M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 585 — Press / ~~Mis.~~

236-237

Dated 13 - 3 — 1861.

Not to be folded or roughly handled

REVENUE DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following Proceedings of the Madras Government in the Judicial Department :—

Refer certain papers for consideration on the question of further rules respecting Revenue refunds. } (Here enter 8th March 1861, No. 309.)

ORDER THEREON, 13th March 1861, No. 585.

Referred to the Board of Revenue for report.

(True Extract.)

Deputy Secretary to Government.

To the Board of Revenue, with Proceedings Judicial Department, No. 309.

Exd. S. T. Augustin.

'ROCEEDINGS OF THE MADRAS GOVERNMENT.

ng letter from W. WATERFIELD, Esq., Officiating Civil Auditor, to ROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 16th 1861, No. 61.

to G. O. No. 115 of the 29th ultimo, I have the honor to submit for approval hich the Registrar of the Sudr Court has signified his assent.

at there is no reason for distinguishing between the Revenue and Judicial I scarcely perceive the necessity of issuing any order at all on the subject of as I understand from Mr. Chamier, they are not carried to account till after the for appealing against the sentence. In Bengal they are credited to Govern- : but, supposing the above practice is universal here, it is evident that refunds d when some mistake has taken place, as in the case under notice. This would rule I have prepared, nor do I consider it suitable that provision should be remittances.

rtain that any fixed rule exists in this Presidency with regard to deposits. s that they are forwarded to the Collector and credited to Government 'when ue notice' which appears somewhat indefinite. The Bengal practice is that e deposits of the year outstanding in each Office are carried to a single No. be repaid without the Certificate of the Accountant.

s they are credited to Government, whose authority is then necessary for their t however positive that this power has not been delegated to the Board of missioners.)

ORDER thereon, 8th March 1861, No. 309.

inutes of Consultation 9th January 1835, No. 20, Collectors were authorized y with all requisitions, for the refund of monies received by them from the r the orders of the Provincial Courts, or of the Sudder and Foujdaree Udalut. tructions were communicated to the Subordinate Courts in the Sudder Court's n, No. 8.

vever, appears to have fallen into disuse, and that which now obtains, as per margin, is an order of a later date, 25th October 1849, No. 698, and of more restricted application, relating to *fines* only, and not to refunds of monies received from the Courts generally. A similar order respecting fines was issued by Government on the 8th July 1858. In consequence of these orders being restricted to fines, whenever sums which had been remitted by the Civil Courts through inadvertence, or from having remained unclaimed and had been carried to account, were applied for by the parties entitled. Some of the special orders recently passed, are noted in the margin.

nual, Chap. VIII, para. 97. n the Police and Magisterial en returned, are admitted by r on the refund being support- f the Sessions Judge, or other rity under which it is made."

ave had to pass special orders,

December 1858.
ruary 1859.
arch 1859.
ne 1859.

letter, 12th January 1861, No. 1, in applying for such special sanction, the w attention to the Order of the 9th January 1835, the terms of which they neral, and inquired whether under that authority it was competent for the and the Collector to make a refund of money due to parties, whose deposits had e credit of the public account. The Government replied, 23rd idem, Order

No. 93, that they saw no objection to refunds of this nature being made by Collectors, without reference to Government and accordingly instructed the Civil Auditor to admit such payments, on production of the order, or application, of the Civil Judge or other competent authority.

4. More recently the Subordinate Judge of Tanjore having solicited sanction for the refund of a sum of Rupees 78-12-0 which had been erroneously remitted to the Treasury, was informed that he should apply to the Collector of the district for the payment of the money in question. The Government at the same time requested the Civil Auditor to draw up a Notification on the subject of refunds of Judicial fines and deposits that might have been carried to account.

Proceedings, 29th January 1861, *No.* 115.

5. In submitting the draft, Mr. Waterfield states that he scarcely perceives the necessity of issuing any order at all on the subject of Judicial fines, if, as he understands, fines are not carried to the public account until the time for appeal has expired, and that he does not consider it suitable that provision should be made for "erroneous remittances," *i. e.*, as is understood, fines erroneously carried to account before the appeal time had expired, or, as in the case which led to the G. O. of 29th ultimo, No. 115, when money levied under sentence of the Court had been inadvertently carried to the credit of Government instead of being treated as a remittance of the Public Works Department.

6. The Government observe that the object desired is to do away with unnecessary references to them and to other controlling authorities. The Officer who has power to remit a fine should also have authority to order its refund even although it should have been—as may sometimes occur—improperly or prematurely carried to the public credit. So the Judge of a Civil Court who might have returned deposits to parties entitled to them when the money was in his own Treasury or in the Revenue Treasury on account of his Court, should have power to deal with it in the same way when it has been actually carried to the public credit. The Government do not perceive that erroneous remittances are not provided for by the draft Notification. The wording is general, "fines and remittances" and, as already said, there appears no reason for making a distinction between erroneous remittances and those not erroneous. The Officers making the error may be allowed to correct it. It will be proper however to limit the period within which the refund may be so made to two years from the date of the money having been carried to account. When a longer period may have elapsed, application should be made to Government. The Notification will also be restricted to Judicial refunds for the present, but the papers will be referred to the Revenue Department for consideration whether any further rules be required respecting revenue refunds. The Notification with this modification will therefore be published in the Gazette. By Court of Superior Jurisdiction is of course to be understood the authority, be it Court or Magistrate, having power to remit the fine on appeal.

7. Referring to the two concluding paras. of Mr. Waterfield's letter, the Government request that the Accountant General will report what are the various classes of deposits in this Presidency and in what manner they are disposed of.

(True Extract.)

Chief Secretary.

To the Sudder Court.
" Civil Auditor.
" Accountant General.
" Revenue Department.

Exd. F. Cartledge.

Jud[l] 9[th] January /35 Nos 5-6.
—"— 27[th] —"— "— 3-4.
—"— 30[th] October /49 —"— 11-12
—"— 13[th] July 1858 —"— 18-19.
—"— 28[th] January /61 Bdle No 93.
—"— 29[th] January /61 —"— 115.

Revenue 1861 Sept[br]
Pro: of Govt for Madras.
No 639.
"

Proceedings of the Madras Govt in the Judicial Depart[t]

Dated 8[th] March
Rec[d] 9[th] " 1861.
No 309
"

Refer certain papers for consideration on the question of further rules respecting Revenue refunds.

From the Bd of Revenue
Of 27[th] March 1861 No 813
in Pro: 20th April No 903
Pro. of the Bd of Rev. of 11th Oct[r] /62
& No 2867

No 585. 13th Inst.
With an order

£ 585.

Referred to the Board of Revenue for Report.

Fort St George
13th March 1861.

6 Copies to the Board of Rev:
with Pro & D. No 309.

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5

No 236 & 237.