$\frac{0}{9}$ 5,000—17-12-96.

Revenue (1899) Department.

MISCELLANEOUS SERIES.

G.O., No. 916-917

DATED 6th March 99

[Despatch Abstract.]

Requesting the orders of the Govt 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. 3 (b) of the Indian Ports Act (X of 1899)

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Mis	4859	Rev	9.12.98				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Mis letter	1839 1840	Rev "	19.5.99 Do				
~~G.O No 2082~~	~~1899~~						
G.O	2808	Rev	3-8-99				

Revenue (1899) Department.

CURRENT No. 965

From

The Secretary to the Commissioner of Salt, Abkari and Separate Revenue, Madras.

Order

Mis. No. 447.

Dated 3rd February 1899.

Received 7/2

Registered 7/2

Enclosures 2

Spare copies

SUBJECT.

Submitting to Government the Board's remarks on the question raised by the Presidency Port Officer whether receipts for amounts exceeding Rs.30, granted by the Port Department, require to be stamped under the Indian Stamp Act I of 1879.

1A
Note
Memorandum 9/2/99
Read 9/2/99

BACK PAPERS.

G.O.	No.	Department.	Date.
Mis	4859	Rev.	9.12.98.
Pers	332	Rev	5.3.83. (O)
Pers	929	Rev	6.9.82 (O)
Mis	4461	Rev	17.11.94
Mis.	1630	Rev	26.4.94
	456	Nami	29.10.89.

FURTHER PAPERS.

G.O.	No.	Department.	Date.
Mis	1839	Rev	19.5.08
~~G.O. 30.2.99~~			

REVENUE BOARD OFFICE MADRAS

Proceedings of the Board of Revenue

(Separate Revenue),

Dated 3rd February 1899.

Mis. No. 447.

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

Resolution:-

With reference to Government endorsement, Mis.No. 4959,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.30,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 1883, recorded in Government Order No.339,Revenue, dated 5th March 1883,the Board expressed the opinion that Local Fund Boards, although 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 exceedings 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 ~~the~~ 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

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 Light Houses, 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 Mis.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 payments 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 by the authority of the Comptroller-General.

(True extract.)

Edmund Millett
Asst ~~Acting~~ Secretary.

To the Secretary to Government, Revenue Department,
(with an enclosure).

D 1,000—8-4-97.

REVENUE DEPARTMENT.

Current No. 965

From the Board of Revenue, (Separate Revenue.)

Misc. No. 447 Dated 3rd February 1899.

~~FOR ORDERS.~~

To Secy

At the instance of the Accountant-General, the Presidency Port officer referred for orders the question whether bills on Port and Marine funds for amounts exceeding Rs. 20 should be stamped with one-anna receipt stamp. The current contains the remarks of the Board of Revenue on the point.

2. The bills in question being drawn on a treasury for payment on demand may perhaps be regarded as coming under the definition of "cheque" as defined in section 3(6) of the Stamp Act (I of 1879). When drawn for amounts exceeding Rs. 20, they would be liable to stamp duty under Article 19 of the First Shedule. Even if they are not

cheques

The last sentence of para 1 of the Presy. Port Officer's letter under G.O. 4859 9.12.98.

It comes into force Revenue only on 1st July 1899

But the Stamp Act is II of 1899. Correct throughout with reference to the new Act

S. 2(7) of the New Act.

'X' article 21 of the Four Schedule of Act II of 1899

cheques, they are liable to stamp duty at least as receipts under Sec. 58 of the Act. As Article 18 of the Second Schedule exempts instruments "executed by, or on behalf of, or in favour of Govt.", the question for consideration is whether the bills may be regarded as executed by or on behalf of Govt.

3. It has been held that bills drawn by the Presidents of Local Boards should be stamped. For, though Local Boards are "public corporate bodies created by law "and placed under state supervision" yet they have "interests and liabilities dis-"tinct from those of Govt." The Board is of opinion that Port Funds, constituted under Sec. 36 of the Indian Ports Act (X of 1889), are in this respect like Local Funds, and that "though under the "direct control of Govt. and managed by "officers appointed by it", they have "interests and liabilities distinct from "those of Govt." It accordingly concludes that the exemption does not apply to bills

FOR ORDERS.

under G.O. 1650 / 26.4.94

G.O. 929 / 6.9.92

Para 2 of B.P. under G.O. 332 / 5.3.83

G.O. 4461 / 14.11.94

bills drawn on those funds.

4. The Board feels, however, a doubt in the matter. Para 16 of the summary of the orders issued by the Govt. of India circulated with its letter No. 1866 dated 12th April 1894 lays down that "all articles paid for from local "funds, when liable to duty under the "Tariff, Act should be charged with duty" and the proviso to sec. 20 of the Sea Customs Act (VIII of 1878) exempts from customs duty only "goods belonging to "the Govt." But stores imported for use at ports and light houses, though paid for from the Port Fund, were ordered to be treated "as goods belonging to the "Govt.". Similarly, stores supplied from Govt. dockyards were exempted from charges for departmental supervision by G. O. No. 456 Marine, dated 29th October 1889, on the ground that though classified as excluded Local Funds the Port Funds were under the control of the Provincial Govt. On the analogy of these

these two rulings, the Board feels a doubt whether the interests and liabilities of Port Funds can be treated as distinct from those of Govt.

5. In cases of doubt like this, the proper procedure is, for the Board of Revenue, as the Chief controlling Revenue authority, under section 46 ⊕ of the Indian Stamp Act to refer the case to the High Court. May this course be suggested to the Board?

KD 22-2-99

The question however is not so much one of law as of whether an instrument executed by or on behalf of or in favour of Port Funds is to be deemed as so executed by or on behalf of or in favour of Govt. This is an admⁿ question. I think it be decided by the Govt of India to whom a reference may be made. Please draft in this sense for approval

S.H. 23/2/99

⊕ S. 57 of Act II of 1899

This is the best course.

H.A. 2.3.99

To Secy

Please see drafts below.

KD 28-2-99

May the Marine Dept, (asked) whether it has any remarks to offer?

H.A. Please see draft for approval S.H. 1/3/99

To Secy.

May the draft now issue or is it necessary to send it to the Marine Dept. ~~for remarks~~ as originally suggested?

KD 3-3-99

To issue

S.H. 3/3/99

C 7/8/99.

Read again Encl. this No.
4859 " 3.12.98
Read also B.P. (S.R.) this
No. 447 of 3.2.99 (c.no. 965)

G.O. encl. No. 916 of 6th March '99
Ordered that the Govt
of India be addressed

6/3/99

To
The Board of Revenue (S.R.)
" Marine Dept.

Letter No. 917 of 6th March 1899

To
The Secy. to the Govt of India,
Fin. & Com. Dept.

Sir,

I am directed to refer for the orders of the Govt of India the question of the liability to stamp duty, when the amount exceeds Rs 20, of salary, travelling allowance and other bills presented at the treasury for payment out of funds constituted under Sec. 36 of the Indian Ports Act (X of 188

Des. 9-3-99

With Copy of BP

2.3.99

2. In amendment of sec 36 of the Ports Act the funds are administered by ~~some~~ an officer or "body of persons" appointed by the Local Government; ~~and~~ "a" "distinct account" ~~has to be~~ is maintained in respect of them, ~~and~~ if an advance of money is made by the Govt, simple interest ~~is to be~~ charged. The Board of Revenue, a copy of whose Propp is enclosed, is of opinion that, though under the direct control of Govt, ~~Ports~~ Port funds have interests and responsibilities distinct from those of Govt, and that therefore an instrument executed by or on behalf of or in favour of ~~Port~~ funds should not be deemed as executed by, or on behalf of or in favour of Govt within the general exemption

(S. 36 of Act V of 1889)

Ibid

Ibid

Mis. No. 447 of 8.2.99.

allowed by art. 18 of the Second Schedule of Act I of 1879

3. On the other hand, though Port funds are classified as Excluded Local Funds, stores imported for use at Ports ports and lighthouses and paid for out of these funds have been exempted from the payment of customs duty as being goods

(G.O. No 4461 dated 17-11-94)

belonging to Govt, and a similar exemption has been granted as regards charges for departmental supervision in the case of stores supplied from Govt dockyards. It is doubtful whether in regard to exemption from stamp duty also, bills on Port Funds may not be deemed as executed by Govt.

4. I am therefore to ask for the favour of a definite ruling on the point by the Govt of India.

S/ C/3/9

KD
28-2-99

(G.P. O. No 456 Marine dt. 29-10-89.)

*When given for copying*_____
*When copied*_____ } 189
*When examined*_____
*When signed*_____

READ AGAIN G.O., No. , DATED
189 .

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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