

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

WP(C).No. 32059 of 2015 (F)

PETITIONER(S):

**M/S.ASSOCIATED CEMENT COMPANIES LTD.,
SALES UNIT, 50, KAMARAJ ROAD,
OPP: NIRMALA COLLEGE, REDFIELD, COIMBATORE-641 018,
REP. BY ITS MANAGER (ACCOUNTS),
MRS.RADHA SUDHAKARAN.**

**BY ADVS.SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.V.S.SHIRAZ BAVA
SRI.JOSEPH KURIAN VALLAMATTAM
SRI.K.H.ANSAR**

RESPONDENT(S):

- 1. THE UNION OF INDIA,
REP. BY THE CABINET SECRETARY, MINISTRY OF RAILWAYS,
CENTRAL SECRETARIAT, NEW DELHI-110 001.**
- 2. INDIAN RAILWAY BOARD,
REPRESENTED BY ITS CHAIRMAN, INDIAN RAILWAY BOARD,
REPRESENTED BY ITS CHAIRMAN, RAIL BHAVAN, RAISINA ROAD,
NEW DELHI-110 001.**
- 3. DIRECTOR TRAFFIC,
TRANSPORTATION, RAIL BHAVAN, RAISINA ROAD,
NEW DELHI-110 001.**
- 4. GENERAL MANAGER (COMMERCIAL),
SOUTHERN RAILWAY, 1ST FLOOR, NGO MAIN BUILDING,
SOUTHERN RAILWAY PARK TOWN, CHENNAI-600 003.**
- 5. DIVISIONAL RAILWAY MANAGER (COMMERCIAL),
SOUTHERN RAILWAY,
OFFICE DRM COMPLEX SOUTHERN RAILWAY, PALGHAT,
PIN-678 002.**

PJ

.....2/-

WP(C).No. 32059 of 2015 (F)

**6. COMMERCIAL SUPERVISOR,
SOUTHERN RAILWAY, KALLAYI GOOD SHED, KALLAI
KOZHIKODE-673 001.**

BY ADV. SRI.C.S.DIAS,SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1- TRUE COPY OF THE GENERAL ORDER NO.1/14 (RATIONALIZED SCHEME) DATED 2.9.2014 ISSUED BY THE 3RD RESPONDENT.
- EXT.P2- TRUE COPY OF THE COMMUNICATION DATED 09.09.2015 ISSUED BY THE 6TH RESPONDENT.
- EXT.P2(A)- TRUE COPY OF THE DEBIT MEMO DATED 29.8.2015.
- EXT.P3- TRUE COPY OF THE COMMUNICATION DATED 9.10.2015 ISSUED BY THE 6TH RESPONDENT.

RESPONDENT(S)' EXHIBITS

- EXT.R5(1): COPY OF THE JUDGMENT DATED 3/8/15 IN OP.1569/98
- EXT.R5(2): COPY OF THE JUDGMENT DATED 8/12/05 IN WA.2496/05
- EXT.R5(3): COPY OF THE VAZETTE NOTIFICATION DATED 6/2/95
- EXT.R5(4): DETAILS OF THE ROUTING PARTICULAR RECEIVED FROM SENIOR DIVISIONAL OPERATIONS MANAGER, TRANSPORTATION BRANCH, SALEM DIVISION OF THE SOUTHERN RAILWAY
- EXT.R5(5): DETAILS OF THE ROUTING PARTICULAR RECEIVED FROM COMMERCIAL SUPERVISOR KALLAYI STATION, PALAKKAD DIVISION OF THE SOUTHERN RAILWAY
- EXT.R5(6): DETAILS OF THE ROUT DISTANCE CHART BETWEEN WADI AND KALLAYI VIA-JOLARPETTAI, DOWNLOADED FROM THE WEB SITE OF INDIAN RAILWAY
- EXT.R5(7): DETAILS OF ROUT DISTANCE CHART BETWEEN WADI AND KALLAYI VIA-BAIYYAPPANHALLI-THIRUPATUR (RATIONALIZED ROUTE), DOWNLOADED FROM THE WEB SITE OF INDIAN RAILWAY
- EXT.R5(8): DETAILS OF THE ROUT DISTANCE CHART BETWEEN WADI AND KALLAYI VIA-MANGALORE JUNCTION, DOWNLOADED FROM THE WEB SITE OF INDIAN RAILWAY
- EXT.R5(9): DETAILS OF THE ROUT DISTANCE CHART BETWEEN WADI AND KALLAYI VIA0BAIYYAPPANHALLI-OMALUR DOWNLOADED FROM THE WEB SITE OF INDIAN RAILWAY

WP(C).No. 32059 of 2015 (F)

**EXT.R5(10): DETAILS OF THE RAILWAY RECEIPT DATED 1/8/15 BOOKED BY THE
PETITIONER FROM WADI-KALLAYI VIA-BAIYYAPPANHIALLI-
THIRUPATHUR (RATIONALIZED ROUTE), WHICH WAS DELIVERED ON
5/8/15**

**EXT.R5(11): COPY OF THE ORGANISATION STRUCTURE OF THE MINISTRY OF
RAILWAY DOWNLOADED FROM ITS WEBSITE.**

/ TRUE COPY /

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.32059 of 2015

Dated this the 23rd day of December, 2015

JUDGMENT

The petitioner challenges Ext.P1 and consequent order produced as Ext.P3 demand.

2. The learned standing counsel points out that the petitioner has a statutory remedy to challenge the demand before the Railway Rates Tribunal. The petitioner points out that the Railway Rates Tribunal have no jurisdiction.

This Court is of the view that leaving open the issue regarding jurisdiction, the petitioner is free to urge all the issues before the Railway Rates Tribunal under Section 36 of the Railways Act. Therefore, the writ petition is disposed of with liberty to the petitioner to approach the Railway Rates Tribunal. To enable the petitioner to work out alternate

remedy, coercive steps taken against the petitioner as per
Ext.P3 shall be deferred for a period of two months from today.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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