

MADRAS RECORD OFFICE.

Government of Madras.

General DEPARTMENT.

G.O. No.	73	Press ~~Mis.~~
	7-8	
Dated	19-1-1948	

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 25th January 1859.

No. 7. Read the following Extract Minutes Consultation in the Revenue Department, dated 6th January 1859, No. 23.

Communicating an Extract from the Proceedings from the Board of Revenue, submitting for the sanction of Government a set of rules for regulating the refund of stamp duties, in view to Government considering the observations in para. 6, urging the advisability of instituting enquiries into the working of the refund system. (Vide Revenue Consultation, 11th January 1859, Nos. 17 and 18.)

No. 8. ORDER THEREON, No. 73; dated 19th January 1859.

Resolved that the Court of Sudder Udalut be called upon to report on the working of the system for the refund of stamp duties under Act XVII of 1848. The Court will consider whether the practice of refund might not with propriety be abandoned, and so much of Act XVII, 1848, as authorizes it, repealed. The Government doubt whether the system be attended by any advantage which will compensate the frauds and abuses incident to it.

(Signed) T. PYCROFT,
Chief Secretary.

No. 2766.

Extract from the Proceedings of the Board of Revenue, dated 23d July 1858.

In Con. 23d July 1858.

Read letter from the Collector of Canara, dated 28th June 1858.

(Here enter No. 60.)

Enc. in No. 2321 Pro.
to Bellary 28th June 1858.

The Board resolve to forward for the Collector's opinion a copy of the * rules proposed for Bellary. On receipt of his reply, they will bring the general expediency of these Refunds under the consideration of Government.

(A true Extract.)

(Signed) J. D. SIM,
Secretary.

To

W. FISHER, Esq., *Collector of Canara.*

3680 2 Tanuauing Aug 55

Submitting for the sanction of Government a set of rules for regulating the refund of Stamp duties, and urging on their consideration the advisability of instituting enquiries into the working of the refund system.

(Here enter 4th October 1858, No. 3702.)

Guernsey 1885
Open 1884
Collector of Ennara

Secretary (Pratt, Bureau)

Sept 28. 1852.
Dec 5. 1852.

Ms. A. 9. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 84

submit with reference to Board,
Jan'y 28th 1858 your explanation
in regard to the difficulties per-
taining to the payment of stamp duty -
states that to create a commercial
system, they should be allowed
to permit their certificate to
the European Post Office, and
bring to the notice of the Board
certain statements made to him
regarding the system proposed.

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Due to Jan 4. 1838

XI. The order for payment should be written on the certificates themselves, as shewn in form, and a list of such orders issued during each day, may be furnished to the Cash-keeper or other paying officer if deemed necessary. In the opinion of Government such a list is not necessary if the Cash-keeper is able satisfactorily to recognize the genuineness of the signatures of the Collector and his subordinates.

XII. XIII. and XIV. The proper course to facilitate business will be to have the remarks of the Stamp Darogah, and the Naib Serishtadar, and the orders of the Collector, entered in a register in one view, instead of writing separate memorandums in each case. The certificates

when they are forwarded to the Stamp Darogah under Rule VI., should be accompanied by a simple list, in the following form, with the headings and columns printed.

Name of the Court.	No. of the Suit.	No. of the Certificate.	Date of the Certificate.

The Stamp Darogah should, when he forwards the certificates, furnish with them a register in the following form, and this need be the only document passing between the Darogah and the Naib Seristhadar, and afterwards between the Naib Seristhadar and the Collector.

Court.	No. of the Suit.	No. and date of the certificate.		Amount to be refunded.	Remarks of the stamp Darogah.	Remarks of the Naib Seristhadar.	Orders of the Collector.	Remarks as to how the certificate was disposed of.
		No.	Dated.					
Civil Court of Cuddalore..	O. 2 of 1852...	1	1858 Jan'y	2 350...	Correct.	Can be paid.	Pay.	Order to Cash-keeper issued January 10, 1858.
Moonsiff Court of Chellumbrum.....	3 of 1857	50	1857 Aug 20	16...	Presented after 3 months from the date of dismissal.	Cannot be paid	Return	Returned by post, January 10, 1858.
Do. do. of Vilpoorum.	50 of 1858	60	1858 Feb. 15	8...	Only 4 Rupees refundable certificate incorrect.	Cannot be paid	Return	Delivered to Vakeel Ramasawmy January 15, 1858.
					A. B. Darogah.	B. C. Naib Seristhadar.	D. E. Collector.	F. G. Jawabnevis.

XV. No remark.

XVI. When proper parties are not present to receive the rejected certificates, they should be at once sent to them by post, "bearing," and not allowed to accumulate among the public records till the parties come for them, which in fact they will not generally do.

XVII. The certificates passed by the Collector for payment, should be sent to the parties who are entitled to receive such payment by post, "bearing," if they are not present to receive them; and when produced by them, the Cashkeeper or other paying officer should compare them with the daily lists of orders issued, satisfy himself of its correctness in every respect as required in the Rules, and then pay the money. The Certificates are in several cases issued for very small sums, and unless they are at once sent off to the parties, the Cashkeeper will become the custodian of these documents for long and indefinite periods, as appears to have been the case in Bellary.

XVIII. No remark.

XIX. It should be clearly defined who the right parties to receive payments are. The Plaintiff of course is the first person; if he blank endorses the Certificate, any person who produces it can receive the money, and should be made to receipt it on the back when payment is

actually made. When the Plaintiff endorses the certificate in the name of any particular person, his right in it is transferred to the latter, who can dispose of it in the same manner. The transaction should in fact be assimilated to the payment of cheques in the Banks, and these certificates should when paid bear the acquittance of the person in whose name the last endorsement stands.

XX. to XXIV. Approved.

XXV. There is no objection to the system of allowing Vakeels to do business for the certificate holders, and it can entail no loss on Government. It should not be made incumbent on such agents to produce separate Vakalutnamahs and such other documents to enable them to draw the money; the endorsements on the certificates themselves are quite sufficient.

XXVI. No remark.

XXVII. The cancelment of these certificates should be entered on the advices immediately after the final orders of the Collector in regard to them are issued, and not be deferred till the refunds have been made.

2. The Board of Revenue will be good enough to revise the rules agreeably to the above remarks and circulate them to the Collectors.

3. The observations contained in para. 6 of the Board's Proceedings will be considered in the Judicial Department.

(A true Extract.)

W. A. Bailey
Acting Secretary to Government.

working of the repairs
expended.

In Dy. to Cou's. 25th Jan'y.
received. 1859 Sept 11th

7h: 959

F. A. 97.

Communicating and
direct from the
exchange from the
of Revenue in
the transaction of
set of rules for
the refusal of
duties in
considering the
there in 1806
the a
relating
with and

No. 3702.

Extract from the Proceedings of the Board of Revenue, dated 4th October 1858.

In Con. 28th June 1858. Read again letters from the Collector of Bellary, dated 14th May and 21st July 1858.

In Con. 20th Sept. „ No. 3341. Read again also letters from the Collector of Canara, dated 14th June 1858.

In Con. 14th June „ „ 28th April, 28th June and 7th August 1858.

In Con. 23d July „ „ „

In Con. 20th Sept. „ No. 3680. With his letter of the 14th May last the Collector of Bellary submitted a draft of rules applicable to the refund of Stamp duties, and prepared with reference to Extract Minutes Consultation 10th March preceding, R. D., No. 312.

In Con. 28th June „ „ „

In Con. 26th March „ „ „

312.

2. The Board thought that uniformity of practice might advantageously be introduced in this department and accordingly revised the rules submitted by the Collector, and requested his opinion on them. Subsequently they were also forwarded to the Collector of Canara in reply to a letter from that Officer on the same subject.

3. The Board resolve now to request the sanction of Government to these rules as now modified and will briefly notice their main points.

Enclosure A.

4. The Board propose, 1st. That certificates should only be received by the Commissioners and Deputies.

2nd. That certificates may be sent by post, and that parties may employ Vakeels to transact their business. This may occasionally prove inconvenient in cases where fraudulent claims are preferred, but the checks on payment are sufficient to guard Government against loss, and without this concession the large class of suitors entitled to petty refunds will be virtually debarred from applying for them, and as in Bellary sums passed for payment will remain undrawn for inconvenient periods.

3rd. That the Stamp Darogah and Naib Sheristadar shall be responsible for the due examination of certificates and claims for refund, the liability being transferred to the Collector when he overrules objections started by them. The Board are in doubt whether, in respect to the degree of check to be exercised in the Collector's Office, they have gone beyond the intentions of Government and made these Departments participate in the responsibility meant to attach to the Officers of the Courts.

4th. That payments may be made in the Talooks as well as the Huzzoor. This is the course followed in Canara and seems absolutely necessary. It is not unlikely that the accumulation of passed certificates in Bellary is owing to payment being only made at the Huzzoor.

5th. That the Collector may transfer the Stamp Department to any of his Assistants or Deputies.

5. The Board do not think it necessary to trouble Government with any further remarks as they have fully considered the opinions and suggestions of the Collectors of Canara and Bellary.

6. They would however urge for the consideration of Government the advisability of instituting enquiries into the working of the refund system, regarding the expediency of which the Board entertain serious doubts. Mr. G. S. Chatterjee, in his letter of the 28th

		Rs.	A.	P.	though the items individually are generally trifling the aggregate
* Fusly 1265.....	70,326	8	0		amount disbursed is large and annually increasing.
" 1266.....	74,705	8	0		

To T. PYCROFT, Esq., *Chief Secretary to Government.*
Copy to Collectors of Bellary and Canara.

ENCLOSURE A.

RULES.

1. Certificates and applications for the Refund of Stamp duty under Act XVII. of 1848, are to be sent to the Collector, Sub Collector, Additional Sub Collector, Head and Junior Assistants, and Deputy Collectors. They may be presented in person or sent by post.
2. The European Officer receiving the Certificate will at once endorse the date of presentation or receipt on it and affix his signature to the endorsement.
3. If the Certificate has been received by Post, the Moonshee or other Officer by whom the packet may have been opened shall affix the date of receipt and on the same day procure the Endorsement of the European Officer in accordance with Rule 2.
4. If the period of three months allowed by Section IV., Act XVII. of 1848, for the presentation of the Certificate shall have expired before its receipt, the European Officer receiving the Certificate shall further note this circumstance on it, and reject it by an Endorsement under his signature.
5. All Certificates not rejected in accordance with Rule 4, shall be forwarded without delay to the Collector or to such of his Assistants or Deputies as he may from time to time entrust with the duty of disposing of applications for refunds of Stamp duty.
6. Certificates received by the Collector direct from the holders or through his subordinates will be forwarded without delay to the Stamp Darogah.
7. It will be the duty of the Stamp Darogah to compare the Certificates with the stamp Vender's accounts and the daily lists received from the Courts. It will also be his duty carefully to examine the Certificate, to detect any interpolations, erasures or other alterations, to satisfy himself of the genuineness of the signatures attached to it, and to see that the period allowed for its presentation has not been exceeded, and that the amount to be refunded has been correctly entered.
8. If the Darogah is satisfied of the correctness of the Certificate in all respects, he will certify on its face that he has examined and found it correct, and having signed and dated it, will at once hand it over to the Naib Sheristadar, or other Native Officer of standing in his Cutcherry selected by the Collector.
9. If the Stamp Darogah discovers any irregularity, &c. in the Certificate or entertains any doubt regarding it, he will state his objections in writing and send them with the Certificate to the Naib Sheristadar.
10. On receiving the Certificate from the Stamp Darogah, the Naib Sheristadar will compare it with the daily lists received from the Courts, and satisfy himself of its correctness in this and all other respects.
11. If satisfied of the correctness of the Certificate, the Naib Sheristadar will certify this fact on it in the same manner as the Stamp Darogah is required to do by Rule 8, and will forward the papers with Cash orders duly prepared and counter-signed by him to the Collector for signature.
12. If the Naib Sheristadar entertains any doubts regarding a Certificate or discovers any inaccuracy, &c. in it, he will state his objections in writing and submit the case for the Collector's decision.
13. If in any case the Naib Sheristadar concurs with the Stamp Darogah in objections expressed by him under Rule 9, it will be sufficient for him to state his concurrence. If, on the other hand, he differs from the Stamp Darogah, he will state his opinion in writing for the Collector's decision.
14. It will be the duty of the Collector to consider the objections of the Stamp Darogah and Naib Sheristadar, and to decide on their validity or otherwise.
15. When the Collector over-rules objections made by the Stamp Darogah or Naib Sheristadar, their responsibility ceases. In all other cases the responsibility for the validity of the claim to refund rests with the Stamp Darogah and Naib Sheristadar, who are jointly and severally answerable.
16. All rejected Certificates will be returned to the parties, who hold or present them with an Endorsement specifying the cause of rejection, unless any circumstance render it necessary to retain them.
17. Every Certificate passed by the Collector for payment shall be so endorsed by him and sent with the order for payment to the Cash-keeper, whose duty it will be to see that the Certificate bears the

signatures of the Collector, Naib Sheristadar and Darogah, and that the order for payment is duly signed by the Collector and bears the counter-signature of the Naib Sheristadar, and that the amount entered in the order corresponds with that in the Certificate. If the Cash-keeper entertains any doubts, it will be his duty to submit the matter for the Collector's decision before payment.

18. At the Huzzoor, the receipts of the persons to whom the refunds are made will be entered on the back of the Certificates which will then be cancelled, and forwarded by the Cash-keeper daily with the other accounts to the Head Sheristadar.

19. The responsibility of the Cash-keeper does not extend beyond seeing that the Certificate has been passed by the Collector, the Naib Sheristadar and Stamp Darogah, that the order for payment is genuine and correct, and that payment is made to the right party.

20. When parties reside in the Talooks, payment may be made through the Talook Treasuries. In such cases after the checks prescribed in Rules 1 to 16 have been duly observed, the Collector will issue an order for the payment of the refund to the Tahsildar, who, after making the payment, will take the receipt of the payee or his authorized Vakeel on the back of the order, and return the latter to the Collector with his next remittance.

21. In the case of payments from Talook Treasuries the Tahsildar is responsible that the order for payment is genuine, and that the correct amount has been paid to the right person and his receipt duly taken.

22. The receipts received under Rule 20, will be dealt with according to Rules 23 and 24.

23. The Head Sheristadar will compare the Certificates with the daily Cash Chittah, and exercising the same supervision over them as over other disbursements from the Treasury, will forward them in the usual course to the Head Accountant.

24. The Head Accountant will, on receipt of the Certificates, compare their amount with that entered in the monthly account current sent to the Accountant General, and, as heretofore, prepare the Quarterly Register to be forwarded with the Certificates to the Superintendent of Stamps.

25. Holders of Certificates may employ authorized Agents to transact, on their behalf, all business connected with their claims.

26. It will be the duty of the Naib Sheristadar to bring to the Collector's notice, any carelessness or undue delay on the Darogah's part in reporting on the Certificates sent to him for examination.

27. The Certificates entered in the daily advices from the Courts will be carefully cancelled under the Collector's signature, as soon as the refunds due on them have been made.

28. All sums, dates and numbers are always to be entered in words as well as figures.

(Signed) J. D. SIM,

Secretary.

No. 73

Resolved that the Court of
Sudder Adalat be called
upon to report on the working
of the system for the refund
of Stamp Duties under Act XVII
of 1848. - The Court will
consider whether the
practice of refund might
not with propriety be
extended to the other
Courts of the Presidency.

The Court of Sudder Adalat
in giving its report might be requested
to state if it see the necessity for
refunding the duty on the use of the Court
should not be the same rule.

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Exd. H. M. Elliot.

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Fort St. George
19 January 1859.

19. January 1859.

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the Board of Revenue.
Sudr Udalut.
Superintendent of Stamps.
Judicial Department.

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7 To the dear Harriet - I The Enc in the Pk^t
and the Paper submitted with it have
been communicated to the Gov^t by
the Revenue Report -)