

Government of India
Ministry of Railways
Railway Board

No.TC-I/2011/109/1

New Delhi, Dt. 20.09.2013

Chief Commercial Manager
Northeast Frontier Railway,
Maligaon, Guwahati.

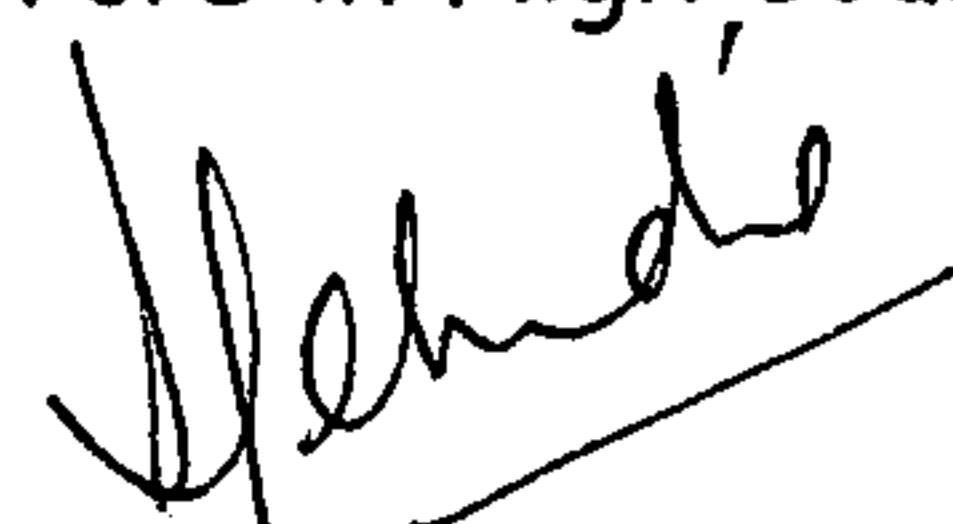
Sub: Filing of SLP before Hon'ble Supreme Court against the order dt.7.8.2012 & dt.7.3.2013 passed by Hon'ble High Court in WP(C) No.3894/2011, 2268/2011, 1803/2011 and 1262/2011 against M/s. Megha Technical & Engineers (Pvt.) Ltd.

Please refer to NFR's letter No.C/555/32-NF/3894-11/PL(Court) dt.05.09.2013 on the above-mentioned subject.

From Brief of the case furnished by Railway, it is seen that Demand Notice for Punitive Charge was served to the party after delivery of the consignment, which is in contravention to the provisions of Section 73 of Railways Act 1989(copy enclosed).

It is to state that in a similar case, Legal Dte. has asked to clarify the 'questions of law involved' and specifically highlight 'errors in High Court's order against which Railway has processed to file SLP'.

NFR is requested to examine the matter in the light of above and furnish a self contained proposal duly clarifying the 'questions of law involved' and 'errors in High Court's order', if Railway intends to process the case for SLP.



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

pursuance of any such order shall not be deemed to be a contravention of section 70.

72.

Maximum carrying capacity for wagons and trucks.

72. Maximum carrying capacity for wagons and trucks.- (1) The gross weight of every wagon or truck bearing on the axles when the wagon or truck is loaded to its maximum carrying capacity shall not exceed such limit as may be fixed by the Central Government for the class of axle under the wagon or truck.

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(2) Subject to the limit fixed under sub-section (1), every railway administration shall determine the normal carrying capacity for every wagon or truck in its possession and shall exhibit in words and figures the normal carrying capacity so determined in a conspicuous manner on the outside of every such wagon or truck.

(3) Every person owning a wagon or truck which passes over a railway shall determine and exhibit the normal carrying capacity for the wagon or truck in the manner specified in sub-section (2).

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), where a railway administration considers it necessary or expedient so to do in respect of any wagon or truck carrying any specified class of goods or any class of wagons or trucks of any specified type, it may vary the normal carrying capacity for such wagon or truck or such class of wagons or trucks and subject to such conditions as it may think fit to impose, determine for the wagon or truck or class of wagons or trucks such carrying capacity as may be specified in the notification and it shall not be necessary to exhibit the words and figures representing the carrying capacity so determined on the outside of such wagon or truck or such class of wagons or trucks.

73.

Punitive charge for overloading a wagon.

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.

74.

Passing of property in the goods covered by railway receipt.

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