8.000—6-96.

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 1895

DATED 29th April

[Despatch Abstract.]

Declining to interfere on behalf of Srithi Salai Iyer and others of the Cuddalore Taluk praying for the return of certain Account books to one Ramasawmy Chetty to whom the petitioners are debtors and for the levy, if possible, of penalties from him.

BACK PAPERS.

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

FURTHER PAPERS.

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

O/19 4,000—19-7-97.

Revenue (1898) Department.

CURRENT No. 2676

29/4/98

Rc: 1895 d/29th April 1898.

From

Muthialu Iyer and others
of the Cuddalore Taluk,
S. Arcot Dt.

No. —

Order Issued

The Govt. sees no reason to interfere on the petitioners' behalf.

KD
19/4/98

Dated 30th March 1898

Received 2nd April 98

Registered 4th " "

Enclosures 5

Spare copies. —

SUBJECT.

Praying for the return of certain account books to one Ramasawmy Chetty to whom the petitioners are debtors and for the levy, if possible, of penalties from him.

To

The petitioners with 5 enclosures } Des. 2/5

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Cf. Fwds. queries
30.3.98
A Ramiah

His Excellency the right Honorable
Governor-in-Council
Madras.

PETITION
1947
REVENUE DEPT

CHIEF SECRETARY'S DEPARTMENT OF MADRAS
31-MAR 1898

The humble Memorial submitted by 1. Kootiyalo Iyer of Veera Reddipaliam, 2. Kathathandi chetty of Konamangalam, 3. Annamalai Pillai of Karamani-coppam, 4. Alavanga Appa chetty of do village, 5. Kantha-samy Pathar of Tirumandiyuram, (all residents of Cuddalore Taluq in South Arcot District) most respectfully showeth as follows:-

1. That your humble Memorialists were debtors of one Ramasamy chetty, a resident of Tirumandi-yuram village in Cuddalore Taluq, who was asses-ed with income tax in a certain amount for 95-96. and who, in consequence filed certain account books in support of his application, to the Collector of South Arcot District.

2. That the above said account books contain en-tries, which are in the nature of documents and ought to have been stamped, but which are not really such documents as should have been stamped.

3. That your humble Memorialists were wrongly and unjustly called upon to pay penalties of very large sums, far exceeding the Capabilities of your humble Memorialists, by the Assistant Collector of South Arcot, to whom the papers have been sent by the Collector for disposal.

4. That your humble Memorialists beg leave to draw your kind attention to the Head Quarters Deputy Collector's letter No 719 dated 18-6-97, sub--mitted as a report to the Collector of the District, on the impounded entries in the above account books

books; which letter clearly proves that the Memorialists are ignorant people who had no intention of evading the stamp duty.

5. That your humble Memorialists beg also to state that the above letter of the Deputy Collector also clearly proves that some other ~~traders~~ parties responsible for the supposed similar offences are dead and gone.

6. That the above account books in question and the documents alleged to be insufficiently stamped have nothing to do with the year for which Ramaswamy Chetty has been taxed. These documents are all satisfied and discharged and nothing is due under them now. Assistant &

7. That the parties (including the Memorialists) who have received Notices are the poor and ignorant debtors and not the creditors.

8. That your humble Memorialists took a preliminary objection before the Assistant Collector and eventually before the Collector and also before the Honorable Members of the Board of Revenue and urged without effect. (vide 1. petition to the Collector and his proceedings thereon. 2. petition to the Revenue board and its proceedings, herewith attached); that under the rules issued by the Government of India the accounts cannot be looked into for any purpose other than income tax purpose. The Collector and the revenue board have passed the orders now the subject for grounds of this memorial.

9. That the Memorialists submit that the ruling of the board in B.P. 2206/8.7.95 and the opinion of the Advocate General do not seem to have Considered the ruling of the Government of India passed in exercise of powers conferred by the Income tax upon the Governor General in Council. The rule has the force of law

law under the act. The rule being "Official public servants are forbidden to make public or disclose, except for the purpose of working of Act 2 of 1886, any information contained in documents delivered or produced with respect to assessments under part II of the said act, and any public servant Committing a breach of this rule shall be deemed to have Committed an offence under sec 166 of the Indian Penal Code."

10. The stamp act was an older act and there is nothing in the Income tax act or the rules under it that this provision to treat the documents filed in income tax proceedings strictly Confidential is subject to the general provisions of the stamp act which empower the Collector of the District to impound all insufficiently stamped documents that are brought to his notice.

11. Besides, in the proceedings under the stamp act which are not "for the purpose of the working of act 2 of 1886," the documents have to leave the Custody of the Collector who got them not as Collector, but as income tax assessing officer and in case of prosecution under the stamp act have to be exhibited in the trial by a Magistrate and then necessarily the rule promulgated by the Government of India will have to be broken.

12. Of Consideration therefore of the reasons the rule will show that documents presented under the income tax Cannot be impounded. In this Case, the documents are already before the Assistant Collector and if your humble Memorialists who are very poor are unable to pay the penalty, the document will be to go before a Magistrate; and in that Case if Cannot be said that the rule under income tax act

13. That your humble Memorialists further beg to state that the procedure in turning over the whole account books and finding out unstamped documents is a procedure opposed to the policy of the law and the instructions issued by Government from time to time.

14. That your humble Memorialists further beg to state that the above account books being produced by Damasawmy chetty for his interest, the proper procedure must be that he must be called on to pay the penalties, as is generally done in Civil Courts while parties file insufficiently stamped escibists. Then, the Coarse for Damasawmy chetty must be to demand his debtors (including the Memorialists), and if his debtors refuse, his claim must be settled by a civil Court only.

15. That your humble Memorialists also beg to state that if the procedure in para 14, is adopted, the Government will be much benefited. For, Damasawmy chetty who is a wealthy man will advance pay the whole penalties for all the parties (even for the dead). As all the above entries in the above account books are entered only by Damasawmy chetty's own hands, he is the man liable to pay penalties. For, ignorant parties never wished him to frame any entries, which are in the nature of documents.

16. That your humble Memorialists therefore pray that your excellency, after kind perusal of Income tax act and the rules on the subject and also all the papers and Correspondances Connected with this

Case

Case including the above account books etc, now remaining in the Assistant Collector's office, Cuddalore, be graciously pleased to Cancel the proceedure adopted by the lower Courts and order for the return of the account books to Ramasawmy chetty or to levy the required penalty, if reasonable and necessary, to Ramasawmy chetty.

17. As the memorialists are really aggrieved parties and as the subject of this Memorial being an important question on a point of law they request that to issue a nominal enclosement and this memorial stating "declined to interfere" (as is done by the Revenue Board without sending for the records from the lower Courts and without referring the matter to a Court of law), but to Consider deeply and the subject and issue an order quite reasonable and justifiable.

Waiting for favourable orders we beg to remain yours excellency's obedient humble memorialists.

30th March 98
Cuddalore

தே-முதலாளியாரவர்களுக்கு

2. நல்லதம்பி கோபாலையர்

3. குருபசெட்டி ராமசாமி

4. [illegible]

5. [illegible]

(enclosures) 1. Certified Copy of a petition presented to the Dist Collector dated 1-12-97

2. Proceedings of the acting Dist Collector dated 6-12-97

3. Copy of a petition presented to the Revenue board dated 5-1-98

4. Proceeding of the Board of revenue dated 21-1-98

5. Proceedings of the Collector of S. Arcot dated 9th July 97

Petition from Muthiah Iyer and others dt 30.3.98 (C. No 2676).

To Secy:

An account book produced before an Income-Tax officer contained certain unstamped or insufficiently stamped entries, which were therefore impounded. But instead of prosecuting the parties liable to stamp them, the Collector proposed to compound the offences on their paying certain penalties. These persons objected to the impounding, on the ground that it would lead to a publication or disclosure of information contained in documents produced with reference to assessments under the Income Tax Act (II of 1886 - India), and that such publication or disclosure was prohibited by rule 15 of the Rules issued by the Govt of India thereunder. The objection having been overruled both by the Collector and the Board, the petitioners now appeal

C 20/4/98.

Collector's order (Flag A)

S. 33 of the Indian Stamp Act (page 63 of the Stamp manual).

S. 69, clause 2 (at page 159 of the manual)

15. All public servants are forbidden to make public or disclose, except for the purpose of the working of the Act, any information contained in documents delivered or produced with respect to assessments under Part IV of the second Schedule of the Act: and any public servant committing a breach of this rule shall be deemed to have committed an offence under Section 166 of the I. P. C" - (Page 81 of the Income Tax manual).

appeal to Govt.

2. It is submitted that the impounding of the entries in the Account-books by the Collector was correct. They came before the Collector of Income-tax (who is "a person in charge of a public office") "in the performance of his functions"; and he is bound to impound them. Please see in this connection para 4 of B.P. printed on page 3 of G.O. 205/2 dt 17.8.95, the view expressed in which was pronounced to be correct by the Advocate-General. In carrying out the duty imposed on him by law the Collector of Income-Tax may have to disclose the information contained in the impounded documents. For, in the event of a prosecution being decided on, the documents will pass through the hands of a Govt Vakil and others. But it is submitted that the prohibition contained in the Govt of India rule above quoted

Section 33 of the Indian Stamp Act. I of 1879 (p. 630 of the Stamp manual).

Clipped F.

vide para 4 of the opinion on page 4 of the G.O.

quoted does not cover this case. It is submitted that the rule should only be interpreted where this is possible, so as not to conflict with the requirements of the Stamp Law.

KD 1914/98

3. A draft order is put up on the docket sheet of the current.

Yes. The draft order may issue

25/6/18

27/6/18

When given for copying ____
When copied ____
When examined ____
When signed ____
} 189

READ AGAIN G.O., No. DATED
189 ,

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A	
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.