

Requesting the orders of the Government of India on the question of the liability to stamp duty when the amount exceeds Rs. 20, of salary, travelling allowance & other bills presented at the treasury for payment out of funds constituted under sec. 36 of the Indian Ports Act (X of 1889).

BACK PAPERS.

No.	Date.
835	14-2-1899
725	6-2-1899
105	4-1-1899
615	1-12-1898
383	29-8-1898
354	9-7-98
215	17-4-98

FURTHER PAPERS.

No.	Date.
445	29-5-99
465	29-5-99

Proceedings of the Board of Revenue.

(Separate Revenue),

Dated 3rd February 1899.

Misc. No. 447.

Read endorsement of Government, Revenue Department, Misc. No. 4859, dated 9th December 1898.

Resolution.

With reference to Government endorsement, Misc. No. 4859, Revenue, dated 9th December 1898, the Board begs to submit the following remarks on the question raised by the Presidency Port officer, viz., whether receipts for amounts exceeding Rs. 20, granted by the Port Department, require to be stamped under the Indian Stamp Act.

2. The answer to the question depends upon whether the transactions of the Port and Marine funds are transactions of Government, so as to fall within the general exemption from stamp duty accorded by Article 18, Schedule II, of the Stamp Act. In para 2 of Board's Proceedings No. 444, dated 16th February 1893, recorded in Government order No. 332, Revenue, dated 5th March 1893, the Board expressed the opinion that Local Fund Boards, though public corporate bodies created by law and placed under State supervision, have interests and liabilities distinct from those of Government and could not therefore claim the benefit of the exemption; and it has been held, in the correspondence ending with Government Order, No. 929, Revenue, dated 6th September 1892, that bills drawn or receipts granted by the Presidents of these Boards should be stamped when they are for sums exceeding Rs. 20 each. Section 34 of the Indian Ports Act, under which Port Funds have been constituted, vests the power of collecting the fees and sanctioning the necessary expenditure under the Act in an officer or body of persons appointed by the Local Government at each

port who have to enter such receipts and expenditure in a distinct account, called the Port Fund Account. The section also provides that all expenses, including the pay and allowances of persons on the establishment of the port, should be charged to the Port Fund Account and that, if, for any of the purposes of the Act, any advance of money is made by Government on account of any port, simple interest on the amount of such advance shall be similarly charged in that account. The Board is therefore of opinion that the funds, though under the direct control of Government and managed by officers appointed by it, have interests and liabilities distinct from those of Government and that the receipts granted by them for amounts exceeding Rs. 20 should, like those for sums paid to Local Funds, be stamped under the Indian Stamp Act.

3. It is, however, observed that the question is not altogether free from doubt, and that there are authorities in support of the Presidency Port Officer's contention that the funds though classified under excluded Local Funds are under the direct control of the Provincial Government and that they are therefore exempt from Stamp duty. In Government Order No. 4461, Revenue, dated 17th November 1894, the Government accepted the Board's opinion that Stores imported for use at Ports and lighthouses, the cost of which is met from the Port Fund which is an excluded local fund, should be exempt from Customs duty, though para 16 of the general instructions communicated with Government Order Misc. No. 1650, Revenue, dated 26th April 1894, directs that articles paid for from local funds should, when liable, be charged with duty, and the proviso to section 20 of the Sea Customs Act exempts from payment only goods belonging to Government. Government Order No. 456, Marine, dated 29th October 1889, referred to by the Presidency Port Officer, is also in point. If the analogy of these rulings is followed the transactions of the Port Funds would be exempt from Stamp duty, but this would be differentiating them from other local funds and in violation of the express direction in Article 8(c) of the Civil Account Code

issued

issued by the authority of the Comptroller-General.

(True Extract.)

(signed) Edmund Millett,

Assistant Secretary.

To the Secretary to Government, Revenue Department.

(True Copy.)

Edmund Millett
Ag. Under Secretary to Government.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

again Endorsement Misc. No. 4859

dated 9th December 1898. *Read*

Copy attached.

Read also Proceedings of the Board of Revenue, Separate Revenue, Misc. No. 447, dated 3rd February 1899.

Order thereon, Misc. No. 916 d/ 6th March 1899.

Ordered that the Government of India be addressed.

(True Extract.)

R. Narayanaiah
Secretary to Government.

To the Board of Revenue, Separate Revenue.

„ Marine Department. ✓

h.r.

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