M.R.O. 14—13,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 522A Press ~~Mis.~~

322A. 322B

Dated 30 - 3 - ~~19~~ 1964

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 30th March 1864.

No. 322A. Read the following Proceedings of the Board of Revenue, dated 10th March 1864, No. 1,472;—

Read the following letter from the Collector of South Arcot, dated Punrootty, 12th February 1864, No. 25.

1. I have the honor to submit for the Board's consideration a question relating to the subject of the refund of Stamp duty on production of Certificates granted by the several Courts

2. The circumstances in illustration are as follow :—

No. of Suit.	When disposed of.	When presented for payment.	Amount of refund.
			RS. A. P.
172	11th August 1863.	7th January 1864.	1 0 0
169	13th do.	do.	1 0 0
13	12th do.	do.	2 0 0
2,344	6th do.	do.	4 0 0
130	5th do	do.	2 0 0
			10 0 0

3. Five Certificates were granted by the District Moonsiff's Court at Chellumbrum, amounting in the aggregate to Rupees 10, and they were presented to the Deputy Collector in charge of the Treasury for the payment of the refund amount, five months after date, as shown in the margin. This interval between the grant of the Certificates and the application for payment, far exceeds the period which was allowed by Section 4 of the repealed Act No. XVII of 1848, as well as by paragraph 52 of the Old Stamp Manual. But the holder of the Certificates argues, and reasonably, that there being no specific provision on this point either in the new Stamp Act No. X of 1862, or in the Revised Stamp Manual, he is entitled to a refund of duty at any time on presentation of the Certificates, and he contends that the period of application for payment rests entirely with himself.

4. The present Stamp Law and the Manual also are both silent on the point, although it was distinctly provided for under the old enactment above quoted; and thus there can be no question, I think, that the applicant is in the right, and that his claim is in no way barred by the delay in the presentation of the Certificates; and it appears to me that under the existing law no period of delay, however extended, could legally bar a claim of the kind; still, the omission in the law seems an important one, and might be productive of serious inconvenience, and unquestionably it is capable of being turned to fraudulent account. If, for example, a Certificate granted in 1863, is produced in 1865, or at any later date, say many years afterwards, payment is imperative, and the Treasury Department will thus have to search for the advice received at the time from the Court perhaps years before, involving a considerable amount of labor, while the detection of any fraudulent entry in the Certificate, either by erasure or other alteration, might prove a difficult matter at that interval of time; consequently it would, I think, be a wholesome provision, if some reasonable period for presentation were definitely fixed, even if extended to six months.

5. With the Law as it stands in the Stamp Act it would not be possible, I presume, to introduce any provision prescribing the period of presentation into the Stamp Manual, at the same time the Board may probably agree that some such provision would be very desirable on all accounts.

---

1. The Board observe that the expediency of limiting the time for payment of refunds of Stamp duty ordered by Courts was expressly brought to notice by them in discussing the draft Stamp Act, and was advocated by this Government in their letters to the Supreme Government on the subject, but that no action was apparently taken on the recommendation.

2. Mr. Reade's letter will however be submitted for the consideration of Government.

No. 322a. ORDER THEREON, 30th March 1864, No. 522. A

1. With these Proceedings, the Board of Revenue submit, for the consideration of Government, a question raised by the Collector of South Arcot relating to the subject of the refund of Stamp duty on production of Certificates granted by the Courts.

2. By Section IV, Act XVII of 1848, a Plaintiff is entitled to a refund of the whole or a moiety of the Stamp duty paid on his plaint on certain conditions, one of which is that he shall present to the Collector *within three months of the dismissal* of the suit, a Certificate obtained from the Court specifying the amount of duty so paid, &c.

3. By Section 98 of Act VIII of 1859 similar refunds are allowed, but no allusion is therein made to the period within which the Certificates must be presented to the Collector for payment. Section XXVI, Act X of 1862, reduced the amount of refund, but is also silent as to the time allowed for presentation of the Certificate.

4. The late Sudder Court appear to have ruled that Section 98 of Act VIII of 1859 practically repealed the whole of Section IV, Act XVII of 1848. The last Section of Act VIII of 1859 merely enacts that after the passing of the law, the procedure of the Civil Courts shall be regulated in accordance with its provisions. But the presentation of the Certificate granted by the Court within a given time is no part of the procedure of the Court, and it may fairly be argued that this much of Section IV, Act XVII of 1848 is still in force.

5. When the new Stamp Acts were under consideration, this Government advocated* the abolition of refunds, and failing that, they urged that a limited period should be fixed for the presentation of the Certificates, as the draft Acts were silent on the subject. The first suggestion was so far acted on that the rate of refund was reduced one-half, but the other suggestion was never noticed.

* To Government of India, 29th March 1862, No. 698, paragraph 8.

6. This may have been caused either by disapproval of it, or by the opinion that this much of Section IV, Act XVII of 1848 was in full force.

7. The limitation of the time for claiming refunds is very desirable, not merely as a matter of official convenience, but as rendering frauds less easy of perpetration.

8. With these remarks the Government resolve to refer the point in question for the opinion of the Government Pleader.

(True Extract.)

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

To the Board of Revenue.
„ Government Pleader.

Exd. S. T. Augustin.

R 782/64
Govt/Jn.

By Sect IV Act XVII of 1848, a Plt. is entitled to a refund of ~~half~~ the whole or a moiety of the Stamp duty paid on ~~their~~ his plaint on certain conditions, one of which is that ~~the~~ he shall present to the Clr within 3 months of the dismissal of the suit a certificate obtained from the Court specifying the amount of duty to be paid &c

By Section 98 of Act VIII of 1859 similar refunds are allowed but no allusion is

Made to the Secretary within which the Certificate should be presented to the Clerk for payment. Sect XXVII Act X. of 1862 declared the amount of the fund, but is silent as to the time allowed for presentation of the Certificate.

The late Insolvent Court appears to have ruled that Sect 98 of Act VIII of 1859 practically repealed the whole of Sect IV Act XVII of 1848 - but the Legislature seems to question - The last Section, merely enact

that after the date of the Law, the procedure of the Civil Courts shall be regulated in accordance with its provisions - But the presentation of the certificate granted by the Court within a given time is no part of the procedure of the Court - and it may fairly be argued that this must of Sect IV Act XVII of 1848 is still in force -

When the new Stamp Acts were under consideration the first advocates the abolition of refunds - and failing that, they urged

that a limited period should be fixed for the presentation of the Certificates as the Draft Acts were silent on the subject. The first suggestion was to be for acted on the rate of refund to be fixed one half. But the other suggestion was more restricted

This may have been caused either by Dis approval of it, or by the opinion that the words of Sect IV Act XVII of 1862 were in full force.

The limitation of the time for claiming refunds is very desirable, but merely as a matter of official convenience but as rendering frauds less easy of perpetration.

It would be desirable

I think it would be for the opinion of the Madras Govt on the point

Revenue Department

No. 522 A

Proceedings of the Madras Government

Under date the 29th March 1864

Read the following Proceedings of the Board of Revenue.

Submitting for the consideration of Government letter from the Collector of South Arcot stating that a specific provision should be made limiting the time for the presentation of certificates from Courts for the refund of Stamp duties.

(Here enter 10th March 1864 No. 11,472)

1 With these Proceedings, the Board of Revenue submit, for the consideration of Government, a question raised by the Collector of South Arcot relating to the subject of the refund of Stamp duty on production

of

of Certificates granted by the Court.

2. By section IV Act XVIII of 1848, if Plaintiff is entitled to a refund of the whole or a moiety of the Stamp duty paid on his plaint on certain conditions, one of which is that he shall present to the Collector within 3 months of the dismissal of the suit, a certificate obtained from the Court specifying the amount of duty so paid:

3. By section 98 of Act VIII of 1859 similar refunds are allowed, but no allusion is therein made to the period within which the certificates must be presented to the Collector for

for payment. Section XXVI Act X of 1862 reduced the amount of refund, but is also silent as to the time allowed for presentation of the Certificate.

4. The late Sudder Court appear to have ruled that Section 98 of Act VIII of 1859 practically repealed the whole of Section IV Act XVII of 1848. ~~but this seems open to question.~~ The last section of Act VIII of 1859 merely enacts that after the passing of the law, the procedure of the Civil Courts shall be regulated in accordance with its provisions. But the presentation of the certificate granted by the Court within a given time is no part of the procedure of the Court

Case

and it may fairly be argued that this much of section IV. act XVII of 1848 is still in force.

5. When the new Stamp acts were under consideration, this Government advocated the abolition of refunds and failing that, they urged that a limited period should be fixed for the presentation of the certificates as the draft acts were silent on the subject. The first suggestion was so far acted on that the rate of refund was reduced one-half but the other suggestion was never noticed.

6. This may have been caused either by disapproval of it, or by the opinion that this

x To Govt. of India 29th March 1862 No. 698 para 8.

this much of section IV. act XVII of 1848 was in full force.

7. The limitation of the time for claiming refunds is very desirable, not merely as a matter of official convenience, but as rendering frauds less easy of perpetration.

8. With these remarks the Government resolve to refer the point in question for the opinion of the Government Pleader.

Sd

To Govt to the
Bd of Rev. Dispatch
Govt Pleader

Revenue 1864 Deptt.
Pro: of Govt for March.

Pro No. 491-492
29-3-62

No. 522-A.

Pro: of the Madras Govt.
Dt 30th March 1864.

Question as to
limitation of time, for
claiming refunds ordered
by Courts, referred for the
opinion of the Government
Pleader.

No 322 to 322 B