

31-6-13 ✓
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Marine (1898) Department.

G.O., No. 1004 Mar

DATED 2nd Dec '98

6/12/98

[Despatch Abstract.]
Levy of Port dues on a vessel in ballast

Observing that the ———, leaving a port within 48 hours, ^{seems} ~~is~~ quite inconsistent and directing that the opinion of the Advocate General be taken as to the interpretation of the law, as to its need for amendment.

70/5

jr

[100-12-4-98]

Recd 4-30 PM.
6/12/98
Indorsed 4-45 PM 6/12/98

Observing that the —, leaving a port within 48 hours, seems inequitable and inconsistent; and directing that the opinion of the Advocate-General be taken as to the interpretation of the law, and as to its need for amendment.

GOVERNMENT OF MADRAS.

MARINE DEPARTMENT.

READ—the following paper :—

From Commander H. A. STREET, R.I.M., Presidency Port Officer, Madras,
to the Secretary to Government, Marine Department, dated 21st November
1898, No. 942/409 G.

I have received a complaint from the owner of the Native brig *Sundra Raja Vijaya Latchmi* that, on the arrival of the vessel at Tranquebar in August last, port dues were charged although the vessel did not remain in the port over 48 hours; nor did she discharge or take in cargo or passengers. According to the owner's statement the vessel had been ordered to proceed from Tuticorin to northern ports to take in cargo for Ceylon, and that the master called at Tranquebar *en route* in order to consult him on matters connected with the vessel's voyage. It appears that the master called at the custom house on arrival and informed the Customs officer that he had neither import nor export cargo on board and that he purposed "clearing" the same day, at the same time leaving his papers at the custom house. On receiving instructions to sail, he went again to the custom house about 5 P.M. (on the day of his arrival), and asked for his papers, but the Conservator insisted on his "entering" and "clearing" and paying port dues, and charged him also overtime fees for work after office hours. The question seems to have been referred to the Port officer, Negapatam, who supported the action of the Port Conservator at Tranquebar on the ground that the fact of the master having taken his papers to the custom house on arrival was *prima facie* evidence that he intended to work cargo. The owner states that the master being "a new man" was unaccustomed to his duties and thought he had to call at the custom house on arrival whether he intended to work cargo or not.

The Port officer, Negapatam, considers that the vessel should be treated under section 46 of Indian Ports Act X of 1889 as a vessel in ballast, as the vessel "entered" at the custom house. In my opinion section 47 of the Act is applicable, and that the fact of the vessel having been "entered" does not affect the case. I beg that Government may be requested to decide the point.

ORDER—No. 1004, Marine, dated 2nd December 1898.

It would appear that the vessel entered the port of Tranquebar in this case *unladen*, i.e., "in ballast," and that she was thereupon assessed by the Customs Collector under section 46 of the Indian Ports Act. Under this section there is no time limit, as in section 47; and it thus happens that, while under the latter section a *laden* vessel may escape payment of port dues if she leaves within 48 hours, an empty vessel or a vessel "in ballast" must pay in any case under section 46.

2. This seems inequitable and inconsistent. The opinion of the Advocate-General will be taken as to the interpretation of the law, and as to its need for amendment.

(True Extract.)

Under Secretary to Government.

To the Presidency Port Officer.
„ Government Solicitor.

Exd. T. K. Narayana Aiyangar.

MARINE DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated

189 , No.

Again G.O., dated

189 , No.

Letter
Current No. 942 G
409 G

of 1898, dated 21st Nov/98, from the Presidency Port Officer

„ 189 , „

„ 189 , „

ORDER.

No. 1004 Marine 2.12.98

It would appear that the vessel entered the port of Tranquebar in this case *unladen*, i.e. "in ballast," and that she was thereupon assessed by the Customs collector under Section ⁴⁶ of the Indian Ports Act. Under this Section there is no time limit, as in Section 47; and it thus happens that while under the latter Section, a *laden* vessel may escape payment of port dues if she leaves within forty-eight hours, an empty vessel or a vessel "in ballast," must pay in any case under Section 46.

2. This seems inequitable and inconsistent. The opinion of the Advocate-General will be taken as to the interpretation of the law, and as to its need for amendment.

R.P.

Revised

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1.12.98

To
The Presidency Port Officer
" Government Solicitor
Dated 9/12/98

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Marine DEPARTMENT.

Letter C. No. 942 G. dated 21st November 1898, from the

409

Presidency Port Officer

SUBJECT.

HIS EXCELLENCY THE GOVERNOR.

THE HON'BLE SIR HENRY BLISS, K.C.I.E.

THE HON'BLE MR. GROSE, C.I.E.

Port dues leviable on a vessel
in ballast ^{at a port} staying for less
than 48 hours.

FOR ORDERS.

The case is put as concisely as possible by the Presidency Port Officer who considers that section 47 of the Act applies. The Customs Collector on the other hand assessed the vessel under section 46, and so far as a strict interpretation of the law is concerned, he seems to have been right. The vessel entered the port unladen ie. "in ballast", and she is thus, under section 46, liable to port dues at the $\frac{3}{4}$ rate. It will be observed that, unlike the case of a laden vessel under section 47, there is no time limit under section 46, and however inequitable it may seem that a vessel "in ballast" should pay port dues under section 46, while a laden vessel is exempted under 47, the Customs Collector is bound to interpret the law as it stands.

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2. As, however, the Presidency Port Officer adopts a different view, it is suggested that he might take the opinion of the ^{Advocate} ~~Adjutant~~-General as to the interpretation of the Act.

3. It seems to me that Sec. 46 is intended to apply to a vessel which enters a port in ballast, unloads it there, & loads other cargo. Otherwise Sec. 46 & the proviso to Sec. 47 must sometimes clash as in the present case. The S.D.O.'s view is the right one, but it seems necessary to amend Sec. 46, & the Advocate General had better be consulted.

L.H. Chel
25.11.98

This may be done.

The practice at ports other than Tranquebar in the Presidency, and at ports in other Presidencies.

25.11.98

x h. h. f. h. h.

The proviso to Sec. 47 does not apply to other Presidencies.

L.S.

Marine (1898) Department.

CURRENT No. 1470

From

The Presidency Port Officer,
Madras

No. 942 of
409

Dated 21 November 1898

Received 22 - 11 - 98

Enclosures - "

Spare copies -

SUBJECT.

Requesting the decision of Government in connection with port dues charged on the native Brig "Sundara Raja" ^{Vijaya} "Lutehmi" at Tranquebar.

Order

CAW

CAW

BACK PAPERS.

FURTHER PAPERS.

No.	Date.
Act No. 8 of 1889	

No.	Date.

No. 942
409

Presidency Port Office,

Madras, 21 November 1898.

Heading

From

Commander H. A. Street, R.N.,
Presidency Port Officer,
Madras,

To

THE SECRETARY TO GOVERNMENT,
MARINE DEPARTMENT,
CHENNAI.

Sir,

I have received a complaint from the owner of the Native Brig "Sundra Raja Vijaya Lutchini" that on the arrival of the vessel at Tranquebar in August last port dues were charged although the vessel did not remain in the port over 48 hours nor did she discharge or take in cargo or passengers. According to the owner's statement the vessel had been ordered to proceed from Inticorin

Inticorin to northern ports to
take in cargo for Seylon, and
that the Master called at Tran-
quebar en route in order to
consult him on matters con-
nected with the vessel's voyage.

It appears that the Master called
at the Custom House on arrival
and informed the Customs
Officer that he had neither import
nor export cargo on board and
that he purposed "clearing" the same
day, at the same time leaving his
papers at the Custom House. On
receiving instructions to sail
he went again to the Custom
House about 5 p.m. (on the day
of his arrival) and asked for
his papers, but the Conservator
insisted on his "entering" and
"clearing" and paying port dues,
and charged him also over time
fees for work after office hours.

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The question seems to have been
referred to the Port Officer, Negapatam,
who supported the action of the
Port Conservator at Tranquebar on
the ground that the fact of the Master
having taken his papers to the Customs
House on arrival was prima facie
evidence that he intended to
work cargo. The owner states
that the Master being "a new
man" was unaccustomed
to his duties and thought he
had to call at the Custom House
on arrival whether he intended
to work cargo or not.

The Port Officer, Negapatam,
considers that the vessel should
be treated under Section 46 of
Indian Ports Act of 1889 as
a vessel in ballast as the vessel
"entered" at the Custom House.
In my opinion Section 47 of
the Act is applicable and that
The

the fact of the vessel having
been "entered" does not affect
the case. I beg that Government
may be requested to decide
the point.

I have the honour to be,

Sir,

Your obedt. servant,

A. A. Theet

Commander, R.N.M.

Deputy Port Officer

Yr.