

GAHC010061612020



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/1974/2020**

LADI STEEL INDUSTRIES PVT. LTD.  
A COMPANY REGD. UNDER THE COMPANIES ACT, 1956 HAVING ITS REGD.  
OFFICE AT 12, M.S.ROAD FANCY BAZAR, GHY-01

VERSUS

UNION OF INDIA AND 4 ORS.  
THROUGH SECY. TO GOVT. OF INDIA, MINISTRY OF RAILWAYS, NEW  
DELHI-01

2:RAILWAY BOARD  
THROUGH ITS CHAIRMAN  
INDIAN RAILWAYS  
MINISTRY OF RAILWAYS  
NEW DELHI-11001

3:CONTAINER CORPORATION OF INDIA LTD.  
10TH FLOOR  
METRO RAIL BHAWAN  
33/1  
JAWAHARLAL NEHRU ROAD  
KOLKATTA- 700071  
REP. BY ITS CHAIRMAN AND MANAGING DIRECTOR

4:THE CHIEF COMMERCIAL MANAGER  
10TH FLOOR  
METRO RAIL BHAWAN  
33/1  
JAWAHARLAL NEHRU ROAD  
KOLKATTA- 700071

5:THE TERMINAL MANAGER

10TH FLOOR  
METRO RAIL BHAWAN  
33/1  
JAWAHARLAL NEHRU ROAD  
KOLKATTA- 70007

Linked Case : WP(C)/611/2015

LADI STEEL INDUSTRIES PVT. LTD.  
A COMPANY REGD. UNDER THE COMPANIES ACT  
1956 HAVING ITS REGD. OFFICE AT 12  
M.S. ROAD  
FANCY BAZAR  
GHY-1  
REP. BY ITS DIRECTOR SHRI KANHAYALAL SURANA  
S/O LT. SURAJ MAL SURANA

VERSUS

THE UNION OF INDIA and 5 ORS  
REP. BY ITS SECY.  
MINISTRY OF RAILWAY  
NEW DELHI

2:CONTAINER CORPORATION OF INDIA LTD.  
10TH FLOOR  
METRO RAIL BHAWAN  
33/1  
JAWAHARLAL NEHRU ROAD  
KOLKATA-71  
REP. BY ITS CHAIRMAN

3:THE CHIEF COMMERCIAL MANAGER  
CONTAINER CORPORATION OF INDIA LTD.  
10TH FLOOR  
METRO RAIL BHAWAN  
33/1  
JAWAHARLAL NEHRU ROAD  
KOLKATA-71

4:THE TERMINAL MANAGER  
CONTAINER CORPORATION OF INDIA LTD.  
INLAND CONTAINER DEPOT  
AMINGAON  
GHY-31

5:RELIABLE SPONGE PVT. LTD.

DUA HOUSE  
PANPOSH ROAD  
ROURKELA-04  
ODISHA  
6:MAHABIR FERRO ALLOYS PVT. LTD.L-10

CIVIL TOWNSHIP  
ROURKELA-769004  
ODISHA

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For the Petitioner(s) : Mrs. M. Hazarika, Sr. Advocate

For the Respondent(s) : Mr. M. P. Sarma, Advocate  
: Mr. R. K. D. Choudhury, Dy. S.G.I.

Date of Hearing : 14.11.2023

Date of Judgment : 14.11.2023

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**JUDGMENT AND ORDER (ORAL)**

1. The legality and validity of the imposition of the penalty upon the Petitioner on account of mis-declaration of the commodity found in ROU-AMJ rake which arrived on 14.11.2014 is the subject matter of challenge in WP(C) No.611/2015 and the circular being Rate Circular No.5 bearing No.2007/TC-I/302/1Pt.H dated 14.02.2011 along with its Corrigenda dated 08.06.2012 and 05.05.2014 on the basis of which the Container Corporation of India Ltd. have imposed the penalty upon the Petitioner have also been put to challenge in WP(C) No.1974/2020.

2. Taking into account that in both the writ petitions, the issues which

involved are interconnected and the litigation is common amongst the common parties, this Court takes up both the writ petitions together for final disposal by this common judgment and order.

3. The facts involved in the instant cases as could be discerned from the pleadings are that the Petitioner is a small scale industry and manufactures TMT (HSD) Bars. For the purpose of manufacturing the said commodity, the raw material required is M.S. Ingots. The Petitioner procures the said raw material by placing orders from various entities including one Shri Mahavir Ferro Alloys Private Limited, a manufacturer based in Rourkela, Odisha. It further reveals that in the month of 2014, the Petitioner had purchased raw material in the form of Iron Ingots of an amount of Rs.88,56,917/- from Shri Mahavir Ferro Alloys Private Limited. The said Shri Mahavir Ferro Alloys Private Limited who is the Respondent No.6 in WP(C) No.611/2015 engaged the services of one M/s Reliable Sponge Private Limited for delivery of raw materials from Rourkela to Guwahati. The raw materials were booked by the consignor i.e. M/s Reliable Sponge Private Limited at the depot of Respondent No.3 i.e. Container Corporation of India Ltd. located at Rourkela, Odisha for carriage by containers of Respondent No.3 to its Amingaon Depot at Guwahati. Invoices dated 03.11.2014, 04.11.2014, 05.11.2014 and 07.11.2014 were issued by the Respondent No.6 for purchase of M.S. Ingots wherein the Petitioner was shown as the consignee. It is the further case of the Petitioner that the freight charges were duly paid by the Petitioner to the Respondent No.3 amounting to Rs.5,73,440/- and money receipt and invoices were duly issued by the Respondent No.3.

4. On 14.11.2014 when the said goods arrived at Amingaon, Guwahati, the

Petitioner submitted all the requisite documents but the representatives of the Respondent No.3 refused to release the goods for delivery to the Petitioner. The Petitioner thereupon wrote a letter dated 21.11.2014 to the Respondent No.5 who was the Terminal Manager of the Respondent No.3 stating that the non-delivery of the raw materials have caused huge losses to the Petitioner and also requested for immediate release of the goods. However, there was no response for which the Petitioner issued another communication dated 24.11.2014. On 26.11.2014, the Petitioner received a letter from the Respondent No.5 whereby the Petitioner was informed that the containers carried by the Respondent No.3 were withheld till realization of some penalty. Along with the said communication, another letter dated 22.11.2014 from the competent authority of the Respondent No.3 was issued directing the Respondent No.5 to collect the penalty from the consignors Maa Bhawani Transport and Reliable Sponge Pvt. Ltd. for alleged mis-declaration of cargo found in ROU-AMJ rake and it was also directed to withhold the cargo till penalty was realized.

5. The Petitioner upon receipt of the said communication, issued a notice dated 26.11.2014 to the Respondent Nos. 4 and 5 stating inter alia that the Petitioner was suffering loss due to withholding of the goods and requested that the goods be handed over by way of open delivery. The Petitioner vide the said notice also demanded the value of the consignment along with interest @18% per annum and production loss of Rs.40,000/- per day from 15.11.2014, in case of failure to give delivery of the goods, which would have to be paid by the said Respondents. However, the said notice dated 26.11.2014 was not responded by the Respondent Nos. 4 and 5 for which the Petitioner issued another communication dated 28.11.2014. Subsequent thereto, the

Petitioner filed an application under Right to Information Act, 2005 on 16.12.2014 before the Respondent No.4 seeking information from the Respondent No.3 as to whether there was any discrepancy of documents relating to the 10 containers of the Petitioner booked by the consignor Reliable Sponge Private Limited and requested for details thereof. On 16.01.2015, the Petitioner received a reply from the Respondent No.3 which was vague and did not clearly provide any information. It is under such circumstances that the Petitioner filed the writ petition before this Court being WP(C) No.611/2015 challenging the letters dated 22.11.2014 and 26.11.2014 issued by the competent authority of the Respondent Nos. 3 and 5. The said letters were challenged on the grounds that for mis-declaration by the consignor, the consignee cannot be made responsible as the consignee is not liable for such mis-declaration by the consignor and its goods cannot be withheld.

6. Upon filing of the said writ petition, this Court vide an order dated 06.02.2015 issued notice. During the course of the said proceedings on 04.04.2016, the Standing counsel appearing on behalf of the Railways submitted that in respect of similar seizure, upon furnishing Bank Guarantee, the Orissa High Court has permitted release of the seized items and under such circumstances, this Court in the interim provided that the Petitioner if so advised, may also furnish Bank Guarantee and secure release of the Iron Ingots seized by the Respondent No.3.

7. Before further proceeding, this Court finds it relevant to take note of that the consignor i.e. Reliable Sponge Private Limited was issued a communication dated 23.11.2014 by the Assistant Manger (C&O), CTDI of the Respondent No.3 herein thereby imposing the penalty on account of mis-declaration. The

said communication dated 23.11.2014 issued to Reliable Sponge Private Limited was put to challenge by the said company along with another in the writ petition before the Orissa High Court which was registered and numbered as WP(C) No.1495/2015. It is however relevant to mention that the Petitioner herein was not a party to the said writ petition.

8. The record further reveals that on 02.02.2015, notice was issued in the said writ petition i.e. in WP(C) No.1495/2015 by the High Court of Orissa. It further reveals that in Misc. Case No.1620/2015 arising out of WP(C) No.1495/2015, the High Court of Orissa as an interim directed that subject to the Petitioners i.e. M.S. Reliable Sponge Private Limited along with another depositing the differential freight charges as indicated in the impugned communication dated 23.11.2014 and furnishing a Bank Guarantee as against the penalty within a period of 2 (two) weeks, the Cargo of the Petitioner therein detained due to alleged mis-declaration be released in favour of the consignee. It further reveals that another Misc. Case being Misc. Case No.2934/2015 arising out of WP(C) No.1495/2015, the High Court of Orissa vide an order dated 03.03.2015 modified the earlier order dated 02.02.2015 to the extent directing the opposite parties therein i.e. the Respondent Nos. 3, 4 and 5 herein to accept the individual Bank Guarantees as against the penalty in respect of differential freight charges filed by the individual consignees. It is this order which was referred to before this Court on 04.04.2016 and on the basis thereof, this Court granted the liberty to the Petitioner if so advised to furnish Bank Guarantee and secure release of the Iron Ignots seized by the Respondent No.3.

9. It further reveals from the records that on 18.02.2020, the learned

counsel appearing on behalf of the Container Corporation of India i.e. Respondent No.3 produced a circular dated 05.05.2014 and submitted that by virtue of the same, the Rate Circular No.5/2011 annexed to the counter affidavit continues to be applicable. It was submitted before this Court that if there being a mis-declaration, the Petitioner being the consignee would be liable to pay the penalty as per the norms followed in that regard. It is under such circumstances, the second writ petition was filed being WP(C) No.1974/2020 challenging the said Rate Circular No.5/2011 bearing No.2007/TC-I/302/1Pt.H dated 14.02.2011 along with its corrigenda dated 08.06.2012 and 05.05.2014 along with a direction to the Respondent No.3 to release the Petitioner's goods withheld by it at its Inland Container Depot at Amingaon without taking any Bank Guarantee as penalty.

10. Before further proceeding, this Court finds it also relevant to take note of that in the order dated 02.12.2016 passed in WP(C) No.611/2015, the learned counsel for the Petitioner duly submitted that on account of immense financial distress, the Petitioner was not able to furnish the Bank Guarantee for release of the Iron Ingots as directed by this Court vide order dated 04.04.2016. Taking into account that the challenge has been made to the Rate Circular No.5/2011 dated 14.02.2011, this Court finds it relevant to take note of the said Rate Circular No.5/2011 which for the sake of convenience is hereinafter referred to as the "Impugned Circular".

11. From a perusal of the said Impugned Circular, it reveals that it was decided that Haulage Charge for movement of nine notified commodity groups namely Cement other than white cement; Foodgrains other than Flours & Pulses; Chemical Manures; Iron & Steel; Bricks & Stones other than Marble &

Ceramic tiles; Sugar; Oil Cakes & Seeds; Alumina and Petroleum Products & Gases in container would be levied as per the guidelines which were prescribed in the said Impugned Circular. In the said guidelines which were enumerated in Clause-2 of the said Impugned Circular, it was mentioned in Clause-2.6 that in case mis-declaration is detected in any container, Haulage Charge on the entire rake shall be levied at four times of the highest Container Class Rate. It was further mentioned that the said levy at four times of the highest Container Class Rate would be in addition to the Haulage Charge otherwise leviable on the rake. Further to that, it stipulates that if five cases of mis-declaration are detected for a particular CTO, suitable action may be initiated under Article 17 of the Concession Agreement. The said Clause 2.6 being relevant is quoted hereinbelow:

*“2.6 In case mis-declaration is detected in any container, Haulage Charge on the entire rake shall be levied at four times of the highest Container Class Rate. This will be in addition to the Haulage Charge otherwise leviable on the rake. If five cases of mis-declaration are detected for a particular CTO, suitable action may be initiated under Article 17 of the Concession Agreement.”*

12. It also transpires from the said Impugned Circular that those instructions/guidelines would be effective from 01.03.2011 and would remain valid up to 31.08.2011. Subsequent thereto, a Corrigendum was issued on 08.06.2012 whereby the existing list for imposition of Haulage Charge was revised. Be that as it may, Iron and steel continued to remain in the revised list. Therefore, it is on the basis of this impugned circular and more particularly Clause-2.6 as quoted hereinabove, the Respondent No.3 had imposed the penalty at the rate of 4 times of the Highest Container Class Rate in respect to the entire rake found in ROU-AMJ which arrived on 14.11.2014. At this stage, it

is further pertinent to mention that it was an admitted fact that in respect to the consignment relating to the Petitioner where the Petitioner was the consignee, there was no mis-declaration but it was on account of Clause-2.6 of the Impugned Circular that the penalty was imposed upon the entire rake including the consignment of the Petitioner for which the said Impugned Circular was challenged.

13. The record further reveals that various pleadings have been exchanged from time to time. On 07.09.2023, when the matter was listed, this Court had directed the learned counsel appearing on behalf of the Container Corporation of India Ltd. i.e. the Respondent No.3 to apprise this Court as to what is the exact dues the Petitioner has to pay for releasing of the consignment as well as the present status of the case before the Orissa High Court filed by the consignor i.e. Reliable Sponge Private Limited and accordingly, fixed the matter on 12.09.2023.

14. The matter was duly heard again on 12.09.2023 when the learned counsel appearing on behalf of the Petitioner had drawn the attention of this Court to Rule 126 of the General Rules for Acceptance, Carriage and Delivery of Goods pertaining to Goods Tariff No.41, Part-I (Vol.1) (for short "the General Rules") as well as a communication dated 08.11.2006 issued by the Railway Board to the Chief Commercial Manager on the basis of Rule 126 of the General Rules. A perusal of Rule 126(1)(b) of the General Rules as well as the amendment as mentioned in the communication dated 08.11.2006, it transpired that if in a consignment of packages chargeable at different rates, a group of packages chargeable at a particular rate is improperly described and thereby a lower rate is obtained, the charge at four times the applicable freight

rate referred to in Clause-(a) of Rule 126(1) shall apply only to the group of packages of the consignment improperly described and not to the entire consignment.

15. Be that as it may, as there were no specific pleadings pertaining to the said Rule 126 of the General Rules as well as the communication dated 08.11.2006, this Court permitted the Petitioner to bring on record the said communication dated 08.11.2006 along with the relevant portion of the General Rules by filing an additional pleadings so that the Respondents could have their say on the said aspect. Accordingly, this Court fixed the matter on 05.10.2023 and directions were issued that the pleadings along with the documents be brought on record by 20.09.2023 and the Respondents including the Railways were directed to file their replies by 03.10.2023.

16. It reveals that the Petitioners duly filed the additional affidavit on 19.09.2023 as per the directions made in the order dated 12.09.2023. The Respondents i.e. the Railways did not file any reply but sought for a short accommodation for obtaining necessary instructions to file their reply. Taking into account the above, this Court fixed the matter again on 17.10.2023 thereby granting an additional opportunity to the Respondents including the Railways to file a counter to the additional pleadings filed by the Petitioner. Be that as it may, the Railways did not choose to file any reply to the additional affidavit thereafter. On the other hand, a counter affidavit was filed by the Respondent Nos. 3, 4 and 5 on 17.10.2023. It was stated in the said affidavit that the Impugned Circular was issued in conformity with the provisions of Railway Act, 1989. It was also mentioned that the Petitioner had an alternative remedy to apply before the Railway Claims Tribunal for redressal of its

grievances for which the instant writ petitions ought not to be entertained by this Court.

17. This Court have duly heard the learned counsels appearing on behalf of the parties. Before going on the questions of merits, this Court finds it relevant to take note of the submission of Mr. M. P. Sarma, the learned counsel appearing on behalf of the Container Corporation of India Ltd. wherein he raised the maintainability of the writ petition on the ground of alternative remedy inasmuch as it is the submission of the said learned counsel that the Petitioner ought to have applied before the Railway Claims Tribunal and ought not to have filed the instant writ petition. The said submission in the opinion of this Court is misconceived and cannot be countenanced for two reasons. First, the issue involved herein is as to whether the impugned circular and more particularly its Clause-2.6 is contrary to General Rules which is a pure question of law. In this regard, this Court finds it relevant to refer to the judgment of the Supreme Court in the case of ***Godrej Charali Vs. Excise and Taxation Officer reported in 2023 SCC Online SC 95*** wherein the Supreme Court observed that when the controversy is purely a legal one and it does not involved disputed questions of fact but only questions of law, then it should be decided by the High Court instead of dismissing the writ petition on the ground of alternative remedy being available. The second ground on which the said submission is rejected is taking into account the fact that the writ petition being WP(C) No.611/2015 had been pending before this Court for the last 8 years and as such it would not be proper at this stage to relegate the Petitioner to approach that Railway Claims Tribunal. Further to that, the challenge to the Impugned Circular cannot be adjudicated upon by the Railway Claims Tribunal.

18. In the backdrop of the above, the question which arises as to whether the impugned circular can override the General Rules for Acceptance, Carriage and Delivery of Goods and more particularly Rule 126 which specifically relates to penalty for false declaration. It is the opinion of this Court that if the said impugned circular cannot override Rule 126 of the General Rules, the imposition of penalty by the Respondent-Container Corporation of India Ltd. vide the impugned communications cannot survive. It is therefore necessary to take note of the said Rule 126 of the General Rules.

19. Section 30 of the Railways Act, 1989 (for short "the Act of 1989") confers upon the Central Government to fix rates. Section 30 stipulates that the Central Government may, from time to time, by general or special order fix, for the carriage of passengers and goods, rates for the whole or any part of the railway and different rates may be fixed for different classes of goods and specify in such order the conditions subject to which such rate shall apply. Sub-Section (2) of Section 30 of the Act of 1989 further empowers the Central Government to fix the rates of any other charges incidental to or connected with such carriage including demurrage and wharfage for the whole or any part of the railway and specify in the order the conditions subject to which such rates shall apply. Section 198 of the Act of 1989 is the Rule making power of the Central Government for carrying out the purposes. Further Section 199 of the Act of 1989 stipulates that the Rules has to be laid before the Parliament in the manner stated therein and the modification or annulment of the Rules upon being laid has to agreed by both the Houses of the Parliament. The Goods Tariff No.41 Part-I (Vol.1) containing General Rules for Acceptance, Carriage and Delivery of Goods were made in exercise of powers under Section 198 of the Act of 1989 for which the said General Rules are stationary in

nature. Rule 126 of the said General Rules which provides for penalty for false declaration is quoted hereinunder:

**“126. Penalty for false declaration –**

*(1) (a) If, on arrival at destination, it is found that goods have been improperly described and that a lower rate than that correctly applicable has been thereby obtained, charges at double the Class 300X rate will be levied by the booked route as shown on the relative invoice.*

*(b) If, in a consignment of packages chargeable at different rates, a group of packages chargeable at a particular rate is improperly described and thereby a lower rate obtained the charge at double the Class 300X rate referred to in sub-clause (a) above, shall apply only to the group of packages in the consignment improperly described and not to the entire consignment.*

*(2) If a materially false account is delivered with respect to the description of any goods, the person who gives such false account and if he is not the owner, the owner also, is, on conviction by a court, liable to a fine which may extend to five hundred rupees for every quintal or part of a quintal of the goods, and such fine will be in addition to the rate to which the goods may be liable.*

*(3) All Goods Clerks, Station Masters and Assistant Station Masters are hereby appointed to demand from the owner or person having charge of any goods which are brought upon the Railway for the purpose of being carried thereon, on the consignee of any goods which have been carried on the Railway, an account in writing of the description of the goods under Section 66 and 163 of the Railways Act, 1989.”*

20. It further reveals that thereafter, the Government of India issued a notification No.TCR/2210/2006/1 dated 08.11.2006 being Rates Circular No.95/2006 modifying the Penalty Clause of Rule 126 (1)(a). The said modified

Rule 126(1) reads as follows:

*“(a) If, on arrival at destination, it is found that goods have been improperly described and that a lower rate than that correctly applicable has been thereby obtained, charges at four times the applicable freight rate will be levied by the booked route as shown on the related invoice. These penal charges will be in addition to the freight already paid and the freight already paid shall not be deducted.*

*(b) If, in a consignment of packages chargeable at different rates, a group of packages chargeable at a particular rate is improperly described and thereby a lower rate obtained, the charge at four times the applicable freight rate referred to in sub-clause (a) above, shall apply only to the group of packages in the consignment improperly described and not to the entire consignment. These penal charges will be in addition to the freight already paid and the freight already paid shall not be deducted.*

*(c) If the weight of a consignment loaded in container is improperly described and thereby a lower rate than that correctly applicable has been obtained, charges at four times the applicable haulage rate will be levied. These penal charges will be in addition to the freight already paid and the freight already paid shall not be deducted.*

*(d) In case of false declaration of goods restricted for movement in containers, charges at four times the highest haulage rate will be levied. These penal charges will be in addition to the freight already paid and the freight already paid shall not be deducted.”*

21. In the backdrop of the above, the question therefore arises as to whether the impugned circular which are in the nature of guidelines issued by the Railway Board can override Rule 126(1) of the General Rules as amended. Rule 126(1)(b) of the General Rules makes it clear that when a consignment of

packages chargeable at different rates, a group of packages chargeable at a particular rate is improperly described and thereby a lower rate is obtained, the charge at four times the applicable freight rate referred to in sub-clause (a) of Rule 126(1), shall apply only to the group of packages in the consignment improperly described and not to the entire consignment. If this Court takes note of Clause-2.6 of the Impugned Circular, it stipulates that if any mis-declaration is detected in container, Haulage Charge on the entire rake shall be levied at four times of the highest Containers Class Rate. Therefore, Rule 126(1)(b) of the General Rules and Clause 2.6 of the Impugned Circular are contradictory to each other insofar as consignments where a part of the consignment is improperly described and the others not. This Court finds it relevant at this stage to take note of the judgment of the Constitution Bench of the Supreme Court in the case of ***Sant Ram Sharma Vs. State of Rajasthan*** reported in ***AIR 1967 SC 1910*** wherein it was held that Government cannot amend or supersede statutory Rules by administrative instructions but if the Rules are silent on any particular point, the Government can fill up the gap and supplement the Rules and issue instructions not inconsistent with the Rules already framed. Therefore, it is the opinion of this Court that Clause 2.6 of the Impugned Circular cannot apply in respect to a consignment of packages chargeable at different rates wherein a group of packages chargeable at a particular rate is improperly described and the other group had been properly described. The said Clause-2.6 of the impugned circular shall only apply in cases where the entire consignment of the packages have been improperly described or if the weight of a consignment loaded in the container is improperly described or in case of false declaration of goods restricted for movement in containers.

22. In view of the above proposition of law well settled, this Court is therefore declares that Clause 2.6 of the Impugned Circular which is in the nature of instructions/guidelines runs contrary to Rule 126(1)(b) of the General Rules.

23. Under such circumstances, this Court taking note of the fact that the consignment in question i.e. ROU-AMJ rake which arrived on 14.11.2014 contained different containers of which a group of packages/containers were improperly described and others not, the Respondent Container Corporation of India Ltd. would only be entitled to impose four times the freight charge in respect to those consignments which were improperly described and not to the entire consignment.

24. In the backdrop of the above, if this Court reverts back to the facts involved, it being an admitted fact that there was no mis-declaration in the case of the Petitioner's consignment, the imposition of penalty upon the Petitioner was illegal and unauthorized for which the impugned communications dated 22.11.2014 and 26.11.2014 insofar as they relate to the Petitioner are set aside and quashed. This Court further directs the Respondent Authorities more particularly the Container Corporation of India Ltd. and its officials to forthwith release the goods of the Petitioner upon production of the certified copy of the instant judgment.

25. Before parting with the record, this Court however makes it clear that this Court have not set aside the impugned circular bearing Rates Circular No.5/2011 bearing No.2007/TC-I/302/1Pt.H dated 14.02.2011 and the various corrigenda issued but have only read down that Clause 2.6 of the Impugned Circular shall not be applicable in respect to the consignment of packages

chargeable at different rates wherein a group of packages chargeable at a particular rate is improperly described and the other group had been properly described. It is made clear that in respect to such consignment of packages chargeable at different rates of which a group of packages chargeable at a particular rate is improperly described, then in that circumstances, the charge at four times the applicable freight rate shall only be applicable in respect to those consignment improperly described and not to the entire consignment.

26. With above observations and directions, both the writ petitions stands disposed of.

**JUDGE**

**Comparing Assistant**