IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18622 of 2011

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1. M/S Sultania @ Sons, a proprietorship firm having its place of Business at 2640/5 Chadda Market, Naya Bazar, New Delhi-6, through its proprietor Sri Rajesh Sultania, S/O Sri Ramautar Prasad Sultania, resident of Main Road, P.O. & P.S.- Teghra, Town & District- Begusarai

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railway, Government of Bihar, New Delhi
2. The Director, Traffic Commercial (Rates), Railway Board, New Delhi
3. The Chief Public Information Officer-III Ministry of Railway, Railway Board, New Delhi
4. The General Manager, East Central Railway, Hazipur
5. The Senior Commercial Manager/Fs, East Central Railway, Hazipur
6. The Chief Commercial Manager, East Central Railway, Hazipur
7. The Chief Commercial Manager (Refunds), East Central Railway, Hazipur
8. The Chief Goods Superintendent, Anugrah Narain Road, Railway Station
9. The Chief Goods Superintendent, Navinagar Railway Station

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Adv.
For the Respondent/s : Mr. Bindhyachal Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 26-04-2016

Heard learned counsel for the petitioner and the respondents.

2. The present writ petition has been filed for quashing the letter dated 04.01.2011 bearing reference no. ECR/CRM/RG/MGS/38 to 42/10 issued under the signature of Respondent Senior Commercial Manager/FS, East Central Railway, Hazipur whereby the petitioner’s claim for refund of 50% of the freight collected for transportation of a consignment of Bhoosa (paddy crop) from Anugrah Narain Road and Navi

Nagar Railway Station (Aurangabad) to Khana Railway Station (Punjab) in light of the rebate admitted by the respondents in I.R.C.A. Goods Tariff No. 45 Pt. I (Volume II) effective from 01.04.2007 has been rejected.

The remaining prayers made for quashing of the Rates Circular No. 30/2009 dated 22.04.2009 bearing Ref. No. TCR/1015/2009/2 issued by the Railway Board, New Delhi, and for quashing of part of the letter bearing ref. no. TCR/1015/2009/2 dated 05.02.2010 issued by the Director, Traffic Commercial (Rates), Railway Board, New Delhi, and related reliefs, are not pressed at the time of hearing, and are dismissed as such.

3. Learned counsel for the petitioner submits that the impugned letter dated 05.02.2010 rejecting the petitioner's claim for 50% concession against Railway freight payable in respect of paddy husk purportedly on the basis of Rate Circular No. 30 of 2009 dated 22.04.2009 is arbitrary and unsustainable. The petitioner claims entitlement to 50% concession on transportation of paddy husk on the ground that the same stands covered under the heading 'fodder and husk' falling under Group No. 25 of the Railway Goods Tariff No. 45. Reliance is placed on the information received by the petitioner under the R.T.I. Act according to which paddy husk had been included within the meaning of 'Bhoosa' with effect from 06.05.2009. It is therefore submitted that in terms of Group No. 25 of the Railway Goods Tariff under the heading 'fodder and husk', paddy husk is eligible for 50% concession along with other items such as Chari,

Dry Grass and Chuni. It is further submitted that the issue now stands squarely covered by a decision of this Court dated 31.07.2013 in Miscellaneous Appeal No. 983 of 2011 (Sri Salasar Trading Company vs. The Union of India).

4. Learned counsel for the respondent Railway fairly submits that while an SLP had been filed against the aforesaid order dated 31.07.2013, the same was dismissed in *limine*.

5. Considering the respective stand of the parties and in the light of the decision of this Court in M.A. No. 983 of 2011 as aforesaid, the impugned order dated 04.01.2011 as contained in Annexure-7 must be and is hereby set aside. The appellant is therefore held to be entitled to 50% concession in respect of the paddy husk in question. It is not in dispute that the petitioner had been made to pay the entire amount of freight charges at the time of booking and hence the respondents shall refund the appropriate amount of such charges by way of 50% concession to the petitioner within a period of 8 weeks from the date of receipt/production of a copy of this judgment.

The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/-

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CAV DATE	
Uploading Date	4.5.2016
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