Government of India (भारत सरकार)

Ministry of Railways (रेल मंत्रालय)

(Railway Board रेलवे बोर्ड)

No.TC-I/2019/109/2Pt. New Delhi, Dt.14.05.2019

Principal Chief Commercial Manager
ECoR, Bhubaneshwar

Sub: Non compliance of rules/guidelines regarding recovery of Punitive Charge

Please refer to ECoR's letter No.SDCM/KUR/CC/WP/2905/2009/HC/CTC/Pt dt.26.03.2019 regarding filing of SLP at Hon'ble Supreme Court of India challenging Hon'ble High Court of Orissa's order dt.04.01.2019 in WP(C)No.2905/2009 filed by M/s Rashmi Metaliks Ltd and order dt.04.01.2019 in WP(C)No.7895/2009 filed by M/s Bagadiya Brothers Pvt Ltd.

The matter has been examined and it is seen that root cause of the above cases is non compliance of rules/guidelines regarding recovery of Punitive Charge, which is as under -

Railways Act 1989

*"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 subsection (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**...."*

IRCM Vol-II

*"**1820**. Recovery of railway dues before delivery of goods- **Before delivery of goods, it should be seen that all railway dues and other charges have been paid**. Wharfage and demurrage charges should be levied under tariff rules and recovered, from the consignee/endorsee before the removal of goods from railway premises. Similarly, **all undercharges noticed as a result of check of invoices, weighment of goods, etc. should be recovered** from consignee/endorsee **before delivery of goods.**"*

Non adherence to the stipulated rules/guidelines has not only resulted in loss of revenue but also filing of cases in courts by esteemed customers. The broad time line of cases as evident from ECoR's letter is given below –

M/s. Rashmi Metaliks Ltd.
Demand notice issued by TI for overloading – 12.09.2008
Demand letter for Punitive Charge issued by Commercial department – 09.02.2009

M/s Bagadiya Brothers Ltd.
Period of overloading cases - October 2007 to April 2009
Demand for Punitive Charge raised on – 15.04.2009

The responsibility may be fixed at the appropriate level so that such type of situation does not recur.

14.5.19

(Barjesh Dharmani)
Exec. Director Traffic Commercial (Rates)
Railway Board