

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE M.SUNDAR

O.P.No.410 of 2013

and

A.No.1244 of 2020

M/s.Maiaam Global Foods Pvt Limited
(Formerly – Maiaam Dhall Mills Private Ltd.)
Represented by its Managing Director
Mr.V.Thilagarasu,
Door No.AK-2, RBN Tower,
4th Avenue, Shanthi Colony Main Road,
Anna Nagar, Chennai – 600 040
(Previously at : CS No.1, SIDCO Industrial Estate,
MMDA Colony, Arumbakkam, Chennai – 106)

... Petitioner

Vs.

1.The Tamil Nadu Civil Supplies Corporation Ltd.,
Represented by the Managing Director
No.12, Thambusamy Road,
Kilpauk, Chennai – 600 010.

2.A.Hastings Hope,
Arbitrator,
District Revenue Officer (Retired)
TNCSC Limited, Chennai
18/22, 1st Main Road,
North Jaganatha Nagar,
Villivakkam, Chennai – 600 049.

... Respondents

Prayer: Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 praying to set aside the award dated 21.01.2013 and consequently direct the first respondent to pay the sum of Rs.1,35,15,743/- to the petitioner being the Bill amount due and payable under the Bill No.006 dated 14.07.2009 to the petitioner along with interest @ 24% from 14.07.2009 to the date of this petition and with further interest @ 24% from the date of this petition till the date of payment.

For Petitioners : No appearance

For respondents : No appearance

ORDER

Captioned Original Petition was dismissed for default by predecessor Hon'ble Judge on 18.12.2019 and the order reads as follows:

'From the note papers, it is seen that the petitioner has been requesting time and again for adjournments and on 04.12.2019, there was no representation for the petitioner and the matter was directed to be listed under the caption "for dismissal&" on 05.12.2019. On 05.12.2019, though the matter was listed under the caption 'for dismissal', the learned counsel for the petitioner once again requested time. This Court had made it clear that the matter had to be argued today and therefore, the caption 'for dismissal' was not removed. When the matter is listed today, i.e (18.12.2019) under the caption 'for dismissal',

the learned counsel for the petitioner once again seeks time.
It appears that the learned counsel for the petitioner is not
interested in prosecuting the case. Therefore, the Original
Petition stands dismissed for non prosecution. No costs.'

2. Thereafter captioned application i.e., A.No.1244 of 2020 has
been taken out with a prayer for restoration of the dismissed OP.
Notwithstanding the earlier dismissal of captioned OP i.e., dismissal for
default, a similar scenario has unfurled in the last three listings on
28.07.2020, 25.08.2020 and 31.08.2020. Proceedings made in the last
three listings read as follows:

'Proceedings dated: 28.07.2020:'

*Read this in conjunction with and in continuation of
earlier proceedings dated 21.07.2020.*

*2. Today, there is no representation for both sides
though the matter has been duly shown in the cause list
with necessary particulars such as Meeting Number and
Password which have been given for the virtual hearing.*

*3. However, with the intention of giving opportunity
to the parties, this matter is adjourned by four weeks.*

List under the same caption on 25.08.2020.

Proceedings dated 25.08.2020:

Read this in conjunction with and in continuation of earlier proceedings dated 28.07.2020, the position is no different today. In other words, there is no representation for both sides today also, though the matter has been duly notified in the cause list together with the name of the counsel.

2. However, with the intention of giving further opportunity to the parties, list this matter on Monday (31.08.2020).

Proceedings dated 31.08.2020:

Read this in conjunction with and in continuation of earlier proceedings dated 25.08.2020, the position is no different today. In other words, there is no representation for both sides today also though the matter has been duly notified in the cause list together with name of counsel concerned.

List under the caption 'FOR DISMISSAL' i.e., on 02.09.2020.'

3.Pursuant to earlier listing dated 31.08.2020, captioned OP and captioned application have been listed under the caption 'FOR DISMISSAL' today, but that has not made any difference. Today also

there is no representation for both sides. This means that there has been no representation for both sides in four consecutive listings (fourth listing being today) though each of the listing has been duly notified in the cause list with necessary particulars.

4.Captioned OP under Section 34 of the Arbitration and Conciliation Act, 1996 (Act 26 of 1996) is not an appeal, therefore does not have the trappings of the principles underlying Order XLI Rule 17 sub-rule (1) of the Code of Civil Procedure, 1908 and therefore there is no impediment in disposing of captioned OP on merits, but considering the trajectory which the captioned matter has taken, this Court deems it appropriate to dismiss for default the captioned matter OP and application.

Captioned Original Petition and application are dismissed for default/non-prosecution. There shall be no order as to costs.

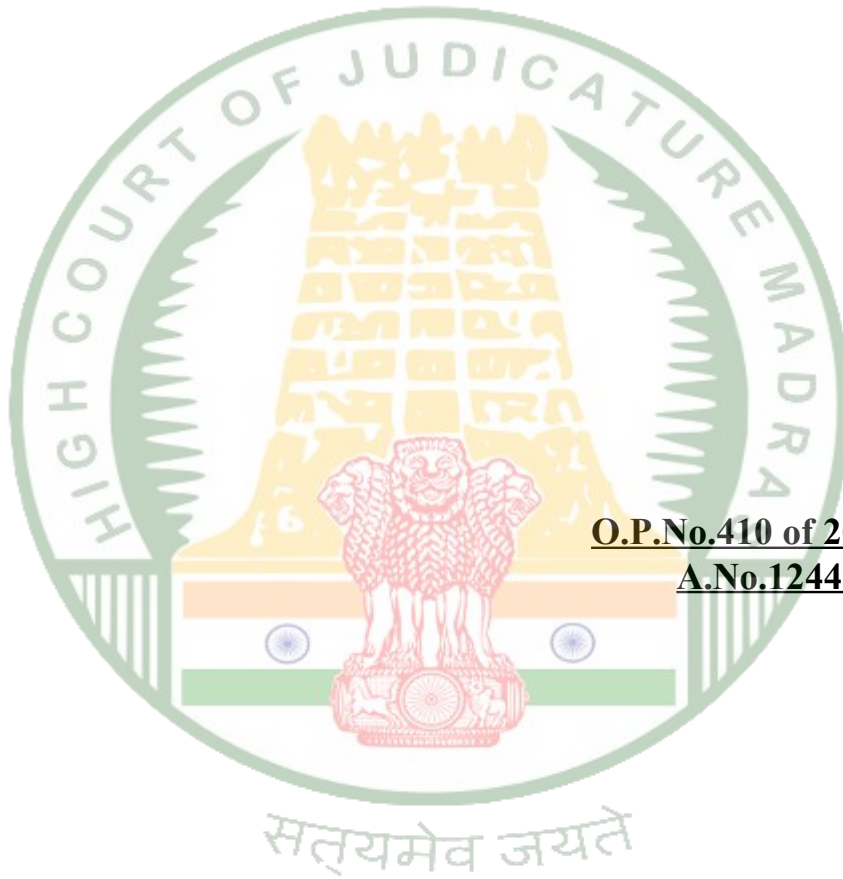
02.09.2020

sgl

Order in O.P.No.410 of 2013 dated 02.09.2020
[M/s.Maiaam Global Foods Pvt. Limited Vs. The
Tamil Nadu Civil Supplies Corporation Ltd.]

M.SUNDAR, J.

sgl



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