

019/25/24
10/9

94

M.R.O. 1-20,002-12-8-65.

- (1) Number of Pages..... 26.
(2) Date of repair..... 24.5.66.
(3) Initials of the Referencer..... *AB*

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	94.	Press
B.P. No.		Mis.
Dated	21 Jan.	196-1874

Not to be folded or roughly handled

MR

Proceedings of the Madras Government, Revenue Department,
21st January 1874.

No. 179. Read the following letter
from the Government Solicitor, Madras, to
the Government, Revenue Department,
December 1873, No. 653.

I HAVE the honour to acknowledge
your letter of the 5th December 1873, No. 1,354, Revenue,
and to inform the Advocate-General as to whether
European liquors, under Act XIX. of 1864,
are subject to that enactment.

2. I submitted the matter for the consideration
of the Board of Revenue, and I now forward herewith a copy of his opinion.

OPINION

I CONCUR with the First Member of the Board
in his opinion that the provisions of Sections 4, 5, and 6 of Act XIX.
of 1864, relating to the retail sale of Wines, Spirits, etc., apply to

2. It is true that the expression "Excise-duty" is used in Section 6, and that
the word "Excise" is generally applied to duties imposed on articles produced and
consumed in the country when the tax is levied. From this a majority of the Board
infer that the Section 6 cannot refer to the retail sale of European spirits.

3. That this is not a correct view of the meaning of the Section is, I think,
apparent from the context.

4. Section 2 places the collection of duties on the retail sale of spirits within the town and suburbs
under the charge of the District Collector; Section 4 provides that all persons
selling fermented liquors within the said limits must take out a license; Section 5
defines the meaning of "Retail" in the case of spirits, and Section 6 empowers the Board to regulate
the licenses granted under Section 4, and prescribes the form and provisions of the
license. The Section, therefore, clearly refers to the retail sale of spirits, and not to the
substituted for the Excise-duty.

5. From this it seems clear that the intention of the Legislature was to
exclude retail sales of European spirits from the operation of Section 6. The
expression "Excise-duty" is no doubt a reference to which is made in Section 10,
and cannot be read as restricting the operation of Section 6 to the retail sale of
European spirits, accordingly I feel that a license under Section 6 ought to be issued.

10th December 1873.

(Signed)

BARCLAY, Esq., Acting Government
Solicitor, Madras, to the Government,
Revenue Department, dated Madras, 11th
January 1874.

Order of Government, dated
11th January 1874, requesting the opinion of
the Advocate-General as to whether
European liquors, under Act XIX. of 1864,
are subject to that enactment.

and in considering that the provisions of Sections 4, 5, and 6 of Act XIX.
of 1864, relating to the retail sale of Wines, Spirits, etc., apply to the retail sale of
European liquors, and that the word "Excise" is generally applied to duties imposed on
articles produced and consumed in the country when the tax is levied. From this a
majority of the Board infer that the Section 6 cannot refer to the retail sale of
European spirits.

Revenue to arise from the retail sale of spirits within the town and suburbs
under the charge of the District Collector; Section 4 provides that all persons
selling fermented liquors within the said limits must take out a license; Section 5
defines the meaning of "Retail" in the case of spirits, and Section 6 empowers the
Board to regulate the licenses granted under Section 4, and prescribes the form and
provisions of the license. The Section, therefore, clearly refers to the retail sale of
spirits, and not to the substituted for the Excise-duty.

ing in the wording of the Act, and that the expression "Excise-duty" is no doubt
a reference to which is made in Section 10, and cannot be read as restricting the
operation of Section 6 to the retail sale of European spirits, accordingly I feel that
a license under Section 6 ought to be issued.

S. CUNNINGHAM,
Advocate-General.

Proceedings of the Madras
21st

Government, Revenue Department,
January 1874.

No. 180.

ORDER THEREON

January 1874, No. 94.

Separate Revenue, No. 10.

Abkar.

foreign liquors from the c

2. The Government
not be required to obtain
privileges in respect to th
be confined to limiting an
must accordingly be instruc

ORDERED that the Advocate-General's
be communicated to the Board of
e, who should arrange for the
roduction of retail licenses for
suaing fasli.

on that wholesale dealers should
condition of exercising their legal
Interference in this direction must
ple, and the Collector of Madras
cent Notification on this subject.

(attract.)

ed) D. F. CARMICHAEL,
Secretary to Government.

To the Board of Revenue.
,, the Government Solicitor.

Exd. F. R. Bantleman.

N^o 683.

94/3

Madras 11th December 1873.

From

Ernest Barclay

Act^y Government Solicitor

Madras.

To

D. F. Carmichael Esq^{re}

Secretary to Government.

Revenue Department

Fort St. George.

Sir,

1. I have the honor to acknowledge receipt of the Order of Government dated 5th December 1873, N^o 1354, Revenue Department, requesting the opinion of the Advocate General as to whether the issue of retail License for the sale of European liquors under Act XIX of 1852, is in conformity with the provisions of that enactment.

2. I submitted the matter for the consideration of the Advocate General and I now forward herewith a copy of his opinion..

I have the honor to be,

Sir,

Your most Obedient Servant,

Ernest Barclay

Act^y Government Solicitor..

REVENUE.

Vol. of 1874 Madras.

THE BOARD OF REVENUE.

Ac. Ac.

Ac.

Dated January 21st.

Ac.

Ac.

G. O. 21st January 1874, No. 34

By Order of the Board of Revenue under Act XX of 1852. — Ordering communication of the above to the Revenue Board for their consideration and directing the Collector of Madras to furnish the necessary information.

9. O. 5 December 1852

Rev: 1853. 244
A. 3974

Office of the Government of the
State of New York
The Secretary to the Government
Albany, New York
24th Decr.

Oct 11th
Recd 12th December

1853.
Section 1.
Of the records of the
Government of the State of New York
regarding the sale of land
belonging to the State of New York
copied under the Act of 1852.

1. O. 1894 - 21 (copy) 1x

179.

7th January 1852

99/3

Opinion.

I concur with the First member of the Board in considering that the provisions of Sections 4, 5 and 6 of Act XIX of 1852 as to the issue of licenses for the retail sale of wines, spirits &c. apply to the case of sales of European liquors.

It is true that the expression "excise-duty" is used in Section 6, and that the word "excise" is generally applied to a tax imposed on articles produced and consumed in the Country when the tax is levied. From this a majority of the Board infer that the Section 6 cannot refer to European spirits.

That this is not a correct view of the meaning of the Section, is I think, apparent from the context.

Section 2 places the collection of the Revenue to arise from the retail sale of spirits within the Town and suburbs of Madras in the charge of the Collector. Section 4 provides that all persons selling by retail spirituous or fermented liquors within the said limits must take out a license. Section 5 defines the meaning of "retail" in the case, amongst others, of European spirits, and Section 6 empowers the Board to regulate the form and provisions of the licenses granted under Section 4, and prescribes several particulars which must be specified in the license. The Section moreover allows of a license fee being substituted for the excise duty.

From this it seems clear that there is nothing in the wording of the Act to exclude retail sales of European spirits from the operation of Section six. The expression "excise duty" is no doubt, employed in opposition to the "Sea Custom duty" a reference to which is made in Section X, and cannot be read as restricting the operation of Section

roy
mp

Section six to spirits made in the Country. In the case of
European spirits accordingly, I feel no doubt that a license
under Section six ought to be issued.

Sgt H. S. Cunningham
A.G.

10/12/43.

(True Copy)

Ernest Barclay

Acting Gov^r Solicitor.

94
16

Commissioners of Police
should grant licenses
under sections 27, 28 &
29 of the Police Act, but
I think (as does ^{dearer} Halsbury)
that the Commissioners
can only grant licenses
if a license be necessary
under the Abbeys

Suppose in order from the
Sgt. Cunningham of Scotland Yard.

Attention is the very
question at issue.
I write a d.o. to you
about to same time as
the 15th will soon be on
in and if Cunningham
has not given his opinion
will find us ignorant
how to act

Believe me
Yours
H. M. Thackeray

94
is short for
emergencies
yours

Dear Cunningham
do G. O. Res Sept of 5th Dec
1854 referring for
opinion of the Advocate
general the question as to
whether retail licenses for
sale of European liquors
can be issued under Act
of 1852.
as Cunningham perceives

Do leave in letter from the
Advocate General for India,
to the Advocate General for India.

Enclosure in letter from the
Hon. Secretary of the Interior, No. 200,
to the Hon. Secretary of the Treasury,
Revenue Department, dated 11th December
1873, p. 603.

Am 3974/73

Alto 94-2101 Jan 1/74
Am 13-1-179

his opinion set? I
ask, as the 15th of this
month has been fixed
as the date from which
such licenses will be
required.

The Board ordered that
with a view of getting
out of the difficulty, the

Memo. for Order

From The Asst. Govt. Collector
Made as
21st Decr 83 No 683 (Ck. 3974)
Towards copy of the Procès Verbal
Spinin regarding the issue of retail Licenses
for the sale of European Goods.

I would resign licenses
but notice etc & be
given - why are they
hurry? Why not try
commencement
from 2 April year 1852

2. The remedy proposed was the prohibition of all retail sales except under a license, which should force the holder to purchase from the Collector or from some firm named by him, which should provide for the payment of an Excise duty; should fix a minimum price; and should also prohibit adulteration.

3. The Board remarked
(their Senior member dissenting)
that Section 6 of the Madras town
Abkari act only provided for the
levy of excise duty: that the word
Excise

applied solely to taxed wines
 or articles produced and consumed
 at home; and that as brandy &c.
 is not produced in India, Section 6
 did not apply to European liquors.
 They further did not consider
 that the necessity for interference
 on behalf of the people had been
 demonstrated and believing the
 danger to the Revenue to be so slight
 as not to give ground for special
 legislation they were opposed to
 all interference.

4. The Collector of Madras
 furnished a fuller report, but the
 Board adhered to their opinion and
 recommended that advice should be
 taken as to the legality of some
 licences which have already
 been issued.

5. The Advocate General's
 opinion has now been received. He
 differs from the Board and thinks
 that Section 6 does apply to European
 liquors. He notices that Section 5
 specially mentions such liquors
 and defines what quantity shall be
 deemed a retail sale. He is of opinion
 that the word "Excise" is simply

think the reading of the
 A.G. right - this for 20 years -
 probably under previous
 acts - the reverse has been
 held & acted upon - That
 that the Alkali Law app
 to retail sale of such
 liquors & a retail sale
 must hold a licence in

I doubt the power of the Coll^o to
 issue a retail licence in order
 give samples to customers - a prin
 ciple which is accurate & then I saw - the
 may regulate the sample but cannot
 apply there to a provision
 of duty
 Minister's Dictionary says I have a right
 Excise duty
 "It is also limited on licences
 to pursue certain Trades & retail
 in certain commodities"
 A financial Credit in the
 act does not alter the
 true meaning of the term.

94
 60

1866 = 266.
 1873 = 449.

not a bit - the same provision
 of law - and the same abuse
 perhaps greater - hold good in
 India and no one thinks of
 giving a wine merchant to
 take out a retail licence
 I don't believe that there is
 great increase in Madras
 in a large inland consumption
 the fact is in Pittsburg
 they allow a duty to
 but restriction as the ordi
 nary sale of European spirit
 for his own sake

used in opposition to the
 "Customs" and points out that men
 also provides for a fee on a licence
 This opinion seems correct
 for in England the fees received
 for licences to sell wines, spirits,
 tobacco, tea &c. are credited to
 "excise".

7. It is shown that the
 import of European liquors into
 the port of Madras has more
 than doubled in the last ten
 years, and it is presumable
 that the town of Madras has
 shared in the increased consumption
 thus evidenced. ^{Retail} European liquor
 shops have not it is true increased
 but wholesale shops have done
 so very largely and as these
 have been allowed to sell "sample
 bottles" they have practically
 been retail shops. The sales
 of Colombo arrack also increased
 until 1870-71; but in that year
 when the importation of European
 liquors reached its maximum these
 sales fell off by about 23,000 gallons.
 In 1871-72 they rose again slightly
 when the imports were less, and
 in

The Law looks into and corrects it

a copy of this license in use
is perhaps too far in charge

+ The order should be revoked,
and the collection directed to have
use the power entrusted to him
by the laws of preventing abuse

7
11
The world's best

Id Jan 13/74

It seems quite clear that the
Associate Fund is right: and
I wd. act as suggested by
Mr Robinson in the 1st para
of his note on the 1st page
of this Bk.

As to ~~business~~^{requiring} the Federal dealer,
to take a license for selling samples -
no care is made out for it in them

No care is made at present to
 papers & the other parts of the
 ground by the various papers
 & the various papers of the

3974

C. 4th Jan. 174. 1215

Dep: Revenue
at Madras

94
12

Revenue Department.

No. 94

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 21st January 1874.

Read the following Letter from the
Acting Secy. to the Government.

Forwarding copy of the
Advocate General's opinion regarding
the issue of retail Licenses for the
sale of European liquors under Act
~~XIX~~ of 1852

H. E. 11: Dec: 1873 N. 683.

Ordered that the
Advocate General's opinion
be communicated to the Board
of Revenue, who should arrange
for the general introduction of
retail licenses for foreign
liquors, from the commence-
ment of the ensuing Fashi.

2. The Government
are, however, of opinion that
wholesale dealers should not
be required to obtain retail
licenses as a condition of
exercising

exercising their legal privileges
in respect to the issue of
samples. Interference in
this direction must be confined
to limiting and regulating
the sample, and the Collector
of Madras must, accordingly,
be instructed to modify his
recent notification on this
subject.

J. C.

14 B. of Government } despatch
4 (pt. Soliman } 22/July/4

40
3

179-181

70
13.

Close Guit. of music relating to
of actual history for note of music from
under act XIX of 1802

See 1
Desbon