

Copy of letter No.L.Dis 31614/69/TX/C1 dt. 17-12-69 from the Secy. Board of Revenue (Taxes) to the Chief Conservator of Forests, Tvm

Sub:- Taxes- sales tax –refund of tax collected on the sale of right for collection of M.F.P and coupes –reg.

Ref:- Your letter G1-38379/66 dt. 1-6-69

The definition of goods in the Kerala General Sales tax Act, 1963 includes ‘growing crops, grass or things attached to, or forming part of the land which are agreed to be served before sale or under contract of sale’. The most important condition in a sale of Forest coupe is that the trees in the specified area are to be cut and removed within a specified time. Sale of coupes is thus sale of trees in the coupe and such trees are agreed to be severed from land under the contract of sale. Sale of coupe thus involves sale of goods and such sales attract levy of tax.

The right to collect minor produce which forest may yield or cashews which trees may bear or crops which any land may produce cannot however be equated with the sale of existing trees, minor produce or crops. There is a vital distinction between the two in their legal concept and consequence. Agreement for sale of existing trees, produce or crops implies a contract of sale of goods, on the other and the agreement for confirming the right to collect produce or crops which forests or land may even tally yield is an agreement of transfer of an interest in land. Such an interest will be immovable property under the transfer of property act. So the right to collect minor forest produce or cashews which may yield during the course of a specified period is benefit arising out of immovable property and hence it is an interest in immovable property and transfer of such a right cannot be sale of goods. But it would be worth mentioning in this context that if the sale was of the existing crop of cashews, such sale will be sale of goods within the meaning and definition of the term in the act and the sale will attract tax.

Sd/- for Secretary

Endt. K.Dis. (G1) 38379/66 dt. 2-1-69

Copy forwarded to the Conservator of Forests, Trichur for information. The petitioner may be informed accordingly.

Sd/- for Chief Conservator of Forests

Endt. ML(K.Dis) 1202/70 dt. 19-1-70

Copy communicated to all Divl. Forest Officers for information and attention.

Copy to CH, TR, KT, Senior Supdt. stock file.

Copy to C.F's personal file.

for Conservator of Forests, Trichur