



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.15108 OF 2021

AND

W.M.P.NOS.16003 & 16006 OF 2021

M/s.Shanthi Feeds Private Limited,
Rep by its General Manager,
Mr.K.Gunasekaran

... Petitioner

.Vs.

1. Union of India,
Represented by the Secretary to Government
Ministry of Railways,
New Delhi.

2. The Divisional Railway Manager,
Souther Railways,
Divisional Office,
Commercial Branch,
Salem - 636005.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the Second Respondent culminating in the order vide Notification No.SA/C.200/PDC/TUP/2021 dated 08.07.2021 and all such further notification levying penal demurrage charges and quash the same, and direct the Second respondents to permit the petitioner to the clear existing stocks of the petitioner without insisting on any demurrage charges and refund any excess charges levied towards demurrage.

For Petitioner : Mr.M.Vaidhiyanathan

For Respondents : Mr.P.T.Ramkumar, SC



ORDER

Challenging the notification dated 08.07.2021 issued by the second respondent and also seeking a direction to the second respondent permitting the petitioner to clear their existing stocks without insisting on any demurrage charges, the present writ petition came to be filed by the petitioner.

2. According to the petitioner, they are engaged in the business of manufacturing cattle and poultry feeds, which are being transported during the course of business in bulk quantity, making use of the service provided by the railways department. As per the norms stipulated by the second respondent, the said goods have to be cleared in the following terms:

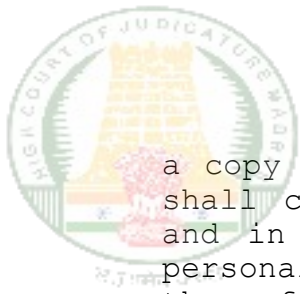
21 boxes	-	within 5 hours
42 boxes	-	within 9 hours
58 boxes	-	within 11 hours

If the goods are not cleared within the said schedule, the second respondent will be entitled to impose demurrage at Rs.150/- per hour per box. It is the grievance of the petitioner that due to lack of proper lighting facilities inside the wagons at the goods shed, absence of a proper washing area and other related necessities, it is very difficult to unload the entire goods from the wagons within the specified time. While so, vide notification dated 08.07.2021, the second respondent demanded demurrage charges at twice the existing rate for the period upto 11.07.2021 and thereafter, at four times at the normal demurrage charges. Aggrieved over the same, the petitioner is before this court with the present writ petition.

3. Today, when the matter was taken up for consideration, the learned counsel appearing for the respondents, on instructions, submitted that the notification impugned herein no longer survives and hence, no demand would be raised against the petitioner towards demurrage charges.

4. In response, the learned counsel appearing for the petitioner submitted that the demurrage so far collected from the petitioner is not sustainable in law and hence, the petitioner may be granted liberty to claim of refund the said amount.

5. Recording the aforesaid submission made by the learned counsel for the respondents, this writ petition stands disposed of, granting liberty to the petitioner to approach the authorities concerned by filing necessary application seeking refund, within a period of one week from the date of receipt of



a copy of this order. On such filing, the authorities concerned shall consider the same and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Union of India, Ministry of Railways,
New Delhi.
2. The Divisional Railway Manager,
Southern Railways, Divisional Office,
Commercial Branch,
Salem - 636005.

+2ccs to Mr.M.Vaidhiyanathan, Advocate, S.R.No.36601

+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.36537

W.P.NO.15108 OF 2021 AND
W.M.P.NOS.16003 & 16006 OF 2021

PL(CO)
PBS/03/09/2021