M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 250 Press ~~Mis.~~

501-502

Dated 31-1- 18 61.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
31st January 1861.

No. 501. Read the following letter from R. P. HARRISON, Esq., Accountant General, to J. D. SIM, Esq., Acting Secretary to Government, Revenue Department, dated 3rd January 1861, No. 337 :—

SIR,

1. With reference to the Orders of Government, Revenue Department, Nos. 1,781 and 1,936, dated 4th and 23rd October last, I have the honor to forward for their information copy of a Circular* which I have issued relative to the course to be pursued in making refunds, from the Civil Treasuries, of duties levied under Act XXXII of 1860.

* *No. 2,033 dated 21st December* 1860.

2. As regards similar refunds from the Treasuries of Military Paymasters, both within the territorial limits of the Madras Presidency as well as those out of those limits, viz., the Rangoon, Kamptee, Secunderabad and Bangalore Paymasters, I request that you will be pleased to obtain the orders of Government as to the Authority by whom the Certificates for refunds to be made from these Treasuries are to be signed.

3. The Secretary to the Income Tax Commission states, in his letter dated 13th ultimo, No. 270, that "the Commissioners are not aware whether ex-officio Assessors are empowered to "make refunds or not; but that they think that if they are so authorized under Section 32 Part 2 "they should use the same form directed to the Sub-Treasurer; but it appears to them that the "best plan will be for the ex-officio Assessors merely to grant Certificates addressed to the "Commissioners, when claims to refunds are proved to their satisfaction, upon which the Com-"missioners should direct the Sub-Treasurer to make them accordingly."

4. It appears to be desirable that the Government should determine whether the ex-officio Assessors are competent to order refunds of the Tax and to issue Warrants or Certificates upon the Treasury Officer in the form prescribed by the Government of India in their Financial Notification, No. 78, dated 7th September last, published in the local Gazette at page 671 of the 2nd Volume for the last year.

Circular from R. P. HARRISON, Esq., Accountant General, to all Collectors, Sub-Treasurer, Commissioner at Mysore, Resident at Travancore, Secretary Government Savings' Bank and Auditor of Commissariat Accounts, dated Fort Saint George, 21st December 1860, No. 2,033.

SIR,

1. With reference to the Notification of the Government of India No. 78, dated 7th September, published in the "Fort St. George Gazette" of the 2nd October last, page 615, and Orders of this Government, Revenue Department, Nos. 1,781 and 1,936, dated 4th and 23rd ultimo, I have the honor to inform you that all refunds of duties levied under Act XXXII of 1860—must be made by an order upon the Treasury into which such duties were paid, under a Warrant or Certificate, in the form given in the Order of Government of India above quoted signed by the Collector in the Districts, by the Commissioner of Mysore in Mysore, the Resident of Travancore in Travancore, and at the Presidency (for refunds payable at the General Treasury and Sea Customs Office) by two of the Commissioners of Income Tax for the Town of Madras, one of whom, must be, in every case, an Officer of Government.

2. At the Presidency Offices, the Certificates of the Income Tax Commissioners will be held to be sufficient vouchers in support of the refunds made and hence should be submitted with the Accounts—but in the Provinces the amount refunded by Collectors, &c., should be included in their Contingent Bills and passed by the Civil Auditor, to whom the Warrants or Certificates should be forwarded as subsidiary vouchers. The No. and date of the Proceedings of the Board of Revenue under which refunds are made should be given at foot of the Certificates, to facilitate reference thereto in the Audit Office to which the Proceedings of the Board will be communicated.

(True Copy.)

(Signed) T. MURRAY,
Acting 2nd Assistant Accountant General.

one, in the case [illegible]
arise, where, as at Rangoon, Jaulna.

Proceedings of the Madras Government, Revenue Department,
31st January 1861.

No. 502. ORDER THEREON, 31st January 1861, No. 250.

1. In the foregoing letter the Accountant General asks two questions :—

(1.) What Authority is to sign the Certificates for refunds from the Treasuries of Military Paymasters, of duties levied under Act XXXII of 1860 ; and

(2.) Whether ex-officio Assessors are competent to order refunds of the Tax and to issue Warrants or Certificates in the form prescribed.

2. An answer in the affirmative to the latter question would necessarily settle the former, as Military Paymasters are themselves ex-officio Assessors. The Government, however, consider that the Income Tax Act does not empower ex-officio Assessors to make refunds ; the proper course to follow will be that pointed out in paragraph 3 of Mr. Harrison's letter, viz., for the ex-officio Assessors, including Military Paymasters, when claims to refunds are proved to their satisfaction, to grant Certificates addressed to the Presidency Commissioners, who will by Warrant direct the Officer in charge of the Treasury in question, viz., the Sub-Treasurer in Madras and the Paymasters elsewhere, to make the refund. The Accountant General will instruct the Paymasters to provide for refunds in their Estimates of monies required from the Civil Treasuries monthly. In many cases, probably, no addition to the estimates will be necessary.

3. The foregoing course seems best, because it is desirable that the practice should be uniform, and under one general control ; in the same way that the proceedings of the Collector in this matter are subject to the supervision of the Board of Revenue.

4. The Government approve generally of the Circular issued by the Accountant General relative to the course to be pursued in making refunds, but in one particular they consider that a change is necessary. In the case of refunds in Mysore and Travancore, the Warrants should be issued by the Commissioners at the Presidency, instead of by the Board of Revenue. It is a mistake also to enter the Commissioner of Mysore as being required to sign the Forms. The Superintendents of Divisions in Mysore are the official Assessors, and they will send their Certificates direct to the Income Tax Commissioners, just as Paymasters will do under this order.

(Signed) C. G. MASTER,
Deputy Secretary to Government.

Memo.

I am not quite sure whether para 2 of the accompanying draft expresses the intention of Govt on the point in question, or whether they wished that the Presidency Commissioners should act towards Military Paymasters exactly in the way in which the Board of Revenue act towards Collectors. In the latter case the Collector issues the order upon his own Treasury & supports it by the certificate of the Board which authorizes him to do so. The same course cannot be followed as regards Military Paymasters because it has been settled in this paper that Ex-officio Assessors have no authority to make refunds. Assuming, as the Accountant General seems to be inferred from his letter under review, that Military Paymasters have treasuries, the order of the Commissioners would direct them to make disbursements; or in case such Officer had no Treasury, the officer in charge of the local Treasury wd be authorized by the Commissioners to make the necessary refunds. but, in the latter case, a difficulty wd arise, where, as at Rangoon, Jaulna

&c. the local authorities have no connection with this Government.

The whole plan is cumbrous and calculated to cause delay. The Paymasters must, I suppose, make reports in every case, so that the conferring authority may be enabled to judge of the propriety of a refund.

CJW

Rev. No. 16.

In this letter the Accountant General asks two questions.

(1) What authority is to sign the certificates for refunds, from the Treasuries of Military Paymasters, of duties levied under Act. 32 of 1860. and

(2) Whether ex-officio Assessors are competent to order refunds of the tax and to issue Warrants or Certificates in the form prescribed.

Of course if the latter question is answered in the affirmative, the former would be also settled, because Military Paymasters are themselves (section 28 of the Income-Tax Act) ex-officio Assessors & would therefore be competent to order refunds out of their own treasuries.

The Madras Income Tax Commissioners, apparently referring to the Presidency Ex-officio Assessors, such as the Civil Auditor &c. express themselves as doubtful whether the ex-officio Assessors are so empowered; and they are also of opinion that even if the ex-officio Assessors have that authority, it will be most convenient for them merely to grant certificates addressed to the Commissioners, upon which the Commissioners would direct the Sub-Treasurer to make the refunds accordingly.

Section 32 of the Act lays down that the ex-Offices and Special Assessors appointed by sections 26-31 of the Act (both inclusive) "shall "have authority to exercise and apply all "the powers of the Act as fully and effec-"tually as the Collector & Commissioners "are authorized to exercise and apply the "same, so far as the same relate to the "said duties to be assessed by the said "Assessors."

Section 123 states that "when the whole "profit or income of the claimant shall arise "from an office or employment of profit or "from an annuity, pension or salary, the "assessment on which is made by any ex-"Offices or Special Assessor, the claim to "such exemption shall be made to and "be allowed by such ex-Offices or Special "Assessor."

The "such exemption" referred to in this Section seems to be the exemption spoken of in sections 116 & 117. viz- where incomes are less than £200 & £500 per annum respectively- This exemption seems to form the subject exclusively of sections 116 to 125.

Section 122 seems to provide for the course to be followed when exemption has been allowed under those sections. For if it shall be proved to the satisfaction of the Collector or Commissioners that any person whose claim to exemption has been allowed in the manner aforesaid, has been charged to, & has paid any Duty as to which they shall certify the same, & it "shall be repaid "in such manner and under such rules "as the local Govt shall from time to time "prescribe."

The Rules prescribed in such cases are contained in para 3 of G.O. 4 Oct. 1860. No 1781, and are simply to the effect that Collectors are to obtain the sanction of the Board of Revenue before making refunds of wrongly collected duties- & that the Commissioners for the Division of Madras can order the refund at once under an order signed by two of the Commissioners directed to the Sub-Treasurer.

It would therefore appear that the power of ordering the repayment of money collected from persons who are exempt on account of having incomes less than 200 or 500 Rs. rests exclusively with Collectors & Commissioners.

The remaining cases where refunds are specifically alluded to are as follows-

sections 116-125 Act. XXXII of 1860.

Section 135- Where a refund of duties paid on account of any annual premium to an Insurance Society is allowed to be made on proof of the fact to the satisfaction of the Collector or Commissioners-

Section 138 Where any double assessment shall have been remitted, it shall be repaid

Section 139 Where a man's income under Schedule 2 suffers diminution, by falling short of the sum on which the assess-

ment was made.

Section 140 Where under Schedule 2, a person shall cease to exercise a trade, or become insolvent, or shall die before the end of the year.

The rules ~~in~~ under the three last named sections, prescribing mode of repayment, are contained in Notification of G. of I. No. 78. dated 7 Sept 1860 — wherein ~~[illegible]~~ the Collector or Commissioners by whom the remission had been granted, were directed to make the repayments by an order upon the Treasuries into which the duties had been paid and in a particular form.

* Published in Fort St. George Gazette. Page 641.

In other cases of exemption, such for instance as those referred to in sections 126 to 133 of the Act; which exemptions are supposed to be allowed before any assessment is made; no rules are laid down specifying mode of refund. Government however have in general cases of exemption under sec. 133 directed the Accountant General to order a refund of interest on Government securities which has been previously taxed.

It would seem, on the whole, that Ex-officio assessors have no authority, under the Act to make refunds. and it would also seem advisable to invest as few officers as possible with the power of ordering refunds from a Treasury: for, I submit, the term "Treasuries & Military Paymasters"

used by the Accountant General in para 2 of his letter under review, is a misnomer. Paymasters in the Provinces only receive a certain sum monthly from the District Treasury for their disbursements, which sum is all spent in the month, so that there would be no fund out of which to ~~[illegible]~~ make repayments. The "Treasury into which such duties have been paid" referred to in the Financial Notification of the Govt of India. No 78. of 7 Sept 60. can surely only refer to the Treasury into which the duties are finally paid — i.e. the District Treasuries in the Provinces, or the General Treasury in Madras. and with regard to the former, it would certainly be inconvenient that any one besides the Collector should have any power to authorize the payment therefrom of any monies; it might also be thought much inconvenient, as to the latter also, that there should be one recognized channel. viz. the Commissioners, through which orders for repayments should pass. It might therefore be advisable that the proposition of the Madras Commissioners, as contained in para 3 of Mr Harrison's letter should be adopted, the Collectors up country taking the place of the Commissioners in Madras. The only difficulty would be as regards the Paymasters out of the limits of

the Madras Presidency viz. at Ra
kamptee, Secunderabad & Banga
but even there the same cour
be followed, the Paymaster's
-cates being directed to the offic
charge of the Treasuries at the

There is one point in the a
accompanying Mr Harrison's
under review which seems t
consideration.

The Govt in their order of 4 Oc
No. 1781, para 3. laid down certain
for making refunds. With refere
order, Mr Cushington, Actg Acc
General, asked, on 16 Oct. who wer
appellate Authorities in Mysore
Travancore. He required this in
he said, to enable him to issue t
very instructions & disbursing
to support refunds of the tax be
by them by certificates from the
officer.

The Govt informed him on 25
No. 1936. that the Board of Reven
the Appellate Authority for b
stated, for Mysore and Travanco

Accordingly in his present
Mr Harrison directs that the refun
-cates shd be signed by the Collec
Districts (2) by the Commissioner
in Mysore (3) the Resident of Trav
Travancore (4) at the Presidency,

In the 4th case, the Certificates of the Com
missioners will be sufficient vouchers in
support of the refunds - but in the Provinc
(including, I suppose, Mysore & Travancore
"the amount refunded by Collectors &c" must
be supported by orders of the Board of Reven
Both the wording of this circular, and the
G.O. of 23 Oct. Nos. 1936, imply that the
Commissioners of Mysore & Residents of
Travancore are to be subordinate to the
Madras Board of Revenue in this partic
-ular: and as the former of these offices
has nothing to do with the Madras
Govt, this point seems to require re
-consideration.

E H M
Jan 11.

Yes
The
Will

Note - It appears to me that the
proper course will be to adopt
the course recommended by the Accnt
Genl in V. 3, committing to the Com
-missioners of the Presy the duty of
issuing the certificates or warrants for
refunds by Civil Paymasters - It is desir
-able that the practice shd be uni
-form, & shd be under the genl control
with reference to the
question raised by the Madras Govt

Return

~~last~~ concluding para. of this Memo.
I think that in the cases there referred to
also, viz. of refunds in Mysore & Travan-
-core, the warrant shd. be issued by the
Commissioners. There need be no diffi-
-culty about the deposit of the Comm.r
of Mysore, as he will not take any
part in the matter at all. The Subsi-
of Divisions in Mysore are the Offrs.
of persons, the Comm.r is not one; the
former therefore, will send their Certifi-
-cates direct to the Tax Comm.rs, just
as Paymasters will do.

Yes
Ele

W

Ele

Dd. 16 Jany. 15.

16th Jany

R. D.

No. 250

Proceedings of the Madras Government

Under date the 31st Jany. 1861

Read the following Letter
from the Accountant General

Forwards for the information of Govt. Copy of a Circular on the subject of refund from the Civil Treasuries of duties levied under Act XXXII of 1860.

(Here enter 3rd Jany 1861 No. 327)

Ele

1. Says the foregoing Letter the Accountant General asks two questions;

(1) What authority is to sign the certificates for refunds from the Treasuries of Military Paymasters, of duties levied under Act XXXII of 1860; and

(2) Whether ex-officio Assessors are competent to order refunds

refunds of the tax and to issue Warrants or Certificates in the Form prescribed.

2. An answer in the affirmative to the latter question would necessarily settle the former, as Military Paymasters are themselves ex. Officio Assessors. The Govt. however, consider that the Income Tax Act does not ~~empower shew that~~ ex. Officio Assessors ~~have any authority~~ to make refunds; the proper course to follow will be that pointed out in para 3 of Mr. Harrison's letter, Viz: for the ex. Officio Assessors, including Military Paymasters, when claims to refunds are proved to their satisfaction, to grant Certificates addressed to the Presidency

Presidency Commissioners, who will by warrant direct the Officer in charge of the Treasury in question Viz: the Sub Treasurer in Madras and the Paymasters elsewhere, to make the refund. The Accountant General will instruct the Paymasters to provide for refunds in their Estimates of monies required from the Civil Treasuries monthly. In many cases, probably, no addition to the Estimates will be necessary.

3. The foregoing Course seems best because it is desirable that the practice should be uniform, and under one general control; in the same way that the proceedings of the Collector in this matter are subject to the supervision

of the Board of Revenue.

4. The Govt. approve generally of the Circular issued by the Accountant General relative to the course to be pursued in making refunds, but in one particular they consider that a change is necessary. In the case of refunds in Travancore, the warrants should be issued by the Commissioners at the Presidency, instead of by the Board of Revenue. It is a mistake also to enter the Commissioner of Mysore as being required to sign the forms. The Superintendents of Divisions in Mysore are the Official Assessors, and they will send their Certificates direct to the Income Tax Commissioners, just as Pay masters will do under this order.

CJM

3 Copies. Accountant's Journals Diffs. 15
3 " Boards of Revenue
3 " Presidents of the Income Tax Comrs
3 " Special Commissioner of Mysore
2 " Sub Treasuries
7 " Military Departments
3 " Residents of Travancore Cochin

Regarding refunds of tax levied under Act XXXII of 1860.

Revenue Dept.
Pro: of Govt. for January.

No. 250.

Pro: of the Madras Govt.
Dy 31st January 61.

Approving generally the Circular issued by the Accountant General relative to the Course to be pursued in making refunds from the Civil Treasuries of duties levied under the Income Tax Act.

No. 501 & 502.