

Revenue (1897) Department.

PRESS SERIES.

G.O., Nos. 849 & 850

Dated 6th October

[Despatch Abstract.]

Enclosing that a letter be despatched to the Govt. of India requesting to refer the question of the exemption of Tea & Soda & medicinal matters from import duty for the final decision of the Rt. Hon. the Secretary of State for India.

BACK PAPERS.

No.	Dep't.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

No.	Dep't.	Date.	G.O.	No.	Department.	Date.
C. 40. 5117 of 98		22-7-97				

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18 4,000-19-7-97.

Revenue (189) Department.

CURRENT No. 7282

The Hon Sir Henry Bliss K.C.J.E. }
The Hon Mr Grose C.J.E. }
Fr. E. the Governor }
Affairs with reference to H.E. in mind
below. 1/3/97

From

The Govt. of India.
F. & C. Dept.

Order

Communicated to the Board of

Revenue.

2. The Chamber of Commerce and
the United Planters' Association will
be informed that the Govt of India
has declined to sanction the exemption
from import duty of tea seeds and
Chemical manures.

I am not satisfied with this reply. The policy of the Govt. is to help
industries by all reasonable means. The exemption of
tea seeds and chemical manures from import duty is, in my opinion,
a reasonable means of helping an industry. I should ask the Govt.
of India to refer the matter for final decision. 1/3/97

Dated 17th August 1907

Received

Registered

Enclosures.

Spare copies.

SUBJECT.

Declining to exempt
from customs duty tea
seeds and chemical
manures.

To the Board of Revenue, R. R. in the
a copy of G.O. No. 267 of 27-4-97

AR.
24/8/97

Para 2 to Chamber of Commerce and

U. T. A.

22/8/97

12. 24/8

BACK PAPERS.

G.O.	No.	Department.	Date
G.O.	267,8	Rev	27/4/97

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No. 3631-S.R.

GOVERNMENT OF INDIA.

FINANCE AND COMMERCE DEPARTMENT.

Simla, the 17th August 1897.

110

To

The Secretary to the Government of Madras,
Revenue Department.

Sir,

I am directed to acknowledge the receipt of your letter No. 268 Revenue, dated the 27th April 1897, recommending for sanction a proposal made by the Chamber of Commerce, Madras, that seeds of all kinds or at least tea seeds and chemical manures may be exempted from import duty.

2. I am to say that the Government of India have carefully considered the arguments in favour of this proposal stated by the Government of Madras and the Chamber of Commerce, and to express the regret of the Governor General in Council that he finds it necessary to refuse to give the desired sanction.

I am to observe, with reference to the precedent adduced of the exemption of tea chests, that those articles were exempted on the ground that they are mainly imported for re-exportation after a short interval, without having undergone any material change, and the case is therefore not analogous.

4. In the opinion of the Government of India the claim urged in respect of tea seed and of chemical manures is practically a claim for the exemption of a particular industry from a burden that is borne by others; and however desirable it may be to relieve industry generally from the burden of customs duties the question must necessarily depend upon general financial considerations.

I have the honour to be,
Sir,
Your most obedient servant.

H. M. Stanley

Am. Ind. Case C. 1. } with reference
to H. M. Stanley's C. 1. } to H. M. Stanley
C. No 7282.
11/1/97.

"I am not satisfied with this reply. The policy of H. M.'s Govt is to help industries by all reasonable means. The exemption of tea-seed and chemical manures from import duty is, in my opinion, a reasonable means of helping an industry. I should ask the Govt of India to refer the matter for final orders to the Secretary of State."

This is a case in which we disagree with the Govt of India as to the meaning of any part of an Act, not as to the desirability of an Executive Order, & I have no doubt we can do as we are told to do (if we don't acquiesce in the decision of the Govt of India at page 81 of the Handbook. I don't object to trying, but if there is no instance of the Sec of State interfering in such a matter, & I know of none, we have very little chance of success.

25
3/9/97 - 24th 5/10/97

* Handbook of Procedure & Precedents.

Draft 20. 11/1/97

Recd 2/9/97.

The following note is submitted with reference to H. E.'s remarks, transcribed in the margin, on the above Current.

2. The power of exempting goods from payment of import duty vests in the Governor General in Council (vide Section 23 of the Sea Customs Act, 1875).

The powers of the Governor-General in Council to make laws are subject to the Secretary of State's power of disallowance (vide 24 & 25 Vict. C. 67, s. 21).

Under this section, the Secretary of State may disallow any Enactment passed by the Governor General in Council, but without he can interfere with the working of a particular enactment seems doubtful.

If this view be correct, it is submitted that the Secretary of State cannot be moved to authorise the Governor-General in Council to exempt tea-seeds & chemical manures from payment of import duty. But should it be held that the case falls under para 2 of the letter from the Govt of India No 2546 of 17th June/72 (vide page 81 of Vol put up), the Govt of India may be moved to refer the point at issue to Her Majesty's Govt a despatch being sent at the same time.

the Secretary of State thro' the Govt of India containing the views of this Govt in the matter

11/9/71

11/9/71

Subject to remarks below
25/9/77
27/9/77
Print 20/10/32
To the Govt of India No 268 of 27th April 1977
From the " " No 3631 S.R. of 17th Aug 1977

for [] read "us," I should say: as say "this Govt."
HS

Amended

4/10/87

Print/comm. part
Date 6/10/87

Read G.No. 7282.

G.O. No 849 of 6th October 1897

Ordered that the following letter be despatched to the ^{Government} Secretary of State for India.

5P

Despatch No 2-Sep Res

To the Rt. Hon. the Secretary of State for India.

My Lord,

We have the honour to forward copies of the marginally noted correspondence which has passed between the Govt. of India and ^{this Government} ~~the Govt. of~~ ^{the} ~~the~~ on the subject of exemption from import duty of seeds of all kinds and chemical manures, and to state as follows.

2. On the representation of the Chamber of Commerce and the United Planters' Association of Southern India that the planting industry was hampered by the levy of an import duty on seeds of all kinds and chemical manures, which are now being taxed under Arts. 94 and 10 respectively of Schedule IV of the Indian Tariff Act VIII of '94, as amended by Act III of 1896, we requested the Govt. of India in our letter No. 268 dated the 27th April 1897 to exempt these articles from import duty. The Chamber of Commerce, it will be seen, requested that, if it was considered inadvisable to exempt seeds of all kinds from import duty, a special exemption might be granted in respect of teamseed and cereals.

6
er annum the agricultural resources of
the country cannot keep pace with the in-
crease of population for any length of
time unless high cultivation is intro-
duced, and the decision of the Government
of India will, we fear, retard the introduction
of so desirable an improvement. In these
circumstances, we beg to express the hope
that Your Lordship will see fit to move
the Government of India to reconsider
its decision and exempt tea seeds and chemical
manures from import duty.

3P
Letter No. 850.

The Secretary to the Govt. Of India,
Finance and Commerce Department.

Sir,

Adverting to the correspondence
ending with your letter No. 3631 S. R.
dated 17th: August 1897 stating that the
Government of India cannot accept the re-
commendation of this Government relative
to the exemption of tea seeds and chemical
manures from import duty, I am directed to state
that, on a careful consideration of the
question, His Excellency the Governor in
Council regrets his inability to acquiesce
in the decision of the Government of
India and accordingly to request that
the Governor-General in

The population is fast increasing
the means of subsistence; it is
essential therefore to foster high
and new industries
cultivation in every possible way,
but:

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20
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kept
with enclos.
4/1/97

A.S.H.
6.10.97

4P
Council may be moved to refer the matter
for final decision of the Right Honour-
able the Secretary of State for India.
despatch from this Government setting
forth fully the facts of the case is
herewith enclosed for transmission to
the Secretary of State.

I have etc.

18/9/97

AR
17/9/97

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2

Government {1897} of Madras.
REVENUE.

Recd.

Enclosures

Regd.

} 1897.

Spare copies

G.O., No. 849, 6th October 1897.

OCTOBER.

Exemption of Tea seeds and Chemical manures from Import duty.

Ordering that a letter be despatched to the Government of India requesting to refer the question of the — for the final decision of the Right Honourable the Secretary of State for India.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ--the following letter from J. F. FINLAY, Esq., Secretary to the Government of India (Finance and Commerce Department), to the Secretary to the Government of Madras, Revenue Department, dated Simla, 17th August 1897, No. 3631 S.R.:—

I am directed to acknowledge the receipt of your letter, No. 268, Revenue, dated the 27th April 1897, recommending for sanction a proposal made by the Chamber of Commerce, Madras, that seeds of all kinds, or at least tea seeds and chemical manures, may be exempted from import duty.

2. I am to say that the Government of India have carefully considered the arguments in favour of this proposal stated by the Government of Madras and the Chamber of Commerce, and to express the regret of the Governor-General in Council that he finds it necessary to refuse to give the desired sanction.

3. I am to observe, with reference to the precedent adduced of the exemption of tea chests, that those articles were exempted on the ground that they are mainly imported for re-exportation after a short interval, without having undergone any material change, and the case is therefore not analogous.

4. In the opinion of the Government of India, the claim urged in respect of tea seed and of chemical manures is practically a claim for the exemption of a particular industry from a burden that is borne by others; and however desirable it may be to relieve industry generally from the burden of customs duties, the question must necessarily depend upon general financial considerations.

ORDER—No. 849, Revenue, dated 6th October 1897.

Separate Revenue No. 87.

Ordered that the following letter be despatched to the Government of India.

(True Extract.)

(Signed) G. STOKES,
Ag. Secretary to Government.

Encl. T. K. Narayana Aiyangar.

30 Copies.

1897.

FINANCE AND COMMERCE DEPARTMENT.

From

The Government of Fort St. George.

Recd.

Enclosures

Regd.

1897.

Spare copies

Letter, No. 850, 6th October 1897.

OCTOBER.

REQUESTING to refer the question of the exemption of tea seeds and chemical manures from import duty for the final decision of the Right Honourable the Secretary of State for India.

REVENUE DEPARTMENT.

From

THE HON'BLE MR. G. STOKES, I.C.S.,
Acting Secretary to the Government of Madras,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
FINANCE AND COMMERCE DEPARTMENT,

Ootacamund, 6th October 1897.

SIR,

Adverting to the correspondence ending with your letter, No. 3631 S.R., dated 17th August 1897, stating that the Government of India cannot accept the recommendation of this Government relative to the exemption of tea seeds and

Separate Revenue No. 88.

chemical manures from import duty, I am directed to state that, on a careful consideration of the question, His Excellency the Governor in Council regrets his inability to acquiesce in the decision of the Government of India, and to request that His Excellency the Governor-General in Council may be moved to refer the matter for the final decision of the Right Honourable the Secretary of State for India. A despatch from this Government setting forth fully the facts of the case is herewith enclosed for transmission to the Secretary of State.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. STOKES,
Ag. Secretary to Government.

Exd. T. K. Narayana Aiyangar.

20 Copies.

FORT SAINT GEORGE.

REVENUE (1897) DEPARTMENT.

(Copy.)

**LETTER to the Right Honourable the Secretary of State
for India.**

No. 2, dated 4th ^{November} October 1897.

REQUESTING that the Government of India may be moved to reconsider its decision with regard to the exemption of tea seeds and chemical manures from import duty.

REVENUE DEPARTMENT.

To

THE RIGHT HONOURABLE THE SECRETARY OF STATE FOR INDIA.

MY LORD,

WE have the honour to forward copies of the marginally-noted correspondence which has passed between the Government of India and this Government on the subject of the exemption from import duty of seeds of all kinds and chemical manures, and to state as follows.

To the Government of India, No. 268, dated 27th April 1897.
From the Government of India, No. 3631 S.R., dated 17th August 1897.

2. On the representation of the Chamber of Commerce and the United Planters' Association of Southern India that the planting industry was hampered by the levy of an import duty on seeds of all kinds and chemical manures, which are now being taxed under articles 94 and 10, respectively, of schedule IV of the Indian Tariff Act VIII of 1894, as amended by Act III of 1896, we requested the Government of India in our letter, No. 268, dated the 27th April 1897, to exempt these articles from import duty. The Chamber of Commerce, it will be seen, requested that, if it was considered inadvisable to exempt seeds of all kinds from import duty, a special exemption might be granted in respect of tea seed, and our recommendation to the Government of India was accordingly confined to the exemption from duty of tea seed and chemical manures. The Government of India, however, has refused to accord the desired sanction, on the ground that the claim urged is practically one for the exemption of a particular industry from a burden that is borne by others, and that the question of relieving industry generally from the burdens of customs duties must necessarily depend upon general financial considerations. While admitting the cogency of the above argument, we are of opinion that it loses much of its force when applied to the articles mentioned above.

3. The Chamber of Commerce and the United Planters' Association requested the exemption of these articles from duty on the following grounds:—

(i) that in taxing tea seed, the Government was practically imposing an export duty on tea and that it was illogical not to exempt it from duty while tea chests and lead-lining for them are imported free under article 107, schedule IV of the Act;

(ii) that there was no reason why chemical manures should pay duty when "manures of all kinds including animal bones" were admitted free under article 71 of schedule IV; and

(iii) that the imposition of a duty on these articles would prejudicially affect the planting industry.

4. In regard to the first of these arguments the Government of India states that tea chests and lead-lining were exempted, on the ground that they are mainly imported for re-exportation after a short interval, without having undergone any material change, and that the case is therefore not analogous. In our opinion the objection does not appear to be sound. Tea is largely exported, and, if exemption on import is granted in the case of an article which is used in exporting it, there is all the greater reason for exempting the seed which is imported for the production of the article itself.

5. As regards chemical manures, we beg to point out that when the Tariff Bill, which afterwards became law, was under consideration in the Supreme Legislative Council, the Government of Lord Wenlock pointed out to the Government of India the desirability of exempting from import duty chemical substances, such as, nitrate of soda, muriate of potash, &c., which are imported for use as manure, but the Bill was passed into law without any specific provision having been made to that effect. The question again engaged our attention in 1895 in connection with an application from a firm in Madras, for the grant of a refund of the duty levied on a consignment of nitrate of soda imported by them for use as manure. While strongly supporting the claim for refund on the ground that the chemical fell under the heading manure, which is free under article 71 of schedule IV of the Tariff Act, we enquired of the Government of India whether, in cases where it was clear that the articles would be used as manure, they might be held to be exempted under the article above quoted. The Government of India, however, declined to accept the recommendation of this Government on the ground "that it is not the fact that an article is to be used for a certain purpose that gives it its claim to exemption, but the fact that in ordinary practice that and no other is the purpose for which the article is imported and used and that the article is such and of such special character that on its importation it may at once be presumed that use as an exempted article is the purpose for which it is required," and that it is not in accordance with sound principle to classify an article for the purpose of the tariff in accordance with the declared object of its importation. In regard to this remark, however, we beg to point out that to convert chemical manures into other substances costly chemical processes would appear to be necessary. This would make the cost of the substances so manufactured prohibitively high as compared with the finished products imported from abroad. Moreover, there are no manufactories in this Presidency where such conversion could be effected, and it may therefore be safely stated that chemical manures imported are not used otherwise than as manures.

6. The United Planters' Association states—and its statement is fully borne out by the figures marginally-noted—that

				Tons imported.
1889-90	...	...	...	10
1890-91	...	...	...	10
1891-92	...	...	...	10
1892-93	...	...	...	25
1893-94	...	...	...	217
1894-95	...	...	...	396
1895-96	...	...	...	518

chemical manures have come into use only during the last four years, the imports prior to that year being insignificant; that planters have latterly displayed an increasing inclination to study the problem of high cultivation by the system of using artificial manures whenever it appears likely to offer solid advantages; that the chief reason why chemical manures have not come into more general use is to be found

in their high cost; and that a reduction of cost would be quickly followed by a larger demand. It quotes an instance of an importer who was obliged to abandon the use of a fertilizer on account of its high cost.

7. As pointed out by the Association, there is a possibility that if artificial manures can be imported at a moderate cost, their use will spread among the Indian ryots as well as among planters to the very great advantage of the country. On the other hand, the levy of an import duty on chemical manures acts directly in restraint of the use of these fertilizers and indirectly retards the expansion of the agricultural industry and thus appears to be inconsistent with the spirit in which duties are imposed under the Tariff Act and opposed to the liberal and far-sighted policy which has characterized the administration in regard to the development of the resources of the country. That manures should be exempted the Act itself recognizes, and it is not understood why these manures should be called chemicals when, as shown above, they neither can be, nor are ever, used for any purpose but manure. With a normal increase of ten per mille per annum, the population is fast overtaking its means of subsistence; it is essential, therefore, to foster high cultivation and new industries in every possible way, but the decision of the Government of India will, we fear, tend to retard the introduction of so desirable an improvement. In these circumstances, we beg to express the hope that your Lordship will see fit to move the Government of India to reconsider its decision and exempt tea seeds and chemical manures from import duty.

We have the honour to be,
My Lord,
Your Lordship's most obedient, humble servants,

(Signed) A. E. HAVELOCK.

(„) H. W. BLISS.

(„) J. GROSE.

Fort St. George
Ootacamund,
4th th ~~November~~ ^{October} 1897.

Exd. T. K. Narayana Aiyangar.

First copy sent to Press.

Returned for signature.

Despatched in print.

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D = Printed in L.R.