

GAHC010117202016



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

Case No. : MFA/76/2016

THE UNION OF INDIA and ANR
REPRESENTED BY THE GENERAL MANAGER, N.F. RAILWAY, MALIGAON,
GUWAHATI-11, KAMRUP M, ASSAM.

2: GENERAL MANAGER

EASTERN RAILWAY
17 NETAJI SUBHASISH ROAD
KOLKOTTA-

VERSUS

M/S NUMALIGARH REFINERY LTD
MAYUR GARDEN, 2ND FLOOR, G.S. ROAD, GUWAHATI-05, DIST. KAMRUP
M, ASSAM.

Advocate for the Petitioner : DR. B N GOGOI,

Advocate for the Respondent : MR. A GOGOI, FOR CAVEATOR, MR. K P MAHESWARI, MR. M SHARMA

:::BEFORE:::

HON'BLE MRS. JUSTICE MITALI THAKURIA

Date of hearing : 21.05.2024

Date of Judgment : 21.08.2024

JUDGMENT & ORDER (CAV)

Heard Mr. B. N. Gogoi, learned counsel for the appellants. Also heard Ms. M. Sharma, learned counsel for the respondent.

2. This application has been filed under Section 23 of the Railway Claims Tribunal Act, 1987, against the impugned Order dated 05.05.2016, passed by the learned Member (Judicial) of the Railway Claims Tribunal, Guwahati Bench, in Claim Application No. OA/III/127/2015 (Old)/Claim Application No.OA/III/Ghy/2015/0127 (New), wherein, the claims of the present respondent/applicant were allowed, and an amount of Rs. 51,00,252/- (Rupees Fifty-One Lakhs Two Hundred Fifty-Two) was awarded, along with simple interest at 6% per annum from the date of booking, i.e., 01.03.2013, until the date of this order, to be disbursed through ECS upon providing bank account details. Additionally, it was directed that a proportionate application fee of Rs. 27,967/- and a Legal Practitioner's fee of Rs. 3,000/- be paid.

3. The brief facts of the case is that total 50 train load of petroleum products, including HSD and SKO, were transported from Numaligarh Refinery Oil Siding (hereinafter 'NRSR'), Rangapani (RNI) to Budge-Budge on different dates from 11.09.2012 to 01.03.2013, according to the forwarding note executed by the consignor to the Railway Administration for carriage. The present

respondent/applicant was required to pay the freight charges, including terminal charges at the booking station, as specified in Clause III of the Tripartite Agreement. However, due to the provisions of the said agreement, the entire transaction was processed, and the place of payment was shifted to Guwahati, regardless of the loading location.

4. The destination, Budge-Budge, is a Railway-owned terminal, but all the consignments were unloaded at the Bharat Petroleum Corporation Limited (hereinafter 'BPCL') siding known as MHBS (BGB), as there was no unloading facility for petroleum products at Budge-Budge. Consequently, the applicant filed a claim application for a refund of terminal charges collected for the destination terminal point amounting to Rs. 66,25,200/-, along with proportionate costs and interest, on the grounds that the consignment was unloaded at the private siding MHBS.

5. The appellants, namely the N.F. Railway and the Eastern Railway, strongly denied the allegations made in the Claim Application before the learned Railway Claims Tribunal, Guwahati Bench (hereinafter 'Ld. RCT'). In their written statement, the appellants contended that the Ld. RCT, Guwahati does not have the territorial jurisdiction, nor any other jurisdiction, to entertain the present claim.

6. According to the written statement filed by the appellants, under the Schedule-I, *read with* Rule 3 of the Railway Claims Tribunal (Procedure) Rules, 1989, provides that the Ld. RCT, Guwahati has territorial jurisdiction to entertain claims only for causes of action arising in Assam, Sikkim, Mizoram, Arunachal Pradesh, Tripura, Manipur, and Nagaland. Additionally, under Section 10 of the said Rules, the claim petition can be only filed in a jurisdiction where the freight

is paid.

7. As stipulated in Clauses (iii) and (iv) on page-2 of the Tripartite Agreement dated 01.07.2010, it was agreed by all three parties that the consignor, i.e., the applicant/respondent, is required to pay the freight at the originating station. However, the parties also agreed that the payment would be made by the applicant through an 'internet' system to ensure that the funds could be transferred immediately to the account maintained by the railways.

8. In the instant case, the funds are transferred for the entrustment of the consignment at its originating place/station, and both the destination and originating stations fall within the State of West Bengal. Therefore, the Id. RCT does not have the territorial jurisdiction to entertain the claim. However, according to Clause (xi) on page-12 of the aforementioned agreement, the Id. RCT does have jurisdiction to entertain all disputes arising from the contract agreement. Nevertheless, the current dispute, which concerns a claim for the 'refund of terminal charges,' does not arise out of the contract in question. Therefore, this clause is not applicable to the present case.

9. The appellants, namely the N.F. Railway and the Eastern Railway, in their written statement, have also contended that the consignment in question was booked to Budge-Budge, which is a railway-owned terminal. Furthermore, the railway authorities have not made any mistakes in calculating the freight in question. The freight has been collected in accordance with existing rules and provisions. He further submitted that, according to Section 65 of the Railways Act, the railway receipt constitutes the primary contract agreement between the parties and is binding on them. Under these circumstances, since the consignment was booked to a railway-owned terminal, the collection of the

terminal charge is legal.

10. According to Railway Rules, a forwarding note must be executed by the consignor at the time of booking any consignment, as stipulated by Section 64 of the Railway Act, 1989. In the present case, the consignment was booked according to the forwarding note executed by the consignor for the carriage of goods, specifying Budge-Budge as the destination station, which is a railway-owned siding. As per Section 64(2) of the Act, the consignor is responsible for the correctness of the particulars and must indemnify the Railway administration against any damage resulting from incorrect details. All claims were repudiated on the grounds that the Railway receipt was prepared in accordance with the forwarding note and that the destination terminal charge for Budge-Budge was collected as per the rates provided vide Circular No. 31/2010 vide order dated 29.10.2010.

11. It is stated that although the payment has been made electronically for facilitation purposes, the freight is deemed to have been paid at Rangapani (RNI) NRSR siding and is recorded under the earnings of that siding. Since NRSR falls under the territory of West Bengal, the territorial jurisdiction, according to Railway Claims Tribunal (Procedure) Rules, 1989, Schedule I, Serial No. 8, falls under Calcutta and not RCT, Guwahati, as per Rule 10 of the said Act. However, the learned Railway Claims Tribunal did not consider these aspects of the case and passed the impugned Order dated 05.05.2016.

12. On being highly aggrieved and dissatisfied with the impugned Order dated 05.05.2016, passed by the learned Member (Judicial) of the Railway Claims Tribunal, Guwahati Bench, in Claim Application No. OA/III/127/2015, the present appellants have filed this appeal, praying for the setting aside and quashing of

the said order.

13. Mr. Gogoi, learned counsel for the appellants, has submitted that the Id. RCT failed to consider the correct factual and legal aspects of the matter while passing the impugned order dated 05.05.2016. The Id. RCT committed a grave error in law by incorrectly holding that the railway had admitted the applicant to be the consignee, as stated in paragraph 5 of the judgment. Consequently, the Id. RCT arrived at a perverse finding that is liable to be set aside and quashed. Additionally, the Id. RCT failed to consider that the loading and booking point is NRSR, a private siding, and that the Railway had not collected terminal charges for the loading point as per Railway Board's Circular No. TCR/1078/2007/6 dated 29.10.2010. The Id. RCT also neglected to take into account that, according to Section 64 of the Railways Act, 1989, the consignor is responsible for the correctness of the particulars furnished in the forwarding note. The Section also stipulates that the consignor must indemnify the Railway administration against any damage resulting from inaccuracies or incompleteness in the forwarding note. Furthermore, the Tripartite Agreement dated 01.07.2010, executed among the railway, the applicant, and State Bank officials to address certain exigencies, stipulated that the entire transaction would proceed under the terms of the agreement, including shifting the place of payment to Guwahati irrespective of the loading location. Thus, the other conditions outlined in the agreement are also binding upon the parties.

14. According to Section 13(a) of the Railway Claims Tribunal Act, 1987, the Hon'ble Tribunal is required to determine and fix the responsibility of the railway as the 'carrier only,' and not otherwise. As per the terms of the agreement, the railway's responsibility as a carrier ends once the consignment reaches the BGB station, i.e., the booked station. It is important to note that the applicant has

never lodged any complaint regarding non-delivery, short delivery, damage, or deterioration. Therefore, the railway is not responsible for refunding the terminal charge collected for the destination station, even though the consignment was unloaded elsewhere. This is in accordance with the terms of the agreement, which was revalidated for another three years by the subsidiary agreement dated 26.05.2014.

15. Mr. Gogoi, learned counsel for the appellants, has submitted that the Chief Commercial Manager of NF Railway has already stated in his report addressed to Numaligarh Refinery Oil that, after examining the record, it was found that the forwarding note for the booking of the consignment from NRL, Siliguri to Budge-Budge was issued, and accordingly, the RRs were issued from NRSR to Budge-Budge. It is also stated that in the claim application, the destination station was shown as MHBS (BGB), which does not match the forwarding note submitted by the applicant. Therefore, the claim for a refund of the terminal charge cannot be considered, as the DTC was correctly realized according to the forwarding note.

16. He further submitted that, as per the notification issued by the Government of India, Ministry of Railways, terminal charges will be levied only on Indian Railways-owned terminals and sidings. These charges will not be applicable to terminals owned by the customers. The charges will be collected at the time of issuing the RRs. These charges will be applicable independently and separately for loading and unloading terminals based on the chargeable freight at the time of issuing the RRs.

17. He further submitted that as per Tripartite Agreement, there is also an arbitration clause, wherein, it has been stated that “in the event of no amicable

resolution and settlement, the same shall be referred to sole arbitration of railway gazetted officer appointed to be the arbitrator by the General Manager, N. F. Railway. The Railway gazetted officer to be appointed as arbitrator, who will not be one of those who had an opportunity to deal with the matters to which the contract relates or who in course of duties as Railway servant has expressed views on all or any of the matters under the dispute of different subject under the provision of arbitration and conciliation act.

18. In addition to his submission, he relies on the decision passed by the Apex Court in the case of **[N. N. Global Mercantile Private Limited vs. Indo Unique Flame Limited & Others]** reported in **(2021) 4 SCC 379** wherein, the Apex Court had expressed the view that when arbitration clause are available in an agreement, the Court can *suo moto* passed the order for arbitration”.

19. He relies on another decision passed by the Co-Ordinate Bench of this court in **MFA Case No.100/2011** dated **25.06.2015** and stressed on paragraph 12 of the said judgment, which read as follows:

Paragraph No.12; After careful perusal of the aforesaid letter dated 05.06.2007 it does not transpires that before imposing the Terminal Charges it is mandatory to have the such facilities as desired as per the letter dated 05.06.2007 The facilities mentioned in the letter is desirable and not mandatory to hold that for imposing Terminal Charges, such facility is required to be complied with. Be it mentioned that Prior to issuance of the said letter vide Rates Circular No. 58 of 2007 dated 29.05.2007 the Central Government had accorded sanction for levying of Development Surcharge and Terminal Charges.

20. Mr. Gogoi, learned counsel for the appellants, has submitted that the Id. RCT did not observe the requirement of the Tripartite Agreement or consider the fact that there was an arbitration clause within the agreement itself. He submits

that the Id. RCT passed the impugned Order dated 05.05.2016 in Claim Application No. OA/III/127/2015 without considering all aspects of the case, which led to an erroneous finding and the allowance of the claim application filed by the present respondent/applicant. Therefore, Mr. Gogoi contends that this Court's intervention is necessary and prays for the setting aside and quashing of the impugned order dated 05.05.2016.

21. On the other hand, Ms. Sharma, learned counsel for the respondent, has submitted that the learned Member (Judicial) of the Railway Claims Tribunal, Guwahati Bench, correctly passed the impugned Order dated 05.05.2016 in Claim Application No. OA/III/127/2015 by allowing the claim of the present respondent/applicant and directed the present appellants to pay the amount Rs. 51,00,252/- (Rupees Fifty-One Lacs Two Hundred Fifty-Two) along with simple interest at 6% per annum from the date of booking, i.e., 01.03.2013. Thus, she contends that the interference of this court is not at all necessary in this case as the Trial Court while passing the Order dated 05.05.2016 had considered the evidence on record presented by both parties.

22. She filed her written arguments, wherein it has been stated that the present respondent/applicant filed the claim petition for the illegal collection of a destination Terminal Charge (DTC) amounting to Rs. 51,00,252/- (Rupees Fifty-One Lakhs Two Hundred Fifty-Two Only) by the appellants i.e. the Railway at the booking station Numaligarh Refinery Oil Siding. This siding is a private siding of the respondent/NRL, with the siding code "NRSR (RNL)". It is further stated that a total of 50 train loads of petroleum products, specifically HSD 04 and SKO 01, were booked and loaded by the respondent (Consignor) from the NRSR (RNL) Numaligarh Refinery Oil Siding. The consignment was then delivered to Bharat

Petroleum Corporation Ltd., whose siding code is "MHBS," also a private siding owned by Bharat Petroleum Corporation Ltd., served by the station Budge Budge.

23. She further submitted that the Tripartite Agreement dated 01.07.2010 was executed among N.F. Railway Maligaon, respondent/NRL, and the Assistant General Manager of State Bank of India, Commercial Branch. According to Paragraphs i, ii, iii, iv, v, and vi of the said agreement, the N.F. Railway offered transportation services for carrying goods from one station to another, and respondent/NRL agreed to utilize these services for transporting its oil. Consequently, respondent/NRL paid freight to the Railway at the originating station, with payments made electronically through SBI at Dispur for immediate transfer. The agreement was valid for three years and could be extended by mutual consent.

24. The learned counsel for the respondent further submitted that, according to the appellants' contentions, the appellants/Railway charged freights along with a Destination Terminal Charge (DTC) of Rs. 51,00,252/- (Rupees Fifty-One Lakhs Two Hundred Fifty-Two Only) because the consignments were to be delivered at Budge Budge, a railway owned terminal. However, under the Tripartite Agreement, the consignment should have been delivered to the private siding of Bharat Petroleum Corporation Ltd., Siding Code "MHBS," where the consignee, Bharat Petroleum Corporation Ltd., would take delivery.

25. In support of its contention, the respondent/NRL filed two important letters issued by Eastern Railway (appellant No. 2), dated 21.09.2015 and 02.09.2014, before the learned RCT. These letters state that all 50 trainloads of petroleum products were unloaded and delivered at the Bharat Petroleum Siding, Budge Budge. The respondent/NRL served notices under Section 106 of the Railways

Act, 1989, seeking a refund of Destination Terminal Charges. However, the appellants repudiated the claim vide its letter dated 29.07.2013. Following this, respondent/NRL sent a letter dated 05.11.2013 to the Chief Commercial Manager, N.F. Railway, Maligaon, regarding anomalies in the railway booking staff's handling of the consignment. The issue was also raised with the Chief Goods Supervisor, Eastern Railway, Budge Budge, vide a letter dated 18.06.2014, concerning the incorrect station code "Budge Budge (BGB)" instead of "MHBS," the private siding of BPCL. Due to the lack of proper response from the railway authorities, the present respondent/applicant filed the claim application under Section 16 of the Railways Act before the learned RCT, Guwahati.

26. Ms. Sharma, learned counsel for the respondent, further submitted that the claim application was previously contested by the present appellants as a respondent. In their written statement, the appellants raised the following points:

- i. **Objection to Territorial Jurisdiction:** The appellants contended that the claim petition should be filed in the jurisdiction where the freight was paid, asserting that the learned RCT does not have jurisdiction over this matter.
- ii. **Clause xi of the Tripartite Agreement:** According to Clause xi of the Tripartite Agreement dated 01.07.2010, disputes are to be entertained by the Hon'ble High Court. However, this clause pertains to disputes arising out of the contract agreement, and the current dispute regarding the 'refund of terminal charges' does not fall under this contract. Therefore, the appellant argued that this clause is not applicable to the present case.
- iii. **Consignment Booking Location:** The appellant claimed that the

consignment was booked to 'Budge Budge,' which is a railway-owned terminal.

iv. **Refund Competency:** As per the IRCA Conference Rules, only the freight-collecting railway is authorized to handle and refund any freight overcharges. Since Eastern Railway collected the freight in question, they are solely responsible for any refund related to the 'terminal charge,' not the answering respondent railway."

27. She further submitted that in the present case, the freight payment was made in the name of FA & CAO, N.F. Railway, Maligaon, through SBI, Ganeshguri Commercial Branch, Guwahati, which falls within the jurisdiction of the learned RCT, Guwahati Bench. Additionally, 50 Railway Receipts (RRs) were issued with respondent/NRL as the consignor and Bharat Petroleum Corporation Ltd. (BPCL) as the consignee. The consignment was therefore intended for delivery to the private siding owned by BPCL, with siding code MHBS, not Budge Budge (BGB). However, due to an incorrect station code on the Railway Receipts by the local Goods Office at the Booking Station, the consignment was delivered to Budge Budge instead of MHBS, the private siding of BPCL.

28. Moreover, the appellants admitted that the freight-collecting railway is Eastern Railway (Appellant No. 2), which is responsible for handling and processing refunds for freight overcharges related to 'Terminal Charges.' Appellant No. 2 acknowledged in the letters dated 21.09.2015 and 02.09.2014 that all petroleum products for NRL were unloaded at the BPCL Siding. Therefore, she submits that the collection of Destination Terminal Charges by Eastern Railway (Appellant No. 2) is illegal, as the consignment was delivered to the BPCL Siding (code MHBS) rather than Budge Budge (BGB). Thus, the learned RCT rightly determined that the Destination Terminal Charge of Rs. 51,00,252/- plus interest should be refunded to Respondent-NRL by both

railway authorities.

29. She further submitted that the learned RCT correctly held that the freight payment made to N.F. Railway through SBI, Ganeshguri Commercial Branch, Guwahati, falls within the jurisdiction of the learned RCT, Guwahati. She emphasized that Rule 10 of the Railway Claims Tribunal (Procedure) Rules, 1989 specifically provides for this, as reproduced below:

“Rule 10- An application in respect of a claim for refund of fare or freight referred to in clause (b) of sub-Section (1) of Section 13 of the Act may be filed before the Bench having territorial jurisdiction over the place at which such fare or freight was paid or the place where the destination station lies.”

30. Thus, as per Rule 10, it appears that the Id. RCT has jurisdiction in two locations: first, where the freight was paid, and second, where the destination station is situated. In the present case, since the freight was paid at Maligaon (Assam), as admitted by both parties, the learned RCT, Guwahati, has jurisdiction to adjudicate the claim for the refund of terminal charges.

31. Furthermore, it is noted that the 50 trains loaded with petroleum products were delivered to a private siding at Bharat Petroleum Corporation Ltd. (Siding 'MHBS'). It is also admitted that, according to Railway Board Circular No. TCR/110078/2007/6 dated 29.05.2007, and the Railway Board clarification dated 17.07.2007, terminal charges apply only to Railway-owned terminals and not to terminals owned by customers.

32. Ms. Sharma, learned counsel for the respondent, further submitted that no application was filed referring the matter before the arbitration as per Clause 11(vi) of the agreement. The appellants/Railways only sought for setting aside the impugned order dated 05.05.2016, and did not request that the matter be referred to arbitration.

33. She further submitted that the decision of the Co-ordinate Bench in MFA Case No. 100/2011 dated 25.06.2015 as relied by the appellant, the terminal charges were collected by the Railways at Changsari station, which is a railway-owned siding, not a private siding. In contrast, both the booking and destination stations in the present case are private sidings: the booking station is owned by respondent-NRL, and the destination station, with station code 'MHBS,' is owned by Bharat Petroleum Corporation Ltd. Therefore, the judgment in MFA No. 100/2011 is not applicable in the present case.

34. She further submitted that since the appellants illegally collected destination terminal charges amounting to Rs. 51,00,252/- from the respondent, they should have rendered some services in exchange for these charges. In this regard, she relies on the decision passed by the Supreme Court in the case of ***Shree Gajanan Motor Transport Co. Ltd. vs. The State of Karnataka and Others***, decided on 22.09.1976, reported in ***(1977) 1 SCC 37***. The Supreme Court, in paragraph 6 of the said judgment, observed and held as follows:

"The term "charge" is a broad one. As used here, it is not a technical term and has not been defined by the Act. It has, therefore, its ordinary dictionary meaning. It means any amount which may be demanded as a price for the rendering of some service or as price of some goods. It includes both freights and fares. It is true that the term "fare" is used in relation to charges made for carriage of passengers and the term freight used for charges made for the carriage of goods. Nevertheless, both are charges."

35. She also submitted that the arbitration clause is not applicable because the dispute concerns to payment. Furthermore, the appellants never sought resolution through arbitration. The present appeal is filed solely to request the

setting aside and quashing of the impugned order dated 05.05.2016, passed by the learned Member (Judicial) of the Railway Claims Tribunal, Guwahati Bench, in Claim Application No. OA/III/127/2015. Therefore, she contends that the present appeal should be dismissed.

36. After hearing the submissions made by the learned counsels for both sides, I have perused the impugned order dated 05.05.2016, as well as the documents relied upon by both parties. The appellants stated that the railway authority transported 50 trains loaded with petroleum products, including HSD and SKO, from Numaligarh Refinery Oil Siding (NRSR), to Budge-Budge on different dates from 11.09.2012 to 01.03.2013. According to the forwarding note executed by the consignor to the Railway Administration for carriage, the present respondent/applicant was required to pay the freight charges, including terminal charges at the booking station, as specified under Clause III of the Tripartite Agreement. However, the place of payment was shifted to Guwahati.

37. The appellants contended that the destination station was Budge-Budge, a railway-owned terminal, but all consignments were unloaded at the Bharat Petroleum Corporation Limited (BPCL) siding known as MHBS due to the lack of unloading facilities for petroleum products at Budge-Budge. The applicant filed a claim application for a refund of terminal charges collected for the destination terminal point amounting to Rs. 66,25,200/-, along with proportionate costs and interest. The appellants stated that the Id. RCT, Guwahati, does not have territorial jurisdiction to entertain the claim, as per the Railway Claims Tribunal (Procedure) Rules, 1989. These rules specify that the RCT has territorial jurisdiction only for causes of action arising in Assam, Sikkim, Mizoram, Arunachal Pradesh, Tripura, Manipur, and Nagaland. Additionally, Section 10 of the Railway Claims Tribunal Act, 1987, states that a claim petition can only be

filed in a jurisdiction where the freight is paid. According to the Tripartite Agreement, the freight was required to be paid at the originating station, and the parties had agreed that payment would be made electronically to ensure immediate transfer to the railways' account.

38. The appellants further contended that both the destination and originating stations fall within the State of West Bengal, so the RCT, Guwahati, does not have the jurisdiction to entertain the claim. However, they acknowledge that the Id. RCT does have jurisdiction over disputes arising from the contract agreement. The appellants assert that the 'refund of terminal charges' does not arise from the contract in question. They argue that the railway authority did not erred in calculating the freight and that the consignment was booked to Budge-Budge, a railway-owned terminal, making the collection of terminal charges legal. According to Section 64(2) of the Railway Act, 1989, the consignor is responsible for the correctness of the particulars and must indemnify the Railway Administration against any damage resulting from incorrect details. The appellants maintain that the electronic payment was made for facilitation purposes but is considered paid at Rangapani (RNI) NRSR siding and recorded under the earnings of that siding.

39. The appellants further stated that both the originating and destination stations fall under the jurisdiction of Calcutta, not RCT, Guwahati, as per Rule 10 of the Act, and therefore the RCT, Guwahati, has no jurisdiction to entertain the respondent/applicant's claim. They claim that according to the terms and conditions of the agreement, the railway's responsibility as a carrier ends once the consignment reaches the BGB station, and since the applicant never lodged any complaints regarding non-delivery, short delivery, damage, or deterioration, the railway is not responsible for refunding the terminal charges collected for

the destination station, even though the consignment was unloaded elsewhere.

40. From the submissions and the record, it is evident that the originating station was NRL, Siliguri, and the destination station was Budge-Budge, but the consignments were unloaded at the BPCL siding code MHBS, which is a private siding. The forwarding note specified Budge-Budge under Eastern Railway, and it is admitted that the respondent/NRL paid the freight to the railway at the originating station electronically through SBI at Dispur. It is also admitted that the consignment was delivered to BPCL's private siding (MHBS) instead of Budge-Budge (BGB). Notices under Section 106 of the Railways Act, 1989, seeking a refund of Destination Terminal Charges were served by the respondent, but the appellants rejected the claim. Despite further representations by the respondent, the appellants did not respond properly, leading the applicant/respondent to file a claim application before the Id. RCT, Guwahati.

41. According to the IRCA Conference Rules, the freight-collecting railway is authorized to handle refunds of any freight overcharges. In this case, both the originating and destination stations fall under the Eastern Railway, making Eastern Railway responsible for any refund related to terminal charges. However, the freight payment was made to FA & CAO, N. F. Railway, Maligaon, through SBI, Ganeshguri Commercial Branch, Guwahati, which falls under the jurisdiction of the Id. RCT, Guwahati. It is acknowledged that due to an incorrect station code on Railway Receipts by the local Goods Office at the Booking Station, the consignment was delivered to Budge-Budge instead of MHBS.

42. The learned RCT, Guwahati, found that the freight-collecting authority, Eastern Railway, was responsible for handling and processing refunds for freight overcharges related to terminal charges. The RCT's judgment, which directed

both the N.F. Railway and Eastern Railway to refund the destination terminal charges amounting to Rs. 66,25,200/-, along with proportionate costs and interest, was based on the fact that the consignment was unloaded at the BPCL siding MHBS (BGB), not Budge-Budge.

43. In view of the above discussion, I find that the learned RCT, Guwahati, did not commit any illegality or mistake by directing both appellants to refund the destination terminal charges with 6% per annum interest from the date of booking, i.e., 01.03.2013. The appellants did not approach the court to resolve the dispute through arbitration, and the present appeal is filed only for setting aside and quashing of the order passed by the learned RCT, Guwahati. As the dispute pertains to the refund of terminal charges, which is not covered under the agreement clause and the dispute is not for any contract.

44. So considering the entire discussions, it appears that the Id. RCT has thoroughly examined all the issues based on the evidence and documents presented by both the parties. In light of this discussion and considering the views expressed by the Apex Court and the Co-ordinate Bench of this Court, I find no reason to interfere with the impugned Judgment dated 05.05.2016, passed by the learned Member (Judicial) of the Railway Claims Tribunal, Guwahati Bench, in Claim Application No. OA/III/127/2015 (Old)/Claim Application No. OA/ III/ Ghy/ 2015/0127 (New) and accordingly, the same stands dismissed.

45. With above observation, this appeal stands disposed of.

46. In the meantime, both the appellants are hereby directed to make the payment to the respondent/applicant as per the Judgment dated 05.05.2016, passed by the learned Member (Judicial) of the Railway Claims Tribunal,

Guwahati Bench, in Claim Application No. OA/III/127/2015(Old)/Claim Application No.OA/III/Ghy/2015/0127(New), within 6(six) months from today.

JUDGE

Comparing Assistant