

112  
[ L. & M. ]  
[ 2,000-8-8-96. ]

# Local & Munl. (1895) Department.

MISCELLANEOUS.

G.O., No. 1632 M

DATED 11<sup>th</sup> October 1895

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[Despatch Abstract.]

Profession Tax.

Stating, with remark, that it is open to the District Forest Officer of South Canara to resist the assessment of--- imposed by the Chairmah, Municipal Council, Mangalore, and order- ing that a similar course should be followed by other Dis- trict Forest Officers who may be assessed under like circum- stances.

@ 2758/102

18/10/02

3036/100

115451

18/12/00

# BACK PAPERS.

| G.O. | No. | Department. | Date. | G.O. | No. | Department. | Date. |
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# FURTHER PAPERS.

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Forests.

SOUTH CANARA COLLECTOR'S OFFICE,  
MANGALORE, 31 March 1895

From

J. Foulkes Esquire,  
District Forest Officer Collector of  
South Canara.

To

The Chairman,  
Municipal Council,  
Mangalore.

REFERENCE. —

SIR,

In acknowledgement of receipt of Profession Tax bill No 41 for the sale of timber, I have the honor to object to the assessment on the following grounds.

- (1) The business was started only as a tentative measure and has so far been unsuccessful.
- (2) That even if the sales began only in December, the business cannot be assessed for the full year. I am at a loss to know on what principle you have assessed under class III.
- (3) That under Section 60 of the Madras Municipalities Act N of 1884, the tax cannot be demanded here in case such tax is being paid elsewhere.

I have made a reference on the subject.

to the Conservator and shall write to you later on

3. No other Forest produce than timber is being collected and sold by the Department

4. Meanwhile the money is paid under protest.

I have &c.

J. F. Foulkes.

(Signed) District Forest Officer

(True Copy)

W. L. C. M. M. M.

For District Forest Officer

CONSERVATOR OF FORESTS, C.O.

Enclosure No. 2

No. 1770

of 1895

CONSERVATOR OF FORESTS, C.O.

Enclosure No. 2

No. 587

of 1895

2/1341995

REVENUE DEPARTMENT.

Enclosure No. 2

Receipt No. 4339

2/1974 1895

I have the honor to be,  
Sir,  
your most obedient servant,

Collector.



# Proceedings of the Board of Revenue

(Land Revenue),

Dated 11 June

1895.

Forest No.

810

Miscellaneous.

READ

the following letter from J. Foulkes Esquire, District Forest Officer, South Canara, to the Conservator of Forests, Southern circle, through the Collector of South Canara, dated 5 April 1895, No. 963.

They to forward herewith the profession tax bill received from the chairman of the municipal council together with a copy of my letter to him objecting to it.

2. In the first place I do not know whether the timber business is assessable at all. Timber depots, I suppose, exist and sales are carried on in other places where there are municipalities. If, therefore, the tax is paid for similar business

in any other municipality it need not  
be paid here as Section 60 of the  
District Municipalities Act IV of 1884  
makes an exception of such cases.

3. I therefore beg to solicit your in-  
structions in the matter.

Endorsement of the Collector of South  
Canara, dated —

Forwarded. Professions Tax for all the  
Collectorate Presses in the Presidency is  
paid in one district only under Board's  
Proceedings No. 866 mis. dated 20 February  
1894. A similar arrangement for  
timber depôts is advisable.

Endorsement of the Conservator of  
Forests, Southern Circle, dated 16 April  
1895, No. 587.

Forwarded to the Board of Revenue.  
The matter is over to be arranged for  
the whole Presidency, as pointed  
out in the collector's endorsement.

Resolution

Reference thereon, dated 14 May 1895.

The Accountant General is requested  
to report whether profession tax is paid  
under the Municipal Act No. IV of 1884  
in respect of timber or other Forest Produce  
depôts in any other District and if so,  
to state the amount of the tax and the  
periods for which it was paid.

(Signed) R. C. C. Carr  
Ag. Secretary.

I of the Accountant General.

Copy to Collector of South Canara.

Read also the following letter from the  
Accountant General, dated 21<sup>st</sup> May  
1895, No. 1309.

Adverting to your reference dated the  
14<sup>th</sup> May 1895 and Forest Register No. 1341 of  
1895, I have the honor to state that there  
is no debit in the Forest Accounts of  
the Presidency on account of Professional  
tax. Even in South Canara, the charge in  
question appears to be the first of its  
kind.

Resolution.

Submitted to Government for orders.

2. The Board observes that on the analogy of the decision communicated in G.O. (Local and Municipal Department) dated 16 January 1894, no. 44, 8m, with regard to printing presses, the payment of profession tax in respect of forest produce depôts in more than one municipality can possibly be successfully evaded. But in the opinion of the Board, the meaning of Section 60 of the Act, (Madras Act IV of 1884) is merely that a person, who changes residence the same half-year the place in which he exercises his profession, shall not be liable to pay tax in more than one municipality, and not that a firm doing business in twenty municipalities shall pay a tax in one favoured municipality alone.

If this view is accepted, the Board requests that the

Forwarded to the  
No copy kept  
in the D.

Visiting the General  
opinion in G.O.  
16-1-94 no 44m.

necessary instructions may be issued accordingly.

3. The Board is not aware what reply has been received from the chairman of the Mangalore Municipal Council to the letter of the District Forest Officer dated 31<sup>st</sup> March 1895, no. 963, which forms an enclosure to the first paper read above, but it considers that under Sections 55 and 56 of the Municipal Act, the tax is payable only half yearly and is demandable only from those persons who have exercised the art, profession or for not less than 60 days during the half-year. Besides, as pointed out by the District Forest Officer, the tax appears to be properly leviable not under class III of Schedule A, appended to the Act, but under class IV.

"Every keeper of a . . . . . wholesale produce depot."

(True Copies and Extracts)

To the Secretary to Govt. R.D.  
with 2 enclosures in original  
to be returned  
to the collector of South Canara, the Collector, S.C.

D.R.

Decision  
By Secretary

963  
Street No. 963  
Mangalore Municipal

Under Section 56 of Mac Act IV of 1884.  
Vನೀ ಮದ್ರಾಸ್ ಆಕ್ಟ್‌ನ 56ನೇ ಕರಣ ಪ್ರಕಾರ  
ತಗಾದೆಪತ್ರ ಯಾನೆ ನೋಟಿಸ್

Year-1894-95.  
classification of first half-year. ಪ್ರಥಮ ಅರ್ಧ ಸ್ವರದ ಬಗ್ಗೆ.  
due with the second half-year. ದ್ವಿತೀಯ ಅರ್ಧ  
for distinction. PROFESSION TAX. ವೃತ್ತಿ ತೆ.

Dr. District Forest Officer, Mangalore. ಬಾಕಿದಾರ.  
Occupation. ವೃತ್ತಿ.  
of timber and other forest produce.

have been assessed under class III of Schedule 4, Rupees (Rs. 500 A.)  
to be paid to the bill-collector immediately on pre-  
service of this bill, obtaining from him the amexl Receipt, or into this  
within 15 days from the presentation or service. For other particulars required  
section 102 (2), see the reverse.

ನ ನಿಶಾನಿ ಕಡ್ಡಾಯವಾಗಿ ನೀ ತರಗತಿಯಲ್ಲಿ ನಿಮ್ಮನ್ನು ದಾಖಲ್ ಮಾಡಿ ಸೂಚಾಯಿ (ಆ.....)  
ತೆರಿಗೆ ಹೊರಿಸಿರುವುದರಿಂದ ಅನ್ನು ಈ ಬೀಲ್ ಜಾರಿ ಮಾಡುವ  
ಅವಾಜನ ಕೈಯ ಕೂಡಲೇ ವಸೂಲ್ ಕೊಟ್ಟು ಇದರ ಲಗ್ನಿ ಪಾಸತಿಯಾನೆ ರಶೀದಿ ಸದಕೊಳ್ಳ ತಕ್ಕದ್ದು.  
ಅಥವಾ ಈ ನೋಟಿಸ್ ನಿಮಗೆ ತಲೆದ ಯಾ ಸಾದರಾದ 15 ದಿವಸಗಳ ಒಳಗೆ ಸದರಿ ಮೊಬಲಗು ಈ ಬಜೇರಿಗೆ  
ಪಾವತಿ ಮಾಡ ತಕ್ಕದ್ದು. 102 (2)ನೇ ಪ್ರಕರಣ ಪ್ರಕಾರ ಅಗತ್ಯವು ಇತರ ಕುಲಾಂಕುಶಗಳ ಬಗ್ಗೆ  
ಇದರ ಹಿಂದೆ ನೋಡಿರಿ.

Municipal Office, Mangalore,  
ಮುನಿಸಿಪಲ್ ಆಫೀಸ್, ಮಂಗಲೂರು,  
26-1-1895.

Date of presentation  
or service.  
ಜಾರಿ ಮಾಡಿದ ತಾರೀಖು.

Exd. Clerk. M. Ramaswami  
Chairman. ಚೀಯರ್ಮನ್.  
Bill-collector. ಅವಾಜ್.

1349

If, *within fifteen days* from the present, you fail to pay or if you do show cause to the same should not be the Chairman will together with all costs—

- (i). By distress sale of your movable property.
- (ii). by process you before a Magistrate.

You are at liberty to appeal to the Municipal Council, in regard to or revision, *within the period*, on your depositing the amount of Municipal Council on or before the day on which the appeal is presented shall be made *in writing*, and shall set forth concisely and under heads, the grounds of objection.

ನೀವು ಈ ಬೀಲು ಯಾಕೆ ತಪ್ಪಿದ ಯಾ ಜಾರಿ ಆದ ಹದಿನೈದು ದಿನಗಳೊಳಗೆ ಯನ್ನು ಕೊಡಲಿಕ್ಕೆ ತಪ್ಪಿದ್ದಾಡುವುದು ಅದು ಯಾಕೆ ಕೊಡ ಬಾರದು ಎಂಬ ಬಗ್ಗೆ ಚೆಯಮೇ ಸಮಾಧಾನಕರವಾದ ಸಬಬು ಲಿಖಿಸಿದ್ದರೆ ಚೆಯಮೇಸರವರು ಖರ್ಚು ಸಮೇತ ವಸೂಲಿ ಬಗ್ಗೆ ರಿಸುವರು, ಹ್ಯಾಗಂದರೆ—

- (i). ನಿಮ್ಮ ಚರತ್ತು ಜಪ್ತಿ ಮಾಡಿ ಲೈಲಾಮಿನಿಂದ, ಅಥವಾ
- (ii). ಮೆಜಿಸ್ಟೇಟ್ ಮುಂದೆ ನಿಮ್ಮ ಮೇಲೆ ವ್ಯವಹರಣೆ ನಡಿಸಿ.

ನೀವು ಆಪೀಲ್ ಮಾಡು, ಇವಸ ಯಾ ಅದಕ್ಕೆ ಮುಂಚಿತವಾಗಿ ಸಲ ತಕ್ಕ ಐನಜು ಮುನಿಸಿಪಾಲ್ ಕೌಲರನಿಗೆ ವಸೂಲ್ ಕೊಟ್ಟು ವೇಲನ ವಾಯಿದೆ ಒಳಗೆ ನಿಮ್ಮ ತರಗತಿ ಯಾ ಪುನರ್ವಿಮರ್ಷೆ ವಿಷಯವಾ/ ಮುನಿಸಿಪಾಲ್ ಕೌನ್ಸಿಲರನಿಗೆ ಆಪೀಲ್ ಮಾಡುವರೆ ನೀವು ಸ್ವತಂತ್ರವುಳ್ಳವರಾಗಿರುತ್ತೀರಿ. ಅಂಥಾ ಆಪೀಲ್ ಬರಹಮೂಲಕ ಮಾಡಲ್ಪಡತಕ್ಕದ್ದು ಮತ್ತು ಆಕ್ಷೇಪಣೆಯ ಸಬಬುಗಳು ಪ್ರತ್ಯಪ್ರತ್ಯೇಕ ಶಿರ್ನಾಮಿಗಳೊಳಗೆ ಸಂಕ್ಷೇಪವಾಗಿ ನಮೂದಿಸಿರ ತಕ್ಕವು.

1974

1770-1975

189

REVENUE DEPARTMENT.

Enclosure I.

Current No. 4337

Revenue 1895. Dept.  
Board of Revenue  
(Land Revenue),

CURRENT No. 1974 M

Current Number 4339

To

The Secretary to Government

Revenue Department

Endorsement No 993 R

Transferred to the  
Local and Municipal Depart.  
ment.

W. B. L. P. S.  
As Under Secy to Govt.  
Coatacamund 2  
19th June 1895

Secy  
18-7-95

72 M. 95

Proceedings, dated 11 June 1895.  
Forest No. 810

Subject.

Submitting to Government  
with remarks letter from  
the Collector of South

Canara and the Revenue  
Dept. General regarding  
the payment of Profession  
tax for timber deposits  
under act no. IV  
of 1884.

Referred to the municipal council,  
Mangalore, for remarks, which  
should be submitted through the  
Collector.

(By order)

G. D. H. M. S.  
As Assistant Secretary  
3-VII-95

13  
25/6/95  
Fort St. George  
5th July 1895

Recd. 8-7-95

To, The Chairman, M.C., Mangalore.

Form No. 70.-50-4. 4. 92.

No. 496

MUNICIPAL OFFICE,  
MANGALORE, 7th August 1895.

Local & Municipal Dept.

CURRENT

From,

M. R. P. Rao Bahadur N. Shrinivas Avargal,  
Chairman, Municipal Council,  
MANGALORE.

To,

The Chief Secretary to Government,  
Local and Municipal Department,  
MADRAS.

(thro' the Collector of South Canara).

Sir,

In returning herewith the papers received  
under your Endorsement No. 929  
5-7-95, I have  
the honor to report that the District Forest  
Officers' objection or appeal, dated 30th March  
last (not 31st March, as its copy which forms  
one of the enclosures, shows) No. 963, against  
the assessment in question, was rejected  
under Section 99 (i) of the Act, as it was  
out of time.

2. But as the departmental sales of  
timber began only in December last, the

Sum

Sum of Rs 12-8-0 wrongly recovered as tax  
for the first half of the last official year,  
has been refunded to the District Forest  
Officer.

3. The assessment of trade under  
Class III is in my opinion, proper, the Dis-  
trict Forest Officer being regarded as a  
"Merchant", "Wholesale Trader", or "Trader".

I may add that some of the local  
dealers in timber, pay tax as such, under  
the same Class.

I have the honour to be,  
Sir,

Your most obedient Servant,

Minister  
Chairman-delegate,  
Municipal Council,  
Mangalore.

Local & Municipal Department.

CURRENT No. 2641

MUNICIPAL (1895) DEPARTMENT.

From,

The Chairman,  
Municipal Council,  
MANGALORE.

To,

The Chief Secretary to Government,  
Local and Municipal Department,  
MADRAS.

(thro' the Collector of South Canara).

Dated 9<sup>th</sup> August, 1895.  
Despatched 9<sup>th</sup> August, 1895.  
Received 21 AUG. 95

ENCLOSURES:—

No. 496.

SUBJECT.

Profession Tax. — Returning,  
with remarks, the papers received  
from Government regarding the  
imposed on the District Forest  
Officer in respect of the timber sales.

25 memo No. 446 of 95-6

Submitted. I have already  
submitted my views recorded in the  
Board Proceedings of 11<sup>th</sup> June 95

16<sup>th</sup> Aug. 95.  
Collector.

26/8 27/8 28/8

LOCAL AND MUNICIPAL DEPARTMENT.

Current No. 1974 + 2641 M/95

From

FOR ORDERS.

The District Forest Officer of South  
Canara was assessed by the Chairman,  
municipal council, Mangalore, under  
class III of schedule A to the District  
Municipalities Act, to a profession tax  
of Rs 20 for his trade in timber in the year  
1894-95. He appealed to the municipal  
Council against this assessment on the  
grounds

(1) that the business viz. sale  
of timber and other forest produce, in  
respect of which the tax has been im-  
posed was started only tentatively and  
not successful.

(2) that even supposing it  
liable to assessment, the tax can be  
levied only for the second half of the  
year, as the sales began in December

(3) that it should not have  
been

been assessed under Class III, and

(4) that under section 60 of the District Municipalities Act the tax could not be demanded at Mangalore, if such tax had been paid elsewhere;

but the appeal was rejected under section 99(i) of the Act, as being out of time.

2. Under section 53 of the Act, the mere exercise of a profession within municipal limits is sufficient to make it liable to the tax, and as from the Accountant-General's letter forwarded with the first of the current read above it appears that a tax on forest depôts is not levied in any other municipality, the depôt at Mangalore is not liable to exemption under section 60 of the Act. The Chairman admits that the tax was wrongly collected for the whole of the year instead of only for the latter half, and states that the excess amount (Rs 12-8-0) so recovered, has been refunded to the District Forest Officer.

3. The only point for decision therefore is, whether the tax

Gook. has no power to interpret the Act, and if the D.F.O. does not like the Council's decision he can file a civil suit against it.

tax has been rightly assessed under class III of Schedule A. The Chairman regards the District Forest Officer as a "merchant"; "Wholesale Trader" or "Trader" under Class III, but the Board of Revenue considers that he should be taxed under Class II, as "Keeper of a wholesale produce depôt." The view taken by the Board seems to be correct, but this is a question which should be determined by the Chairman and the Council on assessment & appeal. Under secs. 54. and 97 of the Act,

4. In this connection, the Board points out that on the analogy of the decision communicated with G.O. dt 16th January 1894, No. 44 M., the payment of profession tax in respect of forest depôts in more municipalities than one can be successfully evaded, <sup>but it places on record the opinion</sup> ~~and considers~~ that section 60 applies only to persons who change within the same half year, the place in which they exercise their profession, & not to firms doing business in twenty municipalities. The Board further requests that if this view is accepted

accepted, the necessary instructions  
may be issued accordingly. The  
High Court however has already  
decided in the case quoted by the  
Advocate General in his <sup>opinion</sup> recorded  
in the Government order above  
referred to, that a person liable  
to pay a profession tax has to pay  
it but once in one municipality,

and even if it had said  
nothing upon the subject  
it does not appear that any  
opinion of Govt. would be  
binding upon Councils.

Submitted that the Board may  
be held that the D.P.O.'s remedy  
for an error that he considers  
has been done him is by civil  
suit if he has exhausted all the  
appeal resources provided by

the Act. The best thing to do appears  
to be to let the matter  
drop. Govt. I presume  
will repay the Rs. 12-8  
paid by the D.P.O. Officer  
if it has not been already  
paid from Public funds.

RD  
5/10/95  
4/10/95.

*on the South Forest of D. in  
 respect of timber sold by him  
 Bangalore Municipal*

FOR ORDERS.

Currents 1974 + 2621. 11.

*Wm.*

*Q.*

Order 11-10-95. No 1632 main

The Govt. is not prepared to  
 offer an opinion upon the inter-  
 pretation which should be put upon  
 the sections & the schedule of  
 Act IV of 1884 referred to by the  
 Board of Revenue.

2. It is open to the District  
 Forest Officer of South Canara to  
 resist the assessment if he considers  
 it inequitable, <sup>in</sup> ~~under~~ the <sup>manner</sup> ~~methods~~  
 permissible under the Act, or in the  
 Civil Courts. A similar course  
 should be followed by other District  
 Forest Officers who may be assessed  
 under like circumstances

*W. S. 10/95 (from orders).*

*Amended 24/10/95  
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Miscellaneous.

LOCAL AND MUNICIPAL DEPT.

G.O., DATED 11-10-95  
No. 1632 M.

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[Despatch Abstract.]

Profession tax

Stating with remark, that it is open to the Dist. Forest officer of South Canara to resist the assessment of — imposed <sup>upon him</sup> by the Chairman Mumb. Council, Mangalore, & ordering that a similar course should be followed by other Dist. Forest officers who may be assessed under like circumstances.

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189 .

READ AGAIN G.O., No.  
189 .

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT .. ..

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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