

GAHC010014202018



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/412/2018

BCMS TRADERS PRIVATE LIMITED.
HAVING ITS PRINCIPLE PLACE OF BUSINESS AT- KABAITRAY,
JOGIGHOPA, BONGAIGAON, ASSAM, REP. BY MAHESH KUMAR
AGARWALA, THE DIRECTOR OF B.C.M.S. TRADERS PVT. LTD.

VERSUS

THE UNION OF INDIA
REP. BY ITS SECRETARY, MINISTRY OF RAILWAYS, RAIL BHAWAN, NEW
DELHI.

2:THE RAILWAY BOARD

RAILWAY BHAWAN
NEW DELHI.

3:THE GENERAL MANAGER

NORTH EASTERN FRONTIER
RAILWAYS
MALIGAON
GUWAHATI
ASSAM.

4:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
JOGIGHOPA
BONGAIGAON
ASSAM.

5:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
KABAITARI
BONGAIGAON
ASSAM

6:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
DUDHNOI
GOALPARA
ASSAM.

7:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
PANCHARATNA (MAKRI)
GOALPARA
ASSAM.

8:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
GOALPARA TOWN
ANANDA BAZAR
GOALPARA
ASSAM

Advocate for the Petitioner : R K SHRESTHA

Advocate for the Respondent : SC, NF RLY

Linked Case : WP(C)/1757/2017

MAHALAXMI CONTINENTAL LTD.
A COMPANY REGISTERED UNDER THE COMPANY ACT
1956
HAVING ITS REGISTERED OFFICE AT GALI NO.8
N.H. 37
BELTOLA
GUWAHATI-29
ASSAM AND BRANCH OFFICE AT KALPANA NAGAR
GOALPARA

ASSAM-783101
REPRESENTED BY ITS AUTHORIZED SIGNATORY

VERSUS

THE UNION OF INDIA and 8 ORS.
REPRESENTED BY THE SECRETARY
MINISTRY OF RAILWAYS
RAILWAY BOARD
RAILWAY BHAWAN
NEW DELHI

2:THE RAILWAY BOARD

RAIL BHAWAN
NEW DELHI

3:THE JOINT DIRECTOR TRAFFIC COMMERCIAL RATES
RAILWAY BOARD
RAILWAY BHAWAN
NEW DELHI

4:THE GENERAL MANAGER
NORTH EASTERN FRONTIER RAILWAYS
MALIGAON
GUWAHATI ASSAM

5:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
JOGIGHOPA
BONGAIGAON ASSAM

6:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
KABAITARI
BONGAIGAON ASSAM

7:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
DUDHNOI
GOALPARA ASSAM

8:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
GOALPARA TOWN ANANDA BAZAR
GOALPARA ASSAM

9:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
PANCHARATNA MAKRI
GOALPARA ASSAM

Advocate for : MR.J P MORE
Advocate for : SC

NF RLY appearing for THE UNION OF INDIA and 8 ORS.

Linked Case : WP(C)/1781/2017

CHANDRA PRABHU INTERNATIONAL LTD.
A COMPANY REGISTERED UNDER THE COMPANY ACT
1956
HAVING ITS REGISTERED OFFICE AT 14
RANI JHANSI ROAD
NEW DELHI- 110055 AND BRANCH OFFICE AT KABAITARY
JOGIGOPHA
DIST. BONGAIGAON AND REP. BY ITS ONE OF THE DIRECTORS.

VERSUS

THE UNION OF INDIA and 8 ORS.
REP. BY THE SECRETARY
MINISTRY OF RAILWAYS
RAILWAY BOARD
RAILWAY BHAWAN
NEW DELHI.

2:THE RAILWAY BOARD

RAIL BHAWAN
NEW DELHI.

3:THE JOINT DIRECTOR TRAFFIC COMMERCIAL RATES
RAILWAY BOARD
RAILWAY BHAWAN
NEW DELHI.

4:THE GENERAL MANAGER

NORTH EASTERN FRONTIER RAILWAYS
MALIGAON
GUWAHATI
ASSAM

5:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
JOGIGHOPA BONGAIGAON
ASSAM

6:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
KABAITARI

BONGAIGOAN
ASSAM
7:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
DUDHNOI
GOALPARA
ASSAM
8:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
GOALPARA TOWN
ANANDA BAZAR GOALPARA
ASSAM
9:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
PANCHARATNA MAKRI GOALPARA
ASSAM

Advocate for : MR.A CHOUDHURY
Advocate for : DR.B N GOGOIR- 1-9 appearing for THE UNION OF INDIA and 8
ORS.

Linked Case : WP(C)/6582/2011

FUEL SOURCES INDIA PRIVATE LIMITED and 2 ORS
AN EXISTING COMPANY WITHIN THE MEANING OF THE COMPANIES ACT
1956 HAVING ITS REGISTERED OFFICE AT RAM KUMAR PLAZA
1ST FLOOR
ROOM NO. 10
CHATRIBARI ROAD
GHY- 1.

2: M/S PURBANCHAL TRADERS
A PROPRIETOR CONCERN OF SRI LALCHAND AGARWALA
RAM KUMAR PLAZA MARKET
1ST FLOOR
CHATRIBARI
GHY-1 ASSAM.

3: M/S S.M. ENTERPRISES
A PROPRIETOR CONCERN OF SRI SAWARMAL AGARWAL
RAM KUMAR PLAZA MARKET
1ST FLOOR
CHATRIBARI

GHY- 1 ASSAM.
VERSUS

THE UNION OF INDIA and ORS
REP. BY THE SECY.
MINISTRY OF RAILWAYS
RAILWAY BOARD
RAILWAY BHAWAN
NEW DELHI.

2:THE RAILWAY BOARD
RAIL BHAWAN
NEW DELHI.

3:THE JOINT DIRECTOR TRAFFICE COMMERCIAL RATES
RLY. BOARD
RLY. BHAWAN
NEW DELHI.

4:THE GENERAL MANAGER
NORTH EASTERN FRONTIER RAILWAYS
MALIGAON
GUWAHATI ASSAM.

5:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
JOGIGHOPA
BONGAIGAON ASSAM.

Advocate for : MR.A GOYAL
Advocate for : MR.A K SARKAR appearing for THE UNION OF INDIA and ORS

Linked Case : WP(C)/1497/2017

M/S MEGHALAYA COAL CONCERN and ANR.
A PROPRIETOR CONCERN OF MD. HASHIM ALI
AGIA ROAD
NAYAPARA
GOALPARA- 783101
ASSAM

2: MD. HASHIM ALI
PROPRIETOR OF M/S MEGHALAYA COAL CONCERN
AGIA ROAD
NAYAPARA
GOALPARA- 783101
ASSAM
VERSUS

THE UNION OF INDIA and 8 ORS.
REP. BY THE SECY.
MINISTRY OF RAILWAYS
RAILWAY BOARD
RAILWAY BHAWAN
NEW DELHI

2:THE RAILWAY BOARD
RAIL BHAWAN
NEW DELHI

3:THE JT. DIRECTOR TRAFFIC COMMERCIAL RATES
RAILWAY BOARD
RAILWAY BHAWAN
NEW DELHI

4:THE GENERAL MANAGER
NORTH EASTERN FRONTIER RAILWAYS
MALIGAON
GUWAHATI
ASSAM

5:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
JOGIGHOPA
BONGAIGAON
ASSAM

6:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
KABAITARI
BONGAIGAON
ASSAM

7:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
DUDHNOI
GOALPARA
ASSAM

8:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
GOALPARA TOWN
ANANDA BAZAR
GOALPARA
ASSAM

9:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
PANCHARATNA MAKRI GOALPARA
ASSAM

Advocate for : MR.J P MORE

Advocate for : MR.A K SARKAR appearing for THE UNION OF INDIA and 8 ORS.

Linked Case : WP(C)/1778/2017

MAHALAXMI MINING PVT. LTD.
A COMPANY REGISTERED UNDER THE COMPANY ACT
1956
HAVIN GITS REGISTERED OFFICE SITUATED AT GALI NO. 7
N.H. 37
BELTOLA
GUWAHATI -29
ASSAM REP. BY ONE OF ITS DIRECTORS AND HAVING ITS BRANCH
OFFICE SITUATED AT KALPANA NAGAR
GOALPARA
ASSAM-783101.

VERSUS

THE UNION OF INDIA and 8 ORS.
REP. BY THE SECRETARY
MINISTRY OF RAILWAYS
RAILWAY BOARD
RAILWAY BHAWAN
NEW DELHI.

2:THE RAILWAY BOARD
RAIL BHAWNA
NEW DELHI.

3:THE JOINT DIRECTOR TRAFFIC COMMERCIAL RATES
RAILWAY BOARD
RAILWAY BHAWAN
NEW DELHI.

4:THE GENERAL MANAGER

NORTH EASTERN FRONTIER RAILWAYS
MALIGAON
GUWAHATI
ASSAM

5:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
JOGIHOPOA
BONGAIGAON
ASSAM

6:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS

KABAITARI
BONGAIGAON
ASSAM
7:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
DUDHNOI
GOALPARA
ASSAM
8:THE STATION SUPERINTENDENT

NORTH EASTERN FRONTIER RAILWAYS
GOALPARA TOWN ANANDA BAZAR GOALPARA
ASSAM
9:THE STATION SUPERINTENDENT
NORTH EASTERN FRONTIER RAILWAYS
PANCHARATNA MAKRI
GOALPARA
ASSAM

Advocate for : MR.A CHOUDHURY
Advocate for : MR.A K SARKAR appearing for THE UNION OF INDIA and 8 ORS.

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 06.02.2024

None appears for the petitioner on call in WP(C)/412/2018. Heard Mr. A. Goyal, learned counsel for the petitioners in other writ petitions except WP(C)/412/2018. Also heard Mr. B. K. Das, learned standing counsel, NF Railways in WP(C)/412/2018 and Dr. B. N. Gogoi, learned standing counsel, NF Railways in WP(C)/6582/2011, WP(C)/1497/2017, WP(C)/1757/2017, WP(C)/1778/2017 and WP(C)/1781/2017.

2. These writ petitions have been filed putting to challenge the notification/Rates Circular No. 32 of 2011 issued by the Government of India, whereby the respondents Railways decided to levy penalty of Rs.5000/- on

detention charges as per overloading wagon in case of detention of a rake after weighment warranting load adjustment at the originating station.

3. The challenge is made to the circular on the ground that they are arbitrary and illegal in view of the fact that the Railways (Punitive charges, overloading of wagons), Rules, 2012, which is a set of rules framed under the Railways Act, 1989 is already in place in respect of levy of any such charges in matters of overloading of wagons and therefore, the impugned Rates Circular No. 32 of 2011 issued by the Government of India dated 16.09.2011, imposing further penalty for the same act amounts to double jeopardy or dual penalty for the same act or omission. It is on these grounds that the writ petitions have been filed praying for setting aside the impugned Rates Circular No. 32 of 2011 issued by the Government of India.

4. The learned counsels for the respondents have filed their counter affidavits. Today when the matter is called up, learned standing counsels for the Railways have placed before the Court a Circular dated 16.09.2020, whereby it is shown that under the revised guidelines, detention charges @ Rs.5000/- for overloaded wagon is not leviable and this position has not been altered.

5. It is submitted by the learned standing counsels for the Railways that in view of this instructions received through the Circular, the detention charges circular/rates circular has been withdrawn and is no longer in place. In that view of the matter, the challenge made in the writ petitions have become infructuous as of date.

6. Mr. A. Goyal, learned counsel for the petitioners does not dispute this position on facts. Perusal of the pleadings in WP(C)/412/2018 reveals that the said writ petition has been filed on similar grounds with similar prayer (s).

7. Taking into consideration the submissions made the writ petitions, are accordingly, dismissed as infructuous.
8. Interim orders, if any, stands vacated.
9. Copy of the circular dated 16.09.2020 is also kept with the case record.

JUDGE

Comparing Assistant