

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1556	Press Mis.
259-260	
Dated	69-7-1862.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
19th July 1862.*

Read the following papers:—

No. 259. From Messrs. BINNY & Co., to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 10th July 1862.

SIR,

We have the honor to transmit accompanying Proceedings of the Board of Revenue, No. 4,312, dated the 3rd instant, upon a letter from our Firm, dated the 10th ultimo; and with reference to paragraph No. 4, which admits the principle contended for in our claim to a refund of the value of certain Stamps, we request, that you will obtain the requisite order, sanctioning that refund, and forward it to us as early as may be practicable.

Proceedings of the Board of Revenue, dated 3rd July 1862, No. 4,312.

Read the following letter from R. S. ELLIS, Esq., c. b., Officiating Superintendent of Stamps, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated 10th June 1862, No. 1,262 of Fasli 1271.

SIR,

I have the honor to submit for the Board's decision the enclosed copy of a letter received from Messrs. Binny & Co. regarding a matter already disposed of by the Board of Revenue in their Proceedings, No. 2,397, dated 10th April 1862.

From Messrs. BINNY & Co., to R. S. ELLIS, Esq., c. b., Officiating Superintendent of Stamps, dated 3rd June 1862.

SIR,

1. We had almost overlooked your letter, dated the 11th April, which transmitted copy of the Proceedings of the Board of Revenue of the 10th idem, expressing regret that they did not feel authorized to comply with our application for a refund of Rupees 150 for Stamps unnecessarily applied to a Policy against Fire.

2. In reply we have the honor to state that we believe they will alter that opinion on reconsidering the question under the explanation which we have now to offer, namely,

First.—That there were two Stamps affixed to the Policy under reference. One being for Rupees 100 to cover the amount of two lacs of Rupees originally insured, and the other being for Rupees 50 to cover a further amount of one lac of Rupees endorsed on the same Policy.

Second.—That the endorsement upon the Policy "has failed for the purpose for which it was intended," in consequence of being disallowed, and our having to issue a separate Policy for the amount, whereby it appears to us that we are entitled to the refund of the cost of the Stamp Rupees 50 in an equal value of Stamps or money under Section 32 of the Stamp Act; and

Third.—We submit that we are entitled to the refund of the value of the other Stamp for Rupees 100 on the grounds that the Stamp Act exempts Fire Policies from its operations, and that it would be most unfair to subject us to the forfeiture of this sum paid under an erroneous belief that Stamps were required for Fire Policies, and received under the same error by your Department.

3. If it be necessary to return to your Department these useless Stamps to enable the Board of Revenue to sanction this application, that an "equal value of Stamps or money may be delivered to us," it shall be done upon being so advised.

4. We request that this letter may be laid before the Board of Revenue, and that we may be informed of their order thereon.

(True Copy.)

(Signed) R. S. ELLIS, Officiating Superintendent of Stamps.

*Then were two stamps affixed
to the said Policy - one of Rs. 100*

*Proceedings of the Madras Government, Revenue Department,
19th July 1862.*

1. Messrs. Binny & Co. base their claim to a refund of Stamp duty on two distinct grounds—
First.—That the additional Stamp impressed on the Fire Insurance Policy with reference to the increased amount of Insurance failed of effect, as the endorsement being disallowed by the Insurance Company the issue of an entirely new Policy became necessary.
Second.—That prior to the passing of the recent Stamp Act X of 1862, the law did not require that Stamps should be impressed on Policies of Insurance against Fire.
2. The Board consider that the first ground is untenable, Messrs. Binny & Co. having, in their capacity of Agents for the Insurance Company, fully executed the endorsement, and refunds for spoiled Stamps being claimable only when the mistake is discovered before execution.
3. The second ground is, in the Board's opinion, far stronger, as although refunds are now allowed for the use of unnecessary Stamps, still Messrs. Binny & Co. may naturally have been misled by the notice of the Supreme Government in the Home Department, dated 19th February 1861, published at page 308 of the "Fort Saint George Gazette" for 8th March 1861, fixing a rate of Stamp duty for Fire Insurance Policies under the authority conveyed by Section 18 of Act XXXVI of 1860, which Section did not in point of fact convey to the Government any authority to order documents to be stamped, which were not specified in the Schedules attached to that Act, as is the case with Policies of Fire Insurance.
4. No Stamp was really requisite under the law as it then stood, and under these circumstances the Board would be disposed to admit the claim to a refund, but as they are not competent to make any order in the case of Stamps unnecessarily used, they would suggest that Messrs. Binny & Co. address Government direct.
5. Copy of these Proceedings will be furnished to Messrs. Oakes & Co., who are in the same position as Messrs. Binny & Co.

(True Copies and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

No. 260.

ORDER THEREON, 19th July 1862, No. 1,556.

1. Messrs. Binny & Co. request the sanction of Government to a refund of the value of certain Stamps regarding which they have applied to the Board of Revenue.
2. From the Proceedings of the Board of Revenue it appears that Messrs. Binny & Co. claim a refund of Rupees 150, for Stamps unnecessarily applied to a Policy against Fire. There were two Stamps affixed to the said Policy, one of Rupees 100 to cover two lacs originally insured, the other of Rupees 50 to cover a further amount of one lac endorsed on the same Policy.
3. This endorsement has failed for the purpose for which it was intended, it being necessary that a separate Policy should be issued for the extra amount. Therefore Messrs. Binny & Co. submit that:—
 - (1.) They are entitled to a refund of Rupees 50 in
 • Renewal of damaged or spoiled Stamps. an equal value of Stamps or money under Section 32* of the Stamp Act.
 - (2.) Messrs. Binny & Co. claim refund of Rupees 100 on the ground that the Stamp Act XXXII 1860 exempts Fire Policies from its operations, and that the Stamp was affixed under an erroneous belief that Stamps were required for Fire Policies and received under the same error by the Stamp Department.
4. The Board have disallowed the claim of Messrs. Binny & Co. as regards the failure of the endorsement, inasmuch as this endorsement was fully executed and refunds for spoiled Stamps are claimable only when the mistake is discovered before execution. The Board consider that the second ground upon which Messrs. Binny & Co. claim is far stronger, as, although refunds are not allowable for unnecessary Stamps, Messrs. Binny & Co. may naturally have been misled by the notice of the Supreme Government in the Home Department, dated 19th February 1861, published at page 308 of the Fort Saint George Gazette, for 8th March 1861,

*Proceedings of the Madras Government, Revenue Department,
19th July 1862.*

- fixing a rate of Stamp duty for Fire Insurance Policies, under the authority conveyed by Section 18 of Act XXXVI 1860, which Section did not, in point of fact, convey to the Government any authority to order documents to be stamped which were not specified in the Schedules attached to that Act, as is the case with Policies of Fire Insurance.
5. The Board proceed to state that as the Law then stood no Stamp was really requisite for Fire Insurance Policies, and under these circumstances suggest that the claim to refund for Stamps unnecessarily used is admissible.
6. The Government concur in the views expressed by the Board in respect of the claim advanced by Messrs. Binny & Co. for a refund of Rupees 50, on the ground that an endorsement fully executed by them failed in its effect. The Government differ entirely from the opinion expressed by the Board of Revenue on the second ground upon which Messrs. Binny & Co. claim a refund of 100 Rupees, that the Stamp on a Fire Insurance Policy was unnecessary.
7. Fire Insurance Policies were not included in Schedule A. of Act No. XXXVI of 1860; but this omission was specially remedied by the Notification published by the Governor General in Council by which the value of Stamp to be levied on Fire Insurance Policies was determined.
These Policies are included in Schedule A, Act X. of 1862, vide Clause 55.
8. The Government observe that it was not within the province of the Board of Revenue to call in question the authority by which this order was issued.
9. Under the circumstances above detailed the Government are unable to grant the refund for which Messrs. Binny & Co. have applied.

(Signed) A. J. ARBUTHNOT,
Acting Chief Secretary.

They were two stamps affixed

W-1556-

Proceedings of the Madras Govt.
19th July 1862

Read the following papers.

Letter from Messrs Baring & Co
to Messrs to Govt. Re: debt.

Proceedings of the Board
2nd July 1862
of Re: A/ ~~2nd July~~ 1862
No 1362 -

Messrs Baring and Co request
The ^{Sanction} of Government ~~to~~
to a refund of the value of
certain stamps regarding which
they have applied to the
Board of Revenue.

From the Proceedings of the Bd of
Revenue it appears that
Messrs Baring claim a refund
of Rs. 150. for stamps unnecessarily
applied to policy against Fire.

There were two stamps applied
to the said Policy - one of Rs. 100

W. Miller

W. Miller

to cover two lakhs originally
issued - the other of Rs 50
to cover a further amount of
one lakh entered on the
same Policy.

This endorsement was valid for
the purpose for which it was in-
tended & it being necessary that
a separate policy should be
issued for the entire amount.

Therefore Messrs Baring submit
that ^{they} they are entitled to a
refund of Rs 50 in an equal
value of stamps or money
under Sec 32 of the Stamp
Act.

Refund of damaged or spoiled
stamps.

^{2ndly} Messrs Baring & Co
^{obtain} ~~submit~~ that they are
entitled to a refund of Rs
100 on the ground that the
Stamp Act, ^{XXXII. 1860} ~~enacts~~ this
policy from its date of issue,
and that the Stamp Act
applied under an erroneous

belief that stamps were required
for Fire policies and received
under the same cover by the
Stamp Department.

The Board have also allowed
the claim of Messrs Baring & Co
as regards the failure of the
endorsement, inasmuch as
this endorsement was fully
executed and refunds for
spoiled stamps are claimable
only when the mistake is dis-
covered before execution.

The Board consider that
the second ground upon which Messrs
Baring & Co claim is far
stronger, as, although refunds
are not allowable for unnecessary
stamps, Messrs Baring & Co may
naturally have been misled
by the Notice of the Supreme
Govt in the Home Department
of 14th Feb. 1861 published at
page 308 of the Fort St George
Gazette for 3rd March 1861

fixing a rate of stamp duty for
Fire Insurance Policies, under
the authority conveyed by Sec.
10 of Act XXXVI. 1860, which
Sec. did not, in point of fact,
convey to the Govt. any authority
to order documents to be stamped
which were not specified in the
schedules attached to the Act,
as is the case with Policies of
Fire Insurance.

The Board moved to state
that as the law then stood
no stamp was really required
for Fire Insurance Policies, &
under these circumstances
suggest that the claim to
refund for stamps unnecessarily
used is admissible.

The next concern in the matter
expressed by the Board in
respect of the claim advanced
by Messrs. Baring & Co. for a
refund of Rs. 50. on the ground
that an endorsement fully executed
by them failed in its effect.

The Government differ entirely
from the opinion expressed
by the Board of Revenue
on the second ground upon
which Messrs. Baring claim a
refund of 100 Rs. that the
stamp on a Fire Insurance Policy
was unnecessary.

Fire Insurance Policies were
not included in Sch. A. of
Act No XXXVI. of 1860.

but this omission was specially
remedied by the Notification
published by the Governor
General in Council by which
the value of stamp to be levied
on Fire Insurance Policies was
determined.

These Policies are included in Sch. A.
Act No. 1062. vide cl. 55.

The Government observe that
it was not within the province
of the Board of Revenue to call
in question whether the ^{the order conveyed} notification
above referred to is the above.

satisfaction was one that

was authorized by

the order of 1860

the authority by which this

order was issued.

Under the circumstances

above detailed the

Govt are unable to

grant the request to

for which Misses Penny

also have applied.

W.H.

1. Copy Letter Penny & Co. Despatch

7. 14 - B of Rev. A.

Pro. No. 162-163
10-4-61

Revenue 1862 Dept.
Pro. of Govt. for July

No. 1556.

Pro. of the Madras Govt.
29 July 1862.

Pro. of the B. of Rev. &
29 July/62 C. No. 2180

No. 259 + 260.

Declining to refund
the value of certain stamps
unnecessarily applied to a
Policy against Fire by
Messrs. Baring & Co.