

**A.Nos.1818, 161, 163, 165, 167, 1819, 1972,
1973,1974,1975,1976, 1977, 76, 80, 82, 838 to 847, 88, 91, 932,
933, 934, 935, 937,938 and 94 of 2019**

PUSHPA SATHYANARAYANA, J.

Today, when the matter is taken up for hearing the learned counsel appearing on either side would submit that the dispute between the parties have been settled and a Memorandum of Understanding dated 09.10.2019 entered into between the parties, signed by both the parties and their respective counsels has been filed before this Court, which reads as follows:

Memorandum of Understanding

This Memorandum of Understanding Executed on this Day of 09th October 2019

BETWEEN

1) M/s.Arjun Bulk Carriers, represented by its Authorized Signatory Mr.Nagaraja M.N and 2) M/s.MRN Logistics represented by its Authorized signatory Mr.Gurumurthy M and 3) M/s.Shirdi Sai Services Represented by its Authorized signatory Mr.Arjun N and 4) Mr.Arjun N, all operating transport business in and carrying its business place at # 135/1, 1st floor, Dr. Rajkumar Road, 1st K Block Rajajinagar, Bangalore-560010, herein after collectively referred as "First Parties"

AND

M/s.Cholamandalam Investment and Finance Co., Ltd., represented by its Authorised Signatory Mr. Ravi T J S/o Jayaram having its Branch office at Prestige Libra, 2nd floor, Municipal No. 45 (Old No. 45 & 45/1), Lalbagh Road, (Above Passport Office), Bangalore-1, hereinafter referred as "Second Party"

WHEREAS

The First Parties entered into 16 Loan agreement with the Second party for Financial

Assistance for purchase of the below vehicles:

Sl. No.	Borrower Name	Agreement No.	Reg. No.
1	M N NAGARAJ PRO ARJUN BULK CARRIERS	XVFPBGO00001679928	KA-02-AD-3744
2	M N NAGARAJ PRO ARJUN BULK CARRIERS	XVFPBGO00001679949	KA-02-AC-7405
3	M N NAGARAJ PRO ARJUN BULK CARRIERS	XVFPBGO00001679959	KA-02-AC-7389
4	ARJUN N PROP SHIRDI SAI SERVICES	XVFPBGO00001680316	KA-02-AC-5022
5	ARJUN BULK CARRIERS PROP NAGARAJU	XVFPBGO00001680320	KA-02-AB-1431
6	ARJUN N	XVFPBGO00001680327	KA-02-AB-3939
7	ARJUN BULK CARRIERS PROP NAGARAJU	XVFPBGO00001680336	KA-02-AB-1422
8	ARJUN N	XVFPBGO00001690050	KA-02-AB-1086
9	SHIRDI SAI SERVICES	XVFPPYA00001867233	KA-02-AE-5829
10	MRN LOGISTICS	XVFPPYA00001867251	KA-02-AE-5661
11	SHIRDI SAI SERVICES	XVFPPYA00001867273	KA-02-AE-4824
12	ARJUN BULK CARRIERS	XVFPPYA00001867274	KA-02-AE-5227
13	MRN LOGISTICS	XVFPPYA00001867277	KA-02-AE-4635
14	ARJUN BULK CARRIES	XVFPPYA00001867279	KA-02-AB-9232
15	ARJUN BULK CARRIERS	XVFPPYA00001867283	KA-02-AB-1413
16	ARJUN BULK CARRIERS	XVFPPYA00001872151	KA-02-AB-9214

2) After availing loan facility, the First parties, due to their reasons, defaulted to remit the EMI's with the Second Party and the Second party was forced to take custody of the below vehicles as per rights under the loan agreement:

Sl. No.	Borrower Name	Agreement No.	Reg. No.
1	M N NAGARAJ PRO ARJUN BULK CARRIERS	XVFPBGO00001679959	KA-02-AC-7389
2	ARJUN N PROP SHIRDI SAI SERVICES	XVFPBGO00001680316	KA-02-AC-5022
3	ARJUN BULK CARRIERS PROP NAGARAJU M	XVFPBGO00001680336	KA-02-AB-1422
4	SHIRDI SAI SERVICES	XVFPPYA00001867233	KA-02-AE-5829
5	MRN LOGISTICS	XVFPPYA00001867251	KA-02-AE-5661
6	SHIRDI SAI SERVICES	XVFPPYA00001867273	KA-02-AE-4824

7	ARJUN BULK CARRIERS	XVFPPYA00001867274	KA-02-AE-5227
8	MRN LOGISTICS	XVFPPYA00001867277	KA-02-AE-4635
9	ARJUN BULK CARRIES	XVFPPYA00001867279	KA-02-AB-9232
10	ARJUN BULK CARRIERS	XVFPPYA00001867283	KA-02-AB-1413
11	ARJUN BULK CARRIERS	XVFPPYA00001872151	KA-02-AB-9214

- 3) The Second Party has sold the vehicles pertaining to below mentioned 9 loan accounts and first party has filed the objection before RTO and due to the said objection, buyer could not get the name transfer done in the RC and RC transfer is pending. However now as the settlement arrived at, the first party has agreed to take back the objections filed before the concerned RTO immediately and extend necessary support and co-operation for effecting name transfer and the buyer can change the RC in the name of buyer or buyers specified / authorized any party and Second party has agreed to waive off the short fall amount of ₹18,00,880/- (Rupees Eighteen Lakhs Eight Hundred and Eighty only) for below mentioned 9 loan accounts only on successful completion of Name transfer of vehicles before RTO with respect to below mentioned 9 loan accounts. Second party will thereafter release the No Due Letters for these sold 9 vehicles related loan accounts on completion of the RTO formalities of name transfer and completion of the last payment as per timelines mentioned in Clause 5. The first parties waives their right, claim or ownership or whatsoever over the below mentioned 9 loan account vehicles and the second party specifically agrees that in pursuance to the relinquishment of right by the first parties over the 9 vehicles and as stated by the second party that vehicles are already sold, the second party has no claim, due, arrears, difference or whatsoever over the said subject 9 loan vehicles from the first parties subject to successful completion of name transfer and upon execution of this memorandum of understanding and only on successful completion of name transfer, the contract terms and condition relating to the said 9 vehicles comes to an end and both the parties have no claim against each other.

Sl	Agreements	Customer Name	Total Due	Reg No.
1	XVFPPYA00001867251	MRN LOGISTICS	₹4,48,372.00	KA-02-AE-5661
2	XVFPPYA00001867273	SHIRDI SAI SERVICES	₹4,19,722.00	KA-02-AE-4824
3	XVFPPYA00001867277	MRN LOGISTICS	₹4,40,052.00	KA-02-AE-4635
4	XVFPPYA00001867279	ARJUN BULK CARRIES	₹1,67,326.00	KA-02-AB-9232
5	XVFPBGO00001680336	ARJUN BULK CARRIERS PROP NAGARAJU M N	₹ 0-	KA-02-AB-1422
6	XVFPBGO00001679959	M N NAGARAJ PRO ARJUN BULK CARRIERS	₹2,44,999.70	KA-02-AC-7389
7	XVFPBGO00001680316	ARJUN N PROP SHIRDI SAI SERVICES	₹ 0-	KA-02-AC-5022
8	XVFPPYA00001867274	ARJUN BULK	₹16,852.26	KA-02-AE-5227

		CARRIERS		
9	XVFPPYA00001867283	ARJUN BULK CARRIERS	₹63,557.00	KA-02-AB-1413
		Total=	₹18,00,880.96	

- 4) As on 28.09.2019, the First Parties apart from the above mentioned amounts in Para # 3, are in due to the Second Party for a sum of Rs.54,31,668/- (Rupees Fifty four lakh Thirty one Thousand Six Hundred Sixty Eight only). On the basis of requests by First Parties, the Second Party has considered the request and agreed to settle all the below mentioned 7 loan accounts wherein vehicles are not yet sold and are in custody of the First Party (5) and Second Party (2) in totem and both the parties have agreed to settle the below mentioned 7 Accounts amicably at a consolidated full and final settlement amount of Rs.45,00,000/- (Forty Five Lakh Only) against the total due for Rs.54,31,668/- as on date for the below mentioned 7 loan accounts

Sl	Agreements	Customer Name	Total Due	Reg No.
1	XVFPPYA00001872151	ARJUN BULK CARRIERS	₹12,03,672.00	KA-02-AB-9214
2	XVFPPYA00001867233	SHIRDI SAI SERVICES	₹16,50,481.00	KA-02-AE-5829
3	XVFPBGO00001679928	M N NAGARAJ PRO ARJUN BULK CARRIERS	₹6,19,203.00	KA-02-AD-3744
4	XVFPBGO00001680320	ARJUN BULK CARRIERS PROP NAGARAJUM	₹5,74,552.00	KA-02-AB-1431
5	XVFPBGO00001679949	M N NAGARAJ PRO ARJUN BULK CARRIERS	₹4,74,167.00	KA-02-AC-7405
6	XVFPBGO00001690050	ARJUN N	₹4,61,882.00	KA-02-AB-1086
7	XVFPBGO00001680327	ARJUN N	₹4,47,711.00	KA-02-AB-3939
		Total	₹54,31,668.00	

- 5) The First parties have agreed to pay the said agreed settlement amount of Rs. 45,00,000/- by way of RTGS or Demand Draft as per below schedule without fail,

a)Rs.7,50,000/- (Seven Lakh Fifty Thousand) to be paid on or before 15-10-2019.

b)Rs 7,50,000/- (Seven Lakh Fifty Thousand) to be paid on or before 30-10-2019

- c)Rs 7,50,000/- (Seven Lakh Fifty Thousand) to be paid on or before 28-11-2019
- d)Rs 7,50,000/- (Seven Lakh Fifty Thousand) to be paid on or before 28-12-2019
- e)Rs 7,50,000/- (Seven Lakh Fifty Thousand) to be paid on or before 28-01-2020
- f) Rs 7,50,000/- (Seven Lakh Fifty Thousand) to be paid on or before 28-02-2020

Encashment of the payment will only be considered as payment made.

On remittance of the above said 15 Lakh payment mentioned in clause (a) & (b) within the agreed timelines only, the Second party has agreed to release the NOCs for below mentioned 2 vehicles to First parties within 10-15 working days of the realization of the payment.

S L	Agreements	Customer Name	Reg No.
1	XVFPBGO00001679928	M N NAGARAJ PRO ARJUN BULK CARRIERS	KA-02-AD-3744
2	XVFPBGO00001680327	ARJUN N	KA-02-AB-3939

In all the manners to the First Parties and shall have no rights / claims over the said vehicles. The "First Parties" agrees that they have inspected the said vehicles and have no complaint / claim against the physical condition of the said vehicles and has no claim against the Second Party in any manner relating to the same absolving the Second Party in relating to all claims and The First Parties shall also not raise any claim / issue against the Second Party in future also relating to the same.

- 6) Similarly after negotiation and having discussion among the "First Parties" and "Second Party" it has been agreed that the First Parties will pay a sum of Rs.45,00,000/- towards full and final settlement to the Second party on or before 28th Feb 2020 in the manner and timelines set out herein above in clause 5. The Second party shall on the receipt of the full payment of Rs.45,00,000/- release the remaining NOCs for the below mentioned 5 vehicles to first parties within 10 working days from the last payment due and the net settlement amounts being received by the Second Party,

SI	Agreements	Customer Name	Reg No.
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1	XVFPPIYA00001872151	ARJUN BULK CARRIERS	KA-02-AB-9214
2	XVFPPIYA00001867233	SHIRDI SAI SERVICES	KA-02-AE-5829
3	XVFPBGO00001680320	ARJUN BULK CARRIERS PROP NAGARAJU M N	KA-02-AB-1431
4	XVFPBGO00001679949	M N NAGARAJ PRO ARJUN BULK CARRIERS	KA-02-AC-7405
5	XVFPBGO00001690050	ARJUN N	KA-02-AB-1086

- 7) In case the First Parties fail to remit the above said settlement amount as mentioned in Clause 5 & 6 above the First Parties agree that they are liable to pay the entire due amount of above mentioned 7 loan accounts cancelling the above mentioned settlement and this MOU becomes null and void.
- 8) In the event the First Parties remit the above mentioned settlement amount as per the above timelines under Para 5 & 6, then the Second Party shall issue remaining NOC within 10 working days from the last final payment receipt by the Second Party for the vehicles listed in Clause 5 & 6 apart from releasing the 2 vehicles lying in the custody of the Second Party as the remaining 5 vehicles are already in the custody of the First Parties and till the MOU is in force, the second party agrees not to seize or occupy or deal with the vehicles in the custody of the first parties.
- 9). Meaning less unless specifically stated(my view) (if any dispute don't you want to get intimated)
- 10) The First Parties agree to withdraw all legal actions / notices / claims against Second Party on fulfillment of the terms of the MOU as relating to the settlement envisaged. The Second Party also agrees to withdraw all legal actions initiated before courts, tribunals including but not limited to withdrawing the garnishee applications / sending or issuing no dues letters or notices to the garnishee/ claims against the first parties on receipt of all payments due.

That this MOU is final, conclusive and binding on the parties and their respective heirs.

- a) No Change in terms of this MOU is valid, unless the same is made in writing and signed by both parties hereto
- b) All / any discussions and undertakings either oral or in writing in relation to the issues mentioned herein above entered prior to this MOU, shall herewith stand cancelled and this understanding shall overrule any such instances.
- c) Any violation of the instant MOU would automatically empower the SECOND Party in claiming all it's right and interest arising out of the loan agreement and in that event the term of the loan agreement will override the terms of this MOU.
- d) In case of the FIRST PARTIES failing to comply with the above terms, the MOU stands withdrawn automatically, and entire amount outstanding shall be payable by FIRST PARTIES.

2. Recording the said Memorandum of Understanding dated 09.10.2019, these applications were closed in terms of Memorandum of Understanding. The Memorandum of Understanding dated 09.10.2019 shall form part of this order.

14.10.2019

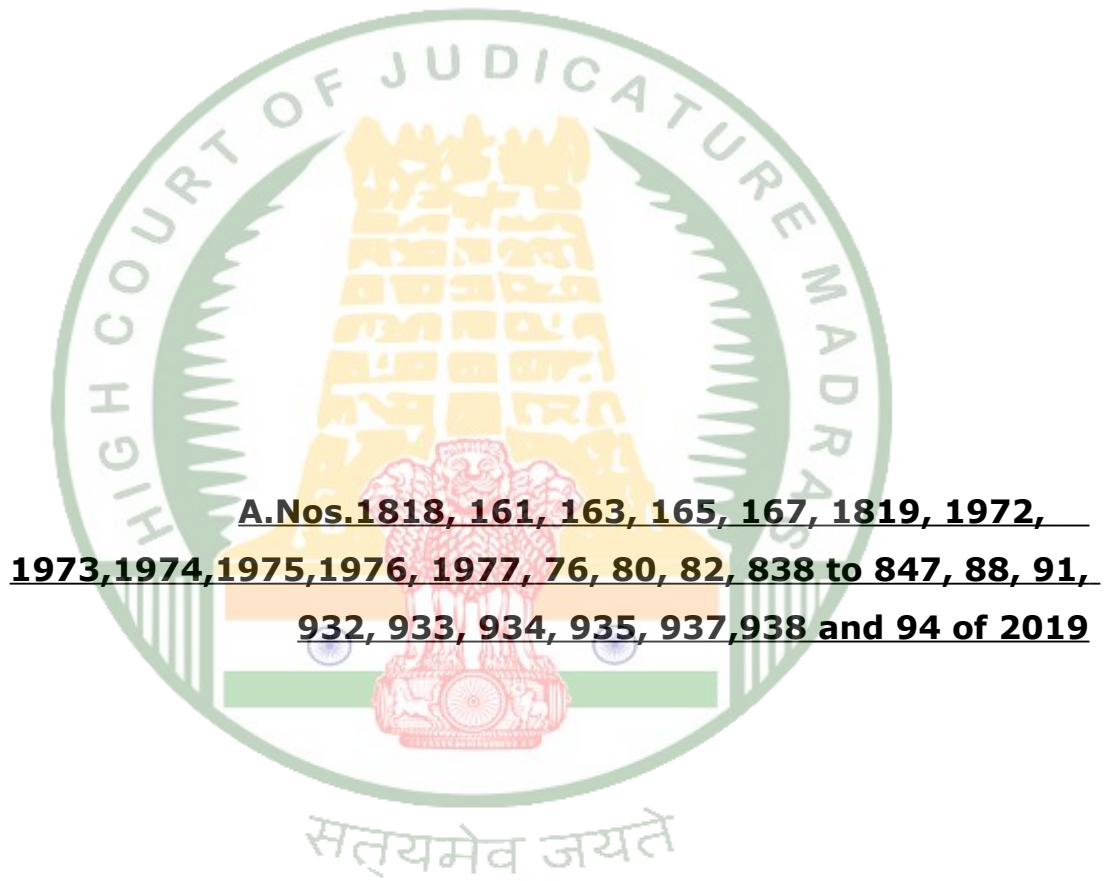
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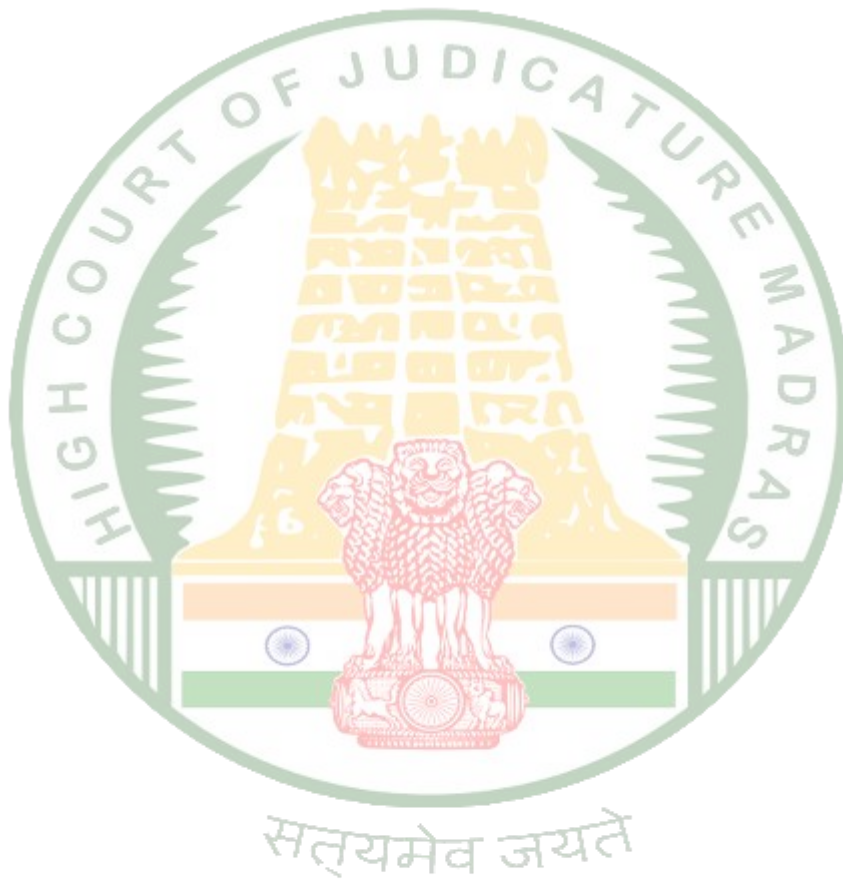


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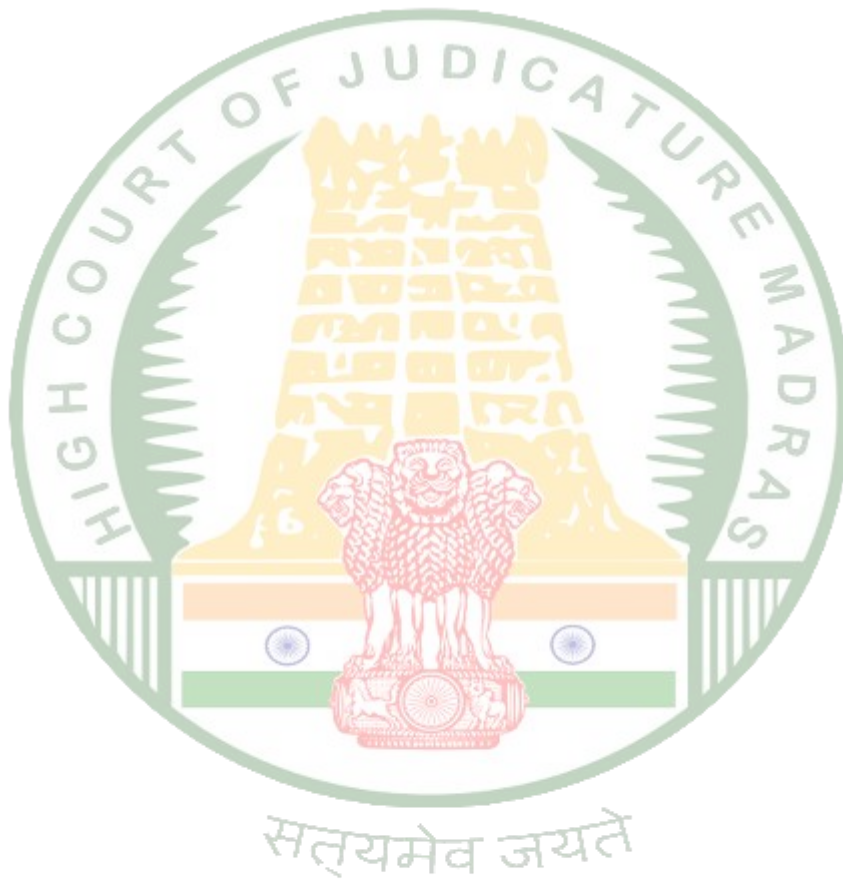
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A.No.1818 of 2019

14.10.2019



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the efforts undertaken by him in this regard. Considering the same, a further sum of Rs.10,000/- (Rupees Ten Thousand only) is directed to be paid by the applicant as additional remuneration within a period of two weeks from the date of receipt of a copy of this order. The Advocate Commissioner shall stand discharged.

5. In the above circumstances and since nothing further survives in this application, the same stands closed. However, it is made clear that the vehicle shall not be alienated/altered/encumbered without orders in this regard from the Arbitrator. Needless to say, as and when an award is passed, the applicant shall be at liberty to proceed as per law.

14.10.2019

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A.No.2957 of 2019