M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No.	2420	Press ~~Mis—~~
265-67. Dated	18-9-	№ 1868

Not to be folded or roughly handled

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Proceedings of the Madras Government, Revenue Department, 18th September 1868.

Read the following :—

No. 265. Proceedings of the Board of Revenue, dated 24th February 1868, No. 1,361.

Read the following letter from the Collector of Ganjam, to the Secretary to the Board of Revenue, dated Chetterpore, 28th October 1867, No. 3,313.

1. Application has been made by Mr. Prendergast of Calingapatam, representing Messrs. Arbuthnot and Co., for a refund of Rupees 1,226-10-0, being duty paid on 3,271 bags of rice shipped on board the "Eliza Bencke," which was totally wrecked in that roadstead on the 29th September ultimo.

2. There is an Order of Government, dated 28th October 1859, No. 1,459, the abstract of which is published in the "Sea Customs House Manual" under "SHIPS FOUNDERING AT SEA." It disallows refund where a ship is lost after leaving the port, on the ground that the shippers "incurred only the ordinary mercantile risks." The present ship was still lading when caught by the cyclone, but it is difficult to see why a distinction is to be made in favor of a ship in port.

3. I find nothing exactly to the point in the "Consolidated Customs Act," and, therefore, beg to refer the question.

Ordered that the foregoing letter be communicated to the Collector of Sea Customs, with the request that he will report what is the practice followed at Calcutta and Bombay, under Act No. VI of 1863, in cases of the nature alluded to by the Collector of Ganjam.

No. 266. Proceedings of the Board of Revenue, dated 28th August 1868, No. 6,181.

Read again Board's Proceedings, dated 24th February 1868, No. 1,361.

Read also the following letter from the Collector of Sea Customs, to the Acting Secretary to the Board of Revenue, dated Madras, 3rd August 1868, No. 848.

1. Board's Order, No. 1,361, dated 24th February last.

2. I have the honor to enclose copies of letters from the Collectors of Customs, Calcutta* and Bombay,† regarding refund of duty on wrecked goods.

* No. 883, dated 20th July 1868.

† No. 779, dated 13th March 1868.

From the Collector of Customs, Calcutta, to the Collector of Customs, Madras, dated Fort William, 20th July 1868, No. 883.

In reply to your letter, No. 266, dated 3rd March last, I have the honor to inform you that in a case similar to the one referred to in the enclosure of your letter, refund of duty was refused under the orders of the Board of Revenue.

From the Commissioner of Customs, Bombay, to the Collector of Sea Customs, Madras, dated Bombay, 13th March 1868, No. 779.

1. In reply to your letter, No. 267, dated 3rd instant, I have the honor to state that such a case as that mentioned by you rarely occurs here. The only one in recent years was in 1854, when many vessels were wrecked in harbor. On that occasion, refunds of duty do not appear to have been applied for, nor were they granted.

2. Some months ago the "Bombay" was wrecked just outside the harbour, with a full cargo of Cotton, Rape-seed, and Wool. No refund of the fees on the Cotton, or the export duty on the Rape-seed was applied for, or granted.

3. As an abstract question, I should decide a case of the sort if it arose by the practice in regard to insuring goods, that is to say, if it is the custom to insure from the time of shipping the cargo, and the policy covers the risk from that time, no refund I consider ought to be allowed; but if, on the contrary, it is the practice of the port that the policy of insurance takes effect from the sailing of the vessel only, I am of opinion the parties concerned would be entitled to consideration, and ought to receive a refund.

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1. In this case application is made for the refund of Rupees 1,226-10-0, export duty paid on a cargo of Rice which was lost by the wreck of the vessel before leaving harbour, and in fact before she had done lading.

2. No similar case has been decided in this Presidency since the introduction of the Consolidated Customs Act, but from the foregoing correspondence it will be observed in a similar case in Calcutta the refund was refused.

3. No precedent has been established in Bombay, but the principle enunciated by Mr. Robertson, of deciding according to the practice in regard to insuring goods, seems most fair.

4. In the Ganjam ports it is usual to effect insurances from the date of sailing, and the Board would recommend that in the present case the refund should be granted on a declaration being made by Messrs. Arbuthnot and Co. that the goods were not insured.

5. The Board are of opinion that it is very desirable that a rule applicable to such cases should be laid down for application throughout British India.

No. 267. ORDER THEREON, 18th September 1868, No. 2,420.

Separate Revenue, No. 11.
Customs.

The Government resolve to request the Board to ascertain from Messrs. Arbuthnot and Co. whether the goods were insured. On receiving their reply, the Government will refer the matter for the orders of the Government of India in view to the adoption of a uniform practice.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.

Exd. S. T. Augustin.

REVENUE DEPARTMENT.

No. 2888.

From Proceedings of the Bd of Revt.
Dated 28th August 1868.

FOR ORDERS.

It was the business of the Pt. Steamer to complete the cargo, by themselves as carrying the private packets and Messrs. Arbuthnot & Co. stated - they had put the Cover of Sealers wrongly with the Sea Customs authorities at Calcutta & Bombay: and might have denied the Cole of Sailing Vessels from which the Owners required under the Declaration that the goods were not insured.

I think the pound-Rules can now be cleared up, so that the Order hereafter to be kept may, whether favorable to A. & Mr. Rose, rest on a case of actual occurrence - and avoid, to some extent, conflict with A. G. on the subject dereliction by the Revenue Officers -

I am not clear as to the correctness of Mr. Robertson's opinion as to the Rule of refund - It may in fact be valuable merchandise - the pays du when put into the Store House Sale - the Coolies having it charge drop it & break it - Could the Importer not be called on to refund the duty - just paid?

9 Sept 68

WDM

I think we had better settle this in Council.

Ap A.

9277

To Bd Comm of Accts
on Mr Ld of Indies

c.g. Sept 4/68 [illegible]

From rules
in Council

No 1207
Sept 4/68

Gr. 2420.

The Govt resolve to request the Board to ascertain from Messrs Arbuthnot &c whether the Goods were insured. In receiving their reply the Govt will refer the matter for the orders of the Govt of India in view to the adoption of a uniform practice.

[signature]
18th Septr/68.

14 Copies Forwarded 19 Dec 1868