

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 02.11.2016

+ **ARB. A. (COMM.) 4/2016 & CAV 70/2016, CRL M.A. 1907/2016**

ARES INVESTMENT LLC

..... Appellant

versus

INTERNATIONAL PRINT-O-PAC LTD. & ORS.

..... Respondents

Advocates who appeared in this case:

For the Appellant : Mr Jayant Mehta, Mr Inder Raj, Ms Tanushree Ghosh and Mr Shaurya Kuthiala.

For the Respondents : Mr Tejas Karia and Mr Akhl Anand for R-1.
Mr Arun Kathpalia, Mr Swapnil Gupta,
Mr R.K. Gupta and Mr Eransh Mishra for R-2
to R-6.

CORAM:-

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. Ares Investment LLC (hereafter 'AIL') – a company incorporated in Mauritius - has filed the present appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') impugning an order dated 19.10.2015 (hereafter 'the impugned order') passed by the Arbitral Tribunal, under Section 17 of the Act.

2. The principal controversy involved in the present appeal relates to AIL's right to information and audit of International Print-O-Pac Limited ('hereafter IPPL'). In terms of the Agreement between the parties as well the Articles of Association of IPPL, AIL has a right to access the books of

accounts of IPPL for investigation and conduct an audit of its business processes. By the impugned order, the Arbitral Tribunal has declined AIL's prayer to conduct an audit of IPPL for the years 2012-13 and 2013-14. The Arbitral Tribunal has, *inter alia*, held that such a relief would have no relationship with the protection of subject matter of the dispute before it.

3. AIL has challenged the impugned order mainly on the grounds that (i) its right to conduct audit is an unqualified, unconditional and unfettered right, which is exercisable by it throughout the term of its investment in IPPL; (ii) that the finding/reasoning that the interim relief had no relationship with the protection of the subject matter of dispute is erroneous; (iii) that the Arbitral Tribunal has failed to consider other reliefs sought by AIL; and (iv) that the impugned order is not a speaking order as, according to AIL, the Arbitral Tribunal did not state any reasons for rejection of the AIL's contentions.

4. Before addressing the controversy, it is relevant to briefly narrate the background in which AIL's application under Section 17 was considered by the Arbitral Tribunal.

4.1 IPPL and respondent nos. 2 to 6 (hereafter 'Promoters') were desirous on raising resources for financing IPPL's business and repaying IPPL's inter-corporate deposits received from specified persons. AIL being an financial investor agreed to invest in IPPL; it entered into an Investment Agreement dated 22.12.2006 (hereafter 'the Agreement') with IPPL to make an investment in the form of 5500 redeemable preference shares, each having face value of Rs 10 per share at a premium of Rs. 99,990 per share

aggregating to Rs. 55 crores in IPPL. The terms and conditions as enumerated in the Agreement were also incorporated in the Articles of Association (AOA) of IPPL.

4.2 Since IPPL is a private company, its shares would not be freely marketable and any investment in the shares would be illiquid. It is stated by AIL that in view of the above, the Agreement included an obligation on the part of IPPL and the promoters to have the shares of the IPPL listed within a period of not later than five years from the closing of the Agreement. The parties agreed that IPPL would create a liquid market for its shares to enable AIL to exit IPPL by selling its shares in optimal fashion. It is for this purpose, the Agreement in Article 11.7 provided that IPPL shall make a Qualified Initial Public Offering (Qualified IPO/ QIPO) and listing of its shares within the target of four years from the closing date of the Agreement and in any event before the period of five years from the said closing date.

4.3 The Agreement also provided for additional rights to AIL including representation on the Board of Directors; specifying matters requiring affirmative vote by AIL; and extensive information rights relating to IPPL

4.4 It is AIL's case that IPPL/Promoters failed to perform their obligations under the Agreement including inaccurately recording the minutes of the meetings of the Board of Directors of IPPL; mismanaging the funds of IPPL; appointing M/s B.K Shroff & Co as the statutory auditor of IPPL notwithstanding the objections of AIL; manipulating the financial statements of IPPL; failing to provide accurate information; and denying

the right of AIL to have the accounts audited. AIL states that as a consequence of various breaches, AIL's investment in IPPL remained illiquid and locked.

5. AIL states on 05.02.2013 it demanded an audit of IPPL, which was denied by the Promoters on 21.02.2013. Another request for audit was made by AIL in the Board Meeting of IPPL held on 28.08.2014, which was also denied. AIL claims that these denials violated its rights under the Agreement as well as the AOA.

6. Mr. Mehta, learned Advocate appearing for AIL contended that in terms of the Agreement as well as the AOA, AIL had an unfettered right to conduct an independent audit of IPPL and there was no plausible reason for denying this right. He referred to the Statement of Claims and the prayers made there and submitted that the principal dispute before the Arbitral Tribunal was regarding breach of the Agreement including breach of AIL's information rights and therefore the conclusion of the Arbitral Tribunal that AIL's prayer for interim measure to conduct an audit was unrelated to the protection of the subject matter of disputes was erroneous. He further submitted that AIL's rights under terms and conditions of the Agreement were also included in the AOA, which is admittedly binding on IPPL and its shareholders.

7. Mr. Mehta earnestly contended that the impugned order was an unreasoned one as none of the contentions advanced on behalf of AIL were considered and the Arbitral Tribunal had provided no reason for denying AIL, its right to conduct an independent audit.

8. Mr. Kathpalia, learned counsel appearing for the Promoters countered the submissions made by Mr. Mehta. He submitted that the appeal is liable to be dismissed as there is no allegation that the Arbitral Tribunal, while dismissing AIL's application, used its discretion arbitrarily or capriciously or perversely or it has ignored the settled principles of law regulating the grant or refusal of interlocutory injunctions. He submitted that in the absence of the aforesaid grounds, this Court in the exercise of its appellate jurisdiction would not be justified in interfering with the discretion exercised by the Arbitral Tribunal. He referred to the decision of the Supreme Court in **Wander Ltd. & Anr. v. Antox India P. Ltd. : 1990 (Supp) SCC 727** in support of his contention that Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below, if the one reached by that court was reasonably possible on the material placed on record. He further contended that interim relief sought by AIL was not in aid of any final relief and therefore could not be allowed.

9. Mr. Kathpalia further contended that AIL had pressed only the relief relating to conduct of an audit under Article 11.11(b) of the Agreement read with Article 137(11)(ii) of the AOA and it had not pressed any other relief; therefore, there was no occasion for AIL to now seek any other relief in these proceedings. In addition, Mr. Kathpalia contended that AIL had also expanded the scope of the reliefs sought. He submitted that before the Arbitral Tribunal, AIL had limited its prayer to conduct of a special audit. However, in its appeal, AIL was seeking an independent audit from

financial year 2011-12 onwards which was much in excess of the reliefs claimed before the Arbitral Tribunal.

10. Next, Mr Kathpalia earnestly contended that the interim relief claimed by AIL was not in aid of the final reliefs. He submitted that the main relief sought by the AIL was the sale of its shares in IPPL at a pre-determined price and an interim prayer for an audit was not an interim measure in aid of the relief sought. Lastly, Mr Kathpalia contended that the Agreement had been terminated and this disentitled AIL from seeking any specific performance of any term of the Agreement.

Reasoning and Conclusion

11. At the outset it is necessary to refer to the relevant Articles of the Agreement. In terms of Article 9.5 of the Agreement, IPPL, the Promoters and its shareholders were not entitled to take any decision, action or pass resolutions over any of the 'Reserved Matters' without the approval of AIL. The said right is also encapsulated under Article 111A of the AOA. Article 11.11 (b) of the Agreement (included as Article 137 (11)(ii) in the AOA) also provided for AIL's right to seek an audit of IPPL so long as AIL continued to be a shareholder in IPPL. The relevant part of Article 9.5 and Article 11.11 of the Agreement are set out below :-

“9.5 Reserved Matters

The Company and the Promoters agree that the following actions, decisions and resolutions in relation to the Company shall not be taken or passed by the Board (including any committee thereof) or at Shareholders' meetings without the prior written consent of the Investor's Directors or the Investor (as the case may be);-

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appointment or re-appoint or for the removal of statutory and/or internal auditors for the Company or to approve changes in the principles and policies of accounting or change of financial year;

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It is clarified that no resolution shall be passed at any general meeting of the Shareholders of the Company with respect to any of the above matters unless the same has been approved by a resolution at the Board Meeting calling such general meeting and the Investor Director has voted in favour of such resolution.

11.11 Information Rights

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(b) So long as any of the Investor Preference/Equity Shares of the Investor are outstanding the Investor and their duly authorized officers, employees, accountants and attorneys shall have the right, at any time, and from time to time during normal business hours and upon reasonable notice, to inspect and take copies of the books, records and other documents of the Company and to consult with the officers, employees, accountants and attorneys of the Company for the purpose of affording the Investor full opportunity to make such investigation as it shall desire. The investor shall have the right to conduct an audit of the Business of the Company to review financial and operational processes being followed by the Company and to make recommendations in that behalf. The Company and the Promoters shall take all steps to ensure that such recommendations are duly implemented in a timely manner.”

12. As stated earlier, the aforesaid Articles are also included in the AOA. Although elaborate contentions were advanced on behalf of the respondents

(IPPL/Promoters), the fundamental premise on which AIL has based its claim - that it had a right under the AOA to conduct an audit - was not disputed; admittedly the AOA is binding on IPPL and the Promoters. The impugned order must be considered in the aforesaid context.

13. After noting the contentions advanced by the parties, the Arbitral Tribunal had disposed of AIL's application under section 17 of the Act in the following words:

"Having considered the submissions of the counsels for the parties and bearing in mind the very object of which the investor had been granted the right to conduct audit and judging the very stand point of existence of prima facie case, balance of convenience and irreparable loss and injury, the Tribunal does not think that case for any interim order permitting the Claimant to conduct audit of the company from 2012-13, 2013-14 does not arise. It would have no relationship with the protection of subject matter of dispute, which is pre-condition for exercising power under Clause 17. We are also satisfied that considering the claim of damages made in the Statement of Claim, it is difficult to conceive that the Claimant had made out a case of irreparable loss and injury if an order permitting the Claimant to have an audit is not granted. Tribunal, therefore, declines to pass any order in favour of the Claimant in this regard and the application for interim direction filed under Section 17 stands rejected."

14. A bare perusal of the impugned order indicates that the Arbitral Tribunal had declined the interim relief as claimed by AIL principally on three grounds. First, the Arbitral Tribunal had concluded that an interim order could not be granted keeping in view the object for which such right had been granted to AIL (from the standpoint of prima facie case,

irreparable loss and balance of convenience); second, the Arbitral Tribunal concluded that the relief for conduct of an audit *"would have no relationship with the protection of the subject matter of dispute"*; and third, that AIL had not made out a case of irreparable loss or injury considering that it had made a claim of damages in its Statement of Claims.

15. In order to address the controversy as to whether the interim relief had any relationship with protection of the subject matter of dispute, it would be relevant to examine the final reliefs as sought by AIL in its Statement of Claims before the Arbitral Tribunal. The same are set out below:-

"(i) Declaring the following acts committed by the Respondents in breach of the Agreement and ultra vires the Articles as illegal and direct the Promoters and IPPL to remedy the same:

(a) Capital Expenditure of Rs.43 crores i.e. Rs.15 crores for purchase of land at Noida and Rs.28 crores for construction of the warehouse on the Promoters' land;

(b) Appointment of the Respondent No.3 as the Managing Director of IPPL;

(c) Appointment of the Respondent No.4 as the Executive Director of IPPL;

(d) Non-appointment of the requisite number of Independent Directors on the Board of IPPL and appointment of other Independent Directors without the consent of the Claimant;

(e) Appointment of M/s B.K. Shroff & Co. as the Statutory Auditors of IPPL for the Financial Year 2013 - 2014;

(f) Omnibus approval / enhancement of credit limits; and

(g) Related party transactions as detailed in paragraphs 8.45 to 8.48 of the Statement of Claim.

(ii) Mandatorily enjoining the Respondents to act strictly in accordance with the Agreement and the Articles and permanently enjoining them from acting in breach of the Agreement and the Articles.

(iii) Mandatorily direct the Respondents, in particular, the Respondent Nos.1 to 4 to conduct a QIPO or a LIPO in terms of Clauses 11.7 and 11.8 of the Agreement by making a public offer of shares from part sale of the Promoters' shareholding coupled with fresh issuance of shares in a time-bound manner not exceeding six (6) months and the Claimant prays that for this purpose this Hon'ble Tribunal may be pleased to make a preliminary award designating the date by which such QIPO or LIPO is to be conducted by IPPL.

(iv) Direct the Respondent Nos.2 to 4, jointly and severally, to compensate the Claimant for the shortfall in the valuation of its shareholding for the difference between Rs.149.3 crores and the value that would be determined in the IPO to be made by IPPL along with interest at the rate of 18% p.a. from 01.01.2012 until realisation.

(v) In the event that IPPL is unable to conduct a QIPO or a LIPO in a time-bound manner as prayed for in prayer (iii) for any reasons whatsoever, direct the Respondent Nos.2 to 4, jointly and severally, to purchase the shareholding of the Claimant in IPPL at Rs.55 crores plus interest at the rate of 18% per annum from the date of investment i.e., January, 2007 until the date of realization."

16. It is seen from the above that the principal reliefs - prayers (iii), (iv) and (v) - claimed by AIL before the Arbitral Tribunal were aimed towards enabling AIL to exit its investment in IPPL. However, AIL had also sought

a direction to the respondents to act in accordance with the Agreement and AOA - prayer (ii). The said prayer was supported by pleadings. In its Statement of Claims filed before the Arbitral Tribunal, AIL had set out in detail its allegations regarding the breach of the Agreement by the respondents. AIL had specifically alleged in paragraph 5.21 of the Statement of Claims that for the financial year 2013-14 it had sought an independent review of the financials by appointing an auditing agency at its expense and offered to conduct it within a short period of time prior to the expiry of the statutory filing date of 30.09.2014. However, AIL's claims have been denied by the promoters. AIL has specifically pleaded that it had on specified occasions attempted to exercise rights under Article 137(11)(ii) of the AOA but the same had been declined.

17. It is relevant to refer to paragraphs 6.19 to 6.25 of the Statement of Claims filed by AIL which reads as under:-

“Refusal of the Right of the Claimant to inspect the records and conduct an audit

6.19 Clause 11.11(b) grants the Claimant the right to inspect the records of IPPL and conduct an audit to review the financial and operations being followed by IPPL. This right of the Claimant is absolute. Both, IPPL and the Promoters are obligated under the Agreement as well as under the Articles to allow this to the Claimant. However, they have refused and avoided to allow the Claimant to conduct an independent audit of IPPL.

6.20 Since the Respondents were intentionally shielding information from the Claimant and only providing sketchy, summary and unintelligible data, the claimant made repeated requests to the management for information including, draft Auditor's Report, draft Director's Report

etc. inter alia vide inter alia emails dated 04.10.2012 and 11.10.2012. To these requests, the Respondent No.2 replied vide email dated 12.10.2012 simply claiming that it appeared as if the Claimant wanted a probe into IPPL's working. He stated that furnishing the records for the same was neither necessary nor feasible. This was yet another effort and instance of avoiding disclosure of information to the Claimant; which the Claimant was rightfully entitled to under the Agreement and the Articles.

6.21 On 05.02.2013, the Claimant wrote a letter to the management informing that in exercise of its right under Article 137(11) (ii) of the Articles it proposed to conduct an audit of IPPL and, for that purpose it had appointed an audit and process consulting firm at its own cost.

6.22 The Respondent No.2 in reply to the above-mentioned letter wrote to the Claimant on 21.02.2013 opposing audit inter alia on the following grounds:

(i) Article 128(3) and 132 of the Articles of Association restrict any person other than the Director from inspecting the records without the consent of the Board of Directors.

(ii) Accounts audited by S. R. Batliboi & Co. do not contain any adverse remark regarding the nature of the business, financial or operational processes of IPPL.

(iii) The Claimant had become hostile since December, 2011 so as to put pressure on the Promoters to offer an exit at the best possible valuation and this request for Audit was a pressure tactic as well.

(iv) The turnover of IPPL had gone up. Further CRISIL had been rating it as 'A Stable' and 'A1' for the last four years. Thus, there was no requirement for another Audit.

With the aforesaid reasons, each of which was insincere and dishonest, the Respondents refused to allow audit of IPPL

by the Claimant. This was clearly in breach of the Agreement and the Articles.

6.23 The aforesaid was followed by another shocking incident. Suddenly towards the middle of 2013, the then statutory auditor of IPPL, namely, S.R. Batliboi & Co. resigned, SR Batliboi & Co. LLP, in a letter dated 27.08.2013, addressed to the Board, stated that “... *additionally, there are other matters which remain unaddressed to date that impact the progress and completion of the Audit. Based on an internal review of the engagement we are not comfortable continuing with the audit*”. It was clear from this statement that in the process of audit, the Auditor was ‘not comfortable’. However, despite efforts of the Claimant to ascertain as to what had caused this, nothing was disclosed and the same old pattern of shielding material information from the Claimant continued unchanged.

6.24 The Promoters illegally and notwithstanding the objections of the Claimant (since this was a ‘Reserved Matter’ under the Agreement and the Articles) appointed B.K. Shroff & Co. as the statutory auditor. The new statutory Auditor completed the audit in just two months even when they were not aware of the financial background of IPPL. The Claimant was obviously sceptical about the quality of their work and had even communicated the same to the management in the Board Meetings and the email dated 26.04.2014.

6.25 The Claimant, therefore, again requested for an independent audit of IPPL in the Board Meeting held on 28.08.2014 and email dated 01.09.2014. However, this request was once again stonewalled by the Promoters.”

18. Apart from the averments made above, AIL had also made several allegations against the respondents to the effect that the respondents had failed to provide the necessary information in terms of the Agreement and

had further provided incorrect information relating to the affairs of IPPL to AIL. A substantial part of the Statement of Claims is devoted to the allegations regarding breach of the terms of the Agreement.

19. In terms of clause (a) of Article 11.7 of the Agreement, IPPL/Promoters had agreed that IPPL shall make a Qualified IPO and listing not later than five years from the closing. The Qualified IPO would be by issue of shares and/or part sale of AIL's shares in IPPL. The said clauses (a) and (b) of Article 11.7 of the Agreement reads as under:-

- “(a) The Company shall, and the Promoter shall procure that the Company shall, make a Qualified IPQ and Listing within the target period of 4 (four) years from the Closing Date but in any event before the period of 5(five years from the Closing Date) (**“QIPO Deadline”**).
- (b) The Qualified IPQ shall be through fresh issuance of Shares and/or part sale of the Investor Equity Shares and shall be structured in a way to optimize valuation and liquidity to the Investor based on the advice of Independent Banker.”

20. Clause (a) of Article 11.8 of the Agreement provides that in the event the Promoters failed to achieve the Qualified IPO within the specified period, AIL would be entitled to initiate and trigger an IPO (Liquidity IPO). AIL would be entitled to offer up to 50% of the minimum shareholding required to be offered to the public under Liquidity IPO. Clauses (a) and (b) of Article 11.8 are reproduced below:-

- “(a) If the Company and the Promoters fail to achieve a Qualified IPO on or before the QIPO Deadline and the Listing not been achieved, Investor shall be

entitled at its option to initiate and trigger an IPO ("**Liquidity IPO**").

- (b) The pricing, amount, timing and other terms for, the Liquidity IPO shall be decided by and be at the sale discretion of Investor without any objections from the Company or the Promoters.”

21. The purpose of a Qualified IPO and/or Liquidity IPO was to provide liquidity for the investments made by AIL and to enable AIL to exit IPPL by selling its shares in the event it desired so. Admittedly, IPPL has not floated a Qualified IPO and its shares are not listed on any stock exchange. Whilst AIL alleges that this constitutes a breach of the Agreement, IPPL/Promoters dispute the same and contend that IPPL did not come out with the Qualified IPO because AIL did not agree on appointment of the investment banker at the material time as it did not wish to proceed with the listing of the shares.

22. In the context of the aforesaid disputes, AIL has prayed for reliefs [prayers (iii), (iv) and (v)] in order to exit its investment. AIL has further claimed that value in its shareholding was Rs.149 crores in 2011-12 and has alleged that because of the various acts of IPPL/Promoters, the value of its investment has diminished. On the aforesaid allegations, AIL has sought recovery of loss in value of its shareholding along with interest.

23. Clearly, if the Arbitral Tribunal was to allow the aforesaid prayers, there would be no occasion for the Arbitral Tribunal to grant any other relief with regard to the breach of the Agreement. However, if the said reliefs are not granted as they are contested by IPPL/Promoters; AIL may,

nonetheless, be entitled to claim its right as a shareholder of IPPL in accordance with the Agreement and AOA. Thus, the contention that the claim of AIL for loss in value of the shareholding and/or for sale of its shares at historical cost of Rs.55 crores plus interest at the rate of 18% per annum, disentitles AIL to assert its information rights as a shareholder/investor pending conclusion of the arbitral proceedings, is not merited. Although, it was earnestly contended that the Agreement had been terminated and interim relief ought not to be granted, Mr. Kathpalia was unable to counter the contention that AIL was entitled to conduct the audit in terms of Article 137(11)(ii) of the AOA. The subject matter of disputes includes the alleged breach of the AOA and the Agreement and, therefore, the finding that the interim relief sought by AIL had no relationship with protecting the subject matter of dispute is, in my view, not sustainable.

24. The Arbitral Tribunal had also declined AIL's request as it concluded that an interim order was not warranted, keeping in view the object of AIL's right to conduct an audit and keeping in my view, the principles for grant of interim injunction, that is, irreparable injury, balance of convenience and existence of a *prima facie* case.

25. As observed above, it is not disputed that AIL holds 25% of the issued and paid-up equity share capital of IPPL pursuant to the Agreement. As observed hereinbefore, it is an admitted case that the AOA of IPPL had been amended in terms of the Agreement and entitles AIL to conduct an audit in terms of Article 11.11(b) of the Agreement.

26. As long as AIL is a shareholder of IPPL, *prima facie*, it would have the information rights as per Article 11.11(b) of the Agreement/ Article

137(11)(ii) of AOA. In view of the fact that the respondents have not been able to counter that AIL is entitled to information and conduct an audit in terms of Article 137(11)(ii) of AOA, I am unable to concur with the conclusion that AIL does not have a *prima facie* case for exercise of such rights.

27. The question of balance of convenience has to be considered in reference to the rival contentions. As IPPL/Promoters have been unable to counter AIL's claim that in terms of AOA, it is entitled to certain information and conduct an audit, I find it difficult to accept the conclusion that the balance of convenience lies in their favour.

28. AIL has pleaded that it has the right to exit IPPL and the breaches committed by IPPL/Promoters has resulted in a drop in the value of their shares and, therefore, they are entitled to the loss in value of their shares. The said claims are repudiated and contested by IPPL/Promoters; they deny having committed any breach of the Agreement and contend that the Qualified IPO was deferred only at the instance of AIL. According to IPPL/Promoters, they are not obliged to buy their shares held by AIL and it continues to be a shareholder of IPPL. Plainly, in view of the subject of disputes, the rights of AIL as a shareholder must be protected as there is no dispute that it is a shareholder of IPPL and, indisputably, the IPPL/Promoters are bound by the AOA.

29. In view of the above, the appeal is allowed and the impugned order is set aside. It is directed that:

(i) AIL may give a notice to inspect the books and records of IPPL and upon receipt of notice IPPL/Promoters shall ensure that the books and records of IPPL are available for inspection by the person(s) nominated by AIL for the said purpose;

(ii) AIL/its nominee(s) may at its expense take copies of any books or records as it considers necessary for its investigation;

(iii) AIL/its nominee(s) may also consult any officers/employees of IPPL to elicit any information relating to the affairs of IPPL and such officers/employees shall fully co-operate with AIL's nominee(s) and disclose the information available with them. IPPL/Promoters shall also ensure such cooperation;

(iv) AIL may appoint any professional for conducting an audit of the business of IPPL and to review financial and operational processes being followed by IPPL.

30. There is some controversy as to whether AIL had pressed prayers other than prayers for conduct of an audit before the Arbitral Tribunal. Whilst the written submissions filed on behalf of AIL indicate that other reliefs were pressed, the same is disputed by IPPL/promoters. In any view, the Arbitral Tribunal has not considered the same, therefore I do not consider it expedient to consider other reliefs at this stage. However, it would be open for AIL to approach the Arbitral Tribunal for other reliefs. Needless to state that if AIL approaches the Arbitral Tribunal for such reliefs, the same would be considered on merits in accordance with law.

31. The appeal is disposed of in the aforesaid terms. The caveat and the pending application also stand disposed of. The parties are left to bear their own costs.

VIBHU BAKHRU, J

NOVEMBER 02, 2016
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