

Revenue (1897) Department.

PRESS SERIES.

G.O., No. 861

Dated 9<sup>th</sup> October.

[Despatch Abstract.]

Coming to the Board of R. enue  
letter from the Govt. of India. forward  
the opinion of the Advocate-General, Be  
on the subject of investing the Harbour  
Trust Board, Madras, with certain  
powers similar to those exercised by  
the Port Trust Board at Bombay.

# BACK PAPERS.

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Revenue (1897) Department.

CURRENT No. 834

Order 7-11

From

The Govt. of India  
H. & C. Dept

No. 4215-S.R.

Dated 21<sup>st</sup> Sept. 1907.

Received

Registered

Enclosures

Spare copies.

SUBJECT.

Forwarding, with reference  
to G.O. 494, d/28.6.97, Copy  
of certain papers received  
from the Advocate-General  
Bengal

BACK PAPERS.

BACK PAPERS.

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

| G.O. | No. | Department. | Date. |
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Case submitted to the Honble the Advocate

26  
The Solicitor to the Government forwards herewith a letter from the Government of India, Finance and Commerce, No. 3497, dated 9<sup>th</sup> August 1897, with its several annexes and begs the special attention of the Honble Advocate General to the annexed letter No. 49 of the 28<sup>th</sup> June 1897, from the Acting Secretary of the Government of Madras, Revenue Department, to the Secretary to the Government of Finance and Commerce Department. This letter deals very fully with the questions upon which the opinion of the Honble the Advocate General is now sought.

It appears that the Madras Harbour Trust are desirous of adopting a system similar to that in force in Bombay under which the Harbour Trust Board would receive into their sheds all cargo as landed deliver the same upon pass orders from the Collector, warehouse goods on warrant, and at the expiration of four months, deliver to the Collector to be dealt with under Sec. 88 of the Sea Customs Act any goods not then warehoused or cleared.

if the scheme. They also desire to make  
impulse for all goods to pass through  
sheds. Goods are at present landed by  
shipping firms. It appears that the  
shipping firms are unwilling to have the  
duty of goods performed by any agency  
but under their own control or to land  
goods under clause 85 of the Sea Customs  
Act. It was therefore proposed that goods  
should continue to be landed under section  
3 of the Act and should then be received into  
sheds of the Harbour Trust which should be  
declared part of the Customs House under  
section 11(f). The Advocate General of Madras  
advised that the Collector cannot delegate  
the powers of control over dutiable goods,  
that the owner of premises declared part of the  
Customs House under section 11(f) would  
not be a bailee, and the goods in the Customs  
House would be in the sole control of the  
Collector. Since the Sea Customs Act does not  
allow of joint control over goods in the Customs  
House, and the Harbour Trust Act does not  
allow the Board to become bailees of goods.  
Government then suggested that the difficulty  
in declaring the Harbour

No. 4215-S.R.  
GOVERNMENT OF INDIA.  
FINANCE AND COMMERCE DEPARTMENT.  
Simla, the 21<sup>st</sup> September 1897.

the landing of cargo under the  
Customs Act. The Chamber of Commerce  
Madras agrees with this proposal.

They suggest that if this were done all  
cargo would thus remain within custody  
of the Trust but in the constructive custody  
limits in the actual custody of the Collector  
so long as his lien for duty lasted. The  
advantages which the Harbour Trust contemplates  
would arise if this course were adopted are  
recited at the top of page 4 of the letter  
of 28<sup>th</sup> June 1897 already referred to.

The Chamber of Commerce of Madras  
desired the Government of Madras to obtain  
the opinion of the Legal Advisers of the  
Government of India as to the legality of this  
course.

The Government Solicitor is now  
instructed by the Government of India  
to request the favor of the Honble the  
Attorney General's opinion of the following  
Whether the Harbour Trust

of the other. If it is taken to the Customs  
until duty is paid. Otherwise then  
as pointed out by me the desired  
project cannot be carried out.

Sd/- G. C. Paul,  
9th Sept/97

(True Copy)  
H. Beattie

Registrar,  
Finance & Com. Dept.

allow the Board to become renters of goods.

The Government then suggested that the difficulty  
has declaring the Harbour

allow the Board to become renters of goods.

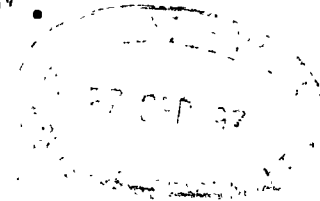
The Government then suggested that the difficulty  
has declaring the Harbour

110  
No. 4215-S.R.

GOVERNMENT OF INDIA.

FINANCE AND COMMERCE DEPARTMENT.

Simla, the 21<sup>st</sup> September 1897.



To

The Secretary to the Government of Madras,  
Revenue Department.

Sir,

I am directed to acknowledge the receipt of your letter, No. 494 (Revenue), dated the 28th June 1897, and to enclose Statement of the case prepared by the Solicitor to the Govt. of India for the copy of the papers noted in the opinion of the Advocate General, Bengal dated 1st Sep. 1897. margin containing the opinion asked for in that letter. Opinion of the Advocate General, Bengal dated the 9th Sep. 1897.

I have the honour to be,

Sir,

Your most obedient servant,

J. R. C. A. M.

Asstt. Secy. to the Govt. of India.

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C. No 8343 of 97

The Hon: Sir Henry Blisk C.I.E.

Printed  
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9/10/97

Sup. Rev. No 89

G.O. No 861 of 9th Oct. 1897

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Communicated to the Board of Revenue with the request the Draft of a notification under Sect 11 (f) of the Sea Customs Act declaring the premises of the Harbour Trust Board to be part of the Sea Customs House, Madras, may be prepared and submitted for publication in the Fort Saint George Gazette.

2. It should be reported from what date the new arrangements may conveniently be brought into force. Before effect is given it will be necessary to draw up a set of rules defining the relations between the Sea Customs authorities and the Harbour Trust Board and providing inter alia for the following matters:-

(a) Posting of officers at the gate to see that no goods leave the premises without a pass for

such control by the C.I.E. as is necessary to enable him to see that his line of duty is duly safeguarded and that goods are not removed without his

Collectn;

b) Accommodation for the officers  
Customs within the premises  
the Harbour Trust Board and  
facilities for proper examination  
+ food by these officers.

(c) Check of the Collectors' papers  
with the manifests  
(d) Verification of the food in  
store with the manifests.

The Board is requested to  
draw up a set of rules accordingly  
in communication with the Collectn  
of Sea Customs and the Harbour  
Trust Board and submit it  
for the approval of Govt at  
a very early date.

3. Until the erection of suitable  
buildings by the Harbour Trust  
Board the shed attached to the  
Customs House where goods are  
stored at present may be rented  
out to that body. The Board  
of Revenue will report what  
it considers a fair rent to  
demand.

*[Signature]*

*7 duty*

Please see / ...  
H.T.B.'s Comm. ...  
G.O. 35 Marine Comm. ...  
11/11/97  
Lve G.O. 587  
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26-11-97

# Government (1897) of Madras. REVENUE.

Recd. } 1897. Enclosures  
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G.O., No. 861, 9th October 1897.

OCTOBER.

Harbour Trust Board, Madras.

Communicating to the Board of Revenue, with remarks, letter from the Government of India forwarding the opinion of the Advocate-General, Bengal, on the subject of investing the — with certain powers similar to those exercised by the Port Trust Board at Bombay.

19  
16-10-97

## GOVERNMENT OF MADRAS.

## REVENUE DEPARTMENT.

READ—the following letter from J. E. O'CONOR, Esq., Assistant Secretary to the Government of India, Finance and Commerce Department, to the Secretary to the Government of Madras, Revenue Department, dated Simla, the 21st September 1897, No. 4215-S.R.:—

Statement of the case prepared by the Solicitor to the Government of India for the opinion of the Advocate-General, Bengal, dated 1st September 1897.  
Opinion of the Advocate-General, Bengal, dated the 9th September 1897.

I am directed to acknowledge the receipt of your letter, No. 494 (Revenue), dated the 28th June 1897, and to enclose copy of the papers noted in the margin containing the opinion asked for in that letter.

## ENCLOSURE.

*Case submitted to the Honourable the Advocate-General.*

The Solicitor to the Government of India forwards herewith a letter from the Government of India, Finance and Commerce, No. 3497-S.R., dated 9th August 1897, with its several annexures, and begs the special attention of the Honourable the Advocate-General to the annexed letter, No. 494, of the 28th June 1897, from the Acting Secretary of the Government of Madras, Revenue Department, to the Secretary to the Government of India, Finance and Commerce Department. This letter deals very fully with the questions upon which the opinion of the Honourable the Advocate-General is now sought.

It appears that the Madras Harbour Trust are desirous of adopting a system similar to that in force in Bombay under which the Harbour Trust Board would receive into their sheds all cargo as landed, deliver the same upon pass orders from the Collector, warehouse goods on warrant, and, at the expiration of four months, deliver to the Collector to be dealt with under section 88 of the Sea Customs Act, any goods not then warehoused or cleared through the Sea Customs office, the landing of goods forming no part of the scheme. They also desire to make it compulsory for all goods to pass through their sheds. Goods are at present landed by the shipping firms. It appears that the shipping firms are unwilling to have the landing of goods performed by any agency not under their own control or to land goods under clause 85 of the Sea Customs Act. It was, therefore, proposed that goods should continue to be landed under section 83 of the Act and should then be received into sheds of the Harbour Trust which should be declared part of the Customs House under section 11 (f). The Advocate-General of Madras advised that the Collector cannot delegate the powers of control over dutiable goods, that the owner of premises declared part of the Customs House under section 11 (f) would not be a bailee, and the goods in the Customs House would be in the sole control of the Collector, since the Sea Customs Act does not allow of joint control over goods in the Customs House, and the Harbour Trust Act does not allow the Board to become bailees of goods. The Government then suggested that the difficulty could be overcome by declaring the Harbour Trust sheds to be part of the Customs House and allowing the Harbour Trust to undertake the duty of custody as servants of the Sea Customs authorities.

This last course is objected to by the Harbour Trust, and they suggest that the whole of their premises should be declared wharves for the landing of cargo under section 11 (c) of the Sea Customs Act. The Chamber of Commerce of Madras agrees with this proposal.

They suggest that if this were done all cargo would thus remain within customs limits in the actual custody of the Trust, but in the constructive custody of the Collector so long as his lien for duty lasted. The advantages which the Harbour Trust contemplate would arise if this course were adopted are recited at the top of page 4 of the letter of 28th June 1897 already referred to.

The Chamber of Commerce of Madras desired the Government of Madras to obtain the opinion of the legal advisers of the Government of India as to the legality of that course.

The Government Solicitor is now accordingly instructed by the Government of India to request the favour of the Honourable the Advocate-General's opinion of the following points:—

(1) Whether the Harbour Trust Board can take charge of all dutiable goods landed under section 83 of the Sea Customs Act, and store them in its sheds for delivery upon pass

orders from the Collector, warehouse goods on warrant, and at the expiration of four months deliver to the Collector to be dealt with under section 88 of the Sea Customs Act, any goods not then warehoused or cleared through the Sea Customs office.

(2) Whether there is any legal necessity for the present Madras practice of taking all goods into the Customs House and keeping them there until duty is paid.

(Signed) W. K. EDDIS,  
Solicitor to the Govt. of India.

1st September 1897.

*Opinion of the Honourable the Advocate-General.*

If the Harbour Trust Board premises are declared to be a part of the Customs House under section 11 of the Sea Customs Act, 1878, the Harbour Trust Board can take charge of all dutiable goods under section 83 of that Act and store them in its sheds for delivery upon pass orders from the Collector, warehouse goods on warrant, and at the expiration of four months deliver to the Collector of Sea Customs to be dealt with under section 88 of the Sea Customs Act, any goods not then warehoused or cleared through the Customs House. The Collector of Sea Customs should, as is done in Calcutta, have his officers at the Harbour Trust Board premises and gates and thus preserve his lien on the goods till the duty is paid.

2. If, as I have suggested, the sheds or premises of the Harbour Trust Board are declared to be a Customs House, the goods will be taken to a Customs House and they will be kept there until duty is paid. Otherwise then as pointed out by me the desired object cannot be carried out.

ORDER—No. 861, Revenue, dated 9th October 1897.

Separate Revenue No. 89.

Communicated to the Board of Revenue with the request that draft of a notification under section 11 (f) of the

Sea Customs Act declaring the premises of the Harbour Trust Board to be a part of the Sea Custom House, Madras, may be prepared and submitted for publication in the *Fort St. George Gazette*.

2. It should be reported from what date the new arrangement may conveniently be brought into force. Before effect is given to it, it will be necessary to draw up a set of rules defining the relations between the Sea Customs authorities and the Harbour Trust Board and providing *inter alia* for such control by the Collector as is necessary to enable him to see that his lien for duty is duly safeguarded and that goods cannot be removed without payment of duty.

The Board is requested to draw up a set of rules accordingly in communication with the Collector of Sea Customs and the Harbour Trust Board and submit it for the approval of Government at a very early date.

3. Until the erection of suitable buildings by the Harbour Trust Board, the sheds attached to the Custom House where goods are stored at present may be rented out to that body. The Board of Revenue will report what it considers a fair rent to demand.

(True Extract.)

(Signed) G. STOKES,  
Secretary to Government.

To the Board of Revenue (Separate Revenue).  
" the Marine Department.  
" the Chamber of Commerce.

Erd. Shaik Karim.

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