M.E.O. 14—13,000—27-8-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1527-1548 Press Mis.

376.378

Dated 25. 8. 1864

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 25th August 1864.

No. 376. Read the following letter from W. HUDLESTON, Esq., Secretary to the Board of Revenue, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 6th August 1864, No. 5,029 :—

SIR,

1. In paragraph 13 of the Report of the Bombay Solicitor to Government, communicated to the Board with Government Order, dated 11th July 1864, No. 1,204, the opinion is expressed that the Revenue authorities are not empowered by Section 19, Act X of 1862, to decide that a document is not liable to any Stamp duty

2. The Advocate General of Bengal concurs in opinion with the Bombay Solicitor that the particular case under discussion was not one for adjudication under Section 19, and of this there is no doubt as the document was an executed one ; but Mr. Cowie expresses no opinion on the particular *dictum* above quoted, and the Board request that an authoritative ruling may be obtained on the matter to prevent serious inconvenience to private parties acting *bonâ fide*.

3. Cases have already occured where parties have applied to the Board for an adjudication and paid the fee, and after a reference to the Government Law Officers, have been informed that the document was held to come within a special exemption in the Act, and as such to be liable to no Stamp duty, and the Adjudication Stamp has been affixed to such document with a note to the effect that it was held to be not liable to duty. The Board submit that in such cases, it would be unfair to hold the parties liable to all the penalties and disabilities resulting from the execution of the document on an unstamped paper, should any Court at any future time determine that a Stamp was necessary.

4. The parties have done their best to satisfy exactly and fully the requirements of the law, and it seems absurd to say that while the Board are competent to declare that a document is liable to duty of five hundred Rupees or of one Anna, they are not competent to declare that it comes within an exemption, and is not liable to any duty.

No. 377. ORDER THEREON, 25th August 1864, No. 1,547.

Separate Revenue, No. 88.
Stamps.

Resolved that the question raised in this letter be referred for the orders of the Government of India.

(True Extract.)

(Signed) J. D. SIM,
Secretary to Government.

To the Board of Revenue.

Exd: S. T. Augustin.

REVENUE DEPARTMENT.
FORT SAINT GEORGE,
25th August 1864.

No. 1,548.

No. 378.
From

J. D. SIM, Esq.,
Secretary to the Government of Fort Saint George,

To

The Secretary to the Government of India, Financial Department.

SIR,

Separate Revenue, No. 89
Stamps.

1. With reference to your letter to the Secretary to the Government of Bombay, dated 20th May 1864, No. 267, copy of which was sent for the information and guidance of this Government, I am directed by His Excellency the Governor in Council to transmit herewith for further instructions copy of a letter from the Secretary to the Board of Revenue, dated 6th August 1864, No. 5,029, enquiring whether they are not empowered by Section XIX, Act X of 1862, to decide that a document is not liable to stamp duty.

2. It is quite clear, as laid down by the Solicitor to the Bombay Government and the Advocate General of Calcutta, that Section XIX applies only to documents which have *not* been executed; but the Government can scarcely suppose that in regard to unexecuted documents falling within its scope, the chief Revenue authority is to be held incompetent to declare that any such document is not liable to duty, and that the public must break the law in order to ascertain what the law is.

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

(Signed) J, D. SIM,
Secretary to Government.

Exd. S. T. Augustin.

No. 5,029.

From W. HUDLESTON, Esq., Secretary to the Board of Revenue,

To J. D. SIM, Esq., Secretary to Government, R. D.

SIR,

In paragraph 13 of the Report of the Bombay Solicitor to Government, communicated to the Board with Government Order dated 11th July 1864, No. 1,204, the opinion is expressed that the Revenue authorities are not empowered by Section 19, Act X of 1862, to decide that a document is not liable to any Stamp duty.

2. The Advocate General of Bengal concurs in opinion with the Bombay Solicitor that the particular case under discussion was not one for adjudication under Section 19, and of this there is no doubt as the document was an executed one; but Mr. Cowie expresses no opinion on the particular *dictum* above quoted, and the Board request that an authoritative ruling may be obtained on the matter to prevent serious inconvenience to private parties acting *bona fide*.

3. Cases have already occurred where parties have applied to the Board for an adjudication and paid the fee, and after a reference to the Government Law Officers, have been informed that the document was held to come within a special exemption in the Act, and as such to be liable to no Stamp duty, and the Adjudication Stamp has been affixed to such document with a note to the effect that it was held to be not liable to duty. The Board submit that in such cases, it would be unfair to hold the parties liable to all the penalties and disabilities resulting from the execution of the document on an unstamped paper, should any Court at any future time determine that a Stamp was necessary.

4. The parties have done their best to satisfy exactly and fully the requirements of the law, and it seems absurd to say that while the Board are competent to declare that a document is liable to duty of Five hundred Rupees or of one Anna, they are not competent to declare that it comes within an exemption, and is not liable to any duty.

I have the honor to be,

Sir,

Your most obedient servant,

Secretary.

REVENUE BOARD OFFICE,
Madras,
6th August 1864.

Exd. J. Wright.

Pro-11 July/64 A-174-175

Rev = 1864 Department.
Pro: of Govt for Aug.t

No. 2104.

From the Secretary to the Board of Revenue,
To The Secretary to Government R. D.

Dated 6th August 1864.

No. 5,029.

Requesting that an authoritative ruling may be obtained on the powers granted to Revenue Authorities by Section 19 Act X of 1862 to decide that a document is not liable to any Stamp duty.

No 1547. 25 Aug.t
Without Order

No. 376 & 377.

25 Aug.t 64 R22

No. 1547.

Resolved that the question raised in this letter be referred for the orders of the Govt. of India

Fort St. George
25th Aug.t 1864.

To Board of Rev.: Desp.d 25 Aug.t

copy of ~~the~~ " letter from the Secretary to the Board of Revenue dated 6 th " August 1864 No 5029 ~~de~~ requiring a "whether the ~~Collector~~ Commissioners ~~of~~ ~~the~~ ~~Revenue District~~ are not empowered by section 19 Act X of 1862 to decide that a document is not liable to ——— Stamp duty—

It is quite clear as laid down by the Solicitor to the Bombay Government and the Advocate General of Calcutta, that Section XIX applies only to documents which have not been executed - but the Govt. can scarcely suppose that ~~it~~ intended ~~to~~

executed documents falling within its scope, the chief Revenue authority is to be held incompetent to declare that any such document is not liable to duty, and that the public must break the law in order to ascertain what the law is—

Short-St. George
25th Augt. 64

Revenue 1864 Dep.tt.
Rec.: of Govt. for Aug.t

No: 1548.

To
The Secry. to the
Govt. of India.
Fin.l Dep.tt.
Dated 25.th August 1864.

From 8.r Mowbray
Edwards Esq.re

Referring the
Question as to the
power of the Board
of Revenue to decide
what document is
not liable to Stamp
duty.

No 378.