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Revenue (1899) Department.

MISCELLANEOUS SERIES.

G.O., No. 418

DATED 27th January. 99

[Despatch Abstract.]

Communicating to the Board of ~~Revenue~~ the opinion of the Advocate-General on the question of the period of limitation for the recovery of duty due to Govt on Probates and Letters of Administration.

BACK PAPERS.

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

FURTHER PAPERS.

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

0/18 4,000—18-10-98.

Revenue (1897) Department.

D/ 27/1/99.

CURRENT No. 563

Read again Endt. Mis. No. 4912 dy 13.12.98 (P)
" also Endt. of the Govt Solicitor No 50 dy 21.1.99 (C.no 563) (A)

From The Govt: Solicitor Madras.

Order mis No 418 dy 27th Jan 1899.

Communicated to the Board of Revenue.

No: 50

Dated 21 — January 99.
Received 23 — do —
Registered 24 — do —
Enclosures 5.
Spare copies.

To

The Board of Revenue (S.R.) 27.1.99.

P.P.K
25.1.99.

K.Q.
25-1-99

SUBJECT.

Forwarding the opinion of the Honble the Advocate Genl on the question of the period of limitation for the recovery of duty due to Govt. on probate & letters of administration.

BACK PAPERS.

G.O.	No.	Department.	Date.
Mis	4912	Rev.	13.12.98

FURTHER PAPERS.

G.O.	No.	Department.	Date.

O P I N I O N

In the case of ordinary creditors, the period of limitation for proceedings under Section 320 or 321 of the Indian Succession Act, - I865, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets is three years from - the date of the payment or distribution. See the Indian Limitation - Act, I877, Schedule II, Article 43. By Article I49 in any suit by or on behalf of Government the period of limitation is sixty years from the time when the period would begin to run against a like suit by a private person. When Government, for the purpose of recovering a - deficiency in probate duty seeks to follow the assets of an estate in the hands of a person who has received them, I think the period of - limitation is governed by Article I49, and that Article 43 does not apply. See Secretary of State for India .v. Mathurabhai. I.L.R. I4 - Bombay - 2I5.

2. The period of limitation for the recovery of deficient Court - fees on letters of administration is also, in my opinion, governed by Section I49 of the Limitation Act. The period of limitation for the recovery of the penalty prescribed by Section I9G of the Court Fees Act, I870, as amended, is also governed by Section I49 of the - Limitation Act. The ordinary period of limitation for a suit upon a Statute, Act, Regulation or bye-law for a penalty or forfeiture is - one year from the time when the penalty or forfeiture is incurred. - See Limitation Act, Schedule II, Article 6. But a suit for a penalty or forfeiture by or on behalf of the Government is governed by - Section I49. See Mitra's Law of Limitation, edition 3 page 652.

C. Arnold White

Advocate General.

M a d r a s)
)
20th January I899)

(True Copy)

Ernest Barclay

Government Solicitor.

(1899) Department

From

Ernest H Barclay
Government Solicitor
Madras

To

The Secretary to Government
Revenue Department
Madras

No. 50

Dated 21st January 1899.
Recd

Encls:

Forwarded with Enclosures with reference to the Endorsement of Government Mis: No. 4912 dated 13 December 1898 Revenue.

Ernest Barclay
Government Solicitor

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189 ,

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