

Revenue (189⁸) Department.

MISCELLANEOUS SERIES.

G.O., No. 1895

DATED 29th April

[Despatch Abstract.]

Declining to interfere on behalf of Muthu
- also Iyer and others of the Gundalore Taluk
praying for the return of certain Account books
to one Ramaswamy Shetty 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.

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Revenue (1898) Department.

CURRENT No. 2676

29/4/98

No: 1895 d/29 April 1898.

From

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

No. —

Dated 30th March 1898

Received 2nd April

Registered 4th ..

Enclosures 5

Spare copies. —

SUBJECT.

*Praying for the return of
certain account books to one Rama-
swamy Chetty to whom the peti-
tioners are debtors and for the
levy, if possible, of penalties
from him.*

Order issued

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

*KD
19/4/98*

SP 26/4/98

*The petitioners
with 5 enclosures } Des.
2/5*

BACK PAPERS.

G.O.	No.	Department.	Date.

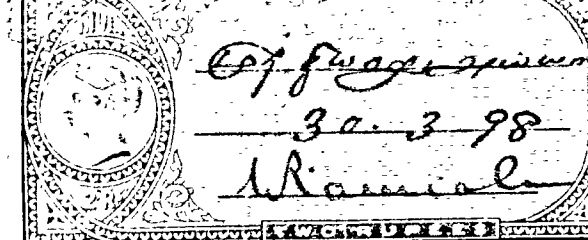
FURTHER PAPERS.

G.O.	No.	Department.	Date.

Rev
10/27/98
His Excellency the right Honorable
Governor-in-Council

PETITION

REVENUE DEPT



The humble Memorial submitted by 1. Choorthigal, 2. Sagar of Sura-Riddipoliam, 3. Chakravarthy Chetty of Konamangalam, 4. Annamalai Pillai of Karamani-Coppam, 5. Choorungappa Chetty of the village, 6. Kanthasamy Patthar of Tirumandipuram, (all residents of Cuddalore Taluk, in South Arcot District) most respectfully sheweth as follows:.....

1. That your humble Memorialists were debtors of one Ramasamy Chetty, a resident of Tirumandipuram village in Cuddalore Taluk, who was assessed 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 entries, 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, submitted 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 ~~parties~~ 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 Damsawmy Chetty has been taxed. These documents are all satisfied and discharged and nothing is due under them now.

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 subjects for grounds of this memorial.

9. That the Memorialists submit that the ruling of the board in B.O. 306 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.

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Sd/- Com-
and Com-
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law under the act. The rule being "All public servants are forbidden to make public or disclose, except for the purpose of carrying off 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 empowered 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. A consideration therefore of the reasons of 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 it cannot be said that the rule under income tax act is broken.

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 Ramaswamy 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 exhibits. Then, the Coarse for Ramaswamy 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, Ramaswamy 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 Ramaswamy Chetty's own hands, he is the man liable to pay penalties. For, ignorant parties never wished him to frame ^{entries} ~~any~~ which are in the nature of documents.

16.

That your humble Memorialists therefore pray that your excellency, after kind perusal of Incorrect act and the rules on the subject and also all the papers and Correspondences connected with this case

17. As the Memorialists are really aggrieved parties and as the subject of this Memorial being an important question and a point of law, they request that to issue a nominal encroachment on 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.

திரு. சூர்தாண்டியநாதையாருக்கு

2. நவஸ்தரமறிசெயுமாடுக்குது

3. ആഗമപരിഷ്കരണ

4. அன்று எல்லாம் உள்நாள் எதிர்ப்பு.

5. நடு கிங் பிளாட் (கிங் பிளாட்) கிங் பிளாட்

[illegible]

Petition from Muthiah Iyer and
others d/ 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 ^{persons concerned} 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.

Collector's order (Plag 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.

e 26/4/98

appeal to Govt.
2. It is submitted that the
imposition 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 impose
them. Please see in this connec-
tion para 4 of B. P. printed on
page 3 of G.O. No 512 D/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 dis-
close the information contained
in the imposed 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. 63 of
the Stamp manual).

§ 4 of 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.

K.O.
19/4/98

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

Yes.
The draft order may
issue

27/4/98
25/4/98

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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

LETTERS 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.
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