
(2020) 06 GAU CK 0042
In the Gauhati High Court
Case No : Writ Petition (C) No. 849 Of 2020

M/S. Samson Timber Industries Pvt. Ltd	APPELLANT
Vs	
State Of Assam And 5 Ors	RESPONDENT

Date of Decision : 03-06-2020

Acts Referred:

Citation : (2020) 06 GAU CK 0042

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : A Tewari

Final Decision : Disposed Off

Judgement

1. Heard Mr. A. Tewari, learned counsel for the petitioner and Mr. PN Goswami, learned counsel appearing for the authorities in the Forest

Department of the Government of Assam.

2. The petitioner is a registered firm under the Nagaland Value Added Tax and also under the GST having GSTIN No.13ABOPR8758B1ZC. The

petitioner is engaged in processing of round Sawn Timber, Veneer etc in the State of Nagaland. The petitioner is primarily aggrieved by a

communication dated 21.05.2019 of the Divisional Forest Officer, Sivasagar Division (T) of the Government of Assam made to the Range Officer,

Sivasagar Range, Sivasagar with the subject permission for road transportation-reg with reference to a letter No.Ti-20/5/83/2019/81-84 dated

29.04.2019 of the DFO, Mokokchung Division, Nagaland. It is stated in the said communication that a harvesting permit for 1071.66 m3 of round

timber has been issued to Sri Takokaba, Sri Takuwati, Sri Imsuwar & Sri Temjenmongba of Merangkong village under Tuli Range, Mokokchung

Forest Division, Mokokchung, Nagaland and the road permission for transportation of 910.911 m3 of mill finished products i.e. Veneer via Haluating Road, Assam was allowed for transportation.

3. We have taken note of that M/s Samson Timber Industries is the petitioner before the Court. The communication of the DFO, Sivasagar Division required that the permit holder has to follow certain terms and conditions, which are extracted below:-

1. The details of royalty paid to the Govt. of Nagaland through DFO, Mokokchung Division should be furnished to Range Officer, Sivasagar

Range under Sivasagar Division for verification.

2. The permission for transportation is valid up to the specific location Haluating Road, Assam to within and outside the North Eastern Region as per documents from Nagaland.

3. Each Truck carrying such Veneer and sawn Timber must be accompanied with valid transit documents and levy/Tax/Royalty etc paid documents.

4. Advances Levy should be in the form of Bank Draft of SBI Bank issued in favour of Divisional Forest Officer, Sivasagar Forest Division,

Sivasagar for the entire quantity permitted and submitted to the Range Forest Officer, Sivasagar Range, Sivasagar.

5. Strictly ensure that no timber materials etc., shall be collected from the area inside the Boundary of Assam State.

6. Any violation of the above instruction shall be liable for cancellation of this permission and action will be taken as per law in force.

7. The road permission valid for timber 541.990 m3 of mill finished products i.e. Veneer excluding the roller and firewood within and outside North

Eastern Region via Haluating Road, Assam.

8. Transportation should not be done before sunrise and after sunset (has to be followed strictly, otherwise, action will be taken as per law).

4. The petitioner is aggrieved by the requirement of the terms and conditions that road permission valid for timber 13.01 m3 of mill finished products

i.e. Veneer via Haluating Road, Assam is also required to be followed by the permit holder. As the road permission is stated in the notification to have

been issued by the Government of Nagaland, we do not find any infirmity or illegality in the communication dated 29.06.2019 requiring the petitioner

M/s Samson Timber Industries, Nagaland to produce the road permission issued

by the Government of Nagaland before the authorities in the State of Assam, if so demanded by them. This requirement, in our view, are protective measures of the Government of Assam in the Forest Department to ensure that no illegal transportation of timber or forest produce is being undertaken through the State of Assam or that the unscrupulous traders in such forest produces do not take advantage by transporting the products in the State of Assam. But however, we also make it clear that in the guise of requiring road permission or other details of the forest products, as may be issued by the Government of Nagaland, the petitioner should not be harassed by the authorities of the Forest Department of the Government of Assam without any reason for the purpose.

5. The petitioner seeks to contend that although the communication dated 21.05.2019 requires the road permission of the various products issued by the Forest Department of the Government of Nagaland to be produced while such goods are in transit in the State of Assam, but on the other hand the petitioner is being issued a timber transit pass by the Forest Department of the Government of Nagaland. The timber transit pass clearly mentions the name of the person to whom the transit pass is issued and also the name of the person to whom such goods will ultimately be delivered. The timber transit pass also contains the name of the vehicle which would carry the forest products and further the detail descriptions of the forest products to be transported are also included in the transit pass.

6. In view of the aforesaid contents of the timber transit pass, which is issued by the appropriate authority in the Forest Department of the Government of Nagaland, we can form a prima-facie view that the road permission referred in the communication dated 21.05.2019 can also be viewed to be the timber transit pass issued by the Forest Department of the Government of Nagaland.

7. With the aforesaid clarification, we provide that the Forest Department of the Government of Assam while requiring the petitioner or the other transporters to transport the forest products from the State of Nagaland to any destination outside the Northeastern Region and which is required to pass through the State of Assam shall also take into account the aforesaid aspect of the matter as to whether the timber transit pass issued can also be viewed to be the road permission referred in the communication dated

21.05.2019. If for some reason, a given timber transit pass according to the officials of the Forest Department of the Government of Assam may not constitute the road permit referred in the communication dated 21.05.2019, they in order to proceed against such person shall pass a reasoned order and only thereafter proceed.

With the above clarifications, the writ petition stands disposed of.