

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 24th DAY OF JANUARY 2018

THE HON'BLE DR. JUSTICE ANITA SUMANTH

O.P. Nos.816 to 818 & 820 of 2017

and

O.A. Nos.617 & 618 of 2017

and

A. Nos.5657, 5658, 6305 & 6306 of 2017

O.P. Nos.816 to 818 & 820 of 2017 and

A. Nos.5657 & 5658 of 2017:-

In the matter of
Arbitration and
Conciliation Act, 2016

and

In the matter of
agreement between Gail
(India) Limited and
Arkay Energy
(Rameswaram) Limited.,

Arkay Energy (Rameswaram) Limited,

Corporate Office,

No.20, Chamiers Road,

Nandanam, Chennai-600 035

rep. by its President,

(Commercial & Admin)/

Authorised Signatory ... Applicant/Petitioner

-Versus-

1. Gail (India) Limited,
Chennai Zonal Office,
5th Floor, "Kuppu Arcade",
New No.4, (Old No.60),
venkatanarayana Road,
T.Nagar, Chennai-600 017
rep. by its Zonal General Manager

2. Gail (India) Limited,
A Government of India Undertaking
No.16, Gail Building,
Bhikaiji Cama Place,
R.K.Puram, Ring Road,
New Delhi-110 066
rep. by its Chairman and Managing Director

3. Oil and Natural Gas Corporation Limited,
 Cauvery Asset, Nervy Office Complex,
 Karaikal, Puducherry-609 604
 rep. by General Manager-
 Chief Marketing ... Respondents/Respondents

O.P. No.816 of 2017:-

Original Petition praying that this Hon'ble Court be pleased appoint an arbitrator to resolve the dispute between the petitioner and respondents arising out of the APM debit note dt. 29.05.2017 for Rs.10,35,67,605/- raised under the agreement dt. 24.12.2010 extended upto 05.07.2021 vide agreement dt. 31.12.2015 for the supply of 2,92,000/-SCMD APM Gas.

O.P. No.817 of 2017:-

Original Petition praying that this Hon'ble Court be pleased to appoint an arbitrator to resolve the dispute between the petitioner and respondents arising out of the Non APM debit note dated 29.05.2017 for Rs.54,05,975/- raised under the agreement dated 07.03.2013 extended by side letter-B to GSA dated 18.04.2013 for the supply of 4,00,000/SCMD Non-APM Gas.

O.P. No.818 of 2017:-

Original Petition praying that this Hon'ble Court be pleased appoint an arbitrator to resolve the dispute between the petitioner and respondents arising out of the APM debit note bearing No.02114000162 dt. 31.03.2015 for Rs.4,11,70,563/- raised under the agreement dt. 24.12.2010 for supply of 2,92,000 SCMD APM Gas.

O.P. No.820 of 2017:-

Original Petition praying that this Hon'ble Court be pleased to appoint an arbitrator to resolve the dispute between the petitioner and respondents arising out of the MDP debit note dated 29.05.2017 for Rs.51,13,586/- raised under the agreement dated 24.12.2010 extended periodically for the supply of 78,000/- SCMD MDP Gas.

A. No.5657 of 2017:-

Application praying that this Hon'ble Court be pleased to implead the proposed respondent as 3rd respondent in the above O.A. bearing No.617 of 2017.

A. No.5658 of 2017:-

Application praying that this Hon'ble Court be pleased to implead the proposed respondent as 3rd respondent in the above O.A. bearing No.618 of 2017.

O.A. Nos.617 & 618 of 2017 and A. Nos.6305 & 6306 of 2017:-

In the matter of
Arbitration and
Conciliation Act 1996
and
In the matter of agreement
between Gail (India)
Limited, and Arkay Energy
(Rameswaram) Limited

Arkay Energy (Rameswaram) Limited,
Corporate Office, No.20, Chamiers Road,
Nandanam, Chennai-600 035
rep. by its President (Commercial & Admin)
/Authorised Signatory ... Applicant

-Versus-

1. Gail (India) Limited,
Chennai Zonal Office,
5th Floor, "Kuppu Arcade",
New No.4, (Old No.60),
Venkatanarayana Road,
T.Nagar, Chennai-600 017
rep. by its Zonal General Manager.
2. Gail (India) Limited,
A Government of India undertaking
No.16, Gail Building,
Bhikaiji Cama Place,
R.K.Puram, Ring Road,
New Delhi-110 066
rep. by its Chairman and Managing Director...
Respondents

O.A. No.617 of 2017:-

Original Application praying that this Hon'ble Court be pleased to grant an order of temporary injunction restraining the respondents 1 & 2 their agents, officers employees, representatives or any one claiming under them from proceeding further under the Debit Note bearing No.GAIL/PDY/F & A/2016-17/1600001707 dated 29.05.2017 for a sum of Rs.51,13,586/- under the agreement dated 24/12/2010 and extended periodically by side letters for the supply of 78,000 SCMD MDP gas and adjusting the said sum from Rs.3,25,55,903/- given as security deposit for further supply and consequently direct the said respondents to continue to supply the contracted quantum of gas under the said agreements without any interruption during the currency of the said agreements.

O.A. No.618 of 2017:-

Original Application praying that this Hon'ble Court be pleased to grant an order of temporary

injunction restraining the respondents 1 & 2 their agents, officers employees, representatives or any one claiming under them from proceeding further under the Debit Note bearing No.GAIL/PDY/F & A/2016-17/1600001706 dated 29.05.2017 for a sum of Rs.10,35,67,605/- under the agreement dated 24/12/2010 and extended upto 05/07/2021 vide agreement dated 30/12/2015 for the supply of 2,92,000 SCMD APM gas and adjusting the said sum of Rs.5,42,82,128/- given as security deposit for further supply under the said agreements and balance from Rs.3,25,55,903/- given as security deposit for further supply under the agreement dated 24/12/2010 and extended periodically by side letters for the supply of 78,000 SCMD MDP gas and consequently direct the said respondents to continue to supply the contracted quantum of gas under the said agreements without any interruption during the currency of the said agreements.

A. No.6305 of 2017:-

Application praying that this Hon'ble Court be pleased to direct the registry to refund the excess court fee of Rs.99,800/- paid by the applicant in O.A. No.617 of 2017 to the applicant by way of a demand draft/pay order drawn in favour of the applicant's counsel Sri.F.B.Benjamin George.

A. No.6306 of 2017:-

Application praying that this Hon'ble Court be pleased to direct the registry to refund the excess court fee of Rs.99,800/- paid by the applicant in O.A. No.618 of 2017 to the applicant by way of a demand draft/pay order drawn in favour of the applicant's

counsel Sri.F.B.Benjamin George.

These Original Petition along with these applications coming on this day before this Court for hearing the court made the following order:-

The matter is posted under the caption 'for being spoken to' today. A communication has been received from Mr.Justice AR.Lakshmanan, former Judge of the Supreme Court appointed as Arbitrator in this matter on 18.12.2017 expressing his inability to accept the appointment. The communication is placed on file.

2. In the light of the above, Mr.Justice A.P.Shah, Retired Chief Justice is appointed as Arbitrator and requested to enter reference upon and adjudicate the dispute inter se the parties.

Sd./-A.S.M.J

24/01/2018

//Certified to be true copy//

Dated at Madras this the day of 2018.
JJ 19/02/2018

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.