

BY SPEED POST

No.76/22/MISC Policy/C/DE/2011Vol.II
Govt. of India, Ministry of Defence
Directorate General Defence Estates
Raksha Sampada Bhawan
Ulaan Bataar Marg, Delhi Cantt-10
New Delhi-110010
Dated: 11th September, 2013

7/A

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To

The Principal Director, Defence Estates,
Ministry of Defence
Eastern/ Northern/Southern/ Western Commands
Kolkata/Jammu/Pune/Chandigarh

Sub: - W.P. No. 1292 (Tax) of 2011- Cantonment Board Varanasi Vs. Union of India, NE Railways & Northern Railways

Reference DGDE letter No. 9/5/SC(Army)/CB/C/DE/2012-13 dated 17.08.2012 wherein a copy of the order dated 23.07.2012 of Hon'ble High Court of Allahabad in the matter of W.P. No. 1292 (Tax) of 2011 between Cantonment Board Varanasi & Union of India, NE Railways and Northern Railways, was forwarded for guidance and necessary action by the CEOs.

2. Despite persistent efforts by Cantonment Board Varanasi, the Railways did not make the payment of Service Charges to Cantonment Board Varanasi on various pretexts. The Board took up the matter with Hon'ble High Court and the Court vide its order dated 30.07.2013 has directed the respondent to enter into an agreement as per the draft agreement and agreed measurements to pay Service Charges to Cantonment Board Varanasi @ 33.33% of the property tax w.e.f. 08.02.1983. The agreement would be entered into within a month and the entire amount will be paid in four equal monthly installments from September to December, 2013. The order further states that the Service Charges in future shall be paid as and when they fall due.

3. A copy of the order dated 30.07.2013 is forwarded herewith and the same may be circulated to all CEOs under your jurisdiction to enable them to recover Service Charges in respect of properties of the Railways, wherever due and not paid so far.

(Ajay Kumar Sharma)
Dy Director General (C & CRD)
For DGDE

Copy to:-

1. The Principal Director, Defence Estates, : For information and necessary
Ministry of Defence action.
Central Command, Lucknow
2. DMS
3. cbdata

Internal Copy:-

F.No. 9/5/SC (Army)/CB/C/DE/2012-13

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2013

Shakti Dhar Dube
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Advocates, High Court, Allahabad
Bar Library Hall Center Table-II
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C.M. (H) Tax M. NO. 1292 OF 2011

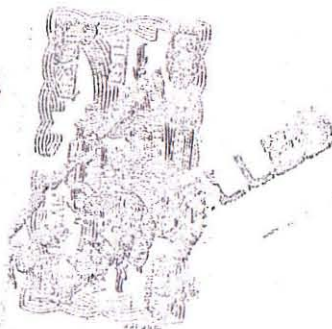
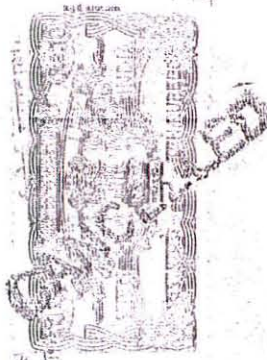
DISTRICT: Varanasi

Cantonment board Varanasi Thru chief Petitioner
Executive officer

Versus

Union of India & others Respondents

Copy of Order Dated: 30-7-2013



3. The proposed draft agreement is enclosed in the rejoinder affidavit of Shri G.B. Singh, Sr. Divisional Engineer-III, Northern Railway, Lucknow.

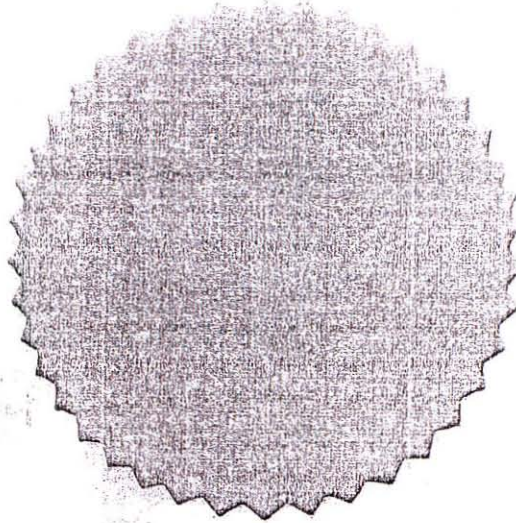
4. An application was filed by Shri S.D. Dubey appearing on behalf of Cantonment Board, Varanasi, the petitioner alleging that despite measurements made and in-principle acceptance of payment of service charges, the railways have again backed tracked and has objected to the rate of service charges applicable and are now insisting upon payment of the levy of service charge at 2.25% of the tax calculated. Reference was made to affidavit of Shri Manoj Kumar Pandey posted as Divisional Engineer,III, Northern Railway, Lucknow including proposed agreement between the same parties in which service charges were sought to be calculated at the rate of 2.25% of the tax calculated on various lands and buildings of railway administration vide notification dated 22.11.2004 issued by Home Secretary cum Secretary, Local Government, Chandigarh. In para 2 of the proposed agreement reference was made to the agreement with Chandigarh Administration for service charges at the rate of 2.25% of the tax.

5. During the course of argument, it was pointed out to Shri Tarun Verma and Shri Vivek Singh, learned counsel for the respondents that they had agreed to comply with the directions of the Supreme Court in Rajkot Municipal Corporation (Supra) in which reliance has been placed on directions issued by the Ministry of Finance Letter No.4 (7)/p/65 dated 29.3.1967 for payment of service charges at 33 1/3% of the use of the property tax applicable to all properties in the department of Central Government, in the cantonment except property of Defence Ministry or clause put by the railways in the earlier affidavit of Shri G.B. Singh, Senior Divisional Engineer-II, Northern Railway, Lucknow as well as the method of calculation worked out in the notification dated 29th March, 1967 of the Ministry of Finance. It was accepted by learned counsel for the respondents that service charges in accordance with the notification dated 29th March, 1967 of Ministry of Finance, Government of India are to be levied at 33 1/3% of the property tax on the lands and buildings.

6. By now considerable time of this Court has been wasted in reminding the railways to carry out their statutory liability and to follow the judgment of the Supreme Court in Rajkot Municipal Corporation (Supra), which has laid down the law for entire country and is binding on all the authorities under Art.14 of the Constitution of India. It is unfortunate that the respondents have taken almost two years to appreciate the legal position that they



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Allahabad**

Requisition Information

Folio No.	Application Date	Case Type	Case No.	Year	Case filed at	Date of Judgment/Order	Court Fee	No. of Pages
182501 of 2013	13.8.2013	WTAX	1292	2011	Allahabad	30.7.2013	15.0	3

Printed/Prepared by	Authenticated by	Date of Issuance
Signature :- Name :- Priya Brota Sengupta Designation :- Review Officer Employee No. :- E7218 Date of Printing:- 13.8.2013	Signature :- Name :- Kavliost Padwalk Designation :- Section Officer Employee No. :- 369 Authenticated Copy ready on:-	

13 AUG 2013