



W.P(MD)No.5988 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5988 of 2020

and

W.M.P.(MD)Nos.5186 & 5187 of 2020

M/s.Raja Agencies,
Through its partner,
D.Devaraj,
S/o.Late K.I.Devadasan,
having registered office at
Post Box No.32, Opp. To the Bharath Petroleum,
Bye pass Road, Madathur,
Korampallam Post,
Thoothukudi-628 101.

... Petitioner

Vs.

- 1.The Traffic Manager,
V.O.Chidambaranar Port Trust,
Harbour Estate,
Thoothukudi-628 004.
- 2.The Ministry of Indian Railways,
Rep. by its Director,
Traffic Commercial Directorate,
Railway Board,
Room No.239, Rail Bhavan,
Raisina Road, New Delhi-110001.
- 3.M/s.Indian Potash Limited,
Having regional Office at
Post Box No.728, 1st floor,



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Seethakathi Business Centre, Annasalai,
Chennai-600 006.

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4.M/s.Fertilizers and Chemical Travancore Ltd.,
Marketing Division,
Having Office at Udhyogmandel,
Cochin.

5.M/s.Rashtriya Chemicals & fertilizers Ltd.,
Marketing Division,
Priyadarshini Eastern Express Highway,
Mumbai-400022.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order No. TRA-OFTMK-MIS-ELECT-VI-17(43558)/D.561 dated 06.03.18 and the consequential impugned order No. TRA-OFTBL-MIS-SHORT-VI-18(44682)/D.507 dated 09/03/2020 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.A.Arivuchandran for R1

: Mr.S.Manohar for R2

: No appearance for R3 & R5

ORDER

Heard the learned counsel for the petitioner and the learned standing counsel for V.O.Chidambaranar Port Trust.

2. The issue raised in the writ petition is covered vide order dated 05.10.2023 made in W.P.(MD)No.3965 of 2020(M/s.Hari & Company Vs. The



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Traffic Manager, V.O.Chidambaranar Port Trust, Thoothukudi). Paragraph No.

6 of the said order reads as follows:-

“6. In view of the above, it is clear that the siding charges that have been demanded from the petitioner is a levy / demand made only by the first respondent and hence, Section 56 of the Major Port Trusts Act, 1963, will come into play. The said provision makes it clear that no notice for demand of payment of charges short levied can be issued after the expiry of two years when the charge is short levied, from the date of payment of the charges. In the instant case, the first respondent has called upon the petitioner to pay revised siding charges which came into effect from 01.07.2015 only in the year 2018. Hence, such a demand that was made by the first respondent is barred under Section 56 of the the Major Port Trusts Act,1963.”

3. In the present case also, the demand was made only on 06.03.2018. It is beyond the period specified in Section 56 of the Major Port Trusts Act, 1963. At this stage, the learned standing counsel states that an appeal is proposed to be filed against the order dated 05.10.2023 in W.P.(MD)No.3965 of 2020. As on date, the aforesaid order is holding the field.

4. Respectfully following the same, the impugned demand is set aside. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

02.01.2024

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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