

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	<i>X/2/85</i>	Press Mis.
Dated <i>9th September</i> 18 <i>59</i> .		

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
from 3d to 9th September 1859.*

No. 60. Read the following letter from J. D. SIM, Esq., Secretary to the Board of Revenue; to J. D. BOURDILLON, Esq., Secretary to Government R. D., dated 11th August 1859, No. 3105.

With reference to the order of Government dated 28th June last No. 860. I am directed by the Board of Revenue to submit thereports of the Collector of Sea Customs and his Deputy, Mr. Atkinson, on the complaint of Messrs. D'Souza Cammiade and Co., regarding the purchase, on behalf of Government of certain Watches and engravings imported by them in January and February last.

2. The points on which Government now require the Board's opinion are the "legality" and "judiciousness" of the Collector's proceedings.

3. First as regards the Watches:

4. Messrs. Cammiade applied on the 7th January to pass a case of Watches valued at Rupees 411. The application did not contain the number or description of the Watches, and as these particulars were obviously necessary to enable the Department to judge of the accuracy of the value assigned and the duty chargeable it was returned for amendment. On the 10th it was brought back by Messrs. D'Souza's clerk with the words "Silver" and "20 No." entered on it.

5. On the 14th the Firm repeated their application and sent a Bill from their Agents which they stated contained all the information they possessed regarding the consignment. On the 19th they repeated their request and were informed by the Collector, that it was necessary the case should be opened and examined.

6. The Firm demurred to this and tendered the Watches at their declared value.

7. The case on being opened was found to contain 18 silver and 2 gold watches and the value was considered under stated by 100 per cent. The watches were in consequence confiscated under Section XXXIX. Act VI. of 1844.

8. Messrs. D'Souza and Co., protested against this proceeding, maintaining that their valuation was correct and that the word "silver" in the application was entered by their shipping clerk at the instigation of Mr. Atkinson, the appraiser without their consent.

9. Mr. Underwood distinctly states that there is "not a tittle of foundation" for this last assertion and adds that the application with that word entered was placed in Mr. Cammiade's hands on 12th January and was not then questioned by him.

10. On the matter coming in appeal before the Board, they came to the conclusion that the confiscation was perfectly legal but on the ground that no fraudulent intention was apparent, they instructed the Collector to act on Section 23, Act VI. of 1844 and take the goods, at the declared value, as tendered by the Firm.

11. On further consideration the Board still think the Collector's Act strictly legal. It is admitted that the erroneous description was the Act, though unauthorized, of Messrs. D'Souza's own clerk on whose word the assertion, that Mr. Atkinson instigated the entry of the word "silver" solely rests. On the other hand there is the distinct denial of the Department, and the improbability that an officer of Mr. Atkinson's character and position would stoop to so dishonourable a proceeding.

12. The demand of the Collector to open the case was perfectly reasonable. The duty on watches is ad valorem and to determine the value and duty it is necessary to know the description. Now as the Firm avowed their entire ignorance of the description of the watches, whether gold or silver or gilt, it might certainly have been expected that they would have consented to have the case opened. Their refusal, notwithstanding, seems to the Board to deprive them of all reasonable pretext for complaint.

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13. The Board's decision not only relieved them of all possible imputations against their integrity (which in fact could not have been impugned in the face of their avowed ignorance of the contents of the case,) but was in accordance with their own offer to the Collector.

14. The case of the prints or engravings is still more simple. They were considered undervalued by more than 30 per cent and were inconsequence detained; the Firm being informed that they could apply within 15 days to the Board, for permission to amend the valuation, or submit to the goods being taken at their valuation under Section XXIII Act VI. of 1844. The Firm preferred the latter alternative and applied to the Board merely to order the prints to be sold "whole sale." This the Board declined to do, on the ground that as the Firm had declined to avail themselves of the privilege of amending their valuation, they had no right to demand that the goods, which by their own act, had become the property of Government, should be sold in any particular manner.

15. There can be no doubt of the legality of the Collector's proceedings in this matter and in fact this is not questioned by the Firm.

16. The "judiciousness" of the Collector's proceedings, remains to be considered. Under ordinary circumstances the result of the sale of goods on behalf of Government would be a fair criterion of this, but in the present instance the articles fetched such ridiculous prices that the case is evidently an exceptional one, falsifying the expectations both of the importers and Customs officers. Some of the watches sold for 7½ and 9 Rupees while the prints averaged a little less than 3½ Rupees each. A glance at the enclosed catalogue will show the paltry sums realised for what, by the descriptions, must have been valuable engravings. It seems to the Board quite out of the question to test the judgment of the appraiser by such sales and he may fairly claim to have his conduct judged by his character, position, and services.

17. In the present instance the loss to Government has been Rupees 301-1-8, but Mr. Atkinson shows that in others, noted in his explanation, there has been a much larger gain.

18. There is a third matter referred to in Messrs. D'Souza's pamphlet viz. the temporary detention of some cases of stationery imported by them. *Vide p. 5, 6, 7. Board's Pro. 14th March 1859. pamphlet p. 14.* The application to pass them was objected to in consequence of a large quantity of printing papers not being separately entered. Mr. Underwood explained that the object of this was to render the trade statements accurate, that the course was usual and that he himself conceded the point on the application of Mr. Cammiade, senior.

19. The Collector's proceedings was considered by the Board strictly legal under Sections XXII and XXXIX. of Act VI. of 1844, and they saw no reason to ascribe his first rejection of the application to a desire to injure or annoy Messrs. D'Souza and Co.

20. The Collector's report on the sales of the watches and prints has been delayed by the illness of Mr. Atkinson.

No. 61. Proceedings of the Board of Revenue, dated 13th August 1859, No. 3171.

Read Endorsement of the Secretary to Government, dated 12th August 1859, on a letter from the Board to Government of the 11th instant, calling for further information on the complaint of Messrs. D'Souza Cammiade and Co., regarding the purchase of Watches, &c., on behalf of Government.

(In Con. 13th August 1859.)

The Board of Revenue are not aware of any Section of Act VI. of 1844, or of any other Customs law, specifically providing for the opening of packages at the Sea Custom House, in the event of the Collector judging it necessary to examine their contents, and ascertain whether the law has been infringed in other respects than by undervaluation.

2. Section XXXIX Act VI. of 1844 evidently proceeds on the assumption that Customs officers possess this power, as otherwise it could never be brought into operation. On this

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ground the Board in 1855 informed the Collector that when, in the exercise of his discretion, he considered it necessary to examine the contents of packages, he should first require the persons entering the goods to open the suspected packages, and, on refusal, have them opened by his subordinates and carry out the necessary search.

(A true Extract.) (Signed) J. D. SIM, Secretary.

No. 62. ORDER THEREON, 9th September 1859, No. 1215.

Para. 1. In their letter of the 11th August 1859 above recorded, the Board of Revenue report on the complaint of Messrs. DeSouza, Cammiade and Co., regarding the proceedings of the Custom House authorities in respect to certain watches, engravings &c. imported by them in the early part of the present year.

2. It appears that Messrs. DeSouza, Cammiade and Co. applied to the Customs Officers on the 7th January to pass a case of watches valued at Rs. 411. This application was returned in view to the number and description of the watches being specified, and was brought back on the 10th by the Firm's Clerk with the words "silver" and "20 No." introduced. On subsequent applications from the Firm, they were informed that it was necessary that the case should be opened and the contents examined, to which they demurred and tendered the watches at their declared value under Section XXIII. Act VI. of 1844. This offer was declined, and the case was opened at the Custom House, and was found to contain eighteen silver and two gold watches; and the value being considered under stated by 100 per cent the whole were confiscated by the Collector under Section XXXIX. Act VI. of 1844. On the matter coming in appeal before the Board, they declared the confiscation to be legal, but as no fraudulent intention was apparent, they instructed the Collector to take the articles under Section XXIII. of the Act at their declared value as tendered by the Firm. The statement of the Firm that the unauthorized entry by their Clerk of the word "silver" was made at the instigation of the Official Appraiser is denied by the Department; and the Board consider it improbable "that an Officer of Mr. Atkinson's character and position would stoop to so dishonorable a proceeding." In respect to the opening of the case, the Board observe that as the duty on watches is ad valorem, that step was necessary to ascertain their description and determine the value and duty. The terms of their decision, the Board remark, relieved the Firm of all possible imputations against their integrity: the declared value of the watches was that contained in the invoice as their cost in Paris, and the importers declared their ignorance as to their precise description, whether silver or gold.

3. In the matter of the Engravings it is explained that they were detained because they were considered undervalued by more than 30 per cent; it being left optional to the Firm either to apply to the Board for permission to amend the valuation or submit to the goods being taken at their valuation under Section XXIII. Act VI. of 1844. The Firm preferred the latter alternative and applied to the Board merely to order the prints to be sold wholesale. This was declined by the Board who considered that the Firm had no right to make the request inasmuch as the goods had by their own act, become the property of Government.

4. The Board consider the Collector's proceedings in both instances perfectly legal. Then judiciousness they observe would be tested under ordinary circumstances by the result of the sale of the goods; but the sale in the present instance was of an exceptional nature, falsifying the expectations both of the importers and of the Customs officers and entailing on Government a loss of Rupees 417-9-5 as shewn in the margin.* The figures there given are taken from the accounts of the sales; the amount of the ultimate loss as given by the Board, by Messrs. DeSouza, Cammiade and Co., and by Mr. Atkinson, all differ from each other, and all differ from that here shewn.

* Net proceeds of the sale of the en-				
gravings as per account sale.....	439	8	4	
Do. of the watches as per do.....	273	5	5	
				732 13 9
Amount paid to the				
Firm by the Customs				
Department for the				
engravings	760	0	0	
Do. for the watches...	390	7	2	
				1,150 7 2
Amount of loss to Government	417	9	5	

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5. A third point complained of by Messrs. DeSouza, Cammiade and Co. relates to the temporary detention of some cases of stationery imported by them. This was caused by the omission from the application of certain particulars which were considered necessary to render the Trade statements accurate; but the point was subsequently conceded. On a complaint being made to them on the subject, the Board held the Collector's proceeding to be strictly legal under Sections XXII. and XXXIX. of Act VI. of 1844, and saw no reason to ascribe that Officer's first rejection of the application to a desire to injure or annoy the Firm.

6. On an attentive consideration of all the circumstances connected with these cases as recapitulated above, the Honorable the Governor in Council concurs in the view taken of them by the Board of Revenue, and he resolves to communicate this decision to Messrs. DeSouza, Cammiade and Co. for their information with reference to their letter of the 23rd June 1859.

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

My request to open the cases that

Rev. 1489 & 1490

For orders - The main ground
of complaint seems to be the af-
fair of the watches - The act
contains no provision re-
-specting the cases of sea
Customs to require that such
- cases shall be opened in such
a case - Whether this is an
intentional misapprehension
be doubted, but I can hardly
have been intended that Customs
officers shall be obliged to
examine & judge of the
value of goods (Section 23)
without seeing them.

2. As to the correctness of
the official valuers' estimate, it
appears from Mr. Underwood
own letter (P. 7) that the
valuation of the watches given
by the valuers was their actual
cost in Spain. I believe it
is usual & according to rule
to give the value of goods at
the place where imported. I.E. &
some further -
3. The number of the
watches & a description of the
watches seem to be true
the rest of the information on
cannot. It is difficult
to give any good reason why

they refused to show the cases that
equally allowed, or it seems to me
to suppose fraud on the valuers.
Though within the law, perhaps,
(Section 39) the rest of the case is
conframing the valuers was
certainly hard.

4. It is evident that
there is ill ~~feeling~~ feeling between
the Home & the Customs House
authorities. which - and a
blame is laid to each from
these papers -

W. J. J. Aug 10.

W. J. J.

W. J. J.

the watches at their actual
value, ^{under the Act of 1844} ~~the case on being~~
~~opened~~ was found to con-
tain eighteen silver and ^{two} gold
watches; and the value
being considered understated
by 100 per cent the ^{whole} were
confiscated, ^{by the collector} under Section
~~XXXIX~~ Act VI of 1844. On
the matter coming in
appeal before the Board

Ten eighteen silver and gold watches; and the value being considered undervalued by 100 percent the ^{whole} more confiscated, ^{by the Collector} under Section ~~XXX~~ Act VI of 1844. On the matter coming in appeal before the Board

they declared the enforce-
ment to be legal, but
as no fraudulent intention
was apparent, they instruct-
ed the collector to take
the articles under Section
XXX of the Act at their
declared value as tendered
by the Firm. The statement
of the Firm that the man-
ufactured entry by their clerk
of the word "Silver" was made
at the instigation of the offi-
cial appraiser is denied by the
Dept., and the Board consi-
der it improbable "that
an Officer of Mr. Atkinson's
character and position would
stoop to so dishonorable a
proceeding." In respect to
the opening of the case,
the Bd observe that as
the duty on watches is
ad valorem, that step was
necessary to ascertain their
description and determine
the value and duty.
The terms of their
decision

decision, the B. D. ~~trading~~ remark,
relieved the Firm of all
possible imputations against
their integrity ^{declared} the value ~~of~~ of the watches was that as claimed in

3. In the matter of the Engravings it is explained that they were detained because they were considered undervalued by more than 50 per cent; it being left optional to the Firm either to apply to the B. D. for permission to amend the valuation or submit to the goods being taken at their valuation under Section VIII Art II of 1845. The Firm preferred the latter alternative and applied to the B. D. merely to order the prints to be sold wholesale. This was declined by the B. D. who considered that the Firm had no right to make the request inasmuch as the Goods had by then become the property of Govt.

the invoice as their cost in India and the exporters declared their ignorance as to their precise description, whether silver or gold.

and enclosing in Govt a copy of Rupees 417.9.5 as shown in the margin. The figures there given are taken from the accounts of the Sales, the amount of the ultimate loss as given by the Board, by Mr. J. D. Daza Gammeade 86 and by Mr. A. H. Innow, all differ from each other, and all from that here shown.

Repaid, of the sale of the engravings as per list sale 409.8.4
do of the watches as per do 273.5.5
Don't paid to the Firm by the Customs Dept for the engravings 70.0.0
do for the watches 390.7.2
Amount of loss to Govt 409.8.4

4. The Board considered the Collector's proceedings in both instances perfectly legal. The jurisdiction of the Board would be ~~sufficiently~~ ^{exercised} under ordinary circumstances by the result of the sale of the goods, but the sale in the present instance was of an exceptional nature, falsifying the expectation both of the importer and of the Customs Officer. It ~~entailed a loss on Govt of Rs. 417.9.5, but the Board~~ ^{paid out that two thousand} ~~was in Mr. A. H. Innow's explanation, there has been a large gain.~~

5. A third point complained of by Mr. J. D. Daza Gammeade 86 relates to the temporary detention of some cases of stationery imported by them. This was caused by the suspicion from the application of

J

of certain particulars
which were considered
necessary to render the
Trade statement accurate,
but the point was subse-
quently amended. On a
complaint being made to
them on the subject, the
B. told the Collector pro-
ceeding to the strictly legal
under Section XII and XIII
of Act II of 1844, and saw
no reason to arise to that
officers fresh repetition
of the application & a
desire to inquire among
the firm.

On an attentive
consideration of all the
circumstances connected
with the case as receiv-
ing stated above, the B.
the G. in the course of the
the new to the of them
by the B. of the B. and he
resolved to communicate
the decision to the B. of the
Comm.

Cambridge and to the
information with reference
to their letter of the 28th
June 1857.

J. A. H.

6 Copies to the B. of Rev. Dis. 15th
1 " Messrs. De Souza Cammings & Co.

6 Copies
B. of Rev. Dis. 15th
Messrs. De Souza Cammings & Co.

1-4
 31-8-50
 75-0
 1-6
 66-5
 1-7

Providence 1887
 Pro. of Court 9th Sept^r

At 12/15.

Pro. of the Madras Court
 Dated 9th Sept^r 1887

Passing decision on the
 complaint of Messrs D. Souza,
 Commisade & Co regarding the
 purchase on behalf of Court of
 certain watches & importation by
 them.

At 60/68