

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.3718 OF 2022

Airwide Car Rent Pvt. Ltd.
T515, Upper Ridge Road, Near Naaz
Cinema, Jhandelwala,
New Delhi-110 055.

... Petitioner

Versus

1. The Union of India
Through the Divisional Railway
Manager (Commercial), Western
Railways Mumbai Central, Mumbai

2. The General Manager
Western Railway, Churchgate
Mumbai

3. The Chief Parcel Supervisor
Bandra Terminus, Mumbai

... Respondents

Mr. Mukhtar Khan a/w. Sumandevi Yadav a/w. Anand Kikan for Petitioner.

Mr. Suresh Kumar for Respondents.

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**CORAM : A. S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ.**
DATE : 8th DECEMBER 2023

Oral Judgement (Per A. S. Chandurkar J.):

1. Rule. Rule made returnable forthwith and heard the learned
Counsel for the parties.

2. The Petitioner, a private limited company engaged in providing logistic services impugns the communications dated 3rd April 2018 and 6th April 2018 issued by the Divisional Railway Manager informing it that since an amount of Rs. 18,33,914/- was required to be adjusted towards the dues to be recovered from M/s. Airwide Expresss Cargo and M/s. BVM Cargo, it was not entitled to receive its dues. Being aggrieved by the aforesaid communication, the Petitioner has challenged the same.

3. It is submitted by the learned Counsel for the Petitioner that it is not permissible for the Respondent to adjust the outstanding dues of the Petitioner firm with that of another firm especially when both the firms have separate legal existence. Since the dues of the Petitioner are admittedly payable by the Respondent which fact is also acknowledged in the communication dated 6th April 2018, there is no legal justification in adjusting the amount which the Petitioner has to receive against the dues of another firm.

4. In the reply filed on behalf of the Respondents it has been admitted that the Petitioner is entitled to receive its outstanding dues of Rs. 22,85,592/-. However, since one of the directors of the Petitioner-Company

also owns proprietorship firm by the name M/s. BVM Cargo coupled with the fact that there is yet another firm by the name M/s. Airwide Express Cargo in which one of the directors also has stake holding, the aforesaid amount has been adjusted.

5. We find on perusal of the documents on record that it would not be permissible for the Respondents to withhold the amount due and payable to the Petitioner firm, a Private Limited Company on the premise that one of the Directors is a proprietor of M/s. BVM Cargo and is also a director in M/s. Airwide Express Cargo from whom the Respondent has to recover amounts. Admittedly there is no authorisation granted to the Respondent by any firm to adjust dues of one firm with that of another.

6. In view of the aforesaid, the Writ Petition is allowed in terms of prayer Clause (a) and (c) which read as under:-

a. That this Hon'ble Court be pleased to issue a Writ of certiorari and quash/set aside the letter dated 6th April 2018 addressed by the Respondent No.2 to the Petitioner.

c. That this Hon'ble Court be pleased to issue a Writ of mandamus and direct the Respondents to pay the amount of Rs.22,85,592/- along with applicable interest to the Petitioner.

7. The aforesaid amount be paid to the Petitioner-Company within

a period of six weeks from receiving copy of this judgment.

8. Rule is made absolute in aforesaid terms with no orders as to costs.

9. Parties to act on an authenticated copy of this judgment.

(FIRDOSH P POONIWALLA, J.)

(A. S. CHANDURKAR, J.)