M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1969 - 1970 Press Mis.

231 233

Dated 13 . 7 . 1862

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 13th September 1862.

No. 231. Read again Proceedings of the Board of Revenue, dated 14th and recorded in Proceedings of Government 24th July 1862, No. 1,591.

Read also the following letter from H. A. MANGLES, Esq., Acting Accountant General, to the Secretary to Government, Revenue Department, dated Fort Saint George, 14th August 1862, No. 160:—

SIR,

1. I have the honor to acknowledge the receipt of the Order of Government No. 1,591, dated 24th ultimo, Revenue Department, referring for my report, paragraph 7 of the Proceedings of the Board of Revenue, under date the 14th idem, No. 4,510, wherein they wished to be informed how Rupees 1,05,709-0-11,* proposed to be refunded to the Agent of the Great Southern of India Railway Company, can be provided, and they suggest, that an adjustment may be made by an entry to the credit of the Company, as the Board understand, that the Railway Company have received from Government, considerable sums in excess of the payments made into the Home Treasury.

* Being the amount of Customs Duty on Machinery, &c., imported on account of the Company.

2. In reply, I beg to state, that I have ascertained from the Board of Revenue, that of Rupees 1,05,709-0-11 referred to, a sum of Rupees 81,743-11-11 appertains to the collections of 1860-61, and the remainder, Rupees 23,965-5-0, to those of 1861-62.

3. The latter sum can be passed against the grants of 1861-62, as there is a large saving in that year under the Budget head "Allowances, Refunds and Drawbacks," as noted in the margin. The former sum should be passed against the arrears of former years, as no Budget grant is necessary for it.

	Rs.
Amount of grant.....	3,23,773
Do. actually paid.....	2,49,817
Savings...	73,956

4. The three original enclosures received with the Order of Government above quoted, are herewith returned.

No. 232. ORDER THEREON, 13th September 1862, No. 1,969.

1. Resolved that these papers be submitted for the consideration and orders of the Government of India.

2. Ordered that the following letter be despatched.

(Signed) T. PYCROFT,
Chief Secretary.

Ordered that the following letter be despatched.

No. 233. From T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, to the Secretary to the Government of India, dated 13th September 1862, No. 1,970.

SIR,

1. I am directed by the Governor in Council to submit for the consideration and orders of the Government of India the papers noted in the margin, relating to a claim made by the Great Southern of India Railway Company for the refund of Rupees 1,67,956-2-9, being the amount of Sea Customs Duty collected at the Port of Negapatam on Railway materials imported by that Company.

Proceedings Board of Revenue, dated 14th July 1862, No. 4510, with copies of two lists.
Order of Government thereon, dated 24th July 1862, No. 1,591.
From the Acting Accountant General, dated 14th August 1862, No. 160.

2. The Company ground their claim to a retrospective refund from 30th April 1860, under Act VII of 1859, which classed among articles declared free from duty "machinery for the "improvement of the communications, and for the development of the resources of the country."

duty

But the several materials enumerated in the lists furnished by the Company do not come under "machinery," and can be entitled to exemption from Customs Duty only under the concession made by the Secretary of State in his Despatch dated 16th May 1860, in which he desired that the exemption granted by the Act alluded to, to "machinery" should be "liberally construed" so as to extend it to "such stores, tools and fittings as were indispensably required and exclusively used to make such machinery available for the purposes for which it was intended," and such concession can take effect at Madras only from the date of its promulgation by the Revenue Board or on the 23rd June 1860. The Board state that retrospective effect is not given to the Secretary of State's Despatch at Calcutta, and that the practice at the Port of Madras is in accordance with that of Calcutta.

	Rs.
Total amount claimed	1,67,956-2-9
Deduct	
Duty collected from 30th April to 31st May 1860.....	62,247-1-10
Duty on articles landed from "Viscount Canning" paid on the 22nd June 1860 but entered in the Statement of duty paid from 29th June 1860 to 5th August 1861.	5,413-10-0
	67,660-11-10
Remainder.	1,00,295-6-11

3. Under this view of the case the Governor in Council is of opinion that the Company are entitled to the refund of Rupees 1,00,295-6-11, as shown in the margin, if the articles entered in the lists are such as are allowed in Calcutta to be imported free of duty under the Despatch of 16th May 1860, and the object of the present reference is to learn what is the practice there.

4. The Government are in receipt of the Proceedings of the Government of India dated 18th August 1862, giving cover to the Despatch from the Secretary of State dated 5th September 1860, empowering the Governor General in Council to revert to the practice which obtained prior to the receipt of his Despatch of 16th May 1860 if found necessary, but until definite orders are issued on the subject they presume that the present practice is to be continued. At all events these recent orders cannot affect the claim which forms the subject of the present letter as it was preferred long before they were received.

5. I am to add that, as explained in the letter from the Acting Accountant General dated 14th August 1862, funds are available for the payment of the refund proposed in paragraph 3.

2

Memorandum.

This letter from the Ag Accountant General shows that there is no difficulty on for the Budget in concerned to make the large Refund of customs duty amounting to Rs 1,05,709 to the Agent of the Great Southern of India Railway Company. Orders are now requested on Board's Proc of 11th July 1862 No 4570.

2. The chief point to be decided is whether the refund of Rs 62,247-1-10 being the amount of duty collected at Negapatam on Railway materials between 30th April and 31st May 1860 is to be allowed. The Agent claims the refund under Act VII of 1859 which classed among articles declared free from duty

duty "Machinery for the improvement of the communications and for the development of the resources of the Country," but it was not till the receipt of the Despatch of the Secretary of State to the Govt. of India dated 16th May 1860, No 24 (recorded in the Proceedings of Govt of 20th June 1860 No 1046) that the act was "liberally construed", and "stores, tools and fixtures indispensably required" and exclusively used for making such machinery available for the purposes for which it is intended" were exempted from duty. The Board are of opinion that in the Bills not entitled to benefit of the act "liberally interpreted" principally because such is not done in Calcutta and the practice in Madras has been in accordance with that of Calcutta. They point out that

3 4

clearly in para 5 the difficulties which in compliance with the Bills application will create

3 In para 6 and 7 the Board recommend that the refund of Rs 105,709-0-0 the amount of duty collected subsequent to the order of June 1860 alluded to be made.

4. The Collector points out in his letter dated 21st May 1862 No 178 that refund need not be made for the articles landed from the "Viscount Canning" because according to the Agents own showing the duty on those articles was paid on the 22nd June 1860 and the order of the Board dated 23rd June 1860 which communicated the order of Govt dated 20 June only came into force from the date of its promulgation, what that date is is not stated. So it is

a point for consideration whether effect is to be given to the order of Govt from the date of that order viz

20 June 1860 or from
23 June, the date of the Board's Circular or from the date of its promulgation in the District.

The Board are silent on this point. They recommend the refund of the entire sum. The duty on articles landed from Viscount Canning amounted to Rupees 5,413-10-

5 The second list connected with the proposed refund of Rupees 105,709- does not appear to have been seen by the Collector of Sea Customs and it is not known if all the consignees imported by the Madras Rail-way Company are exempted from duty. If they

is not ascertained the agent of that Company might claim refund on articles on which duty was collected from them but was refunded to Mr Betts.

6 The question as to what articles of machinery shall be exempted from duty has not yet been settled. And Act XI of 1862 states that "the Collector of Customs, "subject to the General orders of "the Govt of India, shall decide "what articles come within the "definition of Machinery, and "such decision shall be final in "law." Perhaps under these circumstances and as uniformity in all Customs matters is desirable it will be better to refer the present proposal to the Govt of India.

per Progs from Govt of India dy 18 augt 1862 No 2469.

30/8/62

The principle seems clear. No articles contained in the Statement can be entitled to exemption.

from Customs duty only on account of R
concession made by H.E. Secretary of State
in his Dis Letter of 16 May 1860 - and such
concession can be extended only from the date
of the promulgation of H.E. Revd Board of 23 June
1860 - I do not know for the why the stores brought
out by H.E. Viscount Canning should pay duty on
the 22nd June Board's Proceedings, and the Board
might be asked the reason by an official Memo -
The amount would seem exceedingly small
stores on such as in Calcutta unauthorized
by the only under the Dis of 16 May - However
the sum is large it may be worth
while to call the bill to the Supreme Govt and ask
their ruling - I cannot see
any reason why Civil Chaplains and Surgeons should
be exempted -

It seems from papers just received from
Calcutta that the duty levied in India pursuant to Tariff
Act would have been remitted by the Dis of
16 May 1860 - but nothing definite has yet
been done to remedy it -

1 Sept/62

The refund of the sum of £2247-1-10 alluded to in Pro
of this Recon cannot be allowed, nor can the stores
landed from the Viscount Canning prior to the promul-
gation of the Secty of State's order be exempted from duty.
To secure uniformity it is expedient to refer to Calcutta
& learn what articles are passed free under that order

Ellen

Revenue Department 5

No. 1969-50

Proceedings of the Madras Government

Under date the 13th Septr 1862.

Read again Proceedings of
the Board of Revenue dated
14th and recorded in Pro: of Govt
21st July 1862. No. 1591.

Read also the following letter
from the Acting Accountant
General

to Para 7 of the Revenue
proceedings dated 14th July 1862
regarding the adjustment
of £9 - 11, being the amount of
duty on machinery, &c imported
on account of the Great Southern of
Railway Company, and returning
original enclosures therewith
&c.

(Here enter 11th August 1862 No. 16)

Resolved that these papers be submitted for the consideration and orders of the Government of India.

Ordered that the following letter be despatched.

(Here enter

To the Bd of Rev Dept 19th
Acctt Genl

Adjustment of Customs duty on Machinery &c.

Revenue 1862 Deptt.

Pro: of Govt for September

№ 1969.

Pro: of the Madras Govt

Dt 13th September 1862

From under Copy to the Govt of India dy 28th March 63. Col. 821 – with Pro: No. –

Papers relating to Great Southern of India Railway Company's claim for refund of Rupees 167,956-2-9 being duty collected at Negapatam port on Railway materials imported by that Company, ordered to be submitted to Supreme Govt

№ 231 & 232.

Rec'd 7 Sept.

№ 1970

To

The Secretary to the Govt of India

Sir,

From 13th of Rec'd 14 Dec'r 62 № 4504 with copies of 2 Encls.

Order of Govt thereon dy 24 July 1862 № 1591.

From the Ag. Accts Genl dy 16 Augt 62 № 160.

I am directed by the Governor in Council to send for the consideration and orders of the Govt of India the papers noted in the margin relating to a claim made by the Great Southern of India Railway Company for the refund of Rs. 167,956-2-9 being the amount of Sea Customs duty collected at the Port of Negapatam on Railway materials imported by that Company.

The

2 The Company
ground their claim
to a retrospective re-
-fund from 30 April
1860, under Act VIII of 1859
which classed among
articles declared free from
duty "Machinery for the
improvement of the com
munications, and for
the development of the
resources of the Country"
But the several materials
enumerated in the
lists furnished by the
Company do not come
under "Machinery" and
can be entitled to exemp-
-tion from Customs duty
only under the conces-
-sion made by the
Secretary of State in his
Despatch of 16 May 1860
in

8
in which he desired
that the exemptions
granted by the act al-
-luded to, to "Machinery"
should be "liberally" con-
-strued" so as to extend
it to "such stores, tools
"and fittings as were
"indispensably requisite
"and exclusively used
"to enable such machi-
"nery available for the
"purposes for which
"it was intended" and
such concession came
into effect at Madras
only from
the date of its promul-
-gation by the Revenue
Board on the 23d June
1860. The Board state
that retrospective effect
was not given to the Secre-
-tary of State's Despatch
at

at Calcutta and that the practice at the port of Madras is in accordance with that of Calcutta.

3 Under the view of the case the Governor in Council is of opinion that the Company are entitled to the refund of Rupees 100,295-6-11 as claimed in the Memorial, with the exception of the articles entered in the lists are such as are allowed in Calcutta, to be admitted free of duty under the Despatch of 16 May 1860, and the object of the present reference is to learn what is the practice there.

Total amount claimed		Rs. 1,07,956-2-9
Deduct-		
Duty collected from 30 April to 31 May 1860	6,224-4-10	
Duty on articles landed from Viscount Canning paid on the 22d June 60 but entered in the Statement of duty paid from 29th June 60 to 5 August 1861	5,413-10-0	6,766-14-10
Remains		1,00,295-6-11

The

4 The Government are in receipt of the Proceedings of the Govt. of India dated 18 Aug. 62 giving cover to the dispatch from the Secretary of State dated 5 Sept. 60 empowering the Governor General in Council to remit ~~cancel the duty~~ the duties which would otherwise be payable on the importation of articles of the description mentioned in the Despatch of 16 May 1860 if found necessary, but until definite orders are issued on the subject ~~and the proceedings of Govt. of 1862 is~~ they prevent that the present practice is to be continued. At all events these recent orders cannot affect the claim which forms the subject of the present letter

to the receipt of his despatch

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to the receipt of his despatch

letter as it was preferred long before they were received.

5. I am to add that as explained in the letter from the Ag. Accountt. General of the 4th inst. funds are available for the payment of the refund proposed in para 3

Fort Wm. George
13th Septr. 1862

Rec.d No. 332-333
24-7-62

To Government of India
Adjustment of Cus.
-toms Duty on Machinery &c.

Revenue 1862 Dpartt.
Rec.d of Govt. for September

No 1970.

To The Secretary to the
Government of India.
Dated 13th September 1862.

From the Secy to the Govt of India
No 31 dated 62 Rec.d 31st Idem

No 233.

Submitting for consideration and orders Great Southern of India Railway Company's claim for the refund of the amount of Sea Customs duty paid for Railway Materials imported by the Company.