M.R.O. 14—10,000—21-4-22.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1560-61 Press ~~Mis.~~

64-66

Dated 5 - 8 - 1861.

***Not to be folded or roughly handled***

## *Proceedings of the Madras Government, Revenue Department, 5th August* 1861.

No. 64. Read the following Proceedings of the Board of Revenue, dated 16th July 1861, No. 3,765:—

Read letter from the Registrar of the Sudder Adálat, dated 28th January 1861, dissenting from the opinion expressed both by Government and the Board that receipts given by parties for sums paid to them by Courts are not exempt from Stamp duty.

(In Cons. 28th January 1861, No. 551.)

1. Ordered to be submitted for the consideration of Government, with reference to their Proceedings dated 24th December 1860, No. 2,488, Revenue Department.

In Cons. 26th December 1860, No. 6,818.

2. The Board of Revenue were induced to express their opinion on the point referred to them by the Civil Judge of Cuddalore, because it was one intimately connected with the public revenue. They see no reason to alter the opinion given by them, but as the Judges of the Sudder Adálat claim to be the proper expounders of the law, under the Despatch from the Honorable Court of Directors dated 11th April 1848, No. 7, the Board can only defer to their judgment by recalling their Circular, unless the Government should deem it right to refer for the decision of the Supreme Government, the point raised in this correspondence.

(A true Extract.)

(Signed) W. HUDLESTON, *Secretary.*

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No. 65. ORDER THEREON, 5th August 1861, No. 1,560.

The Governor in Council observes that the question at issue was referred for the decision of the Supreme Government on the 14th February last, No. 349.

(Signed) C. G. MASTER,
*Deputy Secretary to Government.*

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Ordered that the following letter be despatched.

No. 66. From J. D. SIM, Esq., Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, Financial Department, dated 5th August 1861, No. 1,561.

SIR,

I am directed by the Honorable the Governor in Council to draw attention to Mr. Secretary Bourdillon's letter of the 14th February last, No. 349, and to request that the question therein proposed may be finally decided.

**In Cons. 28th January 1861, No. 551.**

Proceedings of the Sudder Court, dated 28th January 1861.

Read Proceedings of the Madras Government, dated 24th December 1860, concurring in the opinion of the Board of Revenue, expressed upon a reference from the Civil Judge of Cuddalore, that receipts given by parties for sums paid to them by the Courts, are not exempt from Stamp duty under the general exemption at the end of Schedule A, Act XXXVI of 1860, because the Court in such cases is not itself a party to the transaction, but merely an agent of the real party.

Read also Proceedings of the Board of Revenue, dated 9th January, embodying the above Proceedings of Government, for circulation "to all Collectors and Judges."

1. The Judges of the Sudder Court observe that upon a reference from the Civil Judge of Chittoor in October last, they held that receipts in such cases need not be upon Stamps.

2. They have now given the subject further consideration, and see no reason to alter their opinion.

3. That the Courts may be considered "parties" to transactions conducted before them, is apparent from the phraseology of the general exemption in question; and seeing that it is only to deeds for sales made in satisfaction of decrees or orders of Court that this exemption does not extend, as explained in the Note, the necessary inference is that in all other branches of the business of the Courts the exemption is to prevail.

4. The Judges regret this collision of opinion between themselves and the Government. It has arisen, they think, from its having been overlooked that they are the interpreters of the law within the proper range of their functions, the limits of which are described in the Extract from the Despatch of the late Honorable Court of Directors of the 11th April 1848, communicated to the Court by the Government on the 3rd July following. The interpretation they gave was required of the judges to guide one of the judicatories subordinate to them. The Civil Judge of Cuddalore made the mistake of addressing the Board of Revenue, with whom he had no official relations; and hence has arisen the conflict of opinion which has occurred.

(True Extract.)

(Signed) C. F. CHAMIER,
Registrar.

To the Secretary to the Board of Revenue.

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Exd. J. Tulloch.

No. 3,765.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 16th July 1861.

Read letter from the Registrar of the Sudder Adalut, dated 28th January 1861, dissenting from the opinion expressed both by Government and the Board that receipts given by parties for sums paid to them by Courts are not exempt from Stamp duty.

(In Cons. 28th January 1861, No. 551.)

1. Ordered to be submitted for the consideration of Government, with reference to their Proceedings dated 24th December 1860, No. 2,488, Revenue Department.

In Cons. 26th December 1860, No. 6,818.

2. The Board of Revenue were induced to express their opinion on the point referred to them by the Civil Judge of Cuddalore, because it was one intimately connected with the public revenue. They see no reason to alter the opinion given by them, but as the Judges of the Sudder Adalut claim to be the proper expounders of the law, under the Despatch from the Honorable Court of Directors dated 11th April 1848, No. 7, the Board can only defer to their judgment by recalling their Circular, unless the Government should deem it right to refer for the decision of the Supreme Government, the point raised in this correspondence.

(A true Extract.)

H. Huddleston

*Secretary.*

To J. D. Sim, Esq., Secretary to Government, R. D.
Copy to C. F. Chamier, Esq., Registrar of the Sudder Adalut.

Exd. J. Wright.

R. D.

In 1561.

To The Secretary to the Govt
of India
Financial Dept

Sir,

I am directed by
the Hon'ble the Govr C.
to draw attention to
the Secretary Boun-
dillon's letter of the
12 Febry last. No 349
and to request that
the question therein
proposed ~~alluded to~~ may be
finally decided.

I am &c

Fort St. George.
5th August 1861

Pd 1561

Pd 24 Sept 1860

Pd 24 Sept 1860 Rs 16-14
R 24 Sept 1860 — 405-1100

R. 12th February 61 — 158-191

Revenue 1860 Oct 8th
Sheet for 24 Sept 1860

Revenue Consultation
Bombay Govt
Dated 20th Sept 1860
Rec'd 24th Oct
Encl. 2

From Secretary to Govt
To Secretary to Govt of India
Financial Dept

Sir,

I am directed by the Governor in Council to acknowledge the receipt of your letter No 1580 dated 8th Oct 1860.

Observe that the question referred to in the 2nd para of your letter will be decided by the Supreme Government on the 15th Nov next.

Last ult 349.

Fort St George
5th August 1861

Pd 1580

Wm Ramsay Rev
Pd

Pd 1580 8th Oct 60

3 Encl