M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

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Dated 16 - 3 - ~~19~~ 1858

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Fort St. George, Judicial Consultation, 19*th March* 1858.

No. 21. Read the following Extract Minutes Consultation in the Revenue Department, dated 10th March 1858, No. 312.

Communicating the orders of Government relative to the frauds committed in the Trichinopoly District in connection with the refund of Stamp Duty under Act XVII of 1848, on account of suits dismissed on the application of the Plaintiff or Appellant, and taking measures for preventing a recurrence of the same.

(Vide Revenue Consultation, dated 12th March 1858, Nos. 67 and 68.)

No. 22. ORDER THEREON, No. 355; dated 16th March 1858.

To be recorded.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Carledge.

REVENUE DEPARTMENT.

No. 312.

Extract from the Minutes of Consultation under date the 10th March 1858.

Read the following Extract from the Proceedings of the Board of Revenue.

Submitting with the Board's remarks and suggestions, a letter from the Collector of Trichinopoly furnishing the information called for by Government in Extract Minutes Consultation of the 3d Ultimo in regard to Certificates for the refund of stamp duty. (Here enter 4th November 1857, No. 3776.)

1. With the Proceedings above recorded, the Board of Revenue submit the papers and information required in Extract from the Minutes of Consultation, dated 3rd September 1857, No. 883, relative to the frauds committed in the Trichinopoly District in connection with the refund of stamp duty under Act XVII. of 1848, on account of suits dismissed on the application of the Plaintiff or appellant.

2. The Right Honorable the Governor in Council has carefully gone through the papers. The frauds have been committed in four ways; first, by the interpolation of figures; secondly, by altering the entry of the state at which the suit was dismissed, from "after" to "before" the close of pleadings; thirdly, by altering the date of the dismissal of the suit, and fourthly, by the issue of certificates on account of suits on which no refund was legally claimable. The interpolation of figures is, with a few exceptions, very glaring. In most cases the figures added to the amount originally entered in the certificate are written in a separate line, though there was sufficient space in the column to contain the whole number of figures, and this manner of notation carried through several certificates, and for some length of time, must have aroused the suspicion of any person entrusted with the duty of examining them, or of preparing orders for their payment, and so have led to enquiry. The alterations made in the stages at which suits were struck off, or in the dates, are also not difficult of detection, and are either written in different ink, or in a different hand, or are otherwise suspicious. Under these circumstances, the Government cannot remove from their minds a strong impression that it is impossible that these frauds should have been successful unless there was connivance on the part of some of the Collectors' servants; of this there is no proof, but there is ample to convict them of gross and culpable negligence in the discharge of the duties entrusted to them. The servants of the Cutcherry most to be blamed are those named in the margin, they prepared the orders for payment, and must of necessity have referred to the figures and dates entered in the certificates. Vencatachella Naik is reported to have died. Mr. Bird will however be requested to punish the other two, Appajee Row and Kistnasawmy Iyer, by collecting from them respectively the loss which may have occurred through their negligence, or by suspending them for a certain period from office as may in that officer's opinion appear proper.

Vencatachella Naik.
Appajee Row, and
Kistnasawmy Iyer.

3. The Government must next notice with great displeasure the loose manner in which Babojee Row, the late Head Sherishtadar, appears to have performed his duty. His signature to the orders on the Treasury appears to have been affixed as a mere matter of form, without any examination of the certificates either by himself or by some competent and trust-worthy Goomastah of his Department. In the Board's Circular Orders of the 22d February 1836 and 12th June 1851, the responsibility of the Head Sherishtadars was laid down in very distinct terms, and the Government cannot allow to pass unnoticed the great neglect shown by Babojee Row. It is therefore ordered that ten per cent. of the loss suffered by Government from the frauds now under notice be deducted from the late Head Sherishtadar's pension and that the fact be communicated to all Collectors for the information of their Head Sherishtadars.

4. In regard to the Cash-keeper Kunjamallay Moodelly's share in the neglect, the Government are unable to give an opinion in the absence of information to show with what object the certificates themselves were sent to him, with the orders for payment, when the latter contained all the requisite particulars. It was not necessary for the discharge of his duty that he should enter into any examination of the grounds of orders on the Treasury after they had been signed by the Collector, but if the records of the office shew that the original certificates were sent to the Cash-keeper for comparison with the Collector's orders on the Treasury, Mr. Bird should mark his displeasure at Kunjamallay Moodely's conduct in some appropriate manner. Under

the circumstances stated in para. 7 of the Collector's letter, dated 12th October last, the Government exonerate the English Department from blame. The stamp vender appears only to have had the custody of the certificates for a short time, in order that he might enter the sums paid in a book. His conduct does not require particular notice.

5. For the fourth description of frauds the District Moonsiff and his Establishment, and not the Collector's Establishment, are responsible. The Goomastahs in the Moonsiff's Court who deserved blame having been dismissed from the service, it remains for Government to consider how far the notice taken by the Court of Sudder Udalut of the Moonsiff's conduct, by imposing on him a fine of 50 Rupees, is sufficient. In their last order on the subject, the Government remarked that, if the interpolations and alterations should have attracted the attention of the Collector's Department, still more should they have attracted the attention of the Moonsiff who signed the papers, but from an actual inspection of the certificates which have since been submitted, they observe that almost all those alterations and interpolations which are most glaring, are such as could easily have been made, and were most likely to have been made, after they had been signed by the Moonsiff. The Collector, in his letter to the Civil Judge, dated 12th January 1857, states that, from the enquiry he has instituted, he is not in a position to attribute any fraudulent participation in these transactions to the Moonsiff, and that, on the contrary, he believes him to be quite free from blame, and to have been the dupe of a designing and cunning man officiating in the Court, and the Court of Sudder Udalut, in para. 6 of their Proceedings dated 4th February 1857, refer to the large number of papers to which the Moonsiffs' signature is daily required. Under these circumstances, and as the Sudr Court has already fined him, the Right Honorable the Governor in Council is not inclined further to mark his displeasure at the Moonsiffs' neglect, in not exercising a proper supervision over the conduct of his subordinate servants.

Dated 3rd September 1857, *No.* 883.

6. The Government have carefully gone through the rules prescribed by the Court of Sudder Udalut, and the observations made by the Board of Revenue, to guard against the perpetration of similar frauds for the future. The former authority direct, in para. 4 of their Proceedings dated 28th April 1857, that a monthly list shall be forwarded by each judicial officer, direct to the Collector, by the fifth of each month, shewing the particulars of the several certificates granted by him during the previous month, and in para. 6 it is laid down, that no refunds shall be made by Collectors until the certificates have been compared with the list and been found correct; such a system will entail much hardship on the certificate holders as well as on the Revenue establishments. The certificate holders will have to wait for several days, and very often for more than a month before the money due to them is paid; and the comparison and examination of the certificates issued by the several Courts, will be thrown on the Collector's office all at one time, and the work will, in several Districts, be so heavy, that the establishment will be obliged, either to hurry through it, or to leave the business in arrears, with a further delay of payment. The Government understand that, to obviate these inconveniences, the late Civil Judge of Cuddalore, Mr. Ward, arranged that the several Courts should send to the Collectors daily a list of the certificates issued during the day, and that the form prescribed was so simple that it entailed little or no additional labor on the establishments. The Government are of opinion that this plan of forwarding daily advices is more business-like and will ensure to the certificate holders early payment of their claims. The Court of Suddr Udalut will be good enough to issue orders accordingly, and will also direct that all the sums entered in the certificates shall be shewn in English figures as well as in writing.

7. The instructions issued by the Court of Sudder Udalut do not, in the opinion of Government, provide any check on the fourth description of frauds above alluded to, viz. the issue of certificates in suits in which no refund is legally derivable, and in order to meet this part of the case, the Judges will be requested to order that, in every Court, a register shall be kept of all suits struck off the file on the application of Plaintiff or Appellant, and to order that it shall be considered the duty of each presiding officer carefully to compare with this register the advice list which it is above ordered shall be daily sent to the Collector. Each day's transaction will be fresh in the memory of the Judge, and no room will be afforded for the practice of such frauds as Sooba Naick was lately guilty of in the Court of the District Moonsiff of Torriore.

8. The responsibility of passing the certificates for payment in the Collectors' offices should, as the Board observe, be divided among as few persons as possible. They will therefore instruct the Collectors, first, that the presentation date should be marked on the certificates by the Collector immediately on presentation, and before they pass into the hands of any of the office servants; and secondly, that the certificates shall be compared by one of the chief Goomastahs of the Serishtadar's Department under the supervision of the Head or Naib Serishtadar, to whichever the Collector may assign the duty, with the advices received from the Courts. The certificates should bear the signatures of the examining Goomastahs and of either of the Serishtadars, in testimony of their having performed the duty assigned to each of them carefully and correctly.

9. The Right Honorable the Governor in Council cannot grant authority to write off to "profit and loss" the sums over-paid in Trichinopoly on account of the certificates which are the subject of the present order, till he is informed that all legal means to recover the sum from Sooba Naick, as pointed out in the Proceedings of the Sudder Udalut dated 4th February 1857, para. 5, have failed.

10. The Board of Revenue will call upon the Superintendent of Stamps to submit his report on similar frauds which appear to have been committed in other Districts.

(A true Extract.)

Acting Secretary to Government.

To the Board of Revenue.
" Sudr Udalut.
" Judicial Department.

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Extract Minutes Consul-
tation in the Revenue
Department. — 312.

d/10
2/11 March/58.

Rec'd 23/3/58.

No 1166.

25 pars copies.

Communicating the orders of
Govt relating to the frauds
Committed in the Privilege Duty
Station in connexion with the
Steamer and transhipment duty under
Act XXII of 1848 on account
of Suits dismissed on the
application of the Plaintiffs
or Appellants and taking
measures for presenting
a recurrence of the same.

No 355

Folio Records

16 March/58. JP