

GAHC010229892023



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

**Case No. : WP(C)/6214/2023**

M/S DEEPAK AND CO. AND ANR  
A PARTNER SHIP FIRM REGISTERED UNDER THE INDIAN PARTNERSHIP  
ACT 1932 HAIVING ITS OFFICE AT 7 HARGOBIND ENCLAVE ANAND  
VIHAR DELHI 110092 THROUGH ITS PARTER POONAM PORWAL

2: POONAM PORWAL  
W/O RAKESH KUMAR GUPTA PARTNER MM/S DEEPAK AND CO 7  
HARGOBIND ENCLAVE ANAND VIHAR DELHI 11009

VERSUS

UNION OF INDIA AND 4 ORS  
THROUGH THE SECRETARY MINISTRY RAILWAY RAIL BHAWAN RAIL  
BHAWAN RAISINA ROAD NEW DELHI 110001

2:THE RAILWAY BOARD  
THORUGH THE CHARIMEN RAIL BHAWAN RAISINA ROAD NEW DELHI  
110001

3:THE GENERAL MANAGER  
MOBILE CATERING SERVICES IRCTC STATESMAN HOUSE B 148  
BARAKHMBA ROAD NEW DELHI 11001

4:THE GROUP GENERAL MANAGER  
NZ  
EZ WZ SCZ AND SZ IRCTC STATEMAN HOUSE B 148 BARAKHAMB  
ROAD NEW DELHI 110001

5:THE INDIAN RAILWAY CATERING AND TOURSIM CORPORATION LTD.  
A GOVE OF INDIA ENTERPRISE THROUGH THE REGIONAL MANAGER  
IRCTC REGIONAL OFFICE 4 D MANDОВI APPARTMENT OPPOSITE  
RABINDRA BHAWAN GNB ROAD AMBARI GUWAHATI 781001 ASSA

**Advocate for the Petitioner : MS. B CHOWDHURY**

**Advocate for the Respondent : DY.S.G.I.**

**BEFORE  
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

**ORDER**

**Date : 18-10-2023**

Heard Mr. PK Goswami, learned senior counsel for the petitioner, who submits that the letters dated 08.04.2022, 08.02.2023 and 10.08.2023, which is the demand notice for revised license fee made by the IRCTC, on the revised rates for meals, should be set aside. The basic grievance of the petitioner is that the revision of the license fee could only have been done by the Railway Board and not by the Indian Railway Catering and Tourism Corporation Ltd. (IRCTC). In support of his submission that only the Railway Board has the authority to make the revised license fee, he relies upon the letter dated 05.07.2019 (page 270) issued by the IRCTC to the Ministry of Railways, whereby a proposal had been sent for revision of the tariff in catering services and the letter dated 14.11.2019 (page 274) issued by the Railway Board, wherein only a part of the proposal of the IRCTC had been agreed to.

2. The learned senior counsel for the petitioner submits that as the revision of rates for meals had been done by the Railway Board on the basis of the proposal made by the IRCTC, the IRCTC could not have unilaterally revised the license fee on the basis of the revised rates for meals. The learned senior counsel for the petitioner has also submitted that as there was a revision of rates of the meals due to inflation, the difference in the rates of the meals could not be taxed by the IRCTC, as the same was compensatory.

3. Mr. GN Sahewalla, learned counsel for the IRCTC/respondent Nos. 3 to 5 submits that in terms of clause 8.3 of the Master License Agreement executed between the Railways and the licensee, in case of any revision in the catering tariff, wherein the licensee has been allowed to sell his meals at the revised rates to passengers, the license fee payable to the Railway shall be varied, based on the reassessment of the same from the date of revision of the catering tariff. He submits that the petitioner, IRCTC and the Railway have entered into a Tripartite Agreement dated 06.10.2017, wherein the IRCTC has been delegated the power to revise the license fee by the Indian Railways in terms of Clause-8 of the Agreement. Further, as the license fee is to be shared between the NF Railway and the IRCTC in the ratio of 40:60, from the date of delegating the duties of the Railway Board to the IRCTC, there is no infirmity with the impugned orders passed by the IRCTC. He also submits that in terms of Article 20 of the Agreement executed between the Railways and the petitioner on 10.04.2017, any dispute between the parties should be referred to Arbitration.

4. Mr. H Gupta, learned counsel for the respondent Nos. 1 and 2 submits that in terms of the New Catering Policy, 2017, the entire catering business of the Indian Railways has been handed over to the IRCTC by the Indian Railways.

5. The documents on record show that the revised license fee would have to be made on the basis of a fresh sale assessment, subsequent to the revision of rates of meals, in terms of the letter dated 14.11.2019 (page 274) issued by the Indian Railways.

6. List the matter on **08.11.2023**. On the said date, Mr. GN Sahewalla, learned counsel for the IRCTC shall produce the reassessment made by the IRCTC, on the basis of which the demand for the revised license fee has been made.

7. Mr. GN Sahewalla, learned counsel for the IRCTC submits that no coercive action shall be taken against the petitioner till the next date.

**JUDGE**

**Comparing Assistant**