M.R.O. 14-5,450-22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1848 Press ~~Mis.~~

150-155

Dated 9—8— 1867.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 9th August 1867.

Read the following papers:—

No. 190. Proceedings of the Board of Revenue, dated 30th April 1867, No. 2,653.

Read the following letter from Messrs. ARBUTHNOT & Co., to the Secretary to the Board of Revenue, dated Madras, 27th April 1867.

1. Act 17th of 1867 provides that all articles *not* enumerated in the Schedule annexed to the Act shall be imported free of duty; having, however, been called upon to pay Import duty on a case of corals (rough worm-eaten *sea* corals on strings) imported by us from Southern Europe, which are not enumerated in Schedule A. of the Act, under the somewhat singular plea that they are "Jewelry!" we have the honor to request that you will favor us with the opinion of the Board as to whether duty is legally chargeable on corals under the above heading.

2. We enclose copies of correspondence which has already passed between us and the Collector of Sea Customs, regarding this matter.

From Messrs. ARBUTHNOT & Co., to the Collector of Sea Customs, dated Madras, 25th April 1867.

As we observe that, under Act XVII of 1867, all goods which are not therein enumerated are free of Import duty, and understanding that you purpose charging duty on a box of corals which we are about to pass through the Custom-house under the heading in the Tariff of an item "Jewelry," we have the honor to inform you that we cannot acknowledge your action in this matter, as corals on the rough, we think, cannot, under any circumstances, represent "Jewelry," and only become such when they are polished and mounted on gold, &c. As it is our intention to dispute the charge, we will thank you to take an opinion of the Board of Revenue on our objection. In the meantime, please to permit us to pass the box of corals under our deposit.

From the Collector of Sea Customs, to Messrs. ARBUTHNOT & Co., dated Sea Custom-house, 25th April 1867, No. 423.

1. Duty is charged on "Corals" under the head "Jewelry," under which all jewels, stones, &c., are included, except precious stones (Diamond, Ruby, Emerald, Sapphire) and pearls.—*Vide* "Jewelry," No. 30, in Import Tariff.

2. The "Corals" will be passed after the usual examination on your deposit, if an application is made in the usual form. The one put in does not state the value, which is necessary.

3. If you object to duty being levied, you can appeal to the Board of Revenue after the charge has been made.

From Messrs. ARBUTHNOT & Co., to the Collector of Sea Customs, dated Madras, 25th April 1867.

1. We have the honor to acknowledge the receipt of your letter, No. 423, of this date in reply to our's.

2. We conclude, from the first paragraph, that your opinion as to whether corals on the rough are Jewelry is opposed to our's, and in confirmation you refer us to the Import Tariff, under the head of Jewelry, from which, after further inspection, we find you have failed to convince us that duty can legally be charged on corals under the above heading.

3. We prefer following the prescribed course, that is, to refer our dispute to the Board of Revenue through your department. We will, therefore, thank you to forward a copy of our letter. Paying Import duty on the corals, and afterwards making an application to the Board of Revenue we believe is irregular.

From the Collector of Sea Customs, to Messrs. ARBUTHNOT & Co, dated Sea Custom-house, 26th April 1867, No. 425.

1. In answer to the 3rd and 4th paragraphs of your letter of yesterday regarding the "Corals," I beg to inform you that the prescribed course is the one laid down in my letter, No. 423, of yesterday, and you will find it in Section 220, Act VI of 1863.

2. Only cases in which the Collector has any doubt in favor of the other party, are forwarded to the Board by him.

Forwarded to the Collector of Sea Customs for report. The former practice at this port, and at Calcutta and Bombay, should be reported.

No. 191. Proceedings of the Board Revenue, dated 1st June 1867, No. 3,364.

Read again letter from Messrs. ARBUTHNOT & Co., dated 27th April 1867, recorded in the Board's Proceedings, dated 30th April 1867, No. 2,653.

Read also the following letters:—

From the Collector of Sea Customs, to the Secretary to the Board of Revenue, dated Madras, 3rd May 1867, No. 446.

Board's Proceedings, April 30th, 1867, No. ——.

1. The practice at this port has always been to charge duty on corals, but this argument will not apply to Messrs. Arbuthnot & Co.'s objection to pay duty, which is grounded on paragraph 2 of Act XVII of 1867.

2. In the Trade Returns corals and other stones have always been entered under the head "Jewelry;" and the same head, No. 30, in the new Tariff, specially exempts only "Precious stones and pearls," all other stones used for ornament, such as coral, amethyst, carbuncle, turqoise, garnet, onyx, &c., &c., are, therefore undoubtedly chargeable with duty. The word "Jewelry" I define to include any article worn as an ornament, and a single row of coral beads is worth from 5 Rupees to 5,000, without any setting whatever. Rows of onyx beads are often worn as jewelry in the same way, and I see no reason why unset corals and onyxes should not pay duty as well as those mounted in gold.

3. I would further refer the Board to paragraph 15 of the Report of the Tariff Committee, from which the Tariff on Imports was drawn up. Clause 2nd includes all articles paying above 10,000 Rupees duty in the last five years (except philosophical instruments).

The duty here on corals in 1864-65 was

In Calcutta	Rupees	19,932	12 7
In Bombay	,,	24,847	10 6
	,,	10,623	0 0
Total Rupees...		55,403	7 1

and it was certainly never intended that, when such an amount was collected on corals, they should be freed. If they are freed, what is to be charged under Jewelry, and what is the meaning of excepting only precious stones and pearls under the head "Jewelry?"

From Messrs. ARBUTHNOT & Co., to the Secretary to the Board of Revenue, dated Madras, 8th May 1867.

With a view to ascertain the opinion of the Board as to whether we can be relieved in future from the trouble and inconvenience which, in the present instance,

have occurred through the Collector of Sea Customs having detained a box of corals belonging to us in the Custom-house for a long time past, we have the honor to forward herein copies of correspondence which have passed between the above Officer and ourselves, with respect to the removal of the box into our own custody. We add—

First.—Corals under the new Tariff, and according to the practice existing in Calcutta, are not really chargeable with duty, and, in consequence, an approximate valuation was all that was necessary we should render, to obtain permission of the box.

Second.—That, assuming duty to be chargeable, we have rendered a liberal valuation for the above-mentioned corals, ascertained by placing the box in a scale, deducting a small fare, and valuing the net weight at 12 Rupees per lb., about the highest valuation ever submitted for corals of similar quality.

Third.—That we have submitted an invoice for the box.

Our only motive for objecting to open the box is, as will be gathered from the enclosed copies of correspondence, that, by so doing, the sale of the corals is affected, and, in explanation, we beg to inform you that coral dealers are a peculiar class of merchants, who live in the interior, and visit Madras few times in a year, and we rarely fail in coming to terms with them regarding the sale of a batch of corals, providing that the boxes containing the corals have not been opened. In that case, however, the merchants look on the goods with suspicion, and conclude that they have been inspected from time to time, and rejected by others, from some cause which their fears alone construe into something inherently wrong with the goods, and a lower price than would otherwise be obtained has consequently to be accepted.

Copies of Correspondence.

From Messrs. ARBUTHNOT & Co., to the Collector of Sea Customs, dated Madras, 4th May 1867.

With reference to the obstruction which is being put by your department in the way of our clearing a case of corals marked F. T., an obstruction which we think should not exist, keeping in view that under the new Act the goods are most certainly exempted from duty, we have the honor to request that you will inform us whether we are to be allowed to take delivery of the box without further action in the matter. To open it at the Custom-house, which would cause it in a great measure to become unmerchantable, we are opposed to do, and the only way we see of getting out of the difficulty, if you are determined that that shall still stand in the way, is to suggest that you will let the case be removed into our godowns, be retained there on joint custody with yourself, and be opened and examined in the presence of your department before the next batch of coral merchants who visit Madras.

From the Collector of Sea Customs, to Messrs. ARBUTHNOT & Co., dated Madras, 6th May 1867, No. 459.

In answer to your letter of the 4th instant, regarding the "Corals," I have the honor to inform you, that they will be passed on production of your invoice of value, if you have one. If you have no invoice, they will be passed after examination according to custom.

From Messrs. ARBUTHNOT & Co., to the Collector of Sea Customs, dated Madras, 6th May 1867.

We have the honor to acknowledge the receipt of your letter, No. 459, of this date, and in reply to inform you that we have already submitted the only invoice we have for our box of corals.

We have moreover had the box weighed gross, and after estimating a moderate fare, have valued the corals in our Import Pass at or over Rupees 12 per lb.; a price which it is doubtful whether they will realize. Under this further explanation we trust that you will now see your way clear to allow us to pass the box unopened.

From the Collector of Sea Customs, to Messrs. ARBUTHNOT & Co., dated Madras, 7th May 1867, No. 461.

In answer to your letter of yesterday, regarding the "Corals," I regret I cannot pass them without examination, as I consider them liable to duty, and cannot judge of their value from the information given.

From Messrs. ARBUTHNOT & Co., to the Collector of Sea Customs, dated Madras, 8th May 1867.

We have the honor to acknowledge the receipt of your letter, No. 461, of yesterday's date, and to state that we will now open the box of corals for your inspection only however under protest: keeping in view our having informed you that by so doing we injure their sale, and that we have endeavoured to obtain the box intact without compromising your department by an offer to have it placed in bond until we were able to open it in the presence of the dealers, when the contents could have been examined by an officer from your department to satisfy himself as to the liberal valuation we have put upon them, and further as we maintain that in accordance with the practice in Calcutta no duty is chargeable on corals under the new Tariff, and that in consequence it is vexatious to be under the necessity of giving more than an approximate valuation for the same; under all these circumstances we repeat that we have been hardly dealt with in the matter, and we are forwarding detailed particulars and copies of our correspondence to the Board of Revenue, with a view to avoid similar annoyance in future.

From Messrs. ARBUTHNOT & Co., to the Secretary to the Board of Revenue, dated Madras, 11th May 1867.

1. We have the honor to pass forward, in continuation of our letter, dated the 8th instant, copy of a letter received by us yesterday from the Collector of Sea Customs, regarding our late importation of corals. Without comment, excepting so far as to point out that his individual opinion is opposed to that entertained in the senior Presidency, Bengal, where, we have already informed the Board, it is the practice to pass corals free of duty, and to Act XVII of 1867 of the Legislative Council of India.

2. We may here mention that we have had the opportunity of seeing, on his way to Europe, Mr. Schiller, of the firm of Messrs. Borrodaile, Schiller & Co., of Calcutta; this gentleman was appointed to sit on the Committee who revised the late Customs Act, and he informed us that corals came under the special notice of the Committee, and, in consideration of certain circumstances, too lengthy to detail, it was unanimously decided that they should be expunged from the Tariff. We have informed the Collector of this circumstance, but he replies that his memory does not bear out Mr. Schiller's statement, and we infer that he believes the subject of coral did not come up for discussion at all.

From the Collector of Sea Customs, to Messrs. ARBUTHNOT & Co., dated Madras, 10th May 1867, No. 470.

1. Your letter of the 8th instant regarding the "Corals." If you make an application to bond them, which you have not done, they will be passed under the usual form into bond, otherwise I decline to pass them unless opened and examined.

2. As regards charging duty, I consider the Calcutta practice wrong, and the matter is now before the Board of Revenue.

3. I cannot see how you have been hardly dealt with. You have been simply treated as other traders in the same article, whose cases are opened, when no invoice of value is produced.

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1. The Board have considerable difficulty in arriving at a decision upon the point at issue between the Collector of Sea Customs and Messrs. Arbuthnot & Co., and they accordingly resolve to submit the foregoing papers for the consideration and orders of Government.

2. In their first letter recorded above, Messrs. Arbuthnot & Co. claim to have exempted from duty certain "rough worm-eaten sea corals on strings," and they submit certain correspondence which has passed between themselves and the Collector of Sea Customs, from which it appeared that Mr. Blair considered the corals referred to be included under Jewelry, number 30, in the Import Tariff attached to Act XVII of 1867.

3. Messrs. Arbuthnot & Co.'s letter was referred to the Collector of Sea Customs, with the request that he would report whether it was the old practice here, and at Calcutta, and Bombay, to charge coral with duty under the head of Jewelry, and his letter recorded above is Mr. Blair's reply to this requisition.

4. Mr. Blair there explains that in the Trade Returns of the three Presidencies, coral has invariably appeared as a sub-heading under Jewelry, and by a reference to paragraph 16 of the Report of the Tariff Committee, he clearly shews that it was not their intention that coral should be admitted duty free, inasmuch as it is an article on which more than Rupees 10,000 was collected as duty in one of the five years previous to 1864-65, and was not, like philosophical instruments, expressly proposed to be exempted.

5. Since the receipt of Mr. Blair's letter, the Board have received two communications from Messrs. Arbuthnot & Co., also recorded above, in the one of which they take exception to his practice in examining goods at the Custom-house, in regard to the case of corals above referred to, and in the other observe that the practice at Calcutta is to pass corals duty free, and state that Mr. Schiller, of the firm of Borrodaile and Schiller, at Calcutta, himself a member of the Tariff Committee, had informed them that after considerable discussions it had been resolved to expunge corals from the Tariff.

6. With reference to this assertion of Mr. Schiller's, the Board need only refer to their remarks in paragraph 4 above. An examination of the Tariff Committee's Report affords ample proof that Mr. Schiller is mistaken in his supposition, for in addition to the evidence of the Committee's intention, which is afforded by the paragraph of the report to which Mr. Blair refers, it is quite evident, from the appendices to which the Committee allude in paragraphs 2, 3, and 7 of the Report, that it was not their intention to exempt coral from duty, for it is specially mentioned in Appendix C. as one of the *ad valorem* dutiable articles, and again in Appendix G., where all the articles of trade are included, and where it is distinctly specified which articles are to be on the free list, which to be charged an *ad valorem* duty, and which a tariffed duty.

7. The Board are satisfied that the Tariff Committee *intended* that corals should be taxed as hitherto, and they see good reason to believe that this was also

the intention of the Supreme Government. But the law, Act XVII of 1867, Section 2, expressly enacts that "All articles, other than those *specified*" in the Schedules "shall be duty free," and coral is not so specified.

In the Schedule the head Jewelry is sub-divided into "Silverware plain" and "Jewelry and plate of all kinds excepting precious stones and pearls which are free."

8. Whether corals, which are unset and otherwise not prepared for wear, can, under this heading, be considered to be "specified" sufficiently to render them dutiable under Section 2 of the Act is a legal question of some nicety, and as the practice of the Calcutta Customs too is different from that which Mr. Blair maintains, with fair shew of reason, to be the correct course, while the revenue at stake is considerable, the Board resolve to recommend that a reference be made to the Supreme Government for instructions as to the course to be pursued.

9. In regard to Messrs. Arbuthnot & Co.'s complaint as to the examination of goods, the Board cannot limit the discretionary power with which the Collector of Customs in virtue of his office is necessarily vested to adopt this measure in order to insure that goods are not passed without payment of the proper rate of duty. The Board also remark that Messrs. Arbuthnot & Co. do not appear to have produced an invoice shewing the *value* of the goods, but even if they had done so, the Collector had undoubtedly the right to examine the contents of the case if he saw good and sufficient reason to do so. In the present instance Messrs. Arbuthnot & Co. might have bonded the case, and so have deferred the examination of it until the time of sale.

No. 192. Proceedings of the Board of Revenue, dated 5th June 1867, No. 3,435.

Read the following letter from the Collector of Sea Customs, to the Secretary to the Board of Revenue, dated Madras, 28th May 1867, No. 533:—

My letter to the Board, No. 446, of the 3rd instant. Subsequently to writing to the Board, I wrote to the Collectors of Customs, Calcutta and Bombay, regarding corals, I have the honor to enclose copy of the Bombay reply. The Calcutta answer will be forwarded when received.

From the Commissioner of Customs, Salt and Opium, to the Collector of Sea Customs, Madras, dated Bombay, 18th May 1867, No. 1,047.

With reference to your letter, No. 476, of the 11th instant, I have the honor to state that under the old as well as under existing rules, precious stones of every description are, without exception, admitted to free entry, but corals are never, under any circumstances, exempt from payment of duty.

Submitted to Government, in continuation of the Board's Proceedings, dated 1st June 1867, No. 3,364.

No. 193. Proceedings of the Board of Revenue, dated 28th June 1867.

Read the following letter from the Collector of Sea Customs, to the Secretary to the Board of Revenue, dated Madras, 21st June 1867, No. 608.

No. 493, dated 5th June 1867. Board's Proceedings, No. 3,435, dated 5th instant. I have the honor to enclose copy of the Calcutta reply regarding corals.

From the Collector of Sea Customs, Calcutta, to the Collector of Sea Customs, Madras, dated 5th June 1867, No. 493.

1. I have the honor to acknowledge the receipt of your letter No. 475, dated the 11th ultimo.

2. The following is a list of precious stones which were passed free under the old rules, namely :—

Diamonds.	Crystal.	Real Pearls.
Onyx.	Chalcedony.	Crysolite.
Garnet.	Blood stone.	Beryl.
Carbuncle.	Moon stones.	Opal.
Sapphire.	Amethyst.	Hyacinth.
Ruby.	Agatis.	Corundums.
Emerald.	Cornelian.	Zircon.
Topaz.	Cats eye.	Oculus Mundi.
Jasper.	Nirgirvise.	Sardonyx.

Corals paid duty under the old rules.

Submitted to Government, in continuation of the Board's Proceedings, under dates 1st and 5th June 1867, Nos. 3,364 and 3,435.

No. 194. Proceedings of the Board of Revenue, dated 30th July 1867.

Read the following letter from the Acting Collector of Sea Customs, to the Acting Secretary to the Board of Revenue, dated Madras, 12th July 1867, No. 696.

In continuation of Board's Proceedings, No. 4,037, of the 28th ultimo, I have the honor to enclose copy of a communication* from the Commissioner of Customs, Bombay, regarding corals. He has been informed of the practice at this port, and that the question as to its liability to pay duty on importation is now before Government.

* Dated 5th July 1867, No. 1,479.

Submitted to Government, in continuation of Board's Proceedings, dated 1st, 5th and 28th June 1867, Nos. 3,364, 3,435, and 4,037.

No. 195. ORDER THEREON, 9th August 1867, No. 1,848.

Separate Revenue, No. 9.
Customs.

1. The Government resolve to refer, for the decision of the Supreme Government, the question raised in the above papers as to the liability of coral to Import duty under Act XVII of 1867, which declares that all articles not specified in the schedule attached to the Act shall be duty free.

2. Coral is not so specified by name, but false coral beads are named under Glass and Glassware, and from Jewellery are excepted only precious stones and pearls, which are free.

3. It appears that hitherto corals have always been included under the head of Jewellery in the Trade Returns, and it would seem that all the coral imported is more or less wrought, while it would be difficult to draw any line to shew when it becomes a work of art deserving of the name of an ornament.

Proceedings of the Madras Government, Revenue Department, 9th August 1867.

4. The duty derived from this article in 1864-65 was—

	Rs.
In Calcutta	24,847
Madras	19,932
Bombay	10,623
	55,402

and at paragraph 15 of their Report to the Supreme Government, dated 7th January 1867, the Committee for the revision of the Tariff recommended the retention on the Duty list of all articles which had produced upwards of Rupees 10,000 duty in any of the last five years, excepting philosophical instruments.

5. It is to be observed that precious stones and pearls were exempt from duty under Act XVIII of 1866, as well as under Act XVII of 1867, and that corals were uniformly charged with duty until the passing of the latter Act.

6. Since this last date, however, the practice has not been uniform. At Calcutta corals are admitted free of duty. At Madras and Bombay duty has been charged, but at both ports the legality of the charge has been disputed.

7. Pending receipt of the decision of the Government of India, duty will continue to be charged in this Presidency, subject to a refund, should the article be declared to be duty free.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government

To the Board of Revenue.

Exd. S. T. Augustin.

A° 1479 of 1867

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To

The Collector of Customs
Madras

Bombay Office of Comm^r of Customs 5^th July 1867

Sir

Doubts having arisen whether real Coral was a dutiable article under the New Tariff, it was ruled that Coral tho' it did not come under the head of "Precious stones" yet it was included in "Jewellery of other kinds" and was thus liable to duty. This ruling was communicated to you and I believe the practice now is to take duty upon real Coral both at Madras and at Bombay

2 One of the chief coral merchants of Bombay has recently appealed to Government against this ruling, & produces a note from the Collector of Gov^t Customs Calcutta as follows.—

Dear Sir

Corals on importation are free of duty".—

Yours faithfully

/Signed/ P Bomanad

6/6/67

To preserve the uniformity of practice at the three Presidencies I refer the question and request the favor of your opinion.

4th You will observe Coral false is specially mentioned under item № 21 in the new Tariff, and the question is whether Coral, real, can be brought under item № 30 as "Jewellery of other kinds"

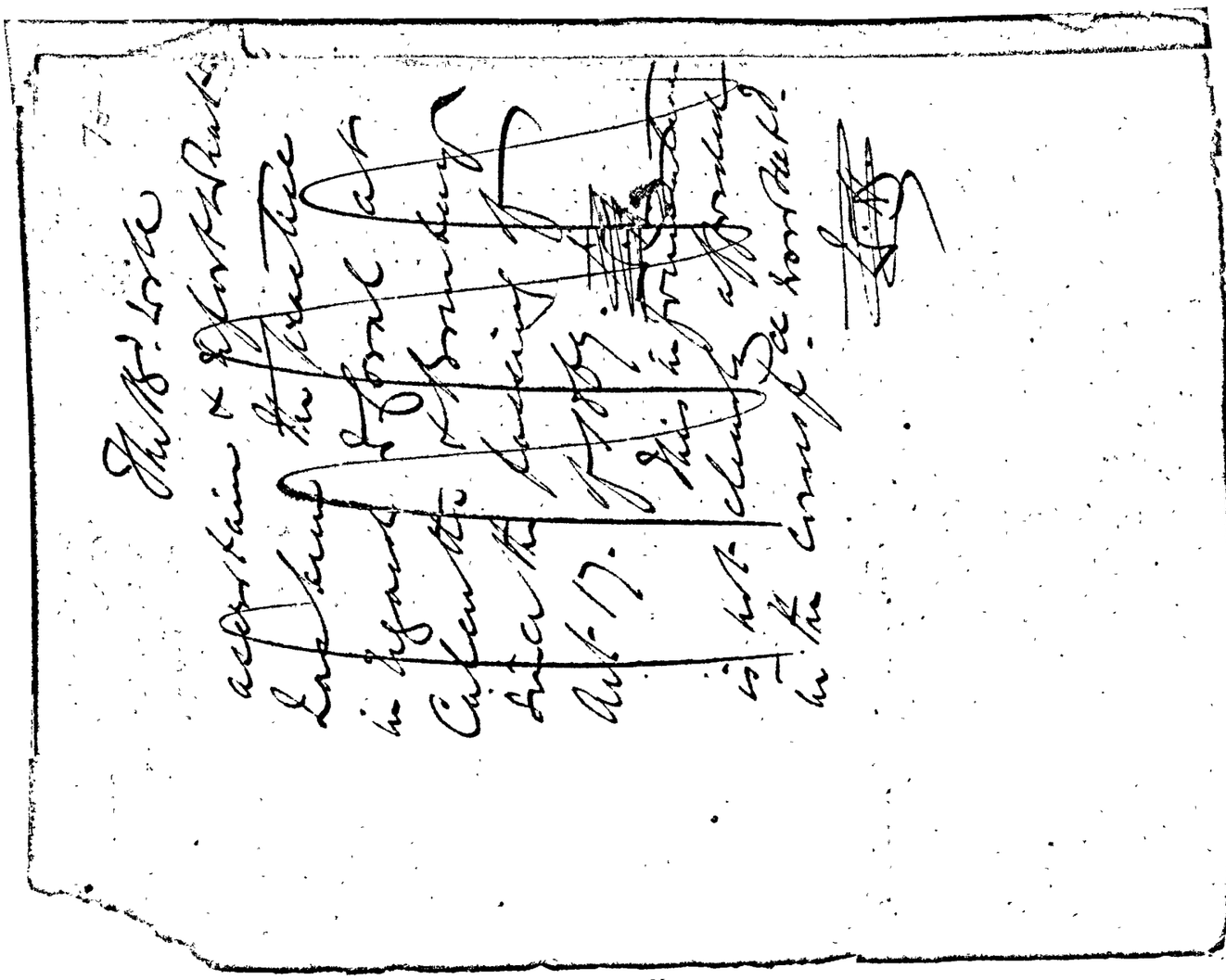
5th The value and amount of duty on the import of real Coral at Bombay during the last three years is subjoined. —

Years	Coral True	
	Amount of value	Amount of duty
	Rupees	Rupees
1864/65	1,51,672	10,623
1865/66	1,60,73[illegible]	11,129
1866/67	81,942	6,145

I have the honor to be
Sir
Your Most Obedient Servt
(Signed) A. F. Bellasis —
Offg Commr of Customs

(True Copy)
A. Collector of Customs

Pol. Dept
Recd 10 Feb 1868
Answd 18 Feb 1868
Nos. 3264 - 3436 - 2607



Rec: 2031/67

Subject Rec'd 3022/67

Prod: 9 Augt 67 Ln Dr 196

Pro: 1st Dec 1857 Nos 7. 8.

Rev= 1867. Department.

Pro of Govt for adjt

No. 1465.

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 1st June 1867.

Ex P 6

R

E.I: S. Dept 1848-9 Aug 5

No. 3,364.

Submitting with remarks for consideration and orders letter from Messrs Arbuthnot and Co. and Collector of Sea Customs on subject of duty to be charged on Corals.

No 7/91

Orange for Rs

Revenue Depart.

No. 1848.

Proceedings of the Madras Government under date the 9th. Augt. 1867.

Read the following Ors. of the Bd. of Revenue.

Submitting letters from Messrs. Arbuthnot & Co and the Collr. of Sea Customs on the subject of duty to be charged on Corals. (Here enter 1st June 1867 No. 3854.)

Submitting letter from Collr. of Sea Customs, forwarding one from Commissioner of Customs, Bombay, stating that Corals are not seen, pass free of duty in that Residency. (Here enter 6th Do. No. 3,4307.)

Submitting letter from Collr. of Sea Customs, enclosing copy of one from Collr. of Customs Calcutta stating that Corals paid duty under the old Rules. (Here enter 28th do do No. -)

Submitting to Govt. letter from Collr. of Sea Customs, forwarding copy of one received from Commr. of Customs, Bombay, regarding Corals. (Here enter 30th July 1867, No. -)

The Govt. resolve to refer for the decision of the Supreme Govt. the question raised in the above

above papers as to the liability of Coral to Export duty under Act 17 of 1867 - which declares that all articles not specified in the Schedules attached to the Act shall be duty free -

Coral is not so specified by name - but False Coral Beads are named under Glass and Glassware - and from Jewellery are excepted only Precious stones and Pearls which are free -

It appears that hitherto Corals have always been included under the head of Jewellery in the Trade Returns - and it would seem that all the Coral imported is more or less wrought - while it would be difficult to draw any line to show when it becomes a work of art deserving of the name of an ornament -

The duty derived from this article in 1864/65 was,

in Calcutta	Rs	24,847 -
Madras	"	19,932 -
Bombay	"	10,623 -
		55,402 -

and at para 15 of their Report to the Supreme Govt dated 7th January 1867, the Committee for the revision of the Tariff recommended the retention on the duty list of all articles which had produced upwards of Rs 10,000 duty in any of the last five years, excepting Philosophical Instruments -

It is to be observed that Precious stones and Pearls were exempt from duty under Act 18 of 1865 as well as under Act 17 of 1867 - and that Corals were uniformly charged with duty until the passing of the latter Act -

Since this last date however the practice has not been uniform - At Calcutta Corals are admitted free of duty - At Madras and Bombay duty has been charged - but at both ports the legality of the charge has been disputed -

Pending receipt of the decision of the Govt of India

Revenue 1867 Dep.tt
Proof Govt. for Augt.

No. 1848.

Prog.tt the Madras Govt.
Dy 9th August 1867.

No 190 @ 195

duction, duty will continue
to be charged in this Presi-
dency, subject to a refund
should the article be re-
eleased to the duty free.

[illegible]

[illegible] Collr