

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 5304

DATED 11 Oct 97

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[Despatch Abstract.]

Referring to the Board of Revenue for remarks  
letter from Messrs. Mc Dowell & Co., Madras  
appealing against the orders of the Board of  
Revenue declining to increase the wastage  
allowance in respect of a consignment of  
spirits imported from Hamburg.

# BACK PAPERS.

| G.O. | No. | Department. | Date. | G.O. | No. | Department. | Date. |
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# FURTHER PAPERS.

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# Revenue (1897) Department.

CURRENT No. 8090

From

Messrs Mc. Dowell  
& Co.,  
Madras.

Order

No.

Dated 13th Sept. 1897.

Received 15.9.97

Registered

Enclosures

Spare copies.

# SUBJECT.

Appealing against  
the order of the Board of  
Revenue declining  
to increase the wastage  
allowance in respect  
of a consignment of  
spirits imported from  
Hamburg.

# BACK PAPERS.

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# FURTHER PAPERS.

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Messrs. Sir Henry, Poliss K.C.I.E

Ch. 8090 of 1897

For orders.

In its Progs.  
dated 29-7-97 No. 3289, the  
Bd of Rev declined to comply  
with the request of Messrs  
McDowell & Co (hereinafter  
called petitioners) to be allowed  
an abatement of duty on  
account of excess wastage  
in a certain consignment of  
spirits.

2. The facts are as follows:

On the 13<sup>th</sup> of April last,  
the petitioners warehoused at  
Madras a consignment consist-  
ing of 6 hogsheads of O.P. plain  
& Colored spirits imported from  
Hamburg which when cleared  
in the month of July amounted  
to the following extent:-

|               | original gauge     | Actual gauge       | allowance          |
|---------------|--------------------|--------------------|--------------------|
| No. 60 -      | 40 gallons         | 35 gallons         | 5 gallons          |
| " 61 -        | 37 $\frac{1}{2}$ " | 25 $\frac{3}{4}$ " | 11 $\frac{3}{4}$ " |
| " 63 -        | 44 $\frac{1}{4}$ " | 37 $\frac{1}{4}$ " | 7 $\frac{1}{4}$ "  |
| E.A.G. " 63 - | 43 "               | 15 $\frac{1}{4}$ " | 27 $\frac{3}{4}$ " |
| " 64 -        | 42 "               | 18 "               | 24 "               |
| " 65 -        | 44 $\frac{1}{2}$ " | 35 $\frac{3}{4}$ " | 8 $\frac{3}{4}$ "  |
|               | 251 $\frac{1}{4}$  |                    | 84 $\frac{1}{2}$   |

28/10/97  
27/10/97

Being that the wastage was considerably in excess of that allowed under Sec. 116 of the Sea Customs Act, viz 2½ p.c. (for a period not exceeding 6 months), the petitioners requested the Collector as a special case to increase the allowance for wastage to the extent of the actual diminution of the contents. The reason for the excessive wastage was stated to be that the spirit subjected to the high temperature of May and June had leaked and oozed out of the casks which had been ~~made~~ made of inserviceable green wood. The Collector submitted the case for the orders of the Board which, however, declined to comply with the petitioners' request, with the remark that "if the deficiency was due to unusually strong spirits having been stored in leaky made casks, the fault rested entirely with the

the Importer." With reference to these remarks the petitioners urge that the casks were not leaky made, but the material of which they were composed was at fault so much so that the spirit oozed out through the wood itself, that it would be manifestly unfair to make the importer responsible <sup>as he</sup> ~~as he~~ may be safely assumed to do all that lies in his power to procure sufficiently good and strong casks that the loss in this case was purely accidental, and that no merchant would willingly do anything or suffer anything to be done or omitted which would entail a loss or damage to his property. <sup>They</sup> ~~He~~ further adds that Sec 117 of the Sea Customs Act which provides for the grant of increased wastage allowance <sup>is</sup> was intended to meet cases of this sort in which wastage was due to natural causes, and that there are numerous instances

instances in the past in which full wastage allowance was sanctioned by the Board. In these circumstances, the petitioners request that

(1) the Bd's order appealed against may be rescinded, and

(2) that the Collr may be authorized to enhance the wastage allowance so as to make it equivalent to actual wastage at the time of clearing for home consumption.

3. Petitioners also urge that loss of duty on the spilt portion of the contents <sup>cannot be held to be</sup> a loss to the revenues of Govt, that goods warehoused need not necessarily be cleared for home consumption but may be re-exported without payment of duty to foreign port at any time within three years from date of importation and that even if they had been compelled to clear the goods for home consumption within the term of their bond it cannot be contended that Govt would have sustained a loss of revenue. They also refer to several cases, including one their own, in which the Board sanctioned a full

x S. 111 of the Act.

allowance of duty on the whole of the wastage discovered.

Ordinarily, the wastage allowance is regulated by S. 116, and special cases by S. 117. To treat every case as a special case & to bring it under S. 117 would appear to be unreasonable. In the present case, the special wastage was clearly due to causes over which the petitioners had control. They must have known the result of storing strong spirits in casks made of porous wood, and if they had transferred the liquor to sound casks (Vide S. 100) such heavy wastage could not have occurred. Wastage in excess of a certain percentage which is not satisfactorily accounted for to the satisfaction of the Collr is charged for with a view to prevent possible frauds on the revenue. Even in a distillery where greater precautions are taken to guard against frauds & every receptacle in which is kept under the lock & key of the distillery officer, the same procedure is observed.

The very fact that the Board has itself sanctioned the full allowance of duty on the whole of the wastage discovered in several previous instances shows that in the present case it was all satisfied that the petitioners might be held responsible for the excess wastage.

Submitted that the petitioners

no legal claim to a remission of duty in excess of the wastage allowance admissible under S. 116 of the Act.

For orders as to whether the petitioners may be so informed or whether a reference should be made to the Board.

I submit that it is bad policy to allow a cargo to be taken out of the country without any reason and that one of the first duties of the Customs is to protect and develop it. Fiscal regulations should therefore be in no case passed beyond what is absolutely necessary for the protection of the revenue. If there is fraud or if fraud may occur restrictions should be properly enforced. When there is no suspicion of fraud no complaint has been made. Had cargo been sent out to him and not only has the merchant lost his goods but he is entitled about 500 lbs in duty. The meaning of Sec 116 & 117 of the Sea Customs Act is that under the first the importer must be given the fixed allowance therein set out. Under 117 he may be given much more. As Mr. Durrell & Co. of this... If this is not a case for the issue of Sec 117, when can such a case arise.

AK 5/10/97

Dr. W. 11/10/97  
If the roof fell in a case was broken, that is, a case; many others could be imagined - having at 180 per unit 9/10/97  
11/5/10/97

SP  
11/10/97

(No 8090 of 97)

G.O. Misc No 5304 of 11 Oct 97

Referred to the Board Revenue for remarks as to whether the case is not a fit one for the application of Section 117 of the Sea Customs Act.

11/10/97

AK 11/10/97

Just your orders,  
J

th B. of Revue (I.R.)  
with the 1st 2nd 3rd 4th 5th 6th 7th 8th 9th 10th 11th 12th 13th 14th 15th 16th 17th 18th 19th 20th 21st 22nd 23rd 24th 25th 26th 27th 28th 29th 30th 31st 32nd 33rd 34th 35th 36th 37th 38th 39th 40th 41st 42nd 43rd 44th 45th 46th 47th 48th 49th 50th 51st 52nd 53rd 54th 55th 56th 57th 58th 59th 60th 61st 62nd 63rd 64th 65th 66th 67th 68th 69th 70th 71st 72nd 73rd 74th 75th 76th 77th 78th 79th 80th 81st 82nd 83rd 84th 85th 86th 87th 88th 89th 90th 91st 92nd 93rd 94th 95th 96th 97th 98th 99th 100th 101st 102nd 103rd 104th 105th 106th 107th 108th 109th 110th 111th 112th 113th 114th 115th 116th 117th 118th 119th 120th 121st 122nd 123rd 124th 125th 126th 127th 128th 129th 130th 131st 132nd 133rd 134th 135th 136th 137th 138th 139th 140th 141st 142nd 143rd 144th 145th 146th 147th 148th 149th 150th 151st 152nd 153rd 154th 155th 156th 157th 158th 159th 160th 161st 162nd 163rd 164th 165th 166th 167th 168th 169th 170th 171st 172nd 173rd 174th 175th 176th 177th 178th 179th 180th 181st 182nd 183rd 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CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT .. .. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DUTTO.

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24-9-108

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