M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 108-109 Press Mis.

215-24

Dated 6-1- 1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 16th January 1861.

No. 215. Read the following letter from Lord H. ULICK BROWNE, Under Secretary to the Government of India (Home Department), to T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, dated Fort William, 21st December 1860 No. 2,839:—

SIR,

1. I am directed by the President in Council to forward in original the accompanying letter* from Captain J. Carpendale, Madras Engineers, claiming exemption from the payment of duty on certain wearing apparel, uniform, and Military appointments, and to request that the Governor in Council will dispose of the case on its merits.

* *No.* 1,238, *dated 22nd November, with* 1 *enclosure.*

2. The proceedings against which complaint is made appear to have taken place before Act X of 1860 was passed.

3. The accompanying Extract from the Calcutta Custom House Guide will show the practice that obtains at this Presidency in respect to personal apparel.

No. 216. ORDER THEREON, 16th January 1861, No. 108.

1. The Madras Customs rules allow "apparel *in use*" to pass free as part of a passenger's baggage. Captain Carpendale maintains that the words "*in use*" mean apparel *intended for use* as distinguished from that intended for sale. If this had been the case the words "for use" would naturally have been employed, as they are in the rule whereby Military and Naval appointments "for personal use" are declared free of duty. The same distinction is drawn in the Calcutta Customs rule which runs "boxes * * * containing goods not in use although "intended for personal use and not brought for sale are liable to duty." It is clear therefore that the Madras interpretation of the words "in use" is correct and that Captain Carpendale's claim is untenable as regards his cases of "*apparel*." His Military equipments are free.

2. In regard to the Calcutta rules respecting baggage, the Governor in Council resolves to inquire whether the baggage which may be "landed under a baggage pass," is charged with duty or altogether free.

(Signed) J. D. BOURDILLON,
Secretary to Government.

Ordered that the following letter be despatched.

No. 217. From J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, in the Home Department, dated 16th January 1861, No. 109.

SIR,

I am directed by the Honorable the Governor in Council to acknowledge the receipt of your letter, dated the 21st December, No. 2,839, and with reference to the rule in the Calcutta Custom House Guide respecting baggage, to inquire whether the packages which "may be "landed under a baggage pass" are subsequently charged with duty or are altogether free.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following Proceedings of the Board of Revenue, dated 29th March 1860, No. 1,587 :—

Read letter from the Chief Engineer, dated 20th January 1860, No. 9,397.

(In Con. 21st January 1860, No. 291.)

Read also letters from the Collector of Sea Customs, Madras, dated 23rd February and 15th March 1860, Nos. 116 and 173.

(In Cons. 23rd February and 15th March 1860, Nos. 844 and 1,196.)

In the correspondence above recorded, two applications for remission of Customs Duty on Military Uniforms and Apparel are made for the orders of the Board.

2. I. Captain Carpendale of the Engineers claims refund of the duty at 20 per cent. levied on Apparel and Military Appointments, which he brought from England in July last. These articles had not been actually worn but were for personal use, and refund is claimed under the Customs Rule noted in the margin.

"Articles of Passengers' baggage allowed to pass free of duty on importation
" Apparel in use
" Army and Naval Officers' appointments for personal use "—Almanac page 181. 1860.

3. The Customs-House interpretation of the words "*in use*" is Apparel which has been actually worn or used, to the exclusion of articles intended for future use in this country. The definition is certainly strict, but liability to duty is the rule, and exemption cannot be claimed as a right for articles intended for future use, merely because the owner brings them with him.

4. Military Equipments, forming part of a passenger's baggage and declared for persona use, are, however, free under the Rule above quoted, whether they have been worn or not.

5. The Collector meets this application by declaring the Rule and in fact all the Rules granting exemption from duty, to have been abrogated, as a matter of course, by the enactment of Act VII of 1859. This founded on an opinion expressed by the Lieutenant-Governor of Bengal, on a reference made to him by the Calcutta Board of Revenue as to the freedom from duty of Spices certified to be the produce of British possessions.

6. Whatever weight may be attached to this opinion, it must be remembered that the Rules of the Madras Customs House were passed by the Madras Government under Section 68 Act VI of 1844, which remains in full force, and that the public may reasonably demur to their being set aside without the sanction of Government, or direct warrant in the new Act.

7. The Board, therefore, resolve to submit the question for the Orders of Government.

8. II. Colonel Brice of the Artillery similarly claims refund of duty levied on Military equipments imported by him from England.

9. Inconsistent as it may appear, the Customs Rules do not allow freedom from duty for such articles when imported, as is done when they form part of a passenger's baggage. When an Officer brings them with him they are free ; when he has them sent to him they are liable to duty.

10. The Board learn from the public prints that it is the intention of the Supreme Government in the new Customs Laws which are about to be enacted, specially to exempt Uniforms, &c. from taxation.

11. In the propriety of this course the Board entirely agree. Not only are Military Equipments expensive, but their use is compulsory and enforced for public reasons. It is but fair, therefore, that the State should not tax their use.

12. The cases now submitted will not, however, be affected by this intended boon, and in submitting them for the Orders of Government, the Board recommend that refund of duty may be specially allowed for the reasons given in paragraph 11.

13. The Board request that the Collector will expedite the preparation of the Memorandum (already called for) of the alterations rendered necessary in the Customs Rules by the new Act.

(A true Extract.)

(Signed) J. D. SIM, *Secretary.*

ORDER THEREON, 26th April 1860, No. 638.

The Board of Revenue submit for the Orders of Government two applications, being from Captain Carpendale of the Engineers and Colonel Brice of the Artillery, for remission of Customs Duty on Military Uniforms and Appointments brought from England for their own personal use.

2. Act X of 1860 deprives this Government of authority in cases of this kind, and the Governor in Council can only refer both Officers to the appeal, given to them by the third clause of that Act, from the decision of the Collector of Sea Customs to the Secretary to the Government of India in the Revenue Department.

(True Extract.)

(Signed) J. D. BOURDILLON,
Secretary to Government.

No. 2105

Communicated to the Collector of Sea Customs, the Chief Engineer, Col. Brice and Capt. Carpendale.

Rev. Board Office
Fort St. George
30th April 1860

By Order
[illegible]
Secretary

To the Board of Revenue.

To
Captain Carpendale.—

Exd. Wm. Thomas.

Compd.
[illegible]

A. 2839.

From

Lord H. Ulick Browne
Under Secy. to the Govt. of India

To

T. Pycroft Esqre
Chief Secy. to the Govt. of
Fort St. George

Dy Fort William the 21st December 1860.

Home Dept. Sir,

A. 1238 of 22d Nov. with 1 Encls.

I am directed by the President in Council to forward in original the accompanying letter from Captain J. Carpendale Madras Engineers & claiming exemption from the payment of duty on certain wearing apparel, uniform, and Military Appointments, and to request that the Governor in Council will dispose of the case on its merits.

2 The proceedings against which complaint is made appear to have taken place before Act X of 1860 was passed.

3. The accompanying Extract from the Calcutta Custom House Guide will shew the practice that obtains at this Presidency in respect to personal apparel.

I have the honor to be,
Sir,
Your most obedt. Servant,

H Ulick Browne

Under Secy. to the Govt. of India

Recd 30th/60

Home Dept
Oct 1860
215

Extract from Calcutta Custom House Guide
Page 22 Para
Page 23 Para

Extract from the Custom House Guide Page 74.

Baggage. — Preventive Officers are authorized to allow Passengers to take on shore with them any trunks, drawers, small boxes, Cabin Furniture, and bona fide Cabin Stores.

In addition to the above may be landed under a Baggage Pass

By a Lady

One closed package of Millinery.

By a Gentleman

One closed case of Saddlery

One ditto — Do. Wearing Apparel, (and if a Military Officer, a case of Accoutrements, a gun, and a pair of Pistols in addition, if accompanying the owner.

Baggage, Inwards — Boxes soldered, cases nailed, and packages which may have the appearance of Cargo, or containing Goods not in use although intended for personal use, and not brought for sale, are liable to duty; such as Millinery, musical instruments, Saddlery, guns, pistols, Carriages, Wines, Spirits, Plate, Glass, Crockery, must be detained, and subsequently sent to the Custom House in order that duty may be levied thereon in conformity to Law, unless otherwise expressly passed in the Baggage Permannah or other document. In that case the address, or other distinguishing details, will be given in writing.

True Extract

J. H. Brown

Assistant to the Superintendent

If baggage be — a Lady is allowed one package of Millinery a few Wearing apparel of a Gentleman one of Saddlery & one Gentleman is by Law allowed his Wearing Apparel & Instruments of his profession

Rej. Cancelled Entries

Note. The Harbour Custom House allow "apparel in use" to pass free as part of a Passenger's Baggage. Cabin Furniture & Wearing Apparel are the words "in use" mean that the words "in use" mean apparel intended for use or for the personal use of the Passenger & not brought for sale. Yet this Rule does not seem to be generally known. The same Restriction is drawn in the Calcutta Custom Rule which runs "Boxes &c &c containing goods not in use although intended for personal use are liable to duty" "Musical instruments are free. The Calcutta Rules allow Passengers to import free of duty a certain quantity of

Rec'd 30th/60

Madras 22d Novr 1860

From No. 1238

Captain J. Carpendale

Madras Engineers

To

The Secretary to the Government of India

In the Revenue Department

Calcutta

Sir,

Availing myself of the permission given by Clause 3 Act X of 1860 to appeal to the Government of India from the decision of the Collector of Sea Customs, I have the honor to request that you will do me the favor of Submitting my case for decision in which I have been charged a duty of 20 per cent on personal apparel, uniforms, and Military appointments, brought out with me from England and declared by me to be the former for my own and families use the latter for my own use. The circumstances of the case are so clearly set forth in the enclosed printed extract of Proceedings of the Madras Government that it does not appear requisite to

to forward all the papers to you,
and I would only briefly remark
that I ground my claim to exemption
from duty on Uniforms and Appointments
because, at the time referred to, the
Customs rules at Madras distinctly
said that such articles, being passengers
baggage, were allowed to pass free of
duty; and because I cannot coincide
in the interpretation of the Collecta of
Sea Customs as to the meaning of the
expression "apparel in use". I believe it
to be intended by the Government of India to mean
all wearing apparel forming part of a
passengers baggage, and intended for the
same passengers use; in contradistinction
to apparel imported for Sale. I cannot
believe the Spirit of the regulation to
be that a passenger clothes to be
exempt from duty must have been
worn

I have the honor to be
Sir,
Your most Obedient Servant

H Carpendale Captain
Madras Engineers.

Rec'd 30th Dec

Rev Dept 7

No 108.

Proceedings of the Madras Government
under date the 16th January 1861.

Read the following
letter from the Under
Secretary to the Government
of India.

Forward for disposal a
letter from Capt. H. Carpendale
Madras Engineers claiming
exemption from the payment
of duty on certain wearing
apparel, uniform and fully
appointments.

(Here enter 21 Dec 1860 No 2583)

The Madras Custo
rules allow "apparel in use
to pass free as part of a
passengers baggage. Capt
Carpendale maintains that
the words "in use" mean
apparel intended for use
as distinguished from
intended for sale. If this
had been the case the wo
"for use" would naturally
have been employed as
they are in the rule whe
military and Naval ap
pointments "for personal
use" are declared fre
du

duty. The same distinction is drawn in the Calcutta Customs rule which runs "Boxes xxx containing goods not in use although intended for personal use and not brought for sale are liable to duty". It is clear therefore that the Madras interpretation of the words "in use" is correct and that Capt. Carpendales claim is untenable as regards his cases of "Apparel" His Military equipments are free.

In regard to the Calcutta Rules respecting Baggage the Governor in Council resolves to enquire whether the Baggage which may be "landed under a Baggage pass" is charged with duty or altogether free.

J. D. L

Sec. Rev. Dept.

13 Copies to Bds of Rev
Dirs

A. 2.

N° 109.

To Secy: to the Govt: of India
in the Home Dt:

Sir

I am directed
by the Hon: the Gover
nor to acknowledge
the rec: of your letter
dated the 21st Dec:
N: 2039. and with
ref: to the rule in
the Calcutta Custom
House Guide respect
ing Baggage, to
inquire whether
the Packages which
"may be landed un
der a Baggage Pass
subsequently
are charged with
duty or are allowed

Feb: 5th Rec. 16 Jan: 1864.

Enclosure 1861 Despatch
Rec: 5th Jan: 1862
N° 108.

Rec: 16th January 1861.
N° 108 Country Letters.

From Secty to Govt of Bengal
N° 382. in
Fin Dept N° 882

Re Captain Copelands
claim for exemption from duty
of certain wearing apparel,
linen and clothing
&c &c &c

N° 215 to 216. 21/X

Revenue 1861 Departmt
Pro: of Govt for January

No 109.

To The Secretary to the Govt
of India in the
Home Departmt

Dd 16th January 1861.

Rect 1st Feby 61 Cr 387

Enquiring whether the package which "may be landed under a baggage pass" are subsequently charged with duty or not.

No 217

2

The Supreme Govt

No. 67-68
26.4.60.