Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 1770.

DATED 25th April

[Despatch Abstract.]

Recording with remarks Proceedings of the Board of Revenue sanctioning the institution of an appeal against the judgment of the D.C. Trinomalee in regard to the liability of the Forest dept to Professional tax under act IV of 1882 for keeping forest depots.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No	Department.	Date.

FURTHER PAPERS.

G.O	No.	Department.	Date.	G.O	No.	Department.	Date.
G.O. 744			8/98				
= to 670			14-11-90				

Revenue (1898) Department.

CURRENT No. 3011

9/May/98

From The Board of Revenue
Land Revenue,
Madras.

Order Misc. No. 1770 of 25.4.98.
Recorded.

Forest No. 248 Mis.

2. The result of the appeal ordered to be filed should be reported to Govt. soon as done

Dated 19th April 98.

Received 21st

Registered 22nd

Enclosures 5

Spare copies

Mle 24/4/98

Rec'd 26/4/98

To the Board (L.R.) with 5 Encls. Dy No 26.4.98

Mle 22/4/98.

SUBJECT.

Sanctioning the institution of an appeal against the judgment of the District Munsiff of Tirangalore in regard to the liability of the Forest Department to professional tax under Act IV of 1884 for keeping forest depôts.

BACK PAPERS.

G.O.	No.	Department.	Date.
BP	401-H.(L.R)		5.5.97

FURTHER PAPERS.

G.O.	No.	Department.	Date.

1,000
20-1-98.

REVENUE BOARD OFFICE
MADRAS

Proceedings of the Board of Revenue

(Land Revenue).

Forest 243 Mis,dated 19th April 1898

Read letter from the Collector of South Canara,dated 6th April 1898,R.C.No.536 and the following reference - thereon No.167,dated 15th April 1898.

Forwarded to the Government Pleader,Madras,for favor of remarks.His attention is drawn to the late Advocate-General's opinion embodied in G.O.No.110 Legislative,dated 23th October 95. If it is considered that an appeal can be preferred with advantage to Government,the Government pleader is requested to draw up and submit a memorandum of appeal as desired by the Collector.

2 It is observed that the time allowed for appeal expires on the 23th instant.

Read also the following Letter from the Government Pleader Madras,to the Secretary to the Commissioners of Land Revenue, Madras,dated 19th April 1898,No.554.

Adverting to the Board's Reference on F.R.No.878,Refce. on No.167,dated 15th April 1898,I have the honor to submit the following observations:-

(i) The arguments used by the Munsiff for holding that the Secretary of State is a person within the meaning of Madras Act IV of 1884 do not seem to me to meet the reasons given by the Advocate General for holding the contrary view.The District Munsiff was no doubt placed in a somewhat awkward position.He had the opinions of the principal Law Officers of Bengal and Madras or rather the results of their opinions submitted to him as a

guide, but without their reasons for those opinions. He was not be such opinions and they could only guide him if the reasons given by those officers commended themselves to him. Not knowing their reasons he was compelled to arrive at a definition of the word person in the best way he could.

As regards the second question the ground suggested by me in my opinion dated 28th October 1897, No. 924 for contesting the correctness of the High Court decision in I.L.R XVII Madras, page 100 still holds good. The Munsiff ofcourse was bound by the Ruling in Indian Law Report XVII Madras and the Appellate Court must also follow the same ruling. It is open however to the High Court when the question is brought before it to refer it to a Full Bench. Should the High Court be induced to reconsider the matter I am of opinion that the view expressed by me in my opinion will be upheld.

A draft memorandum of appeal is enclosed.

Resolution.

The Board concurs in the observations of the Government Pleader, Madras, in the second of the letters read above and the draft memo of appeal prepared by him will be forwarded to the Collector of South Canara. He is requested to prefer an appeal against the decision of the District Munsiff.

(True Copies and Extract)

Daniel Davidson

Ag. Secretary

To the Collector of South Canara with draft memo of appeal in original.

To the Secretary to Government, R.D, with a copy of the draft memo, and Collector's letter + Encls. in original to be retd.

Read C No. 3011 of 1898.
B.P. (L.R. For) No 248 Misc
dated 19.4.98

For orders.

The Mangalore Municipality levied profession tax from the Forest Department on account of a depôt for the sale of forest produce which stood within municipal limits. As directed in G.O. No 4746 dated the 23rd Nov 1896, the levy of the tax was contested by a suit in the Civil Court as illegal and the opinion of the Advocate-General of Bengal in G.O. No 110. Leg. dated 28.10.95 that the Secretary of State for India in Council is not a 'person' within the meaning of sec 3 (XXIX)* of Madras District Municipalities Act IV of 1884 was urged before the Dt Munsiff of Mangalore as also the opinion of the Advocate General of Madras in the same G.O. that the Secretary of State for India is not a 'person' The District Munsiff however dis-

* sec 3(xxii) in the Act as amended by Mad Act III of 1897.

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did not accept the Advocate Generals' views and dismissed the suit.

The Board of Revenue, has now acting on the advice of the Govt Pleader Madras, requested the Collector to file an appeal against the decision of the District Munsiff.

A draft order recording the B. P. and asking the Board to report the result of the appeal is put up on the docket of the Current for approval.

Mc 22/4/28.

Mc 24/4/28

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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.								
PAPERS NOT FILED, UP, BEING MEANT FOR DESPATCH IN ORIGINAL.								

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~~Regular~~ / Miscellaneous No. 1770 & 25-4- of 1898.

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