

GAHC010007782016



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : MFA 15/2016**

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER, N.F. RAILWAY, MALIGAON,  
GUWAHATI-11

VERSUS

1:M/S JAIN BIJAY and CO. P LTD.  
THAKURIA BUILDING, F.A. ROAD, KUMARPARA, GUWAHATI 781009

**Advocate for the Petitioner : MR.D K DEY**

**Advocate for the Respondent : MR.A GOYAL**

Linked Case : MFA 76/2014

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F RAILWAY  
MALIGAON  
GUWAHATI -11

VERSUS

1:M/S INDIAN OIL CORPORATION LIMITED  
2  
DR. BANI KANTA KAKOTI LANE  
KACHARI BASTI  
ULUBARI  
GUWAHATI-7

ASSAM OIL DIVISION

Advocate for the Petitioner : MSB DEVI  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 30/2015

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI  
DIST. KAMRUP  
ASSAM.

VERSUS

1:M/S SHREE GOPAL ENTERPRISES  
H.M. MARKET  
FANCY BAZAR  
GUWAHATI-1  
ASSAM.

Advocate for the Petitioner : SC  
NF RLY  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 34/2016

1:THE UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S P.P. ENTERPRISES  
H.B. ROAD  
FENCY BAZAR  
GUWAHATI-1  
ASSAM.

Advocate for the Petitioner : SC  
NF RLY  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 76/2011

1:THE UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAYS  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S RAMESH AND CO.  
H.M. MARKET  
FANCY BAZAR  
GUWAHATI-1  
ASSAM.

Advocate for the Petitioner : SC  
NF RLY  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 84/2015

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11

VERSUS

1:M/S INDIAN OIL CORPORATION LIMITEDAOD  
ULUBARI  
GUWAHATI-7  
ASSAM.

Advocate for the Petitioner : MR.N K DAS  
Advocate for the Respondent : MR.A GOYAL

Linked Case : MFA 15/2015

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11

VERSUS

1:M/S INDIAN OIL CORPORATION LIMITED AOD  
2  
DR. BANI K.K. LANE  
ULUBARI  
GUWAHATI-7  
ASSAM.

Advocate for the Petitioner : MS.R R BORAH  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 85/2016

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S INDIAN OIL CORPORATION LTD  
ASSAM OIL DIVISION  
DIGBOI-786171  
ASSAM.

Advocate for the Petitioner : SC  
NF RLY  
Advocate for the Respondent : MS.M SHARMA

Linked Case : MFA 38/2011

1:UNION OF INDIA  
REPRESENTED BY THE THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI  
DIST. KAMRUP  
ASSAM.

VERSUS

1:M/S JAIPRAKASH ASSOCIATES LTD.  
161/2006 SHRIMANTA MARKET  
A.T. ROAD  
GUWAHATI-1

Advocate for the Petitioner : MRS.U CHAKRABORTY  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 89/2016

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON

GUWAHATI-781011

VERSUS

1:M/S INDIAN OIL CORPORATION LTD  
IOCL AOD ZONAL OFFICE  
DIGBOI.

Advocate for the Petitioner : MR.K C SARMA  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 73/2016

1:THE UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM

VERSUS

1:M/S JAIN BIJAY and CO. PVT LTD  
THAKURIA BUILDING  
3RD FLOOR  
F.A. ROAD  
KUMARPARA  
GUWAHATI-9  
ASSAM.

Advocate for the Petitioner : MR.U K GOSWAMI  
Advocate for the Respondent : MS.M SHARMA

Linked Case : MFA 15/2011

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY

MALIGAON  
GUWAHATI  
DIST. KAMRUP ASSAM

VERSUS

1:M/S NORTH EAST LODISED SALTP LTD.  
BHADRAPALI  
GANDHIJGRAM  
TRIPURA

Advocate for the Petitioner : SC  
NF RLY  
Advocate for the Respondent :

Linked Case : MFA 16/2016

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI  
DIST. KAMRUP M  
ASSAM.

VERSUS

1:M/S P.P. ENTERPRISES  
JAIL ROAD  
FANCY BAZAR  
GUWAHAI-1  
DIST. KAMRUP M  
ASSAM.

Advocate for the Petitioner : MS.U CHAKRABORTY  
Advocate for the Respondent : MS.S SARMA

Linked Case : MFA 66/2017

1:THE UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S JAIN and JAIN CO  
THAKURIA BUILDING  
2ND FLOOR  
KUMARPARA  
GUWAHATI-1  
ASSAM.

Advocate for the Petitioner : MR.G GOSWAMI  
Advocate for the Respondent :

Linked Case : MFA 303/2010

1:UNION OF INDIA  
  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI  
DIST. KAMRUP  
ASSAM.

VERSUS

1:M/S SHREE MAHALAXMI MILLS  
  
M.G. ROAD  
FANCY BAZAR  
GUWAHATI-1  
DIST. KAMRUP  
ASSAM.

Advocate for the Petitioner : MRS.U CHAKRABORTY  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 123/2011

1:UNION OF INDIA  
REPRESENTED BY THE GENARAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S MOTILAL and GOURI FOOD STORAGE PVT. LTD.

AGARTALA  
TRIPURA

Advocate for the Petitioner : MS.R R BORAH  
Advocate for the Respondent :

Linked Case : MFA 31/2016

1:THE UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S AMBA INDUSTRIES  
A UNIT OF AMBA BANIJYA PVT. LTD. AIR PORT ROAD  
CHABOTI  
NORTH LAKHIMPUR  
ASSAM.

Advocate for the Petitioner : SC  
NF RLY  
Advocate for the Respondent : MR.A GOYAL

Linked Case : MFA 88/2016

1:UNION OF INDIA  
RERPERESNTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI 781011

VERSUS

1:M/S INDIAN OIL CORPORATION LTD  
IOCL AOD ZONAL OFFICE  
DIGBOI

Advocate for the Petitioner : MR.K C SARMA  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 6/2013

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S JAIN and JAIN CO  
6-C  
R.K. SARAWGI MARKET  
FANCY BAZAR  
GUWAHATI-1

Advocate for the Petitioner : MSB DEVI  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 76/2015

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI 11

VERSUS

1:M/S INDIAN OIL CORPORATION LIMITED AOD  
2  
DR. BANI KANTA KAKATI LANE  
KACHARI BASTI  
ULUBARI  
GUWAHATI-7  
ASSAM.

Advocate for the Petitioner : MR.N K DAS  
Advocate for the Respondent : MR.A GOYAL

Linked Case : MFA 90/2013

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11

VERSUS

1:M/S SHREE MAHALAXMI MILLS  
M.G. ROAD

FANCY BAZAR  
GUWAHATI 781001  
ASSAM.

Advocate for the Petitioner : MR.D K DEY  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 33/2016

1:THE UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S AMBA INDUSTRIES  
A UNIT OF AMBA BANIJYA PVT. LTD. AIR PORT ROAD  
CHABOTI  
NORTH LAKHIMPUR  
ASSAM.

Advocate for the Petitioner : MR.S ISLAM  
Advocate for the Respondent :

Linked Case : MFA 94/2016

1:UNION OF INDIA  
REP. BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI -11  
ASSAM.

VERSUS

1:M/S INDIAN OIL CORPORATION LTD

ASSAM OIL DIVISION DIGBOI- 786171  
ASSAM

Advocate for the Petitioner : SC  
RAILWAY  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 7/2012

1:UNION OF INDIA

REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S NORTH EAST IODISED SALT PVT. LTD.  
BHADRAPALI  
GANDHIGRAM  
P.O. AGARTALA TRIPURA

Advocate for the Petitioner : MSB DEVI  
Advocate for the Respondent : MR.A GOYAL

Linked Case : MFA 82/2016

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S INDIAN OIL CORPORATION LTD  
ASSAM OIL DIVISION  
DIGBOI-786171  
ASSAM.

Advocate for the Petitioner : MR.U K GOSWAMI  
Advocate for the Respondent : MS. M SHARMA

Linked Case : MFA 122/2011

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S JAIPRAKASH ASSOCIATES LIMITED

161/206 SHRIMANTA MARKET  
A.T. ROAD GUWAHATI-1  
ASSAM.

Advocate for the Petitioner : MR.N K DAS  
Advocate for the Respondent : MR.B MAHESHWARI

Linked Case : MFA 70/2016

1:THE UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON GUWAHATI-11  
ASSAM

VERSUS

1:M/S INDIAN OIL CORPORATION LTD AOD

ULUBARI GUWAHATI-7  
ASSAM.

Advocate for the Petitioner : MR.U K GOSWAMI  
Advocate for the Respondent : MR. K P MAHESWARI

Linked Case : MFA 65/2015

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11

VERSUS

1:M/S P.P. ENTERPRISE  
FANCY BAZAR  
GUWAHATI 781001  
ASSAM.

Advocate for the Petitioner : SC  
NF RLY  
Advocate for the Respondent : MR.A GOYAL

Linked Case : MFA 2/2016

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
ASSAM.

VERSUS

1:M/S AMBA INDUSTRIES  
A UNIT OF AMBA BANIYA P LTD.  
COLE ROAD

P.O. DIBRUGARH  
ASSAM.

Advocate for the Petitioner : MR.N K DAS  
Advocate for the Respondent : MS.M SHARMA

Linked Case : MFA 58/2015

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
ASSAM.

VERSUS

1:M/S JAIN BIJAY and COMPANY P LTD  
THAKURIA BUILDIG  
F.A. ROAD  
KUMARPARA  
2ND FLOOR  
P.O. GUWAHATI-9  
ASSAM.

Advocate for the Petitioner : MSB DEVI  
Advocate for the Respondent : MS.M SHARMA

Linked Case : MFA 61/2013

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11

VERSUS

1:M/S. DINESH SALES CORPORATION

SAXENA BILDING  
IIND FLOOR  
CHAMPAGURI ROAD  
P.O. NORTH BONGAIGAON  
ASSAM.

Advocate for the Petitioner : MR.D K DEY  
Advocate for the Respondent : MR. A GOYAL

Linked Case : MFA 19/2012

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S G.P. SALES CORPORATION  
MAIN ROAD  
P.O.BANDERDEWA  
ARUNACHAL PRADESH.

Advocate for the Petitioner : MR.N K DAS  
Advocate for the Respondent : MR.B MAHESHWARI

Linked Case : MFA 71/2016

1:THE UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S INDIAN OIL CORPORATION LTD AOD  
ULUBARI  
GUWAHATI-7  
ASSAM.

Advocate for the Petitioner : SC  
NF RLY  
Advocate for the Respondent : MS.M SHARMA

Linked Case : MFA 24/2015

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
ASSAM.

VERSUS

1:M/S JAIN and JAIN CO  
6-C  
R.K. SARAWAGI MARKET  
FANCY BAZAR  
GUWAHATI-1  
ASSAM.

Advocate for the Petitioner : MS.R CHOUDHURY  
Advocate for the Respondent : MS.M SHARMA

Linked Case : MFA 54/2016

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI  
DIST. KAMRUP M  
ASSAM.

VERSUS

1:M/S S.G. SALES AGENCY  
H.M. MARKET  
FANCY BAZAR  
GUWAHATI-1  
DIST. KAMRUP M  
ASSAM.

Advocate for the Petitioner : MS.U CHAKRABORTY  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 106/2016

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI 781011

VERSUS

1:M/S INDIAN OIL CORPORATION LTD  
IOCL AOD ZONAL OFFICE  
DIGBOI

Advocate for the Petitioner : MS.M DAS  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 36/2011

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S JOYPRAKASH ASSOCIATES LTD.

161/206 SHRIMANTA MARKET  
A.T. ROAD  
GUWAHATI-1  
ASSAM.

Advocate for the Petitioner : MR.N K DAS  
Advocate for the Respondent :

Linked Case : MFA 92/2016

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI 781011

VERSUS

1:M/S INDIAN OIL CORPORATION LTD  
IOCL AOD ZONAL OFFICE  
DIGBOI

Advocate for the Petitioner : MS.M DAS  
Advocate for the Respondent : MS.M SHARMA

Linked Case : MFA 58/2012

1:UNION OF INDIA  
REPRESENTED BY THE THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI  
DIST. KAMRUP  
ASSAM.

VERSUS

1:M/S. MOTILAL and GOURI FOOD STORAGE PVT. LTD.  
RASIK KUNJA  
OLD GUEST HOUSE ROAD  
KHOSA BAGAN  
AGARTALA  
TRIPURA

Advocate for the Petitioner : SC  
NF RLY

Advocate for the Respondent : MR.B MAHESHWARI

Linked Case : MFA 83/2016

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S INDIAN OIL CORPORATION LTD  
ASSAM OIL DIVISION  
DIGBOI 786171  
ASSAM.

Advocate for the Petitioner : SC  
NF RLY

Advocate for the Respondent : MS. M SHARMA

Linked Case : MFA 79/2011

1:UNION OF INDIA

REP. BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11

VERSUS

1:M/S P.P. ENTERPRISES

JAIL ROAD  
FANCY BAZAR  
GUWHATI-1  
ASSAM

Advocate for the Petitioner : MR.N K DAS  
Advocate for the Respondent : MR.K P MAHESWARI

Linked Case : MFA 287/2010

1:THE UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
NF RAILWAYS  
MALIGAON  
GUWAHATI-11  
ASSAM.

VERSUS

1:M/S NORTH EAST IODISED SALTP LTD.  
BHADRAPALLI GANDHIGRAM  
TRIPURA.

Advocate for the Petitioner : MR.S SARMA  
Advocate for the Respondent :

Linked Case : MFA 71/2017

1:UNION OF INDIA  
REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11

VERSUS

1:M/S SUNRISE TRADERS  
FANCY BAZAR  
JAIL ROAD  
GUWAHATI-1  
ASSAM.

Advocate for the Petitioner : MR.D K DEY  
Advocate for the Respondent : MR.A GOYAL

Linked Case : MFA 53/2013

1:UNION OF INDIA

REPRESENTED BY THE GENERAL MANAGER  
N.F. RAILWAY  
MALIGAON  
GUWAHATI-11

VERSUS

1:M/S S.M. ENTERPRISE

M.G ROAD  
FANCY BAZAR  
GUWAHATI 781001  
ASSAM.

Advocate for the Petitioner : MR.D K DEY  
Advocate for the Respondent : MR.A GOYAL

**BEFORE  
HONOURABLE MR. JUSTICE SUMAN SHYAM**

**ORDER**

**Date : 10-01-2019**

Heard Mrs. U. Chakraborty, Mr. D.K. Dey, Mr. B. Sarmah, Mr. G. Goswami and Mr. B. Sarma, learned Standing Counsel, NF Railway appearing for the Railway authorities in this batch of appeals. I have also heard Ms. M. Sasrma, learned counsel for the opposite party.

Taking note of the submission made by the learned counsel for the parties, this Court had earlier passed an order on 18/03/2016 directing all these matters be listed together and accordingly, the appeals have been posted in a series before this Court. However, when these matters are called up for hearing, the learned Standing Counsels, NF Railways submit that although the core issue in all these appeals pertains to the claim of "said to contain", yet on a factual count, these appeals stand on completely different footings. It is submitted that while in some of the cases, the consignments were booked as per "owners risk rate", in some others, it is "Railways risk rate". In some other case, the loading took place at the instance of the IOCL authorities.

That apart, there are cases where the loading took place in "private siding" and in some other cases in "Railway siding".

The learned counsel submit that although, the question of law involved in all these appeals have a similar bearing, yet, the question may have to be answered by this Court by taking note of the peculiar factual backdrop of each category of cases.

Under the circumstances, the learned counsel for the NF Railways submit that these matters are required to be segregated and bunched together on the basis of above categories, which exercise would take some time.

It is also submitted at the bar that the LCR in all these cases have not yet been received and the name of the learned Standing Counsel, IOCL has also not been reflected in the cause list. The

aforesaid submission made by the learned Standing Counsel, NF Railway has not been opposed by Ms. M. Sarma, learned counsel for the opposite parties.

In view of the above, it would not be possible for this Court to conduct the final hearing of this bunch of appeals today.

The learned counsel for both parties are, therefore, directed to furnish the category-wise list of cases to the Registry for bunching the similar cases together.

The Registry may also verify whether the LCR in all the cases have already been received and if not, take necessary step for obtaining the LCR.

After carrying out the aforesaid exercise, these matters be listed again for hearing by reflecting the names of the learned counsel for all the parties involved in these proceedings.

**JUDGE**

**Sukhamay**

**Comparing Assistant**