

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	290	Press
		~~Mis.~~
	227.228	
Dated	11-2-	1865.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
11th February 1865.*

No. 227. Read the following Proceedings of the Madras Government in the Military Department, dated 23rd December 1864 :—

Read the following letter from Lieutenant-Colonel E. E. MILLER, Deputy Commissary General, for Commissary General, to Colonel H. MARSHALL, Secretary to Government, Military Department, Fort Saint George, dated Madras, 21st December 1864, No. 7,558.

SIR,

1. It would appear by the general exemptions published at the end of Act X. of 1862, that "any deed, instrument, or writing of any kind made or executed by or on behalf of the Government by any Government Board, Commission Court Officer or Agent is exempt from Stamp "duty," and orders of Government noted in the margin authorized the Collector of Malabar to refund to certain contractors monies levied from them on account of stamped paper unnecessarily used in executing their Bonds.

No. 439, dated 2nd February 1861.
" 796, " 10th April "

2. The Commissary General, Fort William, however, issued the enclosed Circular to his Executive Officers, directing them to require the Contractors to pay Stamp duty, and upon my asking him upon what Act or Order of Government he had founded his Circular, he forwarded me the accompanying "Opinion" from the Solicitor to the Government of India.

No. 65, dated 1st February 1864.

3. It will be observed that Mr. Stack is of opinion that a Commissariat Bond should be executed on stamped paper, because it is "not executed by or on behalf of Government." He further obviates the necessity for a Stamp by substituting for a Bond "Deeds of Covenant with a clause as to liquidated damages." This is to be executed by an Officer on behalf of Government, and involves the outlay only of one Rupee Stamp whatever may be the value of the Contract.

4. I have therefore the honor to request that you will be good enough again to obtain and intimate to me the final orders of this Government on the subject, as it appears to me desirable that the practice obtaining in one Presidency on such points should be the same as in the other two.

(No. 273, dated 27th October 1864, to be returned.)

5. The letter from the Commissary General, Fort William, is also enclosed for perusal.

From Colonel J. D. MACPHERSON, Commissary General, to the Commissary General, Madras, dated Fort William, the 27th October 1864, No. 2,737.

SIR,

1. In reply to your letter No. 11,549 of 2nd March last, I have the honor to forward copy of the Opinion of the Advocate General anent the execution of Contract Deeds on stamped paper.

2. Paragraph 3 of this Office Circular No. 21 of 9th July 1863, quoted in Circular No. 65, fixes the amount of stamp to be in proportion to the security taken, but on a recent reference made to the Solicitor to Government on this point, it was communicated, that a one Rupee stamp was all that was required on Contract Bonds.

3. The delay in replying to your letter, was caused by some negligence in the Office of the Solicitor to Government, who was addressed in March last, immediately after receipt of your letter, but whose reply was not sent until the 18th October.

OPINION.

A Commissariat Bond must be executed on stamped paper, because it is not made or executed by or on behalf of Government nor, indeed, could it be so, as a Bond is the deed of the obliger only. The necessity for a stamp on instruments of this nature has arisen from the Legislature having in the amended Act of 1862 altered the terms of the general exemption from what they were in the original Act of 1860. Why this was done, I am unable to say. The

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necessity for a stamp may be done away with by substituting for Bond, Deeds of Covenant with a clause as to liquidated damages, and having them executed by some Officer on behalf of Government.

7th October 1864.

(Signed) T. H. COWIE.

(True Copy.)

(Signed) R. F. STACK,

Solicitor to Government.

(True Copy.)

(Signed) J. D. MACPHERSON, Colonel.

Referred to the Revenue Department, with a view to ascertaining whether the Bonds of Contractors with Government must be executed on stamped paper, and whether the course mentioned in paragraph 3 of the Commissary General's letter and in the concluding portion of the Opinion therewith forwarded, is unobjectionable.

(Signed) H. MARSHALL, Colonel,
Secretary to Government.

No. 228.

ORDER THEREON, 11th February 1865, No. 290.

Separate Revenue, No. 12.

Stamps.

1. The orders of 1861, alluded to by the Commissary General, were issued before the promulgation of the present Stamp Act X of 1862, and as pointed out by Mr. Cowie there are differences between that enactment and Act XXXVI of 1860. The opinion given by the Law Officers at Calcutta, with reference to the more recent Act, must be followed, and it will accordingly be communicated to the Board of Revenue for their information and guidance.

2. The Government, however, see no reason for the substitution of Deeds of Covenant for Deeds of Contract, as suggested by the Advocate General to the Government of India. The term "Commissariat Bond" refers, the Government suppose, to a Bond executed by some one who contracts to supply the Commissariat Department with what they may require, and the Government do not see any sufficient reason why they should go out of their way to have "Deeds of Covenant" executed with the object of relieving the Contractor from the cost of stamp to the detriment of the Stamp Revenue.

(True Extract.)

(Signed) C. G. MASTER,

Under Secretary to Government.

To the Military Department.
,, the Board of Revenue.

Exd. S. T. Augustin.

*Proceedings of the Madras Government
Read the following Commissary General's Office
Madras 21st December 1864*

No. 7558.

*From The Commissary General
To The Secretary to Government
Military Department
Fort St. George*

Sir

*It would appear by the
General Exemptions published at the
end of Act X of 1862 that "any deed,
"instrument or writing of any kind,
"made or executed by or on behalf of
"the Government by any Government
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"or Agent is exempt from Stamp duty,
and Orders of Government noted in
the Margin authorized the Collector
of Malabar to refund to certain
Contractors monies levied from them
on account of Stamped paper un-
necessarily used in executing their
Bonds.*

*No. 4398 of 21st Dec 1864
" 7967 of 10th April 65*

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2. The Commissary General
General Fort William, however issued
the enclosed Circular to his Executive
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or Order of Government he had founded
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to the Government of India.

10.65 of 1st May 74

3. It will be observed that
Mr. Mack is of opinion that a Com-
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on stamped paper because it is "not
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He further obviates the necessity for a
Stamp by substituting for a Bond "Deed
of Covenant with a clause as to liquida-
ted damages." This is to be executed
by an Officer on behalf of Government,
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The orders of 1861 al-
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by Mr. Mack there are differences
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with reference to the more recent
Act, must be followed, and it
will accordingly be communi-
cated to the Board of Revenue for

Pro 11 Febry / 65 N 2145-8
10.27.12 " " 147-8

Revenue 1864, Dept.
Pro of Govt for Febry/65
N^o 3364.

Proc of the Muzammas Court
in the Military Dept

21/23 } December 1864.
Proc 23

S. Ser. 290. 11 Febry

Requesting to
be informed, whether
the Bonds of Contractors
with Govt must be
on stamped paper.

N^o 227.

William G. G. G.

c 28 Janry 1865 Dd 31. Re 23 Febry

Enough

Revenue Department

N^o 290.

Proceedings of the Madras Government
under date the 11th Febry. 1865.

Read the follow.

Pro: of Govt, in the Mily Dept.

Requesting to be in-
formed whether the Bonds
of Contractors with Govt must
be on stamped paper.

(These rules 23^d Decr/64
N^o 2145-8).

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sary General were issued be-
fore the promulgation of
the present statute, and as
pointed out by Mr. Lowe
there are differences between
that enactment and Act
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nicated to the Board of Re-
venue for their information
and guidance.

W.D.M.
G.D.

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The Govt ^{however} see no reason for the substitution of deeds of covenant for deeds of contract as suggested by the Advocate General to the Govt of India. - The term "Commissariat Bond" refers ⁱⁿ the Govt ^{purpose to} believe a bond executed by some one who contracts to supply the Commissariat Department with what they may require, and the Govt do not see any sufficient reason why they should go out of their way to have "Deeds of Covenant" executed with the object of relieving the contractors from the cost of stamp to the detriment of the Stamp Revenue. -

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Revenue 1865-20/11
No of Govt. Jan 5/11

No 290

No of the Madras
Government 187
11 is known 1865
Madras Govt. 11.18
1865-1870/11 to 1871

Ordering that
Commissioners of
Revenue be
instructed on
the subject.

17-227-1878

Madras Govt.