

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 531

DATED 27th Jan 1897

[Despatch Abstract.] from the Board of Revenue
Calling for further report regarding the
liability to duty of rum imported by Messrs. [illegible]
& Co., Madras and stating that the firm
may, on furnishing proper security, be allowed
to re-export the spirit to England free of
any payment.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Revenue (1896) Department.

CURRENT No. 8914

Order

From
Commissary General
Madras Command

No. C/7943

Dated 3/12/96

Received 5/12/96

Registered 5/12/96

Enclosures

Spare copies

SUBJECT.

Returning the papers received with G. O. no. 4131 of 19th October 1896, and stating that the same imported by Messrs Arbuthnot & Co. Madras, is not now required.

G.O.	No.	Department.	Date.
	632	Acme	24-7-89
	5569	"	31-8-89
	821	"	8.10.89
	3051	"	4-8-94
	280	"	16-5-88
	4131	"	19-10-96

G.O.	No.	Department.	Date.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

In the return (No. 18-1) furnished by the Collector of Customs, Calcutta, of dutiable articles allowed free of duty for the use of private individuals, institutions, &c., in the Bengal Presidency during the month of November 1894, 326 gallons of spirit valued at Rs. 438 are shown to have been passed free for the use of the Medical Store Department under the authority given in the letter from the Board of Revenue, Lower Provinces, No. 633-B., dated the 22nd November 1894.

Resolution of the Government of Bombay in
the Revenue Department, No. 6128, dated the
20th July 1894.

To the Government of Bombay, No. 4574,
dated the 11th September 1894.

From the Government of Bombay, No. 9152,
dated the 7th November 1894.

request that; with the permission of His Honour the Lieutenant Governor, the practice in Bengal may be assimilated to the practice in Bombay where refunds are not granted in any case in which customs duty is leviable on goods supplied by contractors to Government departments.

ENCLOSURES.

No. 6128.

Memorandum from the Commissioner of Customs, Salt, Opium and Abkari, No. 2908, dated 23rd June 1894, submitting for orders copies of the following letters No. C 5346, dated 23rd May 1894, and No. C 6428, dated 16th June 1894, from the Collector of Land Revenue, Customs and Opium, Bombay:—

"I have the honour to invite attention to the orders of Government referred to in Standing Order No. 1831, dated 1st May 1883 (page 119 of 1886, compilation of Rules and Notifications, &c.), and to state that the duty paid on rum and other spirits and liquors imported by contractors and others for the use of the Commissariat and other Government departments is refunded on production of a certificate from the head of the department as to the quantity actually delivered. But before these orders are now acted on under the new Tariff Act VIII of 1894, in respect of the articles which have since become dutiable, I shall be obliged if you will be so good as to ascertain from Government whether the orders referred to are intended to apply to the articles noted therein only, or to all dutiable articles supplied to Government."

"In reply to your letter No. 2421, dated 20th May last, on the subject of refunds on dutiable articles supplied to Government, I have the honour to report as follows.

"2. The previous practice in such cases has been regulated by Government Resolution,

• Page 119 of 1886 Edition of Rules and Notifications, No. 8510 of December 6th, 1882, and Standing Order No. 1834 * of May 1st, 1883. The Reso-

Provincial revenues are not to be allowed to profit by loss to Imperial revenue and therefore directs that duty levied on spirits required for Government departments is to be refunded after certain certificates are granted by the head of the department to which the liquor is furnished.

"3. This principle has been applied in all cases since the issue of the Standing Order of 1883 referred to.

"4. But if due consideration be given to the wording of the Government Resolution quoted above, it will be seen that the 'duty' therein referred to must necessarily be excise and not customs duty. This is obvious from the mention of Provincial revenues."

"5. A reference to Government Resolution, No. 746 of February 28th, 1880, will show that customs duty is *not* to be refunded, but that contractors should recoup themselves for such duty by raising their contract prices and thus virtually levying the customs duty from the departments they supply.

"6. Under these circumstances it would appear that the procedure contemplated by the orders of Government already noted is as follows:—

In the case of liquor, &c., liable to excise, the duty should be levied and subsequently refunded. In the case of liquor, &c., liable to customs, the duty should be levied and no refund granted. By a not unnatural misinterpretation of Standing Order No. 1834 of May 1st, 1883, the former procedure has here been followed in both cases.

"7. Thus if you consider that the Government Resolution of 1880 still holds good, the procedure in this Customs House will have to be amended and duty levied on all liquors, &c., imported from foreign ports for the purpose of being supplied to Government. No refunds will subsequently be granted.

"8. But it would appear desirable to maintain a uniform practice in both cases, especially as the practice is at present uniform though erroneously so. I would therefore venture to suggest that in the case of liquor imported from foreign ports the refunds now granted on excise paid might also be made. The result would be a simplification of procedure, and no objection could exist to such a course on the ground that Imperial revenues were affected injuriously at the expense of Provincial funds.

"9. If the orders contained in Government Resolution, No. 746 of February 28th, 1880, are to be carried out, a double procedure will be necessary without any substantial advantage being gained by the change."

The Commissioner observing as follows:—

"2. Put briefly, the case seems to be that as in regard to the excise duty levied on rum, &c., imported from outside the Bombay Presidency, that duty under the orders contained in Government Resolution, No. 8540, dated 6th December 1882, is first paid and then refunded, so in the case of the customs duty levied on rum, &c., imported from outside India by sea, a similar rule should be directed by Government to apply. In practice, as will be seen from Mr. Campbell's letter No. C 6428, dated 16th instant, the same rule has been applied to both cases since 1883.

"3. The orders as regards the second case are that duty shall be levied but no refund is called for, as the contractors recoup themselves by charging the cost of the liquor *plus* the duty. Customs revenue and expenditure being wholly Imperial, the ruling of 1882 did not, strictly speaking, apply to instances coming under this head, but the practice has been first to levy duty and then grant the refund under an erroneous understanding of the 1882 orders.

"4. The advantage of confirming the present procedure would be to make it uniform in both cases, and as customs revenue and expenditure are, as previously pointed out, *both* Imperial, no objection can be taken to the order on the ground that it benefits Provincial revenue to the injury of Imperial revenue."

Resolution.—Government consider that the remark made in paragraph 4 of the memorandum from the Commissioner of Customs, Salt, Opium and Abkari, No. 2908, dated 23rd June 1894, that the procedure laid down for excise duty may continue to be followed in regard to customs duty also, without objection on the ground that it benefits Provincial revenue to the injury of Imperial revenue, is true in regard to spirits, &c., imported for the Commissariat and other Imperial departments to which only the procedure in question has apparently been applied hitherto. But it will not necessarily hold good if the procedure be extended as proposed to all sorts of goods dutiable under the new tariff which may be imported for the purposes of contracts with Government. For example, to refund the Imperial customs duty on iron imported under contract for civil works executed out of Provincial revenues will tend to the reduction of Provincial expenditure at the expense of Imperial revenue just as in the converse case of the recovery of excise duty on Commissariat spirit, Provincial revenue benefits at the cost of increased expenditure under Imperial. The Collector of Customs should therefore be instructed to act on the principle laid down in Government Resolution, No. 746, dated 28th February 1880, in all cases in which customs duty is leviable and to apply the orders contained in Government Resolution, No. 8540, dated 6th December 1882, to questions of excise duty only, as was originally intended.

From J. E. O'CONOR, Esq., Assistant Secretary to the Government of India, Finance and Commerce Department, to the Secretary to the Government of Bombay, Revenue Department, dated Simla, the 11th September 1894, No. 4574-S.R.

Referring to the Resolution of the Government of Bombay, No. 6128 of the 20th July 1894, printed at page 203 of the Bombay Revenue (Miscellaneous) Proceedings for that month, I am

directed to state that, as understood in this department, the Resolution prohibits the grant of refunds in all cases in which customs duty is leviable on goods supplied by contractors to Government departments, the contractors charging the duty to the consuming department and that it permits the making of refunds of duty only when excise duty is leviable on such goods. Looking however at the first sentence of the Resolution, it is not certain whether the Government of Bombay do not agree in the maintenance of the present erroneous practice of allowing refunds of customs duty so far as it extends to the Commissariat and other Imperial departments, such departments being an exception to the prohibition above stated.

2. I am to enquire whether the intention of the order is to make such an exception, and, if so, to say that no exception should be made so far as the refund of customs duty is concerned. I am to enquire what the existing practice in Bombay in respect of these matters is.

From W. W. LOCH, Esq., Acting Secretary to the Government of Bombay, to the Secretary to the Government of India, Finance and Commerce Department, Calcutta, dated Bombay Castle, 7th November 1894, No. 9152.

With reference to Mr. O'Connor's letter, No. 4574-S.R., dated 11th September 1894, I am directed to state that the interpretation put by the Government of India in the first part of paragraph 1 of their letter is correct, and that it was not intended to make any exception to the rule laid down in the last sentence of the Resolution of this Government, No. 6128, dated 20th July 1894, in the case of customs duty levied on spirit or other goods imported for the Commissariat or other Imperial departments. With reference to the last sentence of paragraph 2 of the letter under reply, I am to state that the Commissioner of Customs, Salt, Opium and Abkari reports that the practice in the Custom House since the receipt of the Resolution referred to above is, that no refunds are granted in any case in which customs duty is leviable on goods supplied by contractors to the Commissariat or other Imperial departments.

Ordered that copy be forwarded to the Government of Madras and to the Chief Commissioner of Burma.

Ordered also that copy be forwarded to the Military department for information, with the request that orders may be issued prohibiting contracts for foreign spirit and directing the substitution of Indian-made spirit for the Military Medical department.

(Signed) J. E. O'CONOR,
Asst. Secy. to the Govt. of India.

ORDER—dated 16th May 1895, No. 280, Revenue.

Separate Revenue No. 45.

Communicated to the Board of Revenue, for information and guidance.

(True Extract.)

(Signed) G. S. FORBES,
Ag. Secretary to Government.

To the Board of Revenue (Separate Revenue).

Exd. C. M. Brisson.

35 Copies.

Govt. of {1895} Madras.

REVENUE.

Issued

Recd.

Encl.

G.O., 16th May 1895, No. 280.

MAY.

Customs duty.

Endorsement of the Government of India forwarding correspondence on the subject of the grant of refund in cases in which — is leviable on goods supplied by contractors to Government departments, communicated to the Board of Revenue for information and guidance.

Madras 18th January 1896

To
The Commissioner of Salt, alkali and Separate Revenue

Madras.

Sir. We have the honor to inform you, that we have imported by sea from London, 11 puncheons containing 1128 Gallons West Indian rum in execution of a contract which we have now undertaken for the Commissariat Department. When the Contract was entered into, in October last, we understood that the rum would be passed through the Customs House, free of duty, but the Collector of Sea Customs declines to pass it free of duty, although we have offered to supply a certificate, from the Commissariat storekeeper General, stating what quantity has been taken delivery of by him, and have stated our willingness to pay duty on any quantity not delivered to that officer. The collector further states that no refund of duty can be made but that ^{we} should recover the

same

Therapeutic
recd in the
Madras office
18/1/1896

Same from the Department to which the
rum is supplied. We understand that
Messrs Mac Dowell and Co supplied Imported
rum to the Commissariat Department in 1889, G.O. No 632
24-7-89
and that on that occasion, the rum was passed
in free of duty, and we therefore beg to appeal
against the ruling of the Collector, and request
that the rum be passed in free of duty, subject
to all necessary precaution being taken to pre-
vent the Customs being defrauded in any way.

I have &c

(Sd) Arthurthnot & Co.

(True copy)

Racina mullu

Assistant Secretary.

9/10/86

No 490 G.

Sea Custom House

Madras 28th January 1896.

From

W.P. Austin Esq

Collector of Sea Customs

Madras.

To

The Secretary to the Commissioners of
Salt, alkali and separate Revenue
Madras.

Sir.

Adverting to Board's Reference
on petition Register No 69, dated 23rd Janu-
ary 1896, forwarding for report, a Petition
from Messrs Arthurthnot and Co., asking
that the 1128 Gallons of rum (or such quantity
as may be accepted) imported by them from
England Ex S.S "Deu of airdie" in execution
of a Contract with the Commissariat Depart-
ment, may be passed free of Customs duty, as
was done on a previous similar occasion
in 1889 (vide Board's Proceedings No 272 dated 1st

August

Madras 18th January 1896

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The copies
read in the
Madras office
14/1/96

August 1889) I have the honor to state that in accordance with the ruling of Government of India embodied in Board's Proceedings No 272 dated 1st August 1889, rum imported by Contractors for supply to Government Departments, enjoyed immunity from duty. As however the Government of India have now ruled (vide Board's Proceedings No 250 dated 7th June 1895) that no refunds should be granted in any case in which Customs duty is leviable on goods supplied by Contractors to Government Departments, I do not consider that Messrs Arbuthnot and Co. can lay any claim to have the rum in question passed free, especially as the order of the Government of India came into operation on a date long prior to that of their contract. I understand the intention of the Government of India to be that Contractors should recoup themselves of such duty by raising their contract prices, thus virtually levying

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levying

levying the Customs duty from the Departments they supply.

2. I would here add for the information of the Board that Messrs Arbutnot and Co's representative was distinctly referred to the last order of the Government of India as learning their claim, and a note of the number and date of the Board's Proceedings embodying the ruling was taken by him, but no mention of this order, I find is made in their appeal which I herewith return as requested.

I have etc

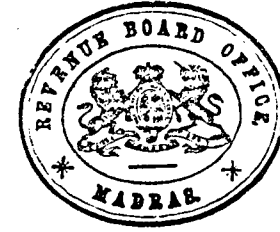
(D) W. Austin

Collector of Sea Customs

(True Copy)

Ernest Bennett
Assistant Secretary

9/10/96



Proceedings of the Board of Revenue

(Separate Revenue),

Dated 1st February 1896.

No. 473. Sub.

* Copy enclosed

Read petition from Messrs Arbuthnot and Co.
dated 18th January 1896.

* Copy enclosed

Read also letter from the Collector of Sea Customs
Madras No 490 G dated 28th January 1896.

Resolution.

Messrs Arbuthnot and Co are informed
that under the existing orders, to which the Collector
of Sea Customs reports he has already referred
them, the refund of duty cannot be granted.

(True Extract)

(Sd) Edmund Millett

Assistant Secretary.

To Messrs Arbuthnot and Co.
Copy - The Collector of Sea Customs
Madras.

(True Copy)

[Signature]
9/10/96

Edmund Millett
Assistant Secretary

Revenue No 1 Madras, 10th July 1896.

The Collector of Sea Customs,
Madras

Sir,

With reference to ^{A Co} ~~PMT Co~~ 11/11
Punchans Run, ex ss "Den of Pirie",
imported by us in December last, as
you are aware, the Run was for the
Commissionariat Department but
owing to their having declined to
pay duty, we have not delivered it
to them. We would point out that,
when we entered into the Contract
with the Commissionariat Department,
we were, owing to an unfortunate
misunderstanding, fully under the
impression that the Run would
be exempt from duty, and we
therefore did not allow for it,
in the price which we tendered for.
On arrival of the Run, in December
last, the Commissionariat Department
declined to pay the duty, and as you
could not allow us to pass the Run
free of duty, on production of a
certificate from the Commissionariat
Storekeeper General, in the face of G.O.
No: 280 Revenue, dated 16th May 1895, we
could not deliver to them.

596
5914

10/5/
REVENUE
Enclosure No. 1

The

The whole matter was laid before the Commissary General, but we regret that he has not seen his way to pay the duty, and our contract has been rescinded. We have done our utmost to dispose of the Rum locally, but without success, owing to the very limited demand which exists for this description of spirit outside of Government Requirements for troops. We understand, however, from the Commissariat Department, that if we can still deliver them the Rum at our contract price, free of duty, they will most probably be able to take it. As therefore the Rum is for Government, we have the honor to request that you will be so good as to pass on this letter to the Revenue Board, and endeavour, under the very exceptional circumstances, to get the Board to allow the Rum to be passed in free of duty, as a special case.

Should the Board grant this request, we shall still be heavy losers in godown rent, interest, and
drayage.

dryage. If however they cannot
see their way to do so, we see nothing
for it but to reship the rum to
London, or abandon it altogether.
In the event of reshipment, we
beg that you will endeavour to get
the Board of Revenue to waive their
claim to $\frac{1}{8}^{\text{th}}$ of the duty leviable,
which they are entitled to under
the Act, as we shall already be
heavy losers in freight to and from
Madras, landing and reshipping
charges, dryage, godown rent,
insurance and interest. In fact,
if one or other of the above Concessions
is not granted us, we very much
doubt whether it would not be
cheaper for us to abandon the rum
altogether. The rate at which
we undertook to supply the
rum to the Commissariat
Department is Rs 1-11-9 per gallon
5 over proof, and as the duty alone
is Rs 6-4-10 per gallon you will
quite understand how impossible
it is for us to pay duty, if we
cannot recover same. We therefore
beg

beg your assistance in this matter
and knowing the circumstances
as you do, we trust you will
recommend the Board to
grant us one or other of the
concession we ask for.

We have &c.

(Signed) Arbuthnot & Co.

(True copy)

Sea Custom House,
Madras, 16th July 1896 } Collector, Sea Customs.

File

N^o C
2530

Commissariat Storekeeper-General's Office
Madras 23rd July 1896.

From
The Commissariat Storekeeper-General
The Beach,
Madras.

To The Collector of Sea Customs
Madras.

Sir,

With reference to your letter N^o 38374
of 20th Instant, I have the honor to inform you
that no Rum has been received by this department
since March 94 at which date we paid
Rs 1-1-3 per gall for it; consequently regret
I am unable to afford the information required.
2. Rum is usually received from Contractor
at 5.0. O.P.

I have the honor &c.
(Sd) W. S. Wansbell. Captain
Commissariat Storekeeper General
(True Copy)

1896
REVENUE DEPARTMENT
Madras No. 197
197

Wansbell
Collector Sea Customs

Arbuthnot & Co.
Madras.

Madras, 3rd September 1896

Enclosure No III

The Collector of Sea Customs,
Madras

Sir,

In reply to your letter
No 4597.G. dated 1st Instant, we
have the honor to advise you
that our letter undertaking to
supply the rum in question to the
Commissariat Department was
dated 21st October 1895. The usual
contract form was not used as
the Commissariat Storekeeper-
General (Captain Watson) advised
us that it was not necessary
to do so.

We have &c
(Signed) Arbuthnot & Co.

(True Copy)

Seal Custom House, 2, Waverley
Madras, 4th September 1896 } Collector, Sea Customs

5/9



Proceedings of the Board of Revenue

(Separate Revenue),

Dated 12th September 1896.

Min. No. 3864.

Read the following letter from the Collector of Sea Customs, Madras No 3727 G. dated 14th July 1896 :-

" I have the honour to forward herewith, for favourable consideration, copy of a letter addressed to me by Messrs Arbuthnot and Co requesting that the Board may be moved (1) to exempt from Customs duty the consignment of rum & 11 Punchons containing 1128 gallons) imported by them in December last ex. S.S. "Deu of Arctic" for supply to the Commissariat Department in execution of a contract, and if this request is inadmissible, (2) that they may be permitted to re-ship the rum to London without being required to pay 1/8th of the duty under Section 42 of the Sea

Enter 10th July 1896

& Revenue 1/4/1

The Sea Customs Act.

2. As regards the first point I beg to solicit a reference to this office letter No 490 G dated 28th January 1896, in which the Board was informed, on an appeal from Messrs Abbot & Co of the reasons that precluded this Department from passing the liquor in question free of duty though imposed for supply to a Government Department. The Board shared the views of this Department and in its Proceedings No 473^{Sub} dated 15th February 1896, informed Messrs Abbot & Co that under existing orders no refund of duty was permissible. The plea now put forward by the Firm, viz, that at the time they entered into a contract with the Commissariat Department they were "owing to an unfortunate misunderstanding" fully under the impression that the rum would be exempt from duty and that they therefore

did

did not allow for it in the price
which they tendered at, is one
deserving favourable consideration
And as the Rum was put out bona
fide for the use of British troops
and the tendered rate did not
provide for the duty, I would urge

No quantity
is required
by the Commis.
ariat Dept.
- vide para 1
of the Commis.
General's letter
dated 1/11/18

that the Government may be moved
to obtain the sanction of the
Government of India to such quantity
of the Rum as may be taken over by
the Commissariat Department
being passed free and duty charged
on the balance.

3. If the above proposal
cannot be sanctioned, I beg to
recommend that Messrs. Abbotts
and Co's alternative request
may be granted

4. The favour of early
action on this reference is solicited,
as the liquor is lying in the Custom
House

House subject to go down next
since December last"

Read also the following Board's
reference thereon to the Collector
of Sea Customs, Madras. dated
18th July 1896. -

"The Collector of Sea
Customs, Madras is requested to
ascertain from the authorities
of the Commissariat department
and report at an early date what
they are paying for rum and whether
it is obtained under a contract.
The strength at which rum is supplied
to that department should also be
ascertained and reported."

Read also ^{the following} letter from the same
officer No 3966 G. Madras dated
25th July 1896.

"According to Board's Reference
dated 18th July 1896 on General
Register No 7520, I have the honor
to forward

to forward copy of letter No ⁸ $\frac{C}{2330}$
dated 23rd idem, from the Commissariat
storekeeper General, Madras,
furnishing the information called for
regarding the rate and strength
at which rum is supplied to
Commissariat Department."

Read also the following Board's
Reference thereon dated 4th August
1896:—

"The Collector of Sea Customs,
Madras is requested to ascertain
from the Commissariat Department
and report whether it did not pay
duty in addition to the cost price
on the rum supplied in 1894."

Read also ^{the following} letter from the same
Officer No 4347 & dated 17th August
1896:—

"In reply to Board's reference
dated 4th August 1896, on General
Register No 8093, I have the honour
to state that the Commissariat Storekeeper

General

General, Madras to whom a
reference was made on the subject
reports that the Commissariat
Department did not pay duty
on the rum supplied in 1894,
in addition to the cost price of
Rs 1-1-3 per gallon."

And also Board's reference
thereon to the Collector of Sea
Customs, Madras dated 27th August
1896 requesting to ascertain and report
the date of Messrs Abuthnot and Co's
Contract with the Commissariat
Department.

Read again also the following letter
from the same officer No 4668.G.
dated 4th September 1896:-

"Referring to Board's reference
dated 27th August in General Register
No 899). I have the honor to forward
herewith copy of letter dated
3rd September from Messrs
Abuthnot and Co from which
it will

it will be seen that their letter in
undertaking to supply the rum
in question to the Commissariat &
Department was dated 21st October
1895

Resolution

Submitted to Government.

2. In October 1895 Messrs
Arbutnot & Co entered into a con-
tract with the Commissariat Department
agreeing to supply rum at Rs 1-11-9
per gallon 5° O.P., being unaware at
the time of the ruling of the Government
of India communicated in Government
Order No 280 Revenue dated 16th May
1895 under which a refund of duty
on spirits supplied to the Commissariat
Department is no longer allowable. They
accordingly imported 11 puncheons
containing 1128 gallons of rum, but -
finding that the spirit will not be
passed free and that the Commissariat
Department declines to pay import
duty, they request that either a

Recommendation

Recommendation may be made for the exemption from duty of the actual quantity of rum which may be taken by the Commissariat Department or that they may be allowed to reexport the rum to London without paying $\frac{1}{8}^{\text{th}}$ of the duty leviable under section 42 of the Sea Customs Act.

as they cannot dispose of the liquor locally owing to the very limited demand for it.

3. As the contract was entered into under a misapprehension only a short time after the new ruling of the Government of India, the Board recommends that the sanction of that Government be obtained for the exemption from duty of the actual quantity of rum supplied to the Commissariat Department by Messrs Asbuthnot and Co. or for allowing the whole of the liquor to be reexported to London free of the one-eighth of the

of the duty leviable under section
42 of the Sea Customs Act. The
Board has ascertained that the

But phase previous contract of the Commissariat
see the Commissary Department for rum only allowed
General's letter the Contractor for cost price and
flagged A. ^{nothing} was said about not for duty. Messrs Arbuthnot
the duty, but an offer was
made to supply in accordance with the previous
rum at a particular rate of cost and practice in such matters.
this was accepted.

(True copy and extract)

Examiner's initials

Assistant Secretary

7. The Secretary to Government,
Revenue Department, with the
enclosures in original &c &c returned
copy to the Collector of Sea Customs,
Madras.

16/9/96

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ Proceedings of the Board of Revenue,
Separate Revenue, No. 3864 Mis., dated 12th Sept. 1896

ORDER thereon, No. 4131 Mis., d/ 19th OCT. 1896.

Referred to the Commissary General, Madras, for
favour of remarks.

2. Information is ~~also~~ also requested as to the exact
terms of the contract and whether, with reference to the orders
of the Government of India in the Military Department issued
in accordance with the Resolution of the Government of India
No. 1489 S.R., dated 25th Apr. 95. noted on the margin (Copy enclosed),
the article contracted for was not Indian-made rum.

(True Extract)

W. H. S.
Ag. Secretary to Govt.

To the Commissary General, Madras, with papers and copy of
G.O. 280 d/ 16/9/95 to be returned.

9319

24-10-96

Rs. 6

8. 8. 11

Gobt. of {1896} Madras.
REVENUE.

To
The Commissary-General
Madras

Dated
Reed. } Encl.

Mis. G.O., 19th Oct. 1896, No. 4131

SUBJECT.

Referring for favour of remarks
B.P. ref. Exemption from
import duty of a certain quantity
of rum imported by Messrs.
Arbuthnot & Co.

It is requested that the No.
and date of this communica-
tion may be quoted in reply.

No. C/ 7743

Office of the Commissary-General, Madras Command,
Ootacamund, 3rd December 1896.

From

THE COMMISSARY-GENERAL,

MADRAS COMMAND,

To

THE Secretary to Government,

Revenue Department,

FORWARDED ST. GEORGE.
*5 DEC 96
REVENUE DEPARTMENT

Sir,

In returning the papers received with G.O.No.4131-
Mis., dated 19th October 1896, I have the honor to state that the
rum imported by Messrs. Arbuthnot and Co., Madras, is not now re-
quired, the stock of rum on hand being found sufficient to meet
the requirements of this Department, now that the withdrawal of
troops from the Chin Hills has been finally decided upon.

2. Messrs. Arbuthnot and Co. contracted to supply 1,100
gallons of imported rum at Rs.1-11-9 per gallon deliverable into

West Indian 5 everproof

the godowns of the Commissariat Store
-keeper General, Madras, within a

period of two months from the 21st October 1895. These are brief-
ly the terms of the contract, and as Messrs. Arbuthnot and Co.
failed to deliver the contracted quantity of rum within the sti-
pulated time in consequence of the difficulty that has arisen in
connection

connection with the payment of import customs duty, the contract was rescinded, a course of action, which was, on subsequent representation, approved by the Commissary General-in-Chief. Under the provisions of G.O. No.280, dated the 16th May 1895, Messrs. Arbuthnot and Co. were not entitled to the payment by this Department of the customs duty, nor was the granting of this concession made a stipulation of the contract, - a contract, which was, I may mention, concluded under the orders of the Government of India, vide Military Department letter No.3262-F, dated 16th October 1895.

†
Copy herewith.

3. The rum having been obtained from England and manu-^{factured} in India, I do not see how, with reference to the Resolution of the Government of India, No.1849-S.R., dated 25th April 1895 or the orders issued thereon in the Military Department, it can be treated as an Indian-made article. The contract for the foreign manufactured rum was, as explained above, concluded as a special case and under the specific orders of the Government of India.

I have the honor to be,

Sir,

Your most obedient servant,

James Colonel,

Commissary General.

J.F.

Copy of a letter No.3262-F, dated Simla, the 16th
October 1895, from the Secretary to the Government of India, Mil-
-itary Department, to the Commissary General-in-Chief.

In reply to your letter No.7746 dated the 7th Octo-
ber 1895, I am directed to say that, under the circumstances re-
presented, the Government of India sanction the acceptance, as
recommended by you, of the offer of Messrs. Arbuthnot and Company
to supply at Madras, 1,100 Imperial gallons of matured rum, at
Rs.1-11-9 per gallon, during the year 1895-96.

(True Copy)

Wm. Leperburg

Office of the Commissary General,)
Madras Command,)
Ootacamund.)

CHIEF CLERK

to the Commissary General,
Madras Command.

28

Frist note

C.N. 8914/96

Note for orders

The Hon. Mr. Odier C. 92.

Please see C.P. N. 4131 nico
de 19. 10. 1876 and the note
there under.

As the Com. missay
General reports that no
quantity of the rum imported
by Messrs ~~de~~ Robertus
& Co will be required by
his Department, the only
course open to that firm
is to re-export the spirit
to England.

The point for
consideration is whether
on re-export ^{of the spirit} one-eighth
of the duty is leviable ~~on~~
~~the spirit~~ under Sec. 42 of the Sea
customs Act VIII of 1878,
as stated by the collector.
Sec. 42 seems to apply
only to ~~the~~ cases of goods
"upon which duties of customs
have been paid on importation."
In the present case no
duty has yet been paid
& the goods continue in the
custody of the customs
authorities. It is not clear

c. 15/1/97
R. 18/1/97

why if in such circumstances
goods are allowed to be
re-exported one-eighth of the
duty assessable ^{thereon} should be
levied under sec 42.

sec. 86 requires the owner of
any goods imported to deliver
to the customs-collector a bill-
of-entry showing among
other things whether the
goods are intended for home-
consumption or warehousing.

Sec. 87 says "on the delivery
of such bill, the duty (if any)
leviable on such goods shall
be assessed and the owner
of such goods may then pro-
ceed to clear the same for
home-consumption or ware-
house them, subject &c."

under sec 111, any owner of
goods warehoused may
within a certain period, clear
such goods for shipment to
a foreign port without payment
of import duty on the same.

If goods entered for
warehousing and
actually warehoused
may be re-exported

under sec 111, any owner of
goods warehoused may
within a certain period, clear
such goods for shipment to
a foreign port without payment
of import duty on the same.

Without payment of duty there appears to be no reason why goods entered for home consumption but not cleared and upon which no duties of customs have yet been paid, should not ^{similarly} be allowed to be re-exported without payment (of duty one-eighth) of the duty.

If it is thought that the point requires consideration the collector may be asked to explain fully why he considers that one-eighth of the duty is leviable in this case. Otherwise the accompanying draft order and letter ~~are~~ may issue.

I presume the goods are not "bonded" - If so, they can hardly have been declared for home consumption, because (S. 110) the method, or at least necessary accompaniment, of declaration for home consumption is payment of duty. This being so, I don't see why re-exportation under S. 111 should be allowed. The duty not having been paid, S. 42 does not apply.

RS

18/1/77

The goods have been lying in the Customs House now for 12 months. I think there is not much of the spirit left.

If the goods have not yet been formally declared then there is no reason why it is not reasonable to allow them to be re-exported.

4

there but they have probably
been cleared for some consumption.
I do not see how what that
course is possible except -
reference to the Govt of India.

11/31/47.

5
Read again G.O.No. 4131 d/ 19.10.96.

" also G. No. 8914 of 1896.

G.O. Mis.,

The Commissary-General having -
reported that no quantity of the rum -
will be required by his department, -
the Govt of India will be moved to -
allow the re-exportation to London of
the whole quantity of the rum import-
ed by Messrs Arbuthnot & Co. without
payment of ~~the~~ one-eighth of the duty
leviable under section 42 of the Sea
Customs Act.

To

The Board of Rev., Sep REV.

To

The Secy to the Govt of India,
Deptt of FIN & COM.

Sir,

I am directed to submit the fol-
lowing case for the favourable consi-

6
consideration and orders of the Govt of India.

2. In October 1895, Messrs Arbuthnot & Co., a firm of merchants in Madras, entered into a contract with the Commissariat Department agreeing to supply rum at Rs. 1/11/9 per gallon 5° O.R. and in view to the fulfilment thereof, imported 1128 gals of the spirit in December 1895. On the importation of the consignment, the firm claimed free entry for it, on the ground that the rum was imported for supply to a Govt Department. In view, however, of the decision of the Govt of India communicated in its Resolution No. 1849 S.R., Fin & Com. Deptt, dated the 25th April 1895, the Collector of Customs declined to accede to Messrs Arbuthnot & Co's request. The firm thereupon laid the matter before the Commissary-General, but as the contract as accepted by the Govt of India, Military Deptt, was for the supply of 1100 gallons of rum at Rs. 1-11-9 per gallon, deliverable -

*vide letter No 3262 F.d. 16.10.1895,
from the Secy to the Govt. of India,
Military Dept, to the Commissary
General-in-chief.*

into the Godowns of the Commissariat Store-keeper-General, Madras, within a period of two months from the 21st October 1895, and as the firm failed to deliver the contracted quantity - within the stipulated time in consequence of the difficulty that arose in connection with the payment of customs duty, that officer cancelled the contract. Messrs Arbutnot & Co. now represent that they were not aware of the recent ruling of the Govt of India on the subject and that in agreeing - to supply ^{rum} at Rs. 1-11-9 per gallon, - they fully believed that the consignment would be passed free, as was - that imported by Messrs Mc Dowell & Co. in 1889 for the Commissariat Dept. (vide correspondence ending with Mr. O'Connor's letter No. 3405 dated 6th July 1889 Lin & Com Department). They accordingly request that under the very exceptional circumstances of the case, such quantity of the spirit as may be taken by the Commissaria Deptt may be exempted from payment of duty

or that they may be permitted to re-export it to London without the payment of one-eighth of the duty leviable under section 42 of the Sea Customs Act. As the duty alone is Rs. 6-4-0 per gallon, it is clear that the firm acted under some misapprehension in the matter and the Board of Revenue supports their prayer. The Commissary-General reports that no quantity of the rum will be required by his Department. I am accordingly directed to request that the sanction of the Govt of India may be obtained for allowing Messrs Arbuthnot & Co. to re-export the rum free of one-eighth of the duty leviable under sec. 42 of the Sea Customs Act.

3. Copies of the marginally noted correspondence on the subject are enclosed for reference.

1. B.R.No. 3864 d/12.9.96.

2. Letter from the Commissary-General No. C/7943 d/3.12.96.

CR.
11/9/97

1
C.N. 8914/96

Second note

With reference to the Hon. member's remark on page 4 of the first note for orders, it has been ascertained from the Sea Customs office that the consignment of rum in question, has not been warehoused and is still lying in the Custom House. If so it is submitted that Sec III of the Sea Customs Act does not apply; nor, as observed by the Hon. member, does Sec 42 apply, no duty having yet been paid on the consignment.

2. It is submitted that the attention of the Board of Revenue should be drawn to this fact and it should be asked to report under what provision of law it holds

The Hon. Mr. Bliss C.S.

1/11/97
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1/11/97
1/11/97

that the consignment
referred to is, on re-export,
liable to one-eighth of the
duty leviable thereon. If
the reply should show clearly
that it is liable to such
duty a recommendation
may, in the circumstances,
be made to the Govt. of
India to sanction its
exemption as a special
case.

In the meanwhile
the collector may be
authorized to allow the
spirit to be re-exported if
messrs. Baker & Co. desire it,
on their furnishing proper
security for the payment
of one-eighth of the duty, in
the event of its being found
that such duty is leviable
and of the Govt. of India
declining to sanction exemption.
Otherwise the firm ~~will~~
may have to pay a considerable
sum in the shape of godown
rent, &c.

(P.
20/11/97)

21/11/97

29/11/97
I much regret the mistake.

25/11/97

Code Class. INDIAN  TELEGRAPHS. Monthly Number.

To Telephone From unseen
(Office) (Office)

Words. Day. Hour. Minute. Official Instructions.

To Mr. Keppel From Mr. Keppel
(Person) (Person)

Refer to your Telegram dated 19th 10.96.
The consignment is still lying in the
Customs House.

64 Word Form.

Recd. from LN. Sent to LN. Telegraph Master.
At Hrs. Mts. by

U. P. No. 14 T-2 5 73-200000.

Read again L. O. No. 4131 ^{mis} 19. 10. 96.
Read also C. no. 8914 of 96.

L. O. mis No. 5318/27th Jan'y 1897

As the Commissary-General,
in his letter read above, reports that
none
no quantity of the rum imported by
Messrs Arbuthnot & Co will be required
by his Department, the only course
open to the firm appears to be to re-
export the Spirit to England. But
before recommending the case to the
Government of India for special
exemption, as suggested by the
Board of Revenue in para 3 of its
Proceedings No. 3864, ^{mis} 27.12.9.96, the
Government desires to know under
what provision of law it is held
that the spirit, on re-export, is liable
to one-eighth of the duty leviable
thereon. No duty having yet been
paid on the consignment, Section
of the Sea Customs Act VIII of 1878
42 seems to be inapplicable. A further
report should therefore be submitted
on the point.
2. In the meanwhile, the firm
may, if they desire it, be allowed
to re-export the spirit to England
free of any payment, provided they
furnish

27/1/97

F.C.2.

furnish proper security for the payment of one-eighth of the duty leviable thereon, in the event of its being found to be liable to such duty and of the Government of India declining to sanction exemption from it.

117/1197.

From orders

To

The Board of Revenue (Sep Rv).
No. 5-2-97

(A.
27 Jan-97)

Given for copying _____
copied _____
examined _____
signed _____ } 189

MAIN G.O., No.
189

DATED

At No.

G. No.

OF GOVERNMENT

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