

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 14039 of 2012 (D)

PETITIONER:

**M/S.ULTRATECH CEMENT LIMITED,
REGISTERED OFFICE, B WING, AHURA CENTRE,
SECOND FLOOR, MAHAKALI CAVES ROAD, ANDHERI (EAST),
MUMBAI, 400 093
REPRESENTED BY ITS DULY AUTHORIZED POWER-OF-ATTORNEY HOLDER,
SRI.RAMAESH MALOO, SON OF SRI.NAND KISHOR MALOO,
DEPUTY MANAGER (FINANCE & COMMERCIAL),
M/S. ULTRA TECH CEMENT LIMITED, ERNAKULAM,
KERALA 682 016.**

**BY ADVS.SRI.GEORGE JACOB (JOSE)
SMT.MEREENA JOSEPH**

RESPONDENTS:

- 1. THE UNION OF INDIA,
REPRESENTED BY THE SECRETARY, MINISTRY OF RAILWAYS,
CENTRAL SECRETARIAT, NEW DELHI 110 001.**
- 2. THE DIVISIONAL RAILWAY MANAGER,
SOUTHERN RAILWAY, PALAKKAD 678 001.**
- 3. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PALAKKAD, 678 001.**
- 4. THE CHEIF GOODS SUPERVISOR,
RAILWAY GOODS SHED, NILESWAR, KASARGODE
671 121.**
- 5. THE CHIEF GOODS SUPERVISOR,
RAILWAY GOODS SHED, VALAPATTANAM, KANNUR
670 001.**
- 6. THE STATION SUPERINTENDENT,
VALAPATTANAM RAILWAY STATION, VALAPATTANAM,
KANNUR 670 001.**

(P.T.Q)

7. THE CHIEF GOODS SUPERVISOR,
RAILWAY GOODS SHED, KALLAYI, KOZHIKODE 673 003.

8. THE CHIEF GOODS SUPERVISOR,
RAILWAY GOODS SHED, WEST HILL, KOZHIKODE
673 005.

9. THE JOINT DIRECTOR,
TRAFFIC, COMMERCIAL (RATES), RAILWAY BOARD,
NEW DELHI 110 001.

10. THE CHIEF COMMERCIAL MANAGER,
SOUTHERN RAILWAY, CHENNAI 600 001.

BY ADV. SRI.JAMES KURIAN, SC, RAILWAYS
BY SRI.C.S.DIAS,SC, RAILWAYS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

- EXT. P1 :** COPY OF THE POWER OF ATTORNEY DEED DATED 26.12.2011 OF THE PETITIONER COMPANY AUTHORISING SRI. RAMESH MALOO, DEPUTY MANAGER (FINANCIAL & COMMERCIAL), ULTRA TECH CEMENT LIMITED, ERNAKULAM, KERALA, TO PREFER THE WRIT PETITION.
- EXT. P2 :** COPY OF THE INTERIM ORDER DATED 25.5.2012 OF THIS HON'BLE COURT IN WP(C) NO. 12019/2012.
- EXT. P3 :** COPY OF THE COMMUNICATION DATED 12.06.2012 ISSUED BY THE THIRD RESPONDENT ENHANCING DEMURRAGE.
- EXT. P4 :** COPY OF THE COMMUNICATION OF THE SIXTH RESPONDENT PUBLISHED ON 11.6.2012 ENHANCING DEMURRAGE.
- EXT. P5 :** COPY OF THE COMMUNICATION DATED 9.6.2012 OF THE SEVENTH RESPONDENT ENHANCING DEMURRAGE.
- EXT. P6 :** COPY OF THE COMMUNICATION DATED 12.6.2012 OF THE EIGHTH RESPONDENT ENHANCING DEMURRAGE.
- EXT. P7 :** COPY OF THE NOTIFICATION DATED 19.12.2005 ISSUED BY THE 9TH RESPONDENT.
- EXT. P8 :** COPY OF THE NOTIFICATION DATED 29.12.2005 ISSUED BY THE 10TH RESPONDENT.

RESPONDENTS' EXHIBITS :

- EXT. R3(1):** COPY OF THE CIRCULAR NO. TC-1/2005/2012 DATED 19.12.2005 ISSUED AS RATE CIRCULAR NO. 74/2005 WITH CORRIGENDUM DATED 17.01.2008 ISSUED BY DIRECTOR TRAFFIC COMM. (RATES) RAILWAY BOARD, NEW DELHI.
- EXT. R3(2):** ADVANCE RATE NOTIFICATION FOR RATE ADVICE NO. 12/2005 (GOODS NO. 129/2005) DT. 29.12.2005 ISSUED BY CHIEF COMMERCIAL MANAGER, SOUTHERN RAILWAY, CHENNAI.

//TRUE COPY//

P.A. TO JUDGE

DST

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 14039 of 2012

Dated this the 27th day of January, 2015

J U D G M E N T

Challenging the imposition of penal demurrage charges by the respondent Railway Board against the petitioner, the petitioner has come up before this Court.

2. Today, when the matter came up for hearing, it was submitted by both sides that the matter in issue has been considered by a Division Bench of this Court in intra court appeals, i.e., WA No.917/2014 & connected cases. A certified copy of the judgment dated 03.09.2014 in the aforesaid writ appeals was made available for perusal. The writ appeals are disposed of as under;

“(1) The writ petitioners are permitted to make an application for waiver before the Station Manager/Goods Supervisor within 30 (thirty) days from today giving all details along with reasons and relevant records as necessary.

(2) Station Master/Goods Supervisor shall forward the application for waiver of demurrage charges to the Divisional Officer with his remark within 15 (fifteen) days of receipt of the application.

..2..

(3) The Divisional officer shall take a decision on the waiver application considering the reasons and circumstances given by the writ petitioners in the waiver application. Consequential orders be issued thereafter. In case the writ petitioners are aggrieved by the said decision, they can prefer appeal to the higher authority."

In the light of the above, the writ petition is closed, permitting the petitioner to move as per the aforesaid direction.

Sd/-
A.V. RAMAKRISHNA PILLAI,
JUDGE

bka/-