

**IN THE HIGH COURT OF MADHYA  
PRADESH  
AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL  
ON THE 30<sup>th</sup> OF SEPTEMBER, 2024  
CIVIL REVISION No. 251 of 2019**

***UNION OF INDIA***

*Versus*

***S. GOENKA LIME AND CHEMICALS LTD***

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**Appearance:**

*Shri Pushpendra Yadav - Advocate for petitioner.*

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**ORDER**

This civil revision has been preferred by the petitioner/Union of India challenging the Judgment/interim order dated 06.12.2018 passed by Member Judicial, RCT/GZB at Bhopal Bench in Case No. OA-III/BPL/2017/01, whereby application of the petitioner raising preliminary objection about jurisdiction of the RCT (Railway Claims Tribunal), has been dismissed.

2. Learned counsel for the petitioner submits that as per Section 73 of the Railways Act, 1989, upon overloading of a wagon, the petitioner/Railway has authority to charge penalty in respect of the commodity/consignment in addition to the freight and other charges and such penalty cannot be said to be a part and parcel of the freight, therefore, as per Section 13(1)(b) of the Railway Claims Tribunal Act, 1987, RCT has no jurisdiction to try the claim case filed by the respondent regarding recovery of penalty and by impugned judgment, RCT has wrongly rejected the application filed by the petitioner raising preliminary objection regarding jurisdiction of RCT. He submits that RCT having no jurisdiction over the matter, the application raising the

preliminary objection ought to have been allowed and the claim petition, ought to have been returned to the respondent for filing the same before Civil Court.

3. Heard learned counsel for the petitioner and perused the record as well as the aforesaid provisions.

4. Perusal of the impugned order shows that RCT has observed that the claim petition has been filed for refund of punitive charges and punitive charges in respect of overloading of a wagon are a part and parcel of freight and held the claim petition to be maintainable before Railway Claims Tribunal.

5. Provisions contained in Section 13(1)(b) of the Railway Claims Tribunal Act, 1987 and Section 73 of the Railways Act, 1989 are quoted as under:-

**13. Jurisdiction, powers and authority of Claims Tribunal-**

“(1)The Claims Tribunal shall exercise, on and from the appointed day, all such jurisdiction, powers and authority as were exercisable immediately before that day by any civil court or a Claims Commissioner appointed under the provisions of the Railways Act,—

(a)\* \* \* \* \*

(b) in respect of the claims for refund of fares or part thereof or for refund of any freight paid in respect of animals or goods entrusted to a railway administration to be carried by railway.”

**73. Punitive charge for overloading a wagon.-**

“Where a person loads goods in a wagon beyond its permissible carrying capacity as exhibited under sub- section (2) or sub-section (3), or notified under sub-section (4), of section 72, a railway administration may, in addition to the freight and other charges, recover from the consignor, the consignee or the endorsee, as the case may be, charges by way of penalty at such rates, as may be prescribed, before the delivery of the goods:

Provided that it shall be lawful for the railway administration to unload the goods loaded beyond the capacity of the wagon, if detected at the forwarding station or at any place before the destination station and to recover the cost of such unloading and any charge for the detention of any wagon on this account”

6. Upon conjoint reading of the aforesaid provisions contained in Section 13(1)(b) of the Railway Claims Tribunal Act, 1987 as well as Section 73 of the Railways Act, 1989, it cannot be said that the

penalty imposed in respect of overloading of the wagon, is not a part and parcel of the freight.

7. In view of the aforesaid, this Court does not find any illegality in the impugned judgment/interim order rejecting the preliminary objection.

8. Resultantly, this civil revision fails and is hereby **dismissed**.

9. Misc. application(s), pending if any, shall stand **closed**.

**(DWARKA DHISH BANSAL)**  
**JUDGE**

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