

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY THE 06TH DAY OF APRIL 2018

THE HON'BLE MRS. JUSTICE PUSHPA SATHYANARAYANA

A. No.2879 of 2018

In the matter of Arbitration
& Conciliation Act, 1996

And

In the matter of Disputes
between Ion Exchange (India)
Ltd.,

And

Chennai Petroleum Corporation
Ltd.,

Ion Exchange (India) Ltd.,
'Ion House', No.42, B.N.Reddy Road,
T.Nagar, Chennai 600 017.

: Applicant

Vs.

Chennai Petroleum Corporation Ltd.,
No.536, Anna Salai, Teynampet,
Chennai 600 018.

:Respondent

Application praying that this Hon'ble Court be pleased to direct the Regional Commissioner Employees'Provident Fund Organisation having office at No.R-40A, T.N.H.B, Shopping-cum-Office Complex, Mugappair Road, Mugappair East, Chennai 600 037 to produce before the Arbitral Tribunal comprising Hon'ble Mr.Justice K.Govindarajan, former judge of this High Court, residing at No.5, Justice Ramanujam Road, Malaviya Avenue, Sastrinagar, Chennai 600 041 on or before 12 April 2018 any letter or appropriate documents indicating whether any amount is due and payable as on date by R.S. Enterprises (TNAM0068252000) for the period between October 2010 and October 2012 relating to the Operation and Maintenance Contract (work order no. 2307011 dated 4 October 2010) between Applicant and Respondent and, if so, the exact amount due and payable.

This application coming on this day before this court for hearing the court made the following order:-

It is stated by the applicant that of the 11 claims made one claim pertains to the amount wrongfully deducted and retained by the respondent towards Provident Fund, amounting to Rs.9,50,000/-. The case of the applicant is that all amounts due towards Employees Provident Fund have been paid to the Employees' Provident Fund Organisation ('EPFO') by the applicant's sub-contractor, namely, R.S. Enterprises. Hence, the respondent cannot deduct and retain the said amount.

2. In order to substantiate the said claim of the applicant, the applicant made efforts to produce appropriate documents showing that the dues to the EPFO have been paid. As there was no response to the legal notice issued by them, the present application had been filed and the Arbitral Tribunal had also permitted the applicant to file an application under Section 27 of the Arbitration and Conciliation Act, 1996 to seek a direction from this Court directing the Regional Commissioner, EPFO to produce relevant documents.

3. The learned counsel for the respondent has filed a counter. In paragraph 8 of the counter affidavit, it is stated as follows:

'It is relevant to state that the Applicant, through its sub contractors had engaged more than 100 workmen during majority of the contractual period for whom provident fund was payable. However, the present application is restricted to only R.S.Enterprises and not the other sub-contractor viz. Excel Engineering Works which had the majority of workmen engaged in the contract during the contractual period.'

4.From the above, it is understood that the respondent has no serious objection for the EPFO to produce appropriate documents before the Tribunal. However, without prejudice to the rights of the parties, the Regional Commissioner, EPFO is directed to produce the documents before the Arbitral Tribunal.

5. Accordingly, this application is allowed.

Sd/.P.S.N.J

06.04.2018

//Certified to be a true copy//

Dated this the day of 2018.

COURT OFFICER

jj 10/04/18

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.