

Government of India  
Ministry of Railways  
Railway Board

No.TC-I/2011/109/1

New Delhi, Dt. 26.06.2013

Chief Commercial Manager(FM)  
Eastern Railway, Kolkata.

**Sub: Filing of SLP in regard to Division Bench Judgment dt.19.05.2011 against judgment in APO No.312 of 2010 arising out of WP No.357 of 2006: M/s UTCL vs UOI & others**

**Ref: Board's letter No.TC-I/2010/109/7 dt.30.01.2013**

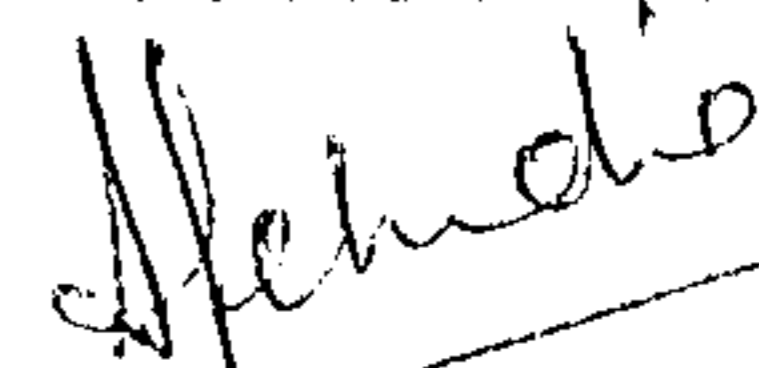
Please refer to Board's letter of even number dated 30.01.2013 wherein enclosing a copy of the opinion of Legal Dte., Railway was asked to furnish self contained note.

Eastern Railway's reply vide letter No.C.368/O/Vol.XI/BG/SLP/UTCL dt.15.05.2013 has been examined. Legal Dte. *inter alia* referring to their earlier opinion, has observed as under:

- (i) A similar proposal for filing SLP in the matter of M/s. UltraTech Cement was examined earlier and SLP had been declined by Ld. ASG. *(In this regard, a copy of Board's letter No.TC-I/2010/109/7 Dt.22.09.2010 had already been forwarded to Eastern Railway vide Board's letter under reference)*
- (ii) The judgment dt.19.05.1998 of Delhi High Court being relied upon by the Railway existed at the time of consideration of instant case. Therefore, Railway may clarify the questions of law involved and errors in High Court's order against which it has processed for filing SLP.
- (iii) The proposal for filing SLP have been furnished after the expiry of limitation period of 90 days. Railway has neither furnished any reason for delay in initiating the SLP nor any details have been provided. Day to day delay may be explained. *(copy of Board's letter No.2006/LC/18/1 dt.19.12.2006 regarding process for filing an SLP is enclosed)*

In view of above, Eastern Railway is requested to submit a self contained proposal as sought by Legal Dte.(refer Annexure-II of Board's letter under reference) alongwith the clear replies to the above observations, if Railway intend to process the case for SLP at this stage.

Further, it is to state that instant case has arisen due to raising of demand for punitive charge after delivery of goods, which is in contravention to the provisions of Section 73 of Railways Act 1989. Section 73 of the Act stipulates that where a person loads goods in a wagon beyond its permissible carrying capacity, 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. All concerned may be advised for strict compliance of the provisions of Section 73 of the Act.



(Aashima Mehrotra)  
Director, Traffic Comml(Rates)  
Railway Board