

2025 LiveLaw (SC) 670

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

SURYA KANT; J., NONGMEIKAPAM KOTISWAR SINGH; J.

MAY 20, 2025

CIVIL APPEAL No. OF 2025 (Arising out of SLP(C)No. 8024 of 2018)

UNION OF INDIA & ORS. *versus* MEGHA TECHNICAL AND ENGINEERS PVT. LTD.

Railways - Disputes On Consignment Excess Weight - Advancement of Technology - Whether an opportunity of hearing ought to be given before imposing penalty on account of excess weight being detected in a consignment – Held, it was not possible for the railways to issue show-cause notice before imposing a penalty for excess weightage - It would be practically difficult for appellant-Railways to issue a show cause notice to the consignor or consignee and to hold a mini-trial to determine the question of excess weightage and compensatory charges - Relied on *Jagjit Cotton Textile Mills Vs. Chief Commercial Superintendent, N.R. and others* (1998) 5 SCC 126 - that a demand for penal freight without prior notice was not violative of Article 14 of the Constitution - Court directed appellant-Railways to upgrade and update themselves with the advancement of technology - Suggested appellant-Railways to use mechanisms like automatic videography of loaded weight along with weight measurement at the time of off-loading, to avoid litigation. In case, any consignor or consignee disputes the liability towards charges for excess weightage, such electronically collected proof can be supplied to redress the grievances - Court made observations to sensitize the appellant-Railways and set aside order passed by High Court wherein it was held that an opportunity of hearing ought to be given before imposing penalty on account of excess weight, citing it as ‘obsolete and redundant’. [Paras 8, 10-13]

[Arising out of impugned final judgment and order dated 10-08-2017 in WA No. 333/2010 passed by the Gauhati High Court]

For Petitioner(s) Mr. Sachin Sharma, Adv. Mr. Sudarshan Lamba, AOR Ms. Suhashini Sen, Adv. Mr. Arun Kr.singh, Adv. Mr. Noor Rampal, Adv. Mr. Sarthak Karol, Adv. Mr. Raman Yadav, Adv. Mr. Amrish Kumar, AOR

For Respondent(s) Mr. Kaushik Choudhury, AOR Mr. Amit Goyal, Adv. Mr. Shaantanu Jain, Adv. Mr. Saksham Garg, Adv. Mr. Jyotirmoy Chatterjee, Adv.

ORDER

1. Leave granted.
2. The Union of India through the Ministry of Railways, including the North Eastern Frontier Railways and its authorities, are aggrieved by the judgment dated 10.08.2017, rendered by a Full Bench of the Gauhati High Court. Through the Impugned Judgement, the High Court laid down that an opportunity of hearing ought to be given before imposing penalty on account of excess weight being detected in a consignment.
3. The instant controversy arose on 22.08.2010, when the respondent booked a rake consignment of dry fly ash with the appellant-Railways at Dhuliaganga Railway Station (Eastern Railways). The consignment was re-weighed and on finding that there was excess weight, a Demand Notice for Rs.10,61,250/- was issued as a penal freight for excess weightage and Rs.43,500/- as demurrage. Seeking to quash the demand notices and to obtain a stay on the same, the aggrieved respondent filed Writ Petition (C) No. 4913/2010 before the High Court. The High Court called upon the appellant to explain why

the demand notices ought not to be quashed. However, the High Court did not grant interim stay to the demand notices. Aggrieved by the non-grant of interim order, the respondent filed Writ Appeal No.333/2010 to set aside the same and issue necessary directions to restrain the appellant from invoking the corresponding bank guarantees.

4. The Division Bench of the High Court in Writ Appeal No.333/2010 passed an order, admitting the appeal and referring the matter to a larger Bench to adjudicate on the issue of interim relief. Additionally, all further proceedings in WP(C) No.4913/2010 were stayed. However, when the case came up for hearing before a Full Bench on 02.02.2012, a statement was made on behalf of the appellant-Railways that they have no objection in evolving a procedure giving a hearing before the recovery of penalty. This followed an order by a Division Bench of the High Court declaring that the appeal had become infructuous as the bank guarantee had already been encashed. That order came to be challenged before this Court by the appellant-Railways in SLP(C) Nos.8439-8440/2015. This Court remanded the case to the High Court for proper adjudication. Thereafter, as noticed at the outset, the matter was heard by a Full Bench of the High Court and vide impugned judgment dated 10.08.2017, laying down that an opportunity of being heard is mandatory before the penalty can be levied.

5. During the course of hearing, it is pointed out by learned counsel for the respondent that the impugned judgment was complied with by the appellant-Railways and a show-cause notice was issued to the respondent. On consideration of the reply, the appellant-Railways passed a fresh penalty order which was unsuccessfully challenged by the respondent. The penalty amount, which was earlier deposited, has thus been appropriated by the Railways.

6. In a way, the subsequent events rendered these proceedings infructuous and academic. However, learned counsel for the appellant-Railways submits that there are conflicting views taken by the High Courts on the issue as to whether in a case of excess weightage, the Railway is obligated to issue a show-cause notice before levying the penal freight for such excess weightage.

7. Learned counsel for the appellant-Railways also cites a decision of this Court in Jagjit Cotton Textile Mills vs. Chief Commercial Superintendent, N.R. and others, (1998) 5 SCC 126, especially question No.5 and the answer thereto in para 42 of the above-cited decision.

8. On the other hand, learned counsel for the respondent refers to para 43 of the cited judgment to say that the issue which came up for consideration before the Full Bench of the High Court directly and substantially, was not the subject matter of consideration before this Court in Jagjit Cotton Textile Mills' case (supra).

9. We have considered the rival submissions and carefully perused the material placed on record.

10. It seems to us that the principles evolved by this Court through paragraph 42 of the cited decision broadly address the issue of a challenge to the demand for penal freight for excess weightage. This Court has held that such demand cannot be termed as violation of Article 14 of the Constitution.

11. In the very nature of things, on raising such a demand when excess weightage has been detected at the time of off-loading, it would be practically difficult, if not impossible, for the appellant-Railways to issue a show-cause notice to the consignor or consignee and to hold a mini-trial to determine the question of excess weightage and consequential levy of compensatory charges.

12. Nevertheless, the appellant-Railways needs to update and upgrade themselves with the advancement of technology. There is no gainsay that a mechanism like automatic videography of the loaded weight along with the weight measurement at the time of offloading, can save the parties from easily avoidable litigation. In the event any consignor or consignee disputes the liability towards charges for excess weightage, such electronically-collected proof can be supplied to redress the grievances. We are quite sure that, by now, the Railways must have introduced some effective scientific method to meet with such challenges.

13. However, what we have observed above is only on an illustrative basis and to sensitize the Railways. We hope and trust that with a view to incentivize its consumers and customers, the Railways will continue to upgrade regularly.

14. As the science has gone far ahead and given the passage of time, we find that the impugned judgement is now obsolete and redundant. The same is, accordingly, set aside.

15. The appeal is disposed of in light of the observations made hereinabove.

16. If an aggrieved person is still dissatisfied, this Court has, in the cited decision, permitted them to approach the Railway Rates Tribunal. This alternative efficacious remedy is always available to such person.

17. As a result, the pending interlocutory application also stands disposed of.

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