

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. 26064 of 2011 (G)

PETITIONER(S):

**C.M. GEORGE, CLEARING AGENT,
RAILWAY GOODS SHED, THRISSUR,
RESIDING AT CHIRAYATH HOUSE,
CONVENT ROAD, ARANATTUKARA, THRISSUR.**

BY ADV. SRI.GEORGE JACOB (JOSE).

RESPONDENT(S):

- 1. THE UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF RAILWAYS, CENTRAL SECRETARIAT,
NEW DELHI - 110 001.**
- 2. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, THIRUVANANTHAPURAM DIVISION,
THIRUVANANTHAPURAM.**
- 3. THE CHIEF GOODS SUPERVISOR,
THRISSUR RAILWAY GOODS SHED, THRISSUR - 680 004.**
- 4. THE STATION MASTER,
THRISSUR RAILWAY STATION, THRISSUR - 680 004.**
- 5. THE JOINT DIRECTOR, TRAFFIC, COMMERCIAL (RATES),
RAILWAY BOARD, NEW DELHI - 110 001.**
- 6. THE CHIEF COMMERCIAL MANAGER,
SOUTHERN RAILWAY, CHENNAI - 600 001.**

R1 TO R6 BY ADVS. SRI.JAMES KURIAN, SC.

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE RECEIPT DATED 06/07/2011 OF THE 3RD RESPONDENT ISSUED TO THE PETITIONER FOR PAYMENT OF DALLAL FEE.
- EXT.P2 COPY OF THE INTERIM ORDER DATED 10/05/2011 OF THIS HON'BLE COURT IN WP(C).NO.13143/2011.
- EXT.P3 COPY OF THE COMMUNICATION DATED 23/09/2011 OF THE 2ND RESPONDENT INTIMATING OF THE ENHANCEMENT OF PENAL DEMURRAGE CHARGES.
- EXT.P4 COPY OF THE NOTIFICATION DATED 19/12/2005 ALONG WITH CORRIGENDUM DATED 17/01/2008 ISSUED BY THE 5TH RESPONDENT.
- EXT.P5 COPY OF THE NOTIFICATION DATED 29/12/2005 ISSUED BY THE 6TH RESPONDENT.

RESPONDENT'S EXHIBITS:-

- EXT.R1A COPY OF THE CIRCULAR NO.TC1/2005 201/2 DATED 19/12/2005.
- EXT.R1B COPY OF THE NOTIFICATION FOR RATE ADVICE NO.12 OF 2005 DATED 29/12/2005.

//TRUE COPY//

P.S. TO JUDGE

rs.

K. ABRAHAM MATHEW, J.

W.P.(C)No.26064 of 2011

Dated this the 18th day of November, 2015

J U D G M E N T

The petitioner purchased certain goods from another State which was sent through railway, which imposed penal demurrage charges on the petitioner as it 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 petitioner may file an application before the 4th 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 application for waiver to the 3rd respondent with his remarks within 15 days from the receipt of the applications.

iii) The 3rd respondent concerned shall take a decision on the application taking into consideration the reasons that may be given by the petitioner in its application and the circumstances. He shall thereafter pass appropriate orders. In case the petitioner is aggrieved by the said decision, it can prefer an appeal to the authority concerned.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge