

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. <i>79</i>	~~Press~~ ~~Mis.~~
<i>184-185</i>	
Dated <i>11-1-</i>	<i>1861.</i>

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
11th January 1861.*

No. 154. Read the following letter from W. BALMAIN, Esq., Officiating Sub-Treasurer, to J. D. SIM, Esq., Acting Secretary to Government, Revenue Department, Fort Saint George, dated 14th December 1860, No. 850 :—

SIR,

1. I have the honor to solicit the instructions of Government on the procedure under which refunds of Income Tax levied on the interest of Government Securities are to be made, and also generally as to the person by whom refunds of Income Tax are to be paid. I beg to

* *To be returned.* forward copy of a letter to the Accountant General, and his reply* in original, and also to refer to the Notification of the Government of India, No. 133, published in the Calcutta Gazette of 28th November 1860, page 2,545.

2. Under this Notification, persons who claim exemption, or refund of Tax levied on interest on Government Securities, should first obtain a certificate from the Accountant General, that it has been levied, and then submit their claims to the Commissioners of Income Tax; unless in cases where (as in charitable and religious societies) no returns of income are made to the Commissioners, and where the exemption might be ordered by the Accountant General when passing the interest for payment. If Government approve of this, I will forward to the Commissioners and the Accountant General several applications for refunds already sent in to me as Sub-Treasurer, and an ex-officio Assessor.

3. In regard to the officer by whom generally refunds of Income Tax are to be disbursed, I beg to state that the Sub-Treasurer has been paying such orders whether signed by the Commissioners or by the ex-officio Assessors, as the Civil Auditor. In Calcutta it would appear (from Mr. Grote's letter printed in the Gazette) that all refunds are paid by the Collector of Income Tax. Should Government deem it proper, that officer might be required to pay refunds of tax collected by him, while as suggested in Mr. Harrison's 2nd paragraph, the Sub-Treasurer might discharge all orders for refunds of tax levied by *him* on the interest of Government Securities, or on salaries, whether such refunds are ordered by the Commissioners or by the Accountant General or by the Civil Auditor.

4. The Act does not mention by whom refunds are to be paid, but only states that the "repayment is to be made under such rules as the Governor General in Council shall prescribe;" and no such rules have, as far as I am aware, been published.

From W. BALMAIN, Esq., Officiating Sub-Treasurer, to R. P. HARRISON, Esq., Accountant General, Fort Saint George, dated 12th December 1860, No. 837.

SIR,

As refunds of Income Tax are being claimed in respect to deductions made from interest on Government Promissory Notes, I shall be glad to know if you think that the procedure laid down in the Calcutta Gazette of November 28th should be applied to all such claims, viz., that the refunds should be ordered by the Commissioners of Income Tax, and should be paid by the Collector of Income Tax. The Accountant General, the Sub-Treasurer, and all disbursing Officers, are by Section 26 of the Act, made ex-officio Assessors for interest paid on Government Securities, but it is not clearly laid down, as to whether the jurisdiction of the latter Officers is concurrent with, or subordinate to the Accountant General. Several refunds of tax ordered by the Civil Auditor, in the character of ex-officio Assessor, have been paid by the Sub-Treasurer. Under the present ruling, I suppose the Collector of Income Tax is the proper person to pay such refunds. I request the favor of an early reply to this, as I propose addressing Government on the subject.

(True Copy.)

(Signed) W. BALMAIN,
Officiating Sub-Treasurer.

Proceedings of the Madras Government, Revenue Department,
11th January 1861.

From R. P. HARRISON, Esq., Accountant General, to W. BALMAIN, Esq., Officiating Sub-Treasurer, Fort Saint George, dated 14th December 1860, No. 1,960.

SIR,

1. I have the honor to acknowledge the receipt of your letter No. 837, dated the 12th instant.

2. I conclude that you refer to the Notification of the Government of India, No. 133, dated the 20th November 1860, and I am of opinion that the mode of procedure therein laid down should be followed. Under the above ruling, claims for refund of Income Tax levied upon interest upon Government Promissory Notes should be made to the Income Tax Commissioners, but I consider that all refunds of sums realized by deductions from such interest should be made by the Sub-Treasurer upon the certificate of the Commissioners, the amount of such deductions having been realized by him. It would cause great inconvenience if such refunds were ordered to be invariably made by the Collector of Income Tax.

3. It does not appear to me that the order of the Government of India restricts or in any way interferes with the power which ex-officio or Special Assessors are empowered to exercise under Section 123 of the Act. Under that Section the Civil Auditor is authorized, in my opinion, to dispose of claims to refund of sums deducted from bills for salaries, pensions, &c., which are submitted to him for audit, and you are, I think, quite safe in making such refunds upon certificates signed by him.

No. 155.

ORDER THEREON, 11th January 1861, No. 79.

The Governor in Council is of opinion that applicants for refunds should be referred to the Income Tax Commissioners of the Presidency, and that refunds ordered or admitted by them should be disbursed by the Sub-Treasurer.

(Signed) J. D. SIM,
Acting Secretary to Government.

only state that the repayment is to be made under such rules as the Governor General in Council shall prescribe. Also no such rules have as far as I am aware been published. I have the honor to be,

Sir,

Your most Obedt Servant

W. Balmain
Offg. Sub-Treasurer

W. H.

The Sub-Treasurer raises 2 questions.

I. as to the Officers by whom refunds of Income tax levied on govt. Securities should be ordered.

Under Sect 32 of the Act the 2d Officers Assessors can exercise all the powers of the Act & therefore they can legally order refunds. But in the majority of instances this will render it necessary that persons should satisfy them as well as the ordinary Commr of the amount of their income. The Regal rule that claims to refund should be made to the ordinary Commissioners is clearly the best and should, I presume, be followed here. Where however the tax has been levied on Securities belonging to an Institution or Body exempted from it, this procedure is unnecessary - the accountants put on proof of the fact of exemption can give the refund. These cases will be rare after the first few years.

