IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6903 of 2020

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M/s Sati Sales Corporation a proprietorship firm having its place of business at 10 A, first floor, Narmada Apartment, P.S. Gandhi Maidan, Exhibition Road, Patna through its proprietor namely Anand Vardhan male, aged about 50 years, son of Late Narayan Prasad Dalmia Resident of flat number 302, Balajee Residency, New Dak Bunglow Road, Patna- 800001.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railway, Government of India, New Delhi.
2. The General Manager, East Central Railway, Hajipur.
3. The Senior Divisional Commercial Manager, Danapur, Patna.
4. The Chief Commercial Manager, East Central Railway, Hajipur.
5. The Divisional Railway Manager (Commercial) Danapur.
6. The Chief Goods Supervisor, East Central Railway, Danapur, Patna.
7. The Goods Superintendent, Danapur, East Central Railway, Danapur, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate
For the Respondent/s	:	Mr. S. D. Sanjay (ADSG)
For the Railways	:	Mr. Ramadhar Shekhar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
Date : 21-01-2021

Heard Mr. Gautam Kumar Kejriwal, learned Advocate for the petitioner and Mr. Ramadhar Shekhar for the Railways.

2. The petitioner has sought quashing of the demurrage bill dated 20.03.2020 issued by the Chief Goods Supervisor, Danapur, Patna as also the wharfage bill of Rs. 1,73,250/-. The only reason for the petitioner to

challenge the aforesaid billing is that he was never noticed about the aforesaid demand.

3. Initially, the assertion of the petitioner was disputed by Mr. Ramadhar Shekhar, learned Advocate for the respondent/Railways but in the counter affidavit filed on behalf of the Railways, the aforesaid contention of the petitioner has not been disputed but the prayer is sought to be challenged on the ground that the same is premature as an alternative remedy of appeal is available to the petitioner for him to ventilate his grievance.

4. However, along with the counter affidavit an order passed by this Court on 10.07.2020 passed in CWJC No. 7113 of 2020 has been annexed. In the aforesaid case also there was a challenge to the demurrage penalty and the same was challenged because of no notice having been served to the petitioners therein. This Court had taken the view that even though an alternative remedy is available to a party for approaching the higher authorities for waiver of penalty but referral to a higher authority would only be

time taking and unnecessarily result in matters remaining pending for final decision.

5. In that instance, this Court had set aside such billing and directed the matter to be placed before the Chief Goods Supervisor, East Central Railway, Danapur, Patna to first notice the petitioner therein and then pass orders in accordance with law within a reasonable period of time.

6. Learned counsel for the petitioner submits that the petitioner shall stand satisfied if the same kind of order is passed.

7. Considering the aforesaid submissions on behalf of the parties, this Court is inclined to quash the demurrage bill dated 20.03.2020 and the wharfage bill of Rs. 1,73,250/-. This Court takes notice of the fact that demurrage charges have already been recovered from the petitioner.

8. In any view of the matter, the relevant records are directed to be transmitted to the Chief Good

Supervisor, East Central Railway, Danapur, Patna who shall notice the petitioner and after receiving his reply, shall pass an order in accordance with law within a reasonable period of time.

9. The petitioner would be entitled to challenge the recovery of demurrage amount in reply to the show cause notice. The concerned authority shall take a call on the facts of the case and if any revision in such billing is required, that shall be done without wastage of any time.

10. The writ petition stands disposed off with the aforesaid direction/observation.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.01.2021
Transmission Date	