of two provisos to Rule XI of the rules under the Land Improvement and Agriculturists' Loans Acts.

2. In reply I am to say that the Governor-General in Council approves of the draft subject to one modification. At the end of the second proviso the words "this rule" should be substituted for the words "rule XI."

ORDER—No. 38, Revenue, dated 12th January 1899.

Miscellaneous.

Communicated to the Board of Revenue.

2. The following notification will be published in the *Fort St. George Gazette*:—

NOTIFICATION.

His Excellency the Governor in Council is pleased to notify the insertion of the following provisos at the end of Rule XI of the rules under the Land Improvement and Agriculturists' Loans Acts published in notification No. 510 at pages 1332 to 1345 of Part I of the *Fort St. George Gazette*, dated 2nd November 1897, and amended by notifications Nos. 223 and 458 published at pages 432 and 960 of Part I of the *Fort St. George Gazette*, dated 17th May and 11th October 1898, respectively :—

"When a loan permissible under either of the Acts is applied for by the members of a village community or by a group of cultivators on their joint personal security, the Collector may, at his discretion, advance on such security an amount not exceeding five times the annual assessment of the land registered in the names of the applicants."

"Loans may also be granted under the Agriculturists' Loans Act to tenants on their own responsibility, provided they possess an adequate saleable interest in the land they lease sufficient to meet the requirements of this rule."

(True Extract.)

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

To the Board of Revenue (Revenue Settlement,
Land Records and Agriculture).
Superintendent, Government Press.