M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 638 Press ~~Mis.~~

67-68

Dated 26 — 4 — 1860.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, for the month of April 1860.

No. 67. 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.*

No. 68. 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.

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

IN CON. 15TH MARCH 1860, No. 1196.

From W. E. UNDERWOOD, Esq., Collector of SEA CUSTOMS,
dated Madras, 15th March 1860, No. 173.

I have the honor to acknowledge the receipt of the Proceedings of the Board of Revenue, dated 9th March 1860, No. 1210, referring to the rule quoted by Captain Carpendale. The proceedings of the Supreme Government disposed of this rule by annulling it:—"The Lieutenant Governor can have "no doubt that all exemptions from the old law fell to the ground when the new law came into "force."

Letter from the Secretary to the Government of Bengal, dated 20th May 1859, forwarded with letter to the Board of Revenue, dated 11th July 1859, No. 330.

Exd. J. Tulloch.

89-29

Correctness of No 3 con-
Proceedings of the Board
of Revenue to the Secretary
to Government Rev. Dept.
dated 29th March 1860
& No 1587.—

Letter from the
Collector of Sea Customs
to the Secretary to the Board
of Revenue. Dated 15th
March 1860 & No 173 paragr.
2 enc the rule quoted by
Captain Carpendale.—

In Con. 23rd February 1860, No. 844.

From W. E. UNDERWOOD, Esq., Collector of SEA CUSTOMS,

dated Madras, 23rd February 1860, No. 116.

I have the honor, with reference to Captain Carpendale's letter* to observe that the "property and equipments" of the officers of a Regiment are to be charged with the same duties as similar articles imported for sale.

2. The order of Government, passed on two occasions, direct that no baggage† is to pass without examination, and that no distinction‡ is to be made in favor of officers' baggage.

3. The Board will find on reference to the order above quoted, at page 683 of the Government Gazette, that "uniforms and military equipments for personal use "but not already worn," are liable to duty.

4. On the 25th October last, the Collector suggested that "Government should allow officers' uniforms "and equipments to pass free of duty."

5. The Board of Revenue* observed in reply "your recommendation regarding officers' uniforms, &c., should have been separately submitted."

6. I have the honor to enclose an application from Colonel E. Brice, Artillery, on the same subject.

* Forwarded with Board's Proceedings, dated 27th January 1860, No. 471.

Fort St. George Gazette 1851, page 683.

†Boards Proceedings 21st August 1857, No. 2776.
‡ Board's Proceedings, 17th December 1857, No. 4536.

"The property and equipments of the officers of a "Regiment individually or collectively when imported, "are to be chargeable with the same duties as similar "articles provided in the way of trade for sale."

Letter to Board of Revenue, No. 545, paragraph 7.

* Letter from Board of Revenue, 11th January 1860, No. 145, paragraph 5.

Enc. 1.

From Messrs. PARRY and CO., MADRAS,

To W. E. UNDERWOOD, Esq., Collector of SEA CUSTOMS,

dated Madras, 16th February 1860.

We have the honor to enclose copy of a letter to our address from Colonel E. Brice, Artillery, and should it not be in your power to comply with the Colonel's request for a refund of the duty, we beg you will have the goodness to refer the application to the Board of Revenue for their decision.

From Lieut. Colonel E. BRICE, Horse Artillery.

To Messrs. PARRY and CO., MADRAS,

dated Bangalore, 13th February 1860.

With reference to the amount of duty charged and paid by you in July last, Rupees 198, for a case of Regimental uniform forwarded by Messrs. Buckmaster and Co., I shall feel obliged by your referring the question to the Collector of Sea Customs (and eventually if necessary to the Board of Revenue,) with a view of his remitting the enhanced duty charged thereon, as I cannot for a moment imagine, that it is the intention of Government to charge the enhanced duty from 5 to 20 per cent. on articles of Regimental uniform which *they compel* their officers to provide themselves with.

I would beg to point out that this uniform was procured by me consequent an a recent change made by Government, assimilating the uniform to that of the Royal Horse Artillery.

Again, the circumstance of levying duty on the invoice is altogether unjust as regards made up articles of uniform, for I imagine it is almost needless on my part to point out that *no two* tailors charge alike.

I have now before me the charges of four different firms which vary for the same articles of uniform from upwards of £100 to 76£. Surely after this it would not be unreasonable to ask that duty should be levied merely on the materials employed and irrespective of the charges for making up the uniform.

I trust you will kindly excuse the trouble I am entailing on you and believe me.

(True Copy.)

(Signed) PARRY and CO.

(True Copies.)

(Signed) W. E. UNDERWOOD,
Collector of Sea Customs.

Exd. J. Tulloch.

Enclosure c/2 Lr
Proceedings of the Board
of Revenue to the Secretary
to Government Ecc.l Dept.
dated 29th March 1860 c.
No 1587.

Letter from the
Collector of Sea Customs
to the Secretary to the Board
of Revenue dated 23rd Feby
1860 c/No 116 regarding
remission of Customs duty
on Military Apparel &c.

No. 1,587.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 29th March 1860.

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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.

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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 LXVIII, 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.

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(A true Extract.)

Secretary.

To J. D. BOURDILLON, Esq., Secretary to Government, R. D.

Copy to Collector of Sea Customs, Madras.

Exd. J. Wright.

Revenue 1860 Sept.
Pro. of Govt 30th April No. 690
Proceedings of the
Board of Revenue

Dated 29th March 1860
Recd 4 April —
Rec. 4
Encl. 3 — No. 1 & Letter.
6 Encls. No. 1587
From the Under Secy to the Govt of India Dpt 21 Dec. No. 2973
and 6 Encls. Copy Rec. 5th
Submitting for
orders correspondence with
the Chief Engineer and the
Collector of Sea Customs
Madras on the subject
of two applications for
remission of Customs
Duty on Military Uniforms
and Apparel and recom-
mending, that refund
of duty may be specially
allowed for the reasons
within mentioned. —

Nos 67 & 68.

Rec'd 16th April 1860

Nos an order
No. 638 — 26 April

No. 638.

The Board of Revenue sub-
mit for the orders of Govt two applications,
being from Capts Carpendale of the Engrs and Cobb
Brce of the Artillery for remission of Customs
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brought from England for their own personal
use.

2 Act X of 1859 defines this Govt power of
charity in cases of this kind, & the Govr in
Council can only refer both applications for
approval, given to obtain by the Board
of Direct. from the decision of the Board of
Sea Customs & the Secretary to the Govt of
India in the Revenue Dept. with

For Sec. Govt 26 April 1860.

11 Copies to the Dirs &c
Dpt of Rev
with 6 Encls