

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(C).No. 16365 of 2011 (U)

PETITIONER(S):

- 1. M/S.NANDA ASSOCIATES,
REPRESENTED BY ITS PROPRIETOR
RAJESH S, LAKSHMI, MOOZHICKULAM,
KURUMASSERY.P.O., ERNAKULAM - 683 579.**
- 2. M/S.ALDA ENTERPRISES, REPRESENTED BY ITS
PROPRIETOR K.K.DAVIS, KURUTHUKULANGARA HOUSE,
THRISSUR - 5.**

**BY ADVS.SRI.LEO GEORGE
SRI.K.N.SASIDHARAN NAIR
SMT.BABITHA THAMBI
SRI.M.SUNIL
SRI.K.P.SUJESH KUMAR**

RESPONDENT(S):

- 1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF RAILWAYS,
CENTRAL SECRETARIAT, NEW DELHI-1.**
- 2. THE DIVISIONAL RAILWAY MANAGER,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, TRIVANDRUM DIVISION,
THIRUVANANTHAPURAM - 695 001.**
- 4. ASSISTANT COMMERCIAL MANAGER-II,
SOUTHERN RAILWAY,
THIRUVANANTHAPURAM DIVISION,
THIRUVANANTHAPURAM - 695 001.**
- 5. THE CHIEF GOODS SUPERVISOR,
OLLUR RAILWAY GOODS SHED, OLLUR,
THRISSUR - 680 007.**

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6. THE CHIEF GOODS SUPERVISOR,
CHALAKKUDY RAILWAY GOODS SHED,
THRISSUR - 680 307.
7. THE CHIEF GOODS SUPERVISOR,
ANGAMALI RAILWAY GOODS SHED,
ERNAKULAM - 683 572.

BY SRI.C.S.DIAS,SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

mbr/

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APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : TRUE COPY OF THE COMMUNICATION OF THE FOURTH RESPONDENT
DATED 13.5.2011.

EXT. P2 : TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HONOURABLE
COURT IN WP(C)NO.16018/2011, DATED 15.6.2011.

RESPONDENTS' EXHIBITS:

EXT. R1(A) : COPY OF THE CIRCULAR NO.TC-1/2005/201/2
DATED 119.12.2005.

EXT. R1(B) : COPY OF THE ADVANCE RATE NOTIFICATION NO.12/2005
(GOODS NO.129/2005) DATED 292.12.2005.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. ABRAHAM MATHEW, J.

W.P.(C)No.16365 of 2011

Dated this the 18th day of November, 2015

J U D G M E N T

The petitioners purchased certain goods from another State which was sent through railway, which imposed penal demurrage charges on the petitioners as they failed to clear the goods. This is challenged in this writ petition.

2. When the matter was taken up for hearing, it was submitted that a Division Bench of this Court in Writ Appeal No.917 of 2014 and connected cases has passed a judgment in an identical case and the same order may be passed in this case also. I am satisfied that the submission is reasonable.

In the result, this writ petition is disposed of as follows:

- i) The petitioners may file an application before the 5th/6th/7th respondent, to waive the penal demurrage charges within 30 days from today stating the particulars and the reasons for the request. It shall be accompanied by necessary records.

ii) The said respondent shall forward the applications for waiver to the respondent concerned with his remarks within 15 days from the receipt of the applications.

iii) The respondent concerned shall take a decision on the application taking into consideration the reasons that may be given by the petitioners in their applications and the circumstances. He shall thereafter pass appropriate orders. In case the petitioners are aggrieved by the said decision, they can prefer an appeal to the authority concerned.

sd/-

**K. ABRAHAM MATHEW
JUDGE**

R.AV

//True Copy//

PA to Judge