M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1591 Press Mis.

332—333

Dated 24-7-1862

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 24th July 1862.

No. 332. Read the following Proceedings of the Board of Revenue, dated 14th July 1862, No. 4,510 :—

Read again the following papers.

From the Collector of Tanjore, dated 13th December 1861, and 25th January and 24th May 1862, Nos. 422, 27 and 178.

(In Cons. 18th December 1861, 29th January and 2nd June 1862, Nos. 8,080, 479 and 3,324.

From Collector of Sea Customs, Madras, dated 20th December 1861, and 11th February 1862, Nos. 619 and 77.

(In Cons. 20th December 1861 and 11th February 1862, Nos. 8,134 and 770.)

Read also the following letters :—

From G. L. MORRIS, Esq., Acting Collector of Tanjore, dated 9th June 1862, No. 202.

1. I have the honor to acknowledge the receipt of the Board's Proceedings, No. 3,426, dated the 27th May 1862, forwarding two original letters,* Nos. 376 and 382 from the Agent of the Great Southern of India Railway, to the Consulting Engineer for Railways, Madras.

* Herewith returned.

2. The following is a short sketch of what has taken place on this subject :—

I. On the 12th November 1860, Mr. Maclagan, the then Agent of the Company, sent a list of certain articles landed between 8th November 1859, and 30th June 1860, for which he claimed a refund of duty amounting to Rupees 35,087-5-4 as coming under the head of "Machi- "nery indispensably required for, and exclusively used to make machinery available for the pur- "poses for which it is intended."

II. The list was forwarded by Mr. Cadell on the 30th November 1860, to the Collector of Sea Customs, Madras, with a remark that he considered the articles in the Agent's list might fairly and properly be included under the head of "Machinery for the improvement of the communica- "tions, and for the development of the resources of the country"—(Article 9 in Schedule A of Act VII of 1859).

III. On the 29th June 1861, the Collector of Sea Customs, Madras, returned the list, having reduced the amount of duty to be refunded from Rupees 35,087-5-4 to 224-8-0, and this sum was repaid to the Railway Company in October last. The Collector of Sea Customs did not give any reasons for having made so large a reduction, but merely said "the articles (principally Tele- "graph Stores) marked off with red ink are liable to duty. The remainder pass free according "to the practice of this house."

IV. On the 21st October 1861, Mr. Betts, the present Agent of the Company, wrote and said that finding that his predecessor had paid duty up to December 1860 for several articles such as tools, materials, &c., which should have been passed free, he forwarded another Statement for which he claimed a refund of Rupees 77,090-6-3.

V. This Statement was forwarded by Mr. Cadell to the Board on the 13th December 1861, with his opinion that all the articles entered therein with the exception of four, about which he was doubtful, fell within the definition given in the despatch of the Honorable the Secretary of State for India, dated the 16th May 1860, to the term "machinery for the improvement of communications, &c.," and requesting the instructions of the Board on the subject.

VI. On the 24th December 1861, the Board informed Mr. Cadell that the Madras practice was to allow such articles as had been included in the Statement forwarded by him on the 13th idem to pass "free," and that he was to distinctly state the amount of duty already collected on such free articles, for the refund of which he required sanction.

VII. On the receipt of this order, Mr. Cadell wrote on the 3rd January 1862, to the Railway Agent, requesting to be furnished with a Memorandum showing the dates on which the several articles were landed, and the import duty levied thereon; and also to the Collector of Sea Customs, Madras, asking whether duty levied in Madras previous to the receipt of the instructions from the Right Honorable the Secretary of State, dated 16th November 1860, on such articles as were included in the Statement which had been forwarded to the Board

on the 13th December, had been refunded in consequence of the receipt of those instructions or not.

VIII. On the 9th of January, the Collector of Sea Custom, Madras, answered that no refund was made in Madras of duty charged on "*Railway Stores*" previous to the receipt of the instructions of the Secretary of State: and on the 10th, the Railway Agent forwarded a second Statement of the articles for which he wanted a refund of duty; this Statement differed from the one previously sent, in consequence of four cargoes having been previously inadvertently omitted, and the amount of the refund asked for came to Rupees 92,875-14-11.

IX. On the 25th January, Mr. Cadell forwarded this Statement to the Board with a recommendation that Rupees 28,637-14-9 should be refunded to the Railway, as it was duty levied subsequent to the receipt of the Board's Circular, 23rd June 1860, and asking for the Board's decision regarding the remaining Rupees 64,238-0-2, adding that he was not of opinion that the claim to it could be sustained.

X. On the 1st March, the Board ordered it to be communicated to my predecessor that the interpretation of Act VII of 1859 cannot be allowed to have retrospective effect, that is to say, that it came into force from the 23rd June 1860, the date of the promulgation of the order containing the interpretation in question.

XI. This order of the Board was communicated to the Railway Agent on the 3rd April last, and on the 28th of April, he forwarded the Statement, which I had the honor of enclosing to the Board with my letter of the 24th ultimo.

3. The Railway Agent in the letter now under report says that he claims refund of duty, not under the orders of the 30th June 1860, but under Act VII of 1859.

4. I have looked carefully through the Statement forwarded with that letter, and must say that I am of opinion that the articles contained in that Statement do come under the head of "Machinery for the improvement of the communications, and for the development of the resource "of the country." As however the Collector of Sea Customs at Madras, has stated in his letter to Mr. Cadell, dated 9th January 1862, that no refund of duty charged on "*Railway Stores*" previous to the receipt of the instructions of the Secretary of State was made in Madras: and again, in his letter to the Board, No. 77, dated 10th February 1862, that it had been ruled in Calcutta that the Order of the 23rd June 1860, No. 2,937, could not have retrospective effect. I do not see how this question can be settled without being again referred to the Supreme Government.

From G. L. MORRIS, Esq., Acting Collector of Tanjore, dated 20th June 1862, No. 227.

With reference to the Board's Proceedings dated 10th June 1862, No. 3,716, I have the honor to state, that the duty claimed to be refunded by the Great Southern of India Railway Company has been actually paid to the extent stated, and that no provision has been made by my predecessor for its refund in the Budged Estimate for either 1861-62 or 1862-63.

1. Ordered that the above papers be submitted to Government, with reference to their Order, dated 24th May 1862, No. 261, Financial Railway Department.

Item No. I.
List in letter to Consulting Engineer, dated 6th May 1862, received with Government Order, dated 19th May 1862, No. 261.
From 30th April 1860. To 31st May 1860. } Rupees 62,247-1-10

Item No. II.
Do. in do. from Collector of Tanjore, dated 24th May 1862.
From 29th June 1860. To 5th August 1861. } Rupees 1,05,709-0-11.

1,67,956-2-9.

2. The Agent of the Great Southern of India Railway claims refund of duty paid at Negapatam on Railway materials and stock to the extent of Rupees 1,67,956, between 30th April 1860 and 5th August 1861, under the terms of the Act VII of 1859, passed on 14th March of that year, of Act X of 1860, passed on 12th March 1860, and of the Government Order, dated 24th June 1860, No. 1,018, Revenue Department, and circulated by the Board on 23rd idem, communicating the

Proceedings of the Madras Government, Revenue Department, 24th July 1862.

despatch of the Home Government, directing that the exemption from duty of "Machinery for the "improvement of the communications, and for the development of the resources of the country," should be "liberally construed," and that "stores, tools and fittings indispensably required "and exclusively used for making such Machinery available for the purposes for which it is "intended should be exempted," as well as the Machinery itself.

3. This Order had operation from the date of its promulgation, and consequently the claim preferred by the Railway authorities for the refund of duty paid prior to 23rd June 1860, being the first item entered in the margin above, was not admitted by the Sea Customs Authorities.

4. Mr. Betts now renews the application on the ground that he claims not under the order, but under the Act VII of 1859 itself to which it referred, and which he claims shall be "liberally interpreted" retrospectively.

5. The Board cannot support this application, although the articles concerned are of the kind that now pass free under the order in question. They have ascertained through the Collector of Sea Customs that retrospective effect is never given in Calcutta to orders relating to Customs duty, unless the order specially states that it is to be so applied, and the practice in Madras has been in accordance with that of Calcutta. The articles themselves are not strictly Machinery though they come within the limit of the order of the Secretary of State, and there is no doubt that duty to a very large amount must have been collected on precisely similar articles at the Ports of Calcutta, Bombay and Madras, prior to the issue of that order. To give it retrospective effect now in all cases would seriously complicate accounts, and probably create some difficulty in the Finance Department, while the Board cannot see that the circumstances call for such a concession, which if made in one case must be made in all alike.

6. On the remaining portion of the claim, the Board would not have hesitated to pass orders directing the refund of what can only have been collected from utter disregard of the order in question, were it not that the Acting Collector reports that no special provision for the purpose has been made in the District Budget, and the amount Rupees 1,05,709-0-11 is too large to be met from other items. Considering that the claim has been under discussion since December 1861, the Board cannot but think that Mr. Cadell is much to blame for this omission, but in that gentleman's absence from the country they will not observe further on the point.

7. They beg leave to recommend that reference be made to the Acting Accountant General to ascertain how the amount can be provided, and they would suggest that the adjustment may be made by an entry to the credit of the Company if, as the Board understand is the case, the Railway Company have received from Government considerable sums in excess of the payments made by them into the Home Treasury.

(True Copies and Extract.)

(Signed) W. HUDLESTON, *Secretary.*

No. 333. ORDER THEREON, 24th July 1862, No. 1,591.

Referred to the Acting Accountant General for report on paragraph 7 of these Proceedings. Pending the receipt of his report, the Governor in Council reserves his decision on the application made by the Agent of the great Southern of India Railway.

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

No. 376

GREAT SOUTHERN OF INDIA RAILWAY.

AGENT'S OFFICE,

NEGAPATAM, 29th. April 1862.

AGENT

Great Southern of India Railway,

CONSULTING ENGINEER FOR RAILWAYS,

MADRAS.

SIR,

Schedule A of act No. VII of 1859 having annexed that Machinery for the improvement of the communications, and for development of the resources of the Country" would be imported duty free, the then Agent of this Railway communicated to the 30th. April 60 (on which date our first steam of Customs duty was paid) with the Sanctions Shanagan of Negapatam, for the purpose of settling what articles were entitled to free admission — the said Schedule saying "and the Collector of Customs, subject to the general orders of the Govt

From

The Agent Great Southern of India Railway,

To

The Consulting Engineer for Railways.

No.

Dated
Received } 186

in – the duty ought to be refunded amounted to Rs.15087.5.0 but this sum was reduced by the Collector of Sea Customs at Madras to Rs.224.8.0, and that item was paid over to me in October last.

Shortly after taking charge of the Great Southern Agency, I went thro' the Customs duty account, and noticed that several articles upon which duty had been erroneously paid, were not included in the list handed in by my predecessor. I therefore directed a new list to be prepared, and sent it in to the Collector of Tanjore on the 22nd. Oct. '61.

On the 3rd. Inst. the acting Collector of Tanjore informed me it had been ruled that "the order of the 23 June '60, No 2987, came into force from the date of its promulgation, and cannot have retrospective effect."

By application for the

refund of duty was not made upon the order referred to, but under Act No VII of 1859, and I now therefore beg you will bring the subject under the consideration of Government, and obtain their order thereon. My desire is that Act No VII may be liberally construed, and that my Company may benefit accordingly, & have an order to extend the concession to a date date subsequent to the passing of Act No VII, but I respectfully contend that the provisions of that Act should be observed.

The decision communicated to me by the acting Collector of Sangore does not accord with the refundment of duty (already allowed) on certain articles landed prior to the 25 June 1860.

I have the honor to be
Sir
Your obt. servt
William Bell.

N°. 382.

GREAT SOUTHERN OF INDIA RAILWAY.

AGENT'S OFFICE,

NEGAPATAM, 6th January 1862.

THE AGENT

Great Southern of India Railway,

THE CONSULTING ENGINEER FOR RAILWAYS,

MADRAS.

SIR,

I beg to inform you that the correspondence with the Customs House Authorities (referred to in your letter No. 101) has been carried on thro' the Collector of Tanjore, and I have no copy of it. I send you however a copy of my letter which gives a list of the articles upon which I claim a refund of duty.

I have the honor to be

Sir

Your obedient Servant

William Betts.

From
The Agent
G. S. I. Ry
to
The Actg Comptr
for Railways
Dated 29 Augt 1862
Rec'd 2nd Sept.
No 388 of 1862
Acknowledged
Forwarded to Collector of Customs Negapatam for report & return
Rec'd 3rd Sept.
Returned with report
Dated 2nd Sept.
Rec'd 4th Sept.

From

The Agent Great Southern of India Railway,

To

The Consulting Engineer for Railways.

Dated 6th Dec 1882

Received 7th Dec 1882

No. 3822.

Sir

In reference to your letter No 3188 of the 1st instant, I have the honor to inform you that the Customs duties on the Rails imported by the Contractors for the Madura Section of this Railway, have been refunded to the Collector of Customs at Tuticorin.

I have the honor to be Sir

Your most obedient Servant

Agent

To

The Consulting Engineer for Railways

Madras

Brought forward						402	07	5	11		
Per S.S. Clan Sinclair	9176	Rails				902	12	0			
	160	Boxes	Fishes			1496	14	0			
	3149	Keyes				500	0	0			
	160	Keyings				734	18	6			
	1131	Rails				318	13	4			
	14937	Chairs				1703	15	8			
	120	Bars	Fishes			582	11	9			
	4646	Keyes				375	0	0			
	50	Bolts	Nuts			1069	10	11			
	100	Set of	Wheels & Axles			1561	17	4			
	746	Rails				3255	0	0			
	952	Keyings				1136	18	10			
	5002	Fish				1272	9	2			
	7794	Keyes				593	9	3			
	2367	Rails				643	4	0			
	86	Girders				3630	8	6			
	244	Keyings				420	0	0			
	7074	Keyes				393	11	4			
						1624	16	0			
						62471	16	8			

£ 62471. 16. 8 at 8 per Rupee = 624,718. 2. 0.

Customs Duty at 10% = 62,471. 9. 10.

Amount already refunded ——— 224. 8. 0.

Amount sought to be refunded ——— Rs. 62,247. 1. 10

Palmyrah	5156	13	5	23rd March/60	28th April/60	20351 Kegs	110	8	0	
						2223 Rails	2322	0	5	
						5300 Sleepers	1220	2	1	
						120 Cases Spikes	375	0	0	
						28 Kegs Bolts & Nuts	92	5	8	
						Crank Braces &c	46	0	0	
						15084 Keys Cm	81	4	8	
						10 Bundles Iron	19	3	11	
Arethusa	6637	4	8	31st March/60	28th April/60	3208 Rails	4812	2	1	
						7000 Sleepers	1611	9	2	
						40119 Keys Cm	213	14	7	
Scindian	4342	14	1	Do	28th April/60	1607 Rails	2481	10	11	
						5962 Chairs	232	3	0	
						4299 Sleepers	989	13	4	
						66509 Keys	354	9	7	
						60 Cases Spikes	187	10	0	
						Fish Bolts & Nuts	97	10	9	
Ocean King	2236	3	4		30th April/60	31346 Chairs	1222	12	1	
						3860 Sleepers	888	12	1	
						40 Cases Spikes	125	0	0	
Carried over	40207	4	9			Carried over	40207	5	11	

Statement of the Amounts of Customs Duty paid by the G. S. I. Railway Company from 30th April to 31st May 1860.

Ship	Amount of Duty			Date of Ships clearance	Date of payment of Customs Duty	Articles which should have been admitted duty free.	£	s	d	Remarks
Sir R. Sepping	6949	0	8	15th December/59	30th April/60	5000 Sleepers	1151	0	10	
						6102 Chairs	245	0	0	
						200 Wheels & Axles	1445	4	0	
						Telegraph wire & Instruments	2160	2	6	
						Berwick Crane	177	3	0	
						Screw Jacks, Tackle &c	573	1	6	
						Steel, Iron, Nails &c	1197	9	0	
Bellona	3478	10	6	11th February	Do	7249 Sleepers	1668	15	7	
						46278 Chairs	1804	17	6	
York	6357	11	7	3rd February	Do	23872 Fish Plates	755	11	6	
						2414 Rails	3627	17	3	
						8276 Sleepers	1905	4	1	
						1 Case Bolts	69	1	8	
Latona	5054	10	6	23rd January/60	Do	2430 Rails	3642	2	3	
						5500 Sleepers	1312	2	11	

Rec=2048/2

Gm m0.3188 of 1862

Rec=1171/82

Reg/628
82=300

idem, communicating the despatch of the Home Government, directing that the exemption from duty of "Machinery for the improvement of the communications, and for the development of the "resources of the country," should be "liberally construed," and that "stores, tools and fittings indispensably required and exclusively used for making such Machinery available for the purposes "for which it is intended should be exempted," as well as the Machinery itself.

3. This Order had operation from the date of its promulgation, and consequently the claim preferred by the Railway Authorities for the refund of duty paid prior to 23rd June 1860, being the first item entered in the margin above, was not admitted by the Sea Customs Authorities.

4. Mr. Betts now renews the application on the ground that he claims not under the order, but under the Act VII of 1859 itself to which it referred, and which he claims shall be "liberally interpreted" retrospectively.

5. The Board cannot support this application, although the articles concerned are of the kind that now pass free under the order in question. They have ascertained through the Collector of Sea Customs that retrospective effect is never given in Calcutta to orders relating to Customs duty, unless the order specially states that it is to be so applied, and the practise in Madras has been in accordance with that of Calcutta. The articles themselves are not strictly Machinery though they come within the limit of the order of the Secretary of State, and there is no doubt that duty to a very large amount must have been collected on precisely similar articles at the Ports of Calcutta, Bombay and Madras, prior to the issue of that order. To give it retrospective effect now in all cases would seriously complicate accounts, and probably create some difficulty in the Finance Department, while the Board cannot see that the circumstances call for such a concession, which if made in one case must be made in all alike.

6. On the remaining portion of the claim, the Board would not have hesitated to pass orders directing the refund of what can only have been collected from utter disregard of the order in question, were it not that the Acting Collector reports that no special provision for the purpose has been made in the District Budget, and the amount Rupees 1,05,709-0-11 is too large to be met from other items. Considering that the claim has been under discussion since December 1861, the Board cannot but think that Mr. Cadell is much to blame for this omission, but in that gentleman's absence from the country they will not observe further on the point.

7. They beg leave to recommend that reference be made to the Acting Accountant General to ascertain how the amount can be provided, and they would suggest that the adjustment may be made by an entry to the credit of the Company if, as the Board understand is the case, the Railway Company have received from Government considerable sums in excess of the payments made by them into the Home Treasury.

(True Copies and Extract.)

Secretary.

To A. J. Arbuthnot, Esq., Acting Chief Secretary to Government,
with 2 enclosures returned.

Copy to G. L. Morris, Esq., Acting Collector of Tanjore.
„ to C. J. Shubrick, Esq., Collector of Sea Customs, Madras.

Exd. J. Tulloch.

20 January 60 No. 224-225
24 May 62 — 461-462.

Rev= 1862. Department
Pro: of Govt for July

No. 2048.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 11th July 1862.
Despatched. 18
Received. 19

E 3

No. 4,510.

Further Cs No 1947/64

Submitting correspondence relative to the claim of refund of import duty levied on certain articles of the great Southern of India Railway Company, with the Board's remarks on the subject, and recommending that a reference be made to the Accountant General for the adjustment of the sum of Rupees 1,05,709-0-11 for the refund of which the Board have no objection.

N 1591 - 24 July

With papers

L

N 1591

Reference to the Acctt General

Accountant General for report on para 7 of these Proceedings - pending the receipt of his report the Governor in Council reserves his decision on the application made by the Agent of the Great Southern of India Railway -

From 1st A/G Acct Genl
d/ 14 Augt 62 C N. 2297 -

Com with 2 Lists to Govt of India
15 Sept 62 - N 970
N 332 & 333.

Fort St George
24 July 1862

J. A.

3 Copies
To the Accountant Genl with Mr B. Pro. and
Financial 3 Orig Enclosures 3 Desp 25
Railway Depts
14 Bd of Revl