

- Petitioners also had the option to take direct delivery of their products/goods from the shipping line at the port itself, immediately on discharge within 48 hours but did not chose to do so.
- There exists a privity of contract between CFSs and its customers, the Government cannot in any situation, govern or modify the terms of arrangement between two private parties under a contract.
- Claims of waiver or exemption are matters of contract which needs to be decided on facts of each case and cannot be generalized.

FINDINGS OF THE COURT

- The advisories reveal that these are not mandatory, or directory vide which only shipping lines and custodians of Inland Container Depot (ICD) are advised to only adopt a sympathetic approach while levying container detention charges/ground rent charges on import of cargo for the lockdown period.
- CFSs are not availing any concession from port authorities and who have their containers located outside the port land.
- The Letters/guidelines/advisories cannot intervene or interfere in a private contract which CFS has with its customer.
- The circulars/guidelines are prima facie not binding on the Respondent CFS.
- There is no material on record which prima facie suggests that any right of the Petitioner has been violated by the Petitioner.
- No irreparable loss is going to be caused to the Petitioner as in event the Petition is decided in their favour the ground rent charges can be recovered by them from CFS.

ELP COMMENTS

The said issue is being raised by the importers across the country and will have a huge impact on the Container Freight Stations. There are Writ Petitions filed in other jurisdictions on the said issue which are yet to be decided.

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