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(1) Number of pages 20

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MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 92. Press ~~Mis.~~

Dated 13-1- 1871.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
13th January 1871.

Read again G. O., dated 30th August 1870, No. 1,352, and 18th November 1870, Nos. 1,800 and 1,801.

Read also the following papers :—

No. 189. Proceedings of the Board of Revenue, dated 5th December 1870.

Read Proceedings of the Madras Government, Revenue Department, dated 18th November 1870, No. 1,801.

THE Board are of opinion, that if the present system under which the Stamp Vendor, by a special arrangement, refunds half or remitted costs is changed, it will be better to make the Clerk of the Court the Refunding Officer than to impose this duty on the Collector of Madras, as has been contemplated by the local Government.

No. 190. From the Judges of the Madras Court of Small Causes, to the Chief Secretary to Government, Fort Saint George, dated 6th December 1870, No. 182.

WITH reference to the Proceedings of Government, under date 18th November 1870, No. 1,800, whereby we are requested to state "whether any serious inconvenience to the suitors is likely to be occasioned by the discontinuance of the special arrangements under which stamps are now purchased and refunds obtained at the Small Cause Court," we beg to say that in our opinion the existing arrangement works satisfactorily, and that it would be undesirable to change it.

2. Many changes have recently been made in the administration of the office-work of the Court, consequent on the abolition of cash payments, and the public has now become accustomed to the existing arrangements; and it is clear that any change which affects the numerous operations incidental to the disposal of 20,000 Suits a-year should be avoided unless absolutely necessary.

3. The sale of stamps and the refunding of half costs are now effected in what is practically a department of the Court. Thus the essential requirement of any arrangement on the subject, namely, the saving to the suitor of all avoidable delay and trouble is secured. Our existing staff of Clerks is inadequate to the efficient discharge of its present work, and could not undertake the sale of stamps, and refund of half costs, without the employment of extra hands, at least equivalent to the expense entailed by the Stamp Vendor's Establishment.

4. Any plan whereby the sale of stamps for our Court would be delocalized would entail unnecessary trouble on the suitors of the Court. At once the question of the refund of half costs becomes a difficulty, and must be provided for somehow; and the letter from the Collector of Madras, No. 250, in the Proceedings now under consideration, shows that the difficulty is not inconsiderable. And, furthermore, the convenience which at present exists of an abundant supply of stamps being always available for use would probably be lost to the suitors.

5. Again this Court has, for reasons of obvious expediency, the right of framing its own forms, and therefore wherever the sale of stamps is effected, the suitor will usually have to attend the Court before he purchases his stamps, either

to ascertain the amount of stamps to be purchased, or to procure a form of plaint, or for both purposes. It is clear that there is a great balance of convenience in favour of the system which localizes all these operations at one and the same spot.

6. The suggestion that the stamps might be impressed as well as adhesive would, so far as the stamps were impressed, always necessitate a preliminary visit to the Court to procure the form of plaint, or the purchase from independent publishers of our form of plaint—a resource as yet unavailable, as no such independent publications have hitherto come into existence. The system of adhesive stamps is on the whole the more convenient one, and as "The Court Fees' Act of 1870" is entirely silent as to whether the fees "referred to in Section 3," under which class the fees in this Court come, should be impressed or adhesive, and, moreover, gives no power to the Governor-General of India in Council to direct whether they shall be the one or the other, the right to make such direction is doubtful; and certainly there is no advantage to be gained by abandoning the use of that form of stamp which is the more convenient of the two.

No. 191. ORDER THEREON, 13th January 1871, No. 92.

Separate Revenue, No. 16.
Stamps.

THE Governor-General of India in Council having decided, under Section 26 of the Court Fees' Act, 1870, that all Court Fees shall be collected by adhesive stamps, and this Government having come to the conclusion that it is not advisable to maintain a special stamp prepared for use in the Madras Small Cause Court only, the system by which hitherto the Court Stamp Vendor had a virtual monopoly of sale falls to the ground, and with it the arrangement under his contract for all refunds of stamp-duty in compromised Suits being made by him, and adjusted with him by the Deputy-Collector in the account of stamps supplied on discount to the vendor for re-sale.

2. Two alternative systems for the payment of future refunds have been suggested, namely, (1), payment by the Collector of Madras, whose office is near the Small Cause Court; (2), payment by the Court's Chief Clerk as at Bombay; both systems necessarily involving the establishment of an "Advance" account.

3. The first proposal is objected to both by the Judges, the Collector, and the Board, as likely to entail inconvenience to the suitors, and throwing so much additional work on those who are already fully employed that additional hands will need to be engaged for the particular duty.

4. The Judges object to the second proposal on the same grounds, and also, deprecating the removal of the sale of stamps and payment of refunds from their Court, advocate the retention of the previous system.

5. The Board of Revenue argue, that as the Stamp Vendor will no longer have an absolute monopoly of sale, he cannot reasonably be saddled with the duty of making the refunds.

6. It appears, however, to the Government that a slight modification of the present system will secure all that is necessary.

7. They see no reason why the Court Vendor should not be retained and furnished, in addition to such stock of stamps as he may obtain on the usual discount system, with a further supply *without payment* to the value (less discount) calculated to represent one week's estimated refunds of stamp duty, which addition to his stock would practically provide an Advance Fund, and would be replenished from time to time by the Deputy-Collector in adjustment of the refund certificates produced by the Vendor as satisfied.

8. The Government believe that practically the Court Vendor will still retain a monopoly of sale to a considerable extent, as, from his position, the suitors will find it most convenient to resort to him for the stamps they require; and the arrangement suggested will really place him in funds for the purpose of making refunds of duty under the Judges' certificates. He would, of course, be required to furnish security to cover the *advance* supply of stamps.

9. The Judges of the Small Cause Court and the Board of Revenue will be requested to report whether the plan appears to them calculated to meet the requirements of the case, and to be free from objection; and, if so, the Board will make the necessary arrangements for carrying it out, and will submit a modified set of Draft Rules for publication in the *Gazette*.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
,, the Judicial Department.

Exd. F. R. Bantleman.

Rev. Dept.

Memo: for orders on No. 3771 & 3824 51

Question (1) Whether the present system of allowing one vendor a monopoly for the sale of Small Cause Court Stamps, on the understanding that he is also to undertake the duty of making refunds, is to be kept up or not. (2) If not whether the refunds are to be made by the Collector of Madras, or by the Clerk of the Court.

I have drafted a G.O. W. I think will do what is wanted, in a simple manner. [illegible]

The first question has already been before Govt vide Memo. attached to G.O. dated 18th Nov: 1870 No. 1800, by which G.O. the question was referred for the opinion of the Small Cause Court Judges. The latter now express themselves strongly in

× Letter of 6 Dec 1870.

Govt. of 1871 Madras.

REVENUE.

To THE BOARD OF REVENUE.

&c., &c., &c.

Dated January 13th.

Recd. Encl.

G.O., 13th January, 1871, No. 92.

JANUARY.

Nos. 189—191.

Small Cause Court Stamps.—Proceeding Board of Revenue and letter from the Judges of the Small Cause Court, relative to the present system of refunds, with orders thereon.

No. 347 & 358/71
Copy 7/4/71

in favor of continuing the present monopoly system on the grounds.

(1) that it will be undesirable to change an arrangement to which the public have become accustomed.

(2) that it is desirable for all the operations necessary for suitors to be localised in the Small Cause Court.

(3) that it is desirable that an abundant supply of stamps for suitors should always be available on the spot.

2. On the second question before Government the Judges have not submitted an opinion, & it is to be observed that their two last arguments would not be applicable to the same extent against an arrangement whereby the Clerk of the Court was vested with the duty of making refunds.

3. The Board have already expressed themselves strongly in favor of the monopoly system, and they therefore look upon the second question as a choice between two evils. They, however, consider that if the present system is done away with, it will be better to make the

the clerk of the Court the refunding officer than to impose this duty on the Collector of Madras.

4. It is submitted that the first question may be decided in the affirmative. The necessity for considering the second will thus be avoided.

[illegible]

This cannot be done as the Govt. cannot secure him a monopoly of sale unless the special stamp for the Madras S.C. Court be retained. Wh. they have decided is inadvisable.

I incline also to think that it is also illegal. I don't whether the law wd. justify the S.C. judges in rejecting any document duly stamped with "Court Fee" stamps on ground that the stamps used sh. have been a special "Madras Small Cause Ct. Fee" pattern prescribed, not by the Gov. Gen. of I. in C. but by the local Govt. —

[illegible]

This is just the state of the case. We cannot give a monopoly — ~~[illegible]~~ ~~[illegible]~~ LDS

[illegible]

Memo
Refund of S. C. Court Stamp duty

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Revenue Department
No. 92.

Pros of the Madras Govt

Under date the 13th January 1871

Passed in Council 10. January 71.

L. H.

Read again G. O. dated
30. August 1870, No. 1352.
18. November 1870, No. 1800
18. November 1870, No. 1801.

Read also the following papers:-

From the Bd. of Revenue
Informing that if present system under which Small Cause Court Stamp Vendor refunds half or remitted costs is changed, clerk of the Court should be made refunding officer. — H.E. 5. December 1870

From the Judges of the S. C. Court, Madras
Reporting with refce to G. O. No. 1800 of 18. Novr. 1870. — H.E. 6. December 1870 No. 182/1870

The Governor General of India in Council having decided under Section 26 of the Court Fees Act 1870 that all Court Fees shall be collected by adhesive stamps and this Govt. having come to

S. D. S.

I think our best plan is to employ a salaried vendor to sell stamps for

to the conclusion that it is not advisable to maintain a special stamp prepared for use in the Madras S. C. Court only, the system by which hitherto the Court Stamp vendor had a monopoly of sale, falls to the ground and with it the arrangement under his contract for all refunds of stamp duty in compromised suits being made by him, and adjusted with him by the Dy: Collector in the account of stamps supplied on discount to the vendor for resale –

2.

both High & Small Cause Courts as well as the public – & to make the necessary refunds – locating him in the building virtual. and giving the present man the preference if he is duly qualified & desires it.

The discount now paid – though lower than the usual rate – will enable us to pie fully 120 Rs per m & save something – and the advance for refunds need not exceed 500 Rs at a time – I should like

to know how & by whom the former institution fees were levied & the refunds made before stamps were introduced

J. D. S.

I think we might discuss in Council the relative advantages of the systems of payment by salary and of payment by discount. I incline to the arrangement proposed in this draft.

A. J. P.

2. Two alternative systems for the payment of future refunds have been suggested. 13

viz. 1. payment by the Collector of Madras whose office is near the S. C. Court.

2. payment by the Court's Chief Clerk, as at Bombay –

both systems necessarily involving the establishment of an "Advance" account.

3. The first proposal is objected to both by the Judges, the Collector and the Board as likely to entail inconvenience to the suitors; and throwing

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so much additional work on those who are already fully employed, that additional hands will need to be engaged for the particular duty.

4. The Judges object to the second proposal on the same grounds, and also, deprecatory the removal of the sale of stamps and payment of refunds from their Court, advocate the retention of the previous system.

5. The Board of Revenue argue that as the stamp vendor will no longer have an absolute monopoly of sale, he cannot reasonably be saddled with the duty of making the refunds.

6. It appears however to the Govt that a slight modification of the present system will secure all that is necessary.

7. They see no reason why the Court vendor should not be retained, and furnished, in addition to such stock of stamps as he may obtain on the usual discount system, with a further supply without payment, to the

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calculated to represent one
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of stamp duty, which
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from time to time by
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L.A.

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5 — Jndl Deptt

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Sgd [illegible]

Gt.

Refund of L. C.
Court Stamp duty

Special Cases

Despatch
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ch Jany 21 1810