Archives I - 10,006—16-8 77.

(1) Number of pages 12.

(2) Date of repair 9-5-86.

(3) Initials of the Referencer [illegible]

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. / B.P. No.	544.	Press. / Mis.
Dated	14-5-1880	197—.

Not to be folded or roughly handled

544
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GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

14th May 1880, No. 544.

No. 88. READ THE FOLLOWING PAPER:—

Proceedings of the Board of Revenue, dated 19th April 1880, No. 523.

ABSTRACT.—Recommending that an appeal be preferred to District Court against decision in suit in District Munsif's Court, Calicut, in Malabar District, for refund of duty collected in excess from plaintiffs on two consignments of salt shipped by them from Bombay before Act XXVIII of 1877 came into force.

No. 89. ORDER THEREON, 14th May 1880, No. 544.

Miscellaneous.

THE Collector of Malabar will be instructed by telegraph to give notice of appeal to the District Court and to file the appeal at once.

(True Extract.)

(Signed) C. G. MASTER,
Secretary to Government.

To the Board of Revenue, with two enclosures.

Exd. W. H. French.

40 Copies.

No. 523.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 19th April 1880.

Read the following letter from G. McWATTERS, Esq., Acting Collector of Malabar, to C. A. GALTON, Esq., Secretary to the Board of Revenue, dated Calicut, 12th April 1880, No. 882 :—

WITH reference to the Board's telegram of the 10th instant, I have the honor to submit herewith copies of decree and judgment in Original Suit No. 273 of 1879 on the file of the District Munsif of Calicut.

ENCLOSURE No. 1.—Copy of Judgment.

ENCLOSURE No. 2.—Copy of Decree.

SUBMITTED for the information of Government with reference to G.O., dated 9th October 1879, No. 2,032.

2. In this case the plaintiffs sued for the recovery of Rs. 1,435, being duty alleged to have been overcharged in respect of two consignments of salt, 978 and 1,182 maunds, respectively, shipped by them from Bombay in two native vessels on the 28th and 27th December 1877, and imported into Calicut on 11th and 9th January 1878. The salt had paid excise duty at Bombay prior to the passing of Act XXVIII of 1877 at the rate then in force, viz., Rs. 1-13-0, but as at the time of importation the Customs import duty had been enhanced to Rs. 2-8-0, the difference between the two rates, viz., 11 annas per maund, was levied at the Customs House at Calicut.

3. The plaintiffs stated that as they had paid the excise duty at Bombay at the rate then in force they were not liable to be called upon to pay any additional amount in consequence of any subsequent enhancement of the duty and that the excess collection made at Calicut was illegal and claimed therefore a refund of the amount.

4. It was contended on behalf of Government that under the terms of the Notification of the Government of India, No. 2,316, dated 5th August 1875, when salt which has paid excise duty in any part of British India is imported by sea into any other part of the same territories, it is chargeable not with the full import duty, but only with the difference between it and the excise duty already paid; that in the present case the import duty on the article was that in force at the time of importation, viz., Rs. 2-8-0, and that as the excise duty already levied was only Rs. 1-13-0, the difference, 11 annas a maund, was properly charged.

5. The Sub-Judge who tried the case has allowed the portion of the plaintiffs' claim relating to the consignment of 1,224 maunds and rejected the remainder, the reason assigned being that the former was entered for exportation at the Sea Customs House at Bombay *before* the date on which Act XXVIII of 1877 came into force, viz., 27th December 1877; and was therefore chargeable with the old rate of duty with reference to Section 30 of Act VI of 1863, while the latter was entered for exportation *after* such date and was therefore chargeable with the enhanced duty.

6. The Board are of opinion that the decision is open to question. It is based on two assumptions, both of which are incorrect, viz., 1st, that the duty paid at Bombay was an export duty; and, 2ndly, that salt which pays duty at Bombay is not chargeable with any duty on importation into the Madras Presidency. It is obvious that the duty levied at Bombay was an *excise* duty which is chargeable on all salt leaving the salt-works whether intended for exportation or for Home consumption, and that Section 30 of Act VI of 1863 quoted by the Sub-Judge has no application. The duty leviable on importation was that in force when the salt was passed for Home consumption under Section 29 of Act VI of 1863, and under the terms of the Notification of the Government of India of 1875 the importer was entitled to set off against it only the excise duty already levied on the salt in Bombay.

7. The Board therefore recommend that an appeal be preferred to the District Court against the decision of the Sub-Judge.

(A true Copy and Extract.)

Secretary.

To the Secretary to Government, Revenue Department,
with two original enclosures to be returned.

Copy to the Collector of Malabar.

Exd. A. Grubert.

Judicial.

Govt. of India
REVENUE.

To
The BOARD of REVENUE.

Dated 29th 1880.

Rec'd

Read

Entd

Copy

STAT.
Nos. 8-880.

Suit—In District Munsif's Court, Calicut, in Malabar District, for refund of duty collected in excess upon plaintiffs on two consignments of salt shipped per Dhow Bombay before Act XXVIII of 1877 came into force.—Plaintiffs to give notice of appeal to the District Court against decree in — and to file the appeal stamp.

No. 2457.

1880.

Board of Revenue,

MADRAS.

To

THE SECRETARY TO GOVT.,
REVENUE DEPARTMENT.

Dated April 19th.

Printed th.

Received

PROCEEDINGS, 19TH APRIL 1880, No. 523.

APRIL.

No. 523.

Suit — in District Munsif's Court, Calicut, in Malabar District, for refund of duty collected in excess from plaintiffs on two consignments of salt shipped by them from Bombay before Act XXVIII of 1877 came into force.—Recommending that an appeal be preferred to District Court against decision in —.

dated 31st March, the time
for appealing not having
expired now, unless the Respts.
shall the Court think more
than two weeks to furnish
copies of the decree and
judgment to the Collr Vakil.
& Plenary rule, if it is decided
that an appeal shall be
preferred in this case, it
ought best to telegraphe to
the Collr of Allahabad.

The Courts of Circuit
Allahabad are now closed
for the annual adjournment
which commenced on the
5th inst; but unfortunately

Circuit (Fort St George
Gazette 10th Feb 1809)
Civil Plaints, Petitions &c.
will be received during the
adjournment on Tuesdays
and Fridays, so that the
two months of the adjourn-
ment cannot be allowed
to the time allowed for the
appeal.

The Board's Rule (of
1805) dated 19th April
was sent from the Court
(Hindoo Law Book) which
was the 6th inst. which
was a holiday. Accordingly
Din the much difficulty
collected the Respts that
were wanting some legal
to be obtained from the Judges

Note for the information of the Secretary.

Claim of Henry Bhanji of Bombay & others

Jas & Alexr Brito Brothers, 6th March 1879 - Privy

Mr C. of N° 2457.
Bombay 19th April 1880
No 523

Taking the history of this case by itself, the case for a dismissal is accidentally to direct that an appeal be presented to the High Court from so much of the decree of the Court of Small Causes at Bombay as is adverse to them. But there have been analogous suits in the High Court of which the result is not known. The last mention of the case in the Privy Council was on the 5th March 1879 N° 654. Since then nothing from the Bombay Office has been received in this office on the part of Alexr Brito Brothers.

And despatched it with my note on the 10th, Monday. During the intervening three days, I was constantly engaged in gathering information, and the persons got from the Boards Office never left me for a few minutes before 2 o'clock on Monday, so that I could not write to you.

It is really a thing that the Board can no more do than their Peons in all. There is not one word in the papers as to the merits of the case, or about the time for appeal, nor any reference to the analogous suits in the High Court.

I beg to remain
Your's very obediently
J Ferguson

but I have got no information about regarding that Gentleman's (C. O 8th Feb 1878 - Vol 5-).

I should therefore suggest that further search be made in the Index of "Miscellaneous" C.O.; but I think it is very probable that there is only the same thing there as in Miscellaneous Records at Trinidad, as I see the Governor mentions it in relation to Records in the Judge's Office.

3. I beg to suggest, therefore, that it should be first ascertained that no report has been received of the suit having been dismissed, and if that is found to be the case, a reference should be made to the Governor for

× 12th March 1879
N° 973 - Brille
Brothers

30 July 1879 to
2697 - Henry Bly
of Barbados

There is another Bond of 12th March 1878. N° 842, out of the papers enclosed by the Governor, though the Index & docketing sheet show that the case is

For Colonial Office Gazette
of the 24th May 1880
Page 466

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information as to whether the Records is known, and if not, what it is likely to be known.

4. There is another point for reference in the present case. The Judge's decree of 31st March 1869, in the case from that date, results from that date, as I see from the papers, usually allowed, on account of the adjournment of the Supreme Court, it having been decided that no appeals will be received during the Vacation), plus the time allowed upon the Judge's allowing the judgment and furnishing copies. If there be any doubt about two months of the adjournment there is then time till the early part of July, before which the appeal may be presented, if it is ascertained in the

make time to alter the
the arrangements until
he has been decided upon
from Head Quarters or that
they have all been
decided at Calcutta

The Government Soli-
citor has received the
Governor's report that
progress has been
made in the two
suits now depending
before this Court.
Mr. Sandeman's
Solicitors are circulated
to be submitted
that no steps
shall certainly be
proceeded

Rs 1 Vol 2
fine duties
appeal 2. Dft
Exhibits

14/5

Revenue Department
Cost. Genl. 14th Collection
No 5444