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W.P.No.28232 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.28232 of 2023

and W.M.P.No.27750 of 2023

1. Quanta Logistics Private Limited
No.6, II Floor,
MA Chidambaram Building, Esplanade,
Chennai – 600 001
Rep by its Authorised Signatory
Mr.K.G.Mohan Varma

2.Ben Line Agencies (India) Private Limited,
No.6, II Floor,
MA Chidambaram Building, Esplanade,
Chennai – 600 001
Rep by its Authorised Signatory
Mr.S.Paul Anand

...Petitioners

vs.

1.Chennai Port Authority,
Administrative Office,
No.1, Rajaji Salai, Chennai-600 001.
Rep by its Chairman

2.Adjudicatory Board for Major Ports/Tariff
Authority for Major Ports,
4th Floor, Bandar Bhavan,
Muzawar Pakhadi Road,
Mezagoan, Mumbai- 400 010

3.The Financial Advisor and Chief Accounts Officer,
Chennai Port Authority,
No.1, Rajaji Salai, Chennai – 600 001.



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4. The Traffic Manager,
Traffic Department (Commercial),
Chennai Port Authority,
No.1, Rajaji Salai, Chennai – 600 001.

... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the 1st respondent to refund the Wharfage Charges of Rs.2,95,52,095/-(paid by the petitioners under protest), consequent to the order of the 2nd respondent in Case No.ADJU/1/2022-CHPA dated 19.07.2022 (which holds that mere categorisation of a vessel as a cargo for the purpose of EGM/IGM would not render it cargo for the purpose of levy of wharfage, which did not load/unload any of the vessel's content onto the wharf).

For Petitioners : Mr.P.Giridharan
For Respondents : Mr.Kirshna Ravindran
for R1,R3 and R4
Mr.S.Haja Mohideen Gisthi for R2

ORDER

This writ petition has been filed to direct the 1st respondent to refund the Wharfage Charges of Rs.2,95,52,095/-(paid by the petitioners under protest), consequent to the order of the 2nd respondent in Case No.ADJU/1/2022-CHPA dated 19.07.2022 (which holds that mere categorisation of a vessel as a cargo for the purpose of EGM/IGM would not render it cargo for the purpose of levy of wharfage, which did not load/unload any of the vessel's content onto the wharf).



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2. The case of the petitioner is that the 2nd petitioner as the Steamer Agent was engaged by the 1st petitioner for their cable repair vessel “MV Asean Restorer”. The said vessel is specifically equipped and engaged to repair and restore submerged fibre optic cables lying on the bed of the ocean and sea. The said Vessel carries on board consumable cable jointing equipment with accessories and a complete ROV (Remotely Operated Underwater Vehicle) System of cable ship used for cable repair. The said vessel sailed from the Port of Galle and arrived at the Chennai Port on 22.05.2019. Despite the wharf facility being not utilised by the petitioners for loading or unloading of any cargo, the 1st respondent Port levied wharfage charges on the said cable repair vessel. The petitioners were constrained to effect full payment of the amount i.e., Rs.2,95,52,095/- on 30.05.2019 towards the wharfage on vessel and onboard Bunkers as imposed and demanded by the 1st respondent.

3. Learned counsel for the petitioner would submit that the petitioner already filed 5 writ petitions in W.P.Nos.26534, 26539, 26544, 26549 and 35048 of 2019 before this Court and, this Court, vide order dated 10.03.2022 had directed the 1st respondent to refund the wharfage charges collected within a period of 16 weeks from the date of receipt of a copy of the order, subject to the final view to be taken by the 2nd respondent in consultation with the 1st respondent. As per the said order, the 2nd respondent determined the



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opportunity loss to the tune of Rs.39,97,000/- vide order dated 24.09.2024.

Therefore, after deducting the said amount of Rs.39,97,000/- from the amount of Rs.2,95,52,095/-, which is already deposited by the petitioners, the petitioners are entitled for the balance amount. Hence, this Court may issue appropriate direction to the respondents to refund the balance amount to the petitioners from the date of receipt of deposit made by the petitioners to till date with interest @ 12% p.a.

4.Learned counsel for the respondents submitted that the demand of interest @ 12% p.a., is exorbitant and some reasonable rate of interest may be fixed from the date of the order i.e., on 10.03.2022. If the petitioners are aggrieved by the rate of interest, they can file an appeal before the appellate authority.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

6. Considering the submissions made by both the learned counsels, this Court directs the respondents to refund the wharfage charges deposited by the petitioners to the tune of Rs.2,95,52,095/- after deducting a sum of Rs.39,97,000/- towards opportunity loss as determined by the 2nd respondent along with interest at the rate of 9% p.a. from the date of the order dated 10.03.2022 passed in W.P.No.26534 of 2019 and etc. batch till the date of



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refund. It is made clear that, this Court fixing the rate of interest i.e., 9% by the consent of both learned counsels. If there is any dispute with regard to interest amount, the petitioners are at liberty to make their claims legally as contented before this Court from the the date of deposit, within a period of five weeks thereafter.

7. Accordingly, the writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

25.09.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

msv

To

1.The Chairman

Chennai Port Authority,

Administrative Office,

No.1, Rajaji Salai, Chennai-600 001.

2.Adjudicatory Board for Major Ports/Tariff

Authority for Major Ports,

4th Floor, Bandar Bhavan,

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3.The Financial Advisor and Chief Accounts Officer,

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Krishnan Ramasamy,J.,

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