M.R.O. 14—10,000—21-4-22

# MADRAS RECORD OFFICE.

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## Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1911-12 Press ~~Mis.~~

39-41

Dated 2-10-1861.

***Not to be folded or roughly handled***

## *Proceedings of the Madras Government, Revenue Department, 2nd October* 1861.

No. 39. Read the following Proceedings of the Board of Revenue, dated 11th September 1861, No. 4,949:—

Read the following letter from C. COLLETT, Esq., Acting Collector Sea Customs, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated Madras, 27th August 1861, No. 431.

SIR,

1. I have the honor to submit for the decision the Board the question involved in the enclosed letter* from Messrs. Arbuthnot & Co., whether goods, the produce of Pondicherry and imported here are entitled to drawback on re-export.

* Dated 24th August 1861.

2. Obviously the consolidated Customs bill not being solely declaratory cannot help to the interpretation of the existing Law of Madras. The Law existing for Bengal and Bombay may be of use, assuming that the legislature could only intend on such a point to apply the same rule to all the Presidencies.

3. The Madras Law is to be found in the 2nd Clause appended to Schedule A in Act VI of 1844, whereby there are excepted from the privilege of drawback, "Opium and Salt and all "goods of the growth, production or manufacture of the Continent of India." In the Custom House Rules sanctioned by the Governor in Council 31st January 1851, it is declared that "Cashmere shawls being considered the manufacture of the Continent of India are not entitled "to drawback on exportation."

4. Act VI of 1844 was passed when duty was levied on imports from subordinate parts. Hence no doubt the use of the general term "Continent of India," in this clause; other parts of the Act show that the distinction of British and Foreign Territories in India was present to the mind of the legislature.

5. The Bengal Law is in Clause 2 appended to Schedule A of Act XIV of 1836, and Section 15, Act XVI of 1837. The only goods excepted are Opium and Salt. So that goods imported either from French Territory in India or from a subordinate port (when liable to duty) would be entitled to drawback. Thus in 1844, a rule was made for Madras different from that then in force in Bengal, and from the terms used it is difficult to say that (whatever the reason) the difference was not intentional.

6. The Bombay Law is in Section 35 of Act I of 1852, and clearly by that Law goods, the produce of a French Territory in India are entitled to drawback. This Law was subsequent to Act VI of 1848.

7. The only other consideration is the effect of Act VI of 1848, upon the Madras Law as then existing. The practical consequence is that goods the produce of British Territories in India and imported thence can get no drawback, as they pay no import duty, but on re-export are charged with the ordinary export duty of 3 per cent. But unless the Board think that Act VI of 1848, must be taken to have in effect struck out from Act VI of 1844, the words "all goods "of the growth, &c., of the Continent of India," I do not see that the exception remains unaltered, so far as it may still operate upon the produce of Foreign Territories in India.

8. The practice introduced by Mr. Underwood was to ignore the import altogether, and charge the export duty of 3 per cent. Thus in one instance Arrowroot the produce of Travancore was imported into Bond and then re-exported, but neither was the import duty of 20 per cent. charged, nor drawback on that duty allowed, but 3 per cent. export duty was levied. This practice seems so very much like making a new law for the occasion upon one's own notions of the fitness of things, that I do not feel justified in following it.

9. I should be very glad if the Board would authorize me to allow drawback. This would be done under the Law existing in Bengal and Bombay, and when the Customs Bill becomes law, will be done here. Without their authority, I could not do it, as the Law now stands here. I am informed that other shipments of similar goods† are expected shortly from Pondicherry.

† Ground Nut.

1. The Board consider that the spirit of the existing Law regarding drawback, justifies the demand in every case in which Import duty would be leviable were the goods not re-exported from bond. Good policy likewise dictates compliance with the claim for drawback in the present

instance, as to refuse it would merely have the effect of causing the discontinuance of this branch of trade, and the goods would be exported direct from Pondicherry, so that Government would lose the reserved $\frac{1}{8}$th of the duty; the shipping interest at Madras would suffer, and the producer in British Territories, would be in no better position than he was before, although the fact of his paying the full export duty while the Foreign goods are leaving the same port on payment of only $\frac{1}{8}$th of the Import duty might at first sight produce an idea of injustice. In the case of the Cashmere shawls quoted by the Collector, the Board consider that if a Frontier duty equal to the Sea Customs duty was paid on importation, the goods were equitably entitled to drawback on re-export, but the immense difficulty of identifying the articles, and of guarding against fraud in the matter must, the Board presume, have influenced as it reasonably might have done, the decision of the point.

2. It may be objected that to grant the privilege of drawback as proposed would offer inducement to smuggle the produce of British India into the Foreign Settlement that it might be carried thence by sea to the British Indian Port, and gain the advantage of the difference between the export duty and the $\frac{1}{8}$th reserved duty on final export, but it is obvious to remark that the temptation would be still greater to export the said produce direct from the Foreign port where, as in the case of Pondicherry, it may be a free one; and the Board do not believe that practically the objection would be found entitled to any weight, but that if it were so, the fact would prove that the export duty is too heavy, and should be reduced.

3. The Board then are decidedly in favor of granting drawback in the case of goods imported into Madras from Foreign Settlements on the cost and re-exported from Bond to the Foreign market, as is done at present in Bengal and Bombay, and will be done in the Presidency when the new Sea Custom bill becomes law, but as the proviso annexed to the Schedule A, Act VI of 1844, coupled with the ruling of the Supreme Government in the matter of Cashmere shawls cited by the Collector, render it doubtful whether they are competent to sanction a rule to this effect, they resolve to submit the question to Government, with a request that if deemed necessary it may be referred for the decision of the Supreme Government.

4. The practice mentioned by the Acting Collector as having been introduced by the late Collector Mr. Underwood, of ignoring the importation altogether, and charging the full export duty on re-export, was illegal and unauthorized.

(A true Copy and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

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No. 40. ORDER THEREON, 2nd October 1861, No. 1,911.

Ordered that these papers be submitted to the Government of India for their orders.

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

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Ordered that the following letter be despatched.

No. 41. From J. D. SIM, Esq., Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, Financial Department, dated 2nd October 1861, No. 1,912.

SIR,

1. I have the honor, under the orders of the Governor in Council, to submit for the decision of the Government of India, a claim for drawback preferred by Messrs. Arbuthnot & Co., on the re-export from Madras of goods produced in the French Settlement of Pondicherry.

2. The Acting Collector of Sea Customs does not consider himself authorized to allow the drawback, in consequence of the peculiar wording of the prohibition contained in the second of the Clauses appended to Schedule A of Act VI of 1844, viz., "excepting Opium and Salt and all goods of the growth, production or the manufacture of the *Continent of India*," which last expression he thinks was intended to include the French and other Foreign Settlements on this coast. In this view the Government do not concur. They consider that payment of duty on import is the consideration which in such cases should guide the Customs Officers, and that as the goods in question paid the full British duty on import, they are entitled to drawback on re-export, if duly identified.

Madras 24th August 1861

The Collector of Sea Customs

Sir,

We have the honor to acknowledge the receipt of your letter of yesterday in which you state that under the exception in Clause 2. appended to Schedule A. Act VI of 1844, the goods upon which we applied for Drawback being the growth of the Continent of India, are not, you conceive, entitled to that privilege -

The Clause to which you refer is somewhat obscure - We would submit however that it was the intention of the Legislature to make the exception applicable to "British India" rather than to the entire Continent of India -

In the analogous Clause No CI. of the New Customs Act, which has already been read a first time, you will find that "British India" is expressly named, and this we think is strongly corroborative of our view as to the construction which should be put upon the Clause of Act VI 1844 to which you have referred - Clause No CI. makes no fundamental change in the existing Law, it merely re-enacts

re-enact certain previous provisions and define them more clearly.

Should further collateral evidence be desired we would refer You to Clause XXXV of Act I of 1852 for the Consolidation & Amendment of the Laws relating to the Customs under the Presidency of Bombay, of which a copy is enclosed.

With these observations we trust that You will now feel satisfied in complying with our application for drawback.

The goods were forwarded from Pondicherry for the purpose of transhipment, the Owners never contemplating them being subjected to a tax of 10 P Cent without drawback.

We have the honor to be

Sir

Your most obedt Servants

Act I of 1852.

XXXV With the sanction of the Governor of Bombay in Council, seven eighths of the Customs levied on imports may

may be repaid as drawback upon the re-export by sea of goods which can be identified to the satisfaction of the Collector of Customs as having previously paid customs duties on import at the same port: provided that such re-export be made within two years of the date of import by the Custom House Register, and the drawback be claimed at the time of the re-export; but no drawback shall be claimable under this Act on any re-export of opium or salt or of goods destined for any port in the territories subject to the Government of the East India Company, except Aden and ports in the Straits of Malacca, the Tenasserim Provinces and the Province of Arracan.

(True Copy)

By Secy to Govt

Act I. 1852.

XXXV. With the sanction of the Governor of Bombay in Council, seven-eighths of the customs levied on imports may be repaid as drawback upon the re-export by sea of goods which can be identified to the satisfaction of the Collector of Customs as having previously paid Customs duties on import at the same port: provided that such re-export be made within two years of the date of import by the Custom House Register, and the drawback be claimed at the time of re-export, but no drawback shall be claimable under this Act on any re-export of opium or salt or of goods destined for any port in the territories subject to the Government of the East India Company, except Aden and ports in the Straits of Malacca, the Tenasserim Provinces and the Province of Arracan.-

Revenue Department

No 1912

The Secretary to the
Government of India
Financial Dept.

Sir,

I have the honor
to be directed by
the Governor in Council
to submit for the decision
of the Government of India
the accompanying
Petition of Messrs. Binny & Co.
praying for the refund of
Rupees 1,09,000 being the
amount of Export Duty
levied on Piece Goods produced
at Madura by the Madura
Spinning & Weaving Co. Ltd.
and exported from Tuticorin
to the French Settlements
at Pondicherry.

2. The Madras Collector
in his Report dated the 11th
Sept. 1911 No. 1911
Ordered that these
papers be submitted to
the Government of India
for their orders.

Forwarded
2 Copies

16 Copies
To the Board of Rev:

R - 31 Jany / 57 Nos 27-28

631-70

Copy with Sheets sent to the Govt of 2nd Dept 1912.

No 39 & 40.

26th Sep: 1830

Revenue (Mis) Department
Pros: of Govt for October
No 2179.

Proceedings of the 13th
of Revd

Dated 11th
Desp'd 13
Rec'd 16th
Sept 1861

From Govt of Madras 2nd Dept 4th Sept 61

E-1-

No 4949

Submitting with
remarks a letter from
the Collector of Sea Customs
requesting information re-
garding the allowance of
drawback on re export of
goods produced in Pon-
dicherry.

No 1911. 2nd Dept
With an Order

wording of the prohibition contained in the second of the clauses appended to Schedule A of Act VI of 1844 viz: "excepting "opium and Salt and "all goods of the growth, "production or the manu= "=facture of the Continent "of India", which last expression he thinks was intended to include the French and other Foreign Settlements on this coast. In this view the Govern= ment do not concur. They consider that payment of duty on import is the consideration which in such cases should guide the Customs Officers and that as the goods in question paid the full British duty on import, they are entitled to drawback or on re-export, if duly identified.

Fort St George 9
Sd Collector

Geneva 1861 Sept.
No: of Days in Quarantine.

No 1912.

Bills of Health granted to the Steamer of Atlantic Steamship Co.

2 October 1861.

From 2 to 24 Sept
Crew 29

Statement for steerage
& Cabin passengers landed, Inspected by Medical Officer of Health, & found healthy & provided with Certificates of Vaccination.

No 41.

(1)

Regarding the Steamer Atlantic
Quarantine on 24th Sept. 1861