
(1978) 05 AHC CK 0103
In the Allahabad High Court
Case No : S.A. No. 2652 of 1968

Union of India (UOI)

APPELLANT

Vs

Maha Deo Dal Mills and Others

RESPONDENT

Date of Decision : 18-05-1978

Acts Referred:

Goods Tariff Rules — Rule 115

Citation : (1978) AWC 537

Hon'ble Judges : Deoki Nandan, J

Bench : Single Bench

Advocate : D. Sanyal, for the Appellant;

Final Decision : Dismissed

Judgement

Deoki Nandan, J.—This second appeal is by the Railway Administration in a suit for recovery of Rs. 2360/- charged as excess freight at the destination station on a certain consignment.

2. The trial court decreed the suit for Rs. 2137/- on account of excess charge and Rs. 33/- on account of cost notice, total Rs. 2170/- on the finding it the classification of the pass, that had been made at the booking station was correct, and the freight determined to be payable in the Railway Receipt is also correct. On appeal by the Railway Administration the lower appellate court has confirmed the decree of the trial court on the finding that the Railway Administration was not entitled to charge [freight at the enhanced rate claimed and charged by it at the destination station.

3. The basis on which the lower appellate court had approached the case is that under Rule 115 of the Goods Tariff Rules (Part I) all that the Railway Administration could do was to remeasure, re-weigh and re-classify the goods, or to re-calculate the rates and other charges, but it could not alter the basis of the charge. According to the finding of the lower appellate court the basis of the charge evidenced by the Railway Receipt in this case was actual weight and not

wagon load. The lower appellate court held that in this situation the Railway Administration could not have claimed higher freight at the destination station on wagon load basis. The question whether the word "Dhall" was different from peas or "Dal", was not gone into by the lower appellate court, in the view that it was not necessary for the decision of the case.

4. Mr. D. Sanyal, learned Counsel for the Appellant Railway Administration, has invited my attention to Rule 115 of the Goods Tariff Rules and also to the classification of goods under Chapter VIII of the Goods Tariff, Part I (at pages 195 of the Book in force from 1st January, 1962). There is a heading "Grain and Pulses" and under that heading "Dhall" is the 6th item. Peas are also included in that heading. While in the case of "Dhall" the weight condition under which wagon rates applied is 145 for a metre gauge wagon, and that in respect of peas it is 110. Now, it is not disputed that the commodity booked in this case was peas. In the Railway Receipt the words used to describe the commodity booked are "peas dal" From the context in which the word "Dhall" appears in the list of grain and pulses it appears that "Dhall" is the name of some particular variety of grain or pulses. But in the instant case the goods booked were peas. It matters little whether they were whole or broken into pulses inasmuch as the basis of classification of grains and pulses made at pages 195-196 of the Goods Tariffs Rules, Part I is not, whether the grain is whole or broken, but the distinction between several kinds of grains or pulses. It is, therefore, clear that even on wagon load, basis the rate applicable for metre gauge was 110 in the case of "peas-dal", or petty, in the broken form of pulses.

5. The Railway Receipt shows that the goods were charged on tin basis of the goods were charge on not wagon load basis. The language of Rule 115 of the Goods Tariff Rules does not appear to authorise the Railway Administration to alter the basis of charge. For instance if the Railway accepts for transport a certain quantity of goods which is less than a wagon load and does actually carry it in a full wagon and the rest of the space goes empty, it cannot call upon the consignor or the consignee at the destination station to pay for the empty space as well. In this view of the matter also it was not entitled in the present case to recover anything over and above the amount determined to be payable in the Railway Receipt at the booking station for there is no dispute that the weight, the description of the goods and the rate applicable to the goods, and their classification, were all correct. There was no mistake of calculation either.

6. In the result, this appeal fails and is dismissed with costs.