

## MISCELLANEOUS CIVIL.

Before Mr. Justice Young.

1930  
June, 27.

IN THE MATTER OF DEHRA DUN MUSSOORIE ELECTRIC  
TRAMWAY COMPANY.\*

*Companies Act (VII of 1913), section 230 (1) (a)—Preferential payments—“Revenue”—Includes income as from rent of Government telephone lines and charges for trunk calls.*

In section 230(1) (a) of the Companies Act, 1913, the word “revenue” is not necessarily to be taken as being *ejusdem generis* with the words “taxes, cesses and rates” that come after it. The word “revenue” here means income and will therefore include rent of Government telephone lines and charges payable to Government for trunk calls, and these debts will accordingly have priority in a winding up.

Mr. *U. S. Bajpai*, for the creditor, Telegraph Department.

Mr. *Bhagwati Shankar*, for the Company (in liquidation).

YOUNG, J. :—In this liquidation the official liquidators filed a list of creditors for the approval of the court. Item No. 11 was a claim by the Telegraph Department of the Government for Rs. 1,527-9-10 for the cost of moving telephone lines, rent of telephone lines, telephone bill etc. The Telegraph Department claimed that this amount should be paid in priority to the other debts of the company in liquidation. Notices were issued to the Telegraph Department and to the Government Advocate to show cause why this claim or any part of it should be paid in priority. The learned Government Advocate has appeared for the Telegraph Department and Mr. *Bhagwati Shankar* for the company in liquidation. This matter is governed by section 230 of the Indian Companies Act, which reads as follows:—“In a winding up there shall be paid in priority to all other debts, (a) all revenue, taxes, cesses and rates, whether payable to

the Crown or to a local authority, due from the company at the date hereinafter mentioned and having become due and payable within the twelve months next before that date." "The date hereinafter mentioned" is the date of the winding up order. It is admitted by the Government Advocate that a portion of the claim amounting to Rs. 192 is clearly outside the scope of section 230, as it became due and payable over twelve months next before the date of the compulsory order. As regards the portion of the claim which is for moving telephone lines, I am of opinion that this cannot come within the section. The amount claimed for this is for work and labour done and cannot come within the words "revenue, taxes, cesses and rates." There is an item for rent of telephone lines and cost of a trunk call, amounting in all to Rs. 481-5-0, which became payable within the twelve months next before the date of the compulsory order. The question is whether this amount comes within the meaning of the words used in section 230. It clearly does not come within the meaning of the words "taxes, cesses and rates". These have all a specialised meaning and could not be held to include rent of telephone lines. In my opinion this amount would come under the heading of the word "revenue". In Wharton's Law Lexicon, 13th edition, the definition of "revenue" is stated to be "Income, annual profit received from land or other funds; also the profits or fiscal prerogatives of the Crown". In Murray's Dictionary "revenue" is said to be "Return, yield, or profit of any lands, property, or other important source of income." If section 230 had read "All taxes, cesses, rates and other revenue", it is clear that the word "revenue" would have had to be read *ejusdem generis* with the preceding words. But in this section "revenue" comes first and therefore the meaning of "revenue" must not necessarily be taken to be *ejusdem generis* with the words that come after it. It is to be noted that in the equivalent section of the Companies Act of 1929 in

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England the word "revenue" is not used at all. Section 264 of the English Act is confined to all cesses, taxes, land-tax, property or income-tax. I am satisfied that "revenue" in this case means income. It is perfectly clear that the rent of the Government telephone lines and also the charge for trunk calls is the income of the Government, and therefore must be taken to be "revenue" within the meaning of section 230(1)(a) of the Indian Companies Act. I order therefore that priority be given to the amount of Rs. 481-5-0 in the winding up of this Company. It is to be noted that as far as the Dehra Dun Electric Tramway Company is concerned, the point raised today is merely an academic one. There are, I am informed, sufficient funds to meet all the debts of the company, whether they have to be paid in priority or not, and therefore the whole of this claim by the Telegraph Department will eventually be met.

### REVISIONAL CRIMINAL.

*Before Mr. Justice Bennet.*

EMPEROR *v.* TAHAL SAITHWAR.\*

1930  
 July, 1.

*Criminal Procedure Code, section 162—Statements made by witnesses to the investigating police—Right of accused to copies thereof—Stage at which such right can be exercised.*

The right which an accused person has, under the first proviso to section 162 of the Criminal Procedure Code, to get a copy of the statement which had been made to the investigating police by a witness who is called for the prosecution, can be exercised when the witness for the prosecution has been called. The section does not provide or intend that the right can be exercised only after the cross-examination of the witness has begun and the cross-examination has laid the foundation for the suggestion that the evidence of the witness in court is contradicted by his previous statement to the police. *Madari Sikdar v. Emperor* (1), dissented from.

\*Criminal Revision No. 273 of 1930, from an order of Muhammad Z'ul Hasan, Second Additional Sessions Judge of Gorakhpur, dated the 12th of April, 1930.