

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1874	Press ~~Mis.~~
<i>66-45</i>	
Dated	<i>4-9-1862</i>

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
4th September 1862.*

No. 44. Read the following Extract from the Proceedings of the Right Honorable the Governor General of India in Council, in the Home Department (Separate Revenue), under date the 18th August 1862, No. 4,359:—

Read the undermentioned papers regarding the importation of Machinery free of duty:—

Letter from the Secretary of State, dated 16th May 1860, No. 24.

Letter to Ditto, dated 4th July 1860, No. 17.

Letter from Ditto, dated 5th September 1860, No. 27.

Resolution, Financial Department, dated 8th August 1861, No. 10,280, and the documents referred to therein.

Letter from Government of Bengal, dated 21st February 1862, No. 113A.

Letter from Government of Fort Saint George, dated 21st March 1862, No. 631.

Letter from Government of Bombay, dated 31st January 1862, No. 388.

Letter from Commissioner of Pegu, dated 21st September 1861, No. 24.

Letter from Commissioner of the Tenasserim and Martaban Provinces, dated 16th October 1861, No. 255.

RESOLUTION.

1. The Governor General in Council observes that the Secretary of State, in a letter dated 5th September 1860, No. 27, with reference to a suggestion made by the Government of India, approved of the exemption from duty of Machinery of *all kinds* under Act X of 1860, being limited, in any new Customs Act which might be passed, to Machinery used exclusively for purposes of Agriculture, Navigation, Mining and Manufacture, and for Railway purposes.

2. Since then Act XI of 1862 has been passed; but the opportunity was not taken to introduce the above restriction. The Governor General in Council, therefore, suggests an amendment of that Act (Schedule A, Article 18), to the effect authorized in the Despatch from the Secretary of State, dated 5th September 1860.

From Secretary of State, dated 16th May 1860, No. 24.
To Ditto, dated 4th July 1860, No. 17.
From Ditto, dated 5th September 1860, No. 27.

ORDERED, that copies of the above Resolution, and of the documents noted on the margin, be transferred to the Legislative branch of the Home Department, for the amendment of Act XI of 1862 to the effect indicated therein.

Ordered that copies of the above papers be also forwarded to the Governments of Bengal, Madras, and Bombay.

(True Extract.)

(Signed) E. C. BAYLEY,
Secretary to the Government of India.

From the Right Honorable Sir CHARLES WOOD, Bart., M.P., Her Majesty's Secretary of State for India (Revenue), to His Excellency the Right Honorable the Governor General of India in Council, dated India Office, London, the 16th May 1860, No. 24.

MY LORD,

I transmit, for the information and guidance of your Excellency in Council, copy of a Despatch (No. 24) which I have this day addressed to the Government of Bombay relative to the exemption from import duty of Machinery for the improvement of the communications and for the development of the resources of the country.

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HOME DEPARTMENT.

SEPARATE REVENUE.

No. 17 of 1860, July the 4th.

To

THE RIGHT HON'BLE SIR CHARLES WOOD, Bart., G.C.B.,

Secretary of State for India.

SIR,

1. With your Revenue Despatch No. 24, dated the 16th of May, we received a copy of your Despatch addressed on the same date to the Government of Bombay, relative to the exemption from import duty of machinery for the improvement of the communications and for development of the resources of the country.

2. In the Despatch to the Government of Bombay you intimate the opinion of Her Majesty's Government that the provision of the law which allows exemption from Customs Duty to the class of machinery above specified, should be liberally construed, and that not only machinery, "but also such stores, tools, and fittings as are indispensably required and exclusively used to make such machinery available for the purposes for which it is intended, whether for the navigation of the rivers of India, or for locomotion on railroads, tramroads, or ordinary roads, should be exempted from the payment of import duty."

3. We are apprehensive that considerable difficulty will be found in giving effect to this order. As regards tools, if the order is to be literally followed and none are to be free from duty except such as are "exclusively used" for the construction of the machinery with which they are imported, it seems probable that the order will have such limited application as to be practically almost inoperative—and if, on the other hand, a free construction is again to be placed upon this order, it would not be at all easy to draw a line which would afford to the Customs Officers any safe or certain guide in dealing with claims to exemption from duty upon tools imported into India. To admit tools generally free of duty is, we think, impracticable, because it would not be possible to give any such clear and exact definition of the article as should be sufficiently restrictive, and should prevent the risk of injury to the revenue by the admission of articles properly chargeable as cutlery or hardware.

4. As respects "stores" and "fittings" indispensably required to make machinery available, we also think that great difficulty will be felt in satisfactorily defining what is to be included within those terms. We have just had before us an application from a Firm in Calcutta claiming free admission for the whole of the materials required for the construction and fittings up of some river barges, including such articles as anchors and masts, and also 250 loads of wood for the deck-houses and ceilings of the boats.

5. We have replied to this application by allowing free admission to the plate iron prepared for the hulls of the boats, and declining to remit the duty on the other portions of the materials. This decision may be supported upon the ground that plate iron cannot be prepared for the hulls of boats in this country, and that in this case it is necessary to show that the importation is in fact the hull of a boat in separate pieces, but so long as we continue to levy Customs Duties generally upon metals and timber, it would be difficult to support an order giving special exemption from duty to those articles in particular cases, on the ground that the material was intended to be worked up here, and applied to a particular purpose in this country, such as the construction of a steamer, or a cargo barge, or a railway carriage. Such a rule moreover might obviously lead to great abuse, which it would be difficult for the Customs Officers altogether to check. The exemption of the machinery (imported in a complete form as such) which may be necessary to put the steamer, or the barge, or the railway carriage in motion rests upon entirely different ground, and may be safely and beneficially allowed.

6. On these considerations, we think it on the whole very desirable to adhere to the practice which has prevailed since 1845 of admitting, besides what properly falls within the definition of

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machinery, no portion of the material required for the construction of steamers and flats except the prepared plate iron for the hulls. The old order of Government issued in June 1845, which admitted such plate iron to free import, has it seems been held by the Collector of Customs in Calcutta to be superseded by the recent Customs Acts, and we have, therefore, passed a fresh order on the subject. The same view was not, however, taken by the Customs Authorities at Kurrachee, for it was evidently under the order of 1845 that the iron hulls referred to in your Despatch to the Bombay Government were admitted free, the steam machinery being independently so admitted under the general provision of the recent Act which exempts "machinery of all kinds."

7. We take this opportunity of stating our impression that this exemption of "machinery of all kinds" has opened too wide a door, and gives admission free of duty to articles which there is no good reason for exempting. We hope that a consolidated Customs Bill for all India will before long be brought into the Legislative Council, and we shall avail ourselves of the opportunity to place such restriction upon the privilege now allowed to machinery as on full consideration may seem desirable. At present we are disposed to think that the rule which was in force previously to the passing of Act VII. of 1859 was as good as any which can be found. By that rule all machinery used exclusively for purposes of agriculture, navigation, mining, and manufacture, and for railway purposes, was admitted free of duty.

8. Your instructions regarding the exemption from duty of stores, tools, &c., imported in connection with machinery, having been sent direct to the Governments of Madras and Bombay, we shall not at present communicate with those Governments on the subject. We would solicit, however, an early reply to this Despatch, it being very desirable that some definite rule on the point should be established, and also that the practice at the several Custom Houses should be uniform.

We have the honor to be,

Sir,

Your most obedient humble Servants,

FORT WILLIAM;
The 4th July 1860.

(Signed) CANNING.
H. B. E. FRERE.
J. WILSON.

From the Right Honorable Sir CHARLES WOOD, Bart., M. P., Her Majesty's Secretary of State for India (Separate Revenue), to His Excellency the Right Honorable the Governor General of India in Council, dated India Office, London, the 5th September 1860, No. 27.

MY LORD,

1. I have had under my consideration in Council your letter of the 4th July last, (No. 17) in which you state that you are apprehensive that considerable difficulty will be found in giving effect to the Order contained in my Despatch of the 16th May last, (No. 24) for exempting from import duty all stores, tools, and fittings indispensably required, and exclusively used to render machinery available for the navigation of the rivers of India, or for locomotion on railroads, tramroads, or ordinary roads.

2. You recommend that the practice which has prevailed since 1845 should be adhered to, and that, besides what properly falls within the definition of machinery, no portion of the material required for Steamers or Flats should be admitted duty-free except the prepared plate-iron for the hulls. You are also of opinion that the exemption of "machinery of all kinds" is too extensive, and that the privilege should be restricted as formerly to "machinery used exclusively for purposes of agriculture, navigation, mining and manufacture, and for railway purposes."

3. My object in issuing the order referred to was that full effect might be given to the provision of the law which exempted machinery from import duty. It is obvious that when a machine is imported in separate portions, it is useless for the purpose for which it is intended

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until it is put together, and to effect this certain tools and fittings are absolutely required. When such tools and fittings are imported, together with the machine, by any Company engaged in carrying on railway communication or river steam navigation, it may, I, think, be fairly presumed that they are essential to the machine which has to be set up, and as such, entitled to the exemption given by the law. If, however, it should be found impracticable to frame a definition which shall embrace articles of the description, while it shall exclude all such articles as are clearly liable to duty, I shall not object to your reverting to the previous practice in accordance with your recommendation.

4. I approve also of your limiting, in any new Customs Act which may be passed, the exemption now granted to machinery of all kinds to machinery imported only for the purposes specified by you.

No. 45.

ORDER THEREON, 4th September 1862, No. 1,874.

Ordered to be communicated to the Board of Revenue.

(Signed) P. P. HUTCHINS,
Acting Deputy Secretary to Government.

19021 March 1862 No 3 3603
3413

Revenue 1862
No. of Goods
Exhaust from the Pro-
of the Right Honor- the
Gov. Genl. of India

Dated 18th Aug 1862
Revenue 28th 9

No. 4359
Ex-3.

Forwarding Pa-
-pers regarding the award
-ment of the 18th of 1862,
relating to the importance
of Machinery of the
duty.

19021 March 1862

No 1874. 4. 2. 1862

19021 March 1862

1872
No 1874.

Ordered to be com-
-municated to the Board of Revenue

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2 - to the Secy of the Board of Revenue

19021 March 1862