

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.12.2020

Coram

**THE HONOURABLE MR. JUSTICE M.SUNDAR**

**O.P.Nos.916 & 933 of 2015**

M/s.Chennai Petroleum Corporation Limited  
Manali Refinery  
Manali, Chennai-600 068.

Represented by its Deputy General Manager  
Mr.M.Sankaranarayanan

... Petitioner in both OPs

vs.

1. Lakshmi Travels

Represented by its Sole Proprietor  
Mrs.Meera Sivasankaran  
No.1, Vasantha Garden Street  
Ayanavaram, Chennai-600 023.

2. Mr.P.S.Govindarajan

Sole Arbitrator  
New No.9, Ramachandra Iyer Street  
Nehru Nagar, Chromepet (East)  
Chennai-600 044.

... Respondents in both OPs

**(R2 stands deleted vide this order).**

Original Petition No.916 of 2015 filed under Section 34 of the Arbitration and Conciliation Act, 1996, to set aside the impugned common award made on 12.07.2015 insofar as directs the first

respondent to pay a sum of Rs.12,50,114/- (Rupees Twelve Lakhs Fifty Thousand One Hundred and Fourteen Only) under Tender NIT No.CPCL/CC/T-035(TT) 2005-2006 with interest thereon and allow this petition with costs.

Original Petition No.933 of 2015 filed under Section 34 of the Arbitration and Conciliation Act, 1996, to set aside the impugned common award made on 12.07.2015 insofar as directs the first respondent to pay a sum of Rs.7,44,860/- (Rupees Seven Lakhs Forty Four Thousand Eight Hundred and Sixty Only) under Tender NIT No.CPCL/CC/T-035(TT) 2005-2006 with interest thereon and allow this petition with costs.

For petitioner in both OPs : Mr.S.Arjun Suresh  
For Respondents in both OPs : Mr.G.Derrick Sam  
for R1

**COMMON ORDER**

Read this in conjunction with and in continuation of earlier proceedings dated 28.09.2020, pursuant to which, captioned 'Original Petitions' ('OPs' in plural and 'OP' in singular for the sake of brevity and convenience) have been listed under the caption 'FOR REPORTING SETTLEMENT' today.

2. In a web hearing on a video conferencing platform today or in other words in the virtual hearing today, Mr.S.Arjun Suresh of M/s.Dua Associates (Law Firm) on behalf of petitioner in both captioned OPs and Mr.G.Derrick Sam, learned counsel on record for contesting first respondent in both captioned OPs are before me.

3. Both aforementioned learned counsel submit that lis which led to the captioned OPs between parties has been amicably settled and the terms of settlement have been reduced to writing vide a 'Memorandum of Compromise and Understanding dated 13.11.2020' [hereinafter 'said MOC' for the sake of convenience and clarity]. Both learned counsel submit that said MOC has been signed by both sides and their respective counsel in the presence of each other, saying so both learned counsel make a request that captioned OPs may please be disposed of in terms of said MOC.

4. Be that as it may, the sole arbitrator who constituted the 'Arbitral Tribunal' ['AT' for the sake of convenience and clarity] and made

the common impugned award has been arrayed as second respondent in both captioned OPs. Considering the nature of grounds and trajectory the matter has taken, following the procedure adopted in ***Vinay Heavy Equipments*** case [***Zonal General Manager, Ircon Internatinal Limited Vs. Vinay Heavy Equipments*** reported in (2015) 13 SCC 680], (to be noted, deletion procedure is captured in order reported in 2007 SCC OnLine SC 4) second respondent stands deleted in both captioned OPs. This means that contesting first respondent in both captioned OPs now become lone respondent in respective OPs.

5. Both aforementioned learned counsel submit that in the light of virtual hearing and owing to the parties and their respective counsel having signed said MOC in the presence of each other, physical presence of parties for recording said MOC may please be dispensed with. This request is acceded to.

6. Before I proceed to record said MOC, it is necessary to record that both learned counsel submit without any disputation or disagreement that interim stay of common impugned award was granted subject to

deposit of 50% of award amount, such deposit of 50% of award amount qua common impugned award has since been made and the bank receipts evidencing deposit of such monies in a interest bearing account have also been filed under cover of a separate 'memo dated 03.12.2020' ['said Memo' for the sake of convenience and clarity].

7. Adverting to paragraphs (G) and (I4) of said MOC, it is submitted that payment out of aforementioned amounts with accrued interest can be ordered vide this order itself as the petitioner is entitled to take back the said monies in the light of said MOC. This submission is recorded, request is acceded to and payment out of 50% of amount qua common impugned award in captioned OPs lying in interest bearing deposits are ordered in favour of petitioner in both captioned OPs.

8. For the sake of convenience and clarity, said MOC and said Memo together with annexures are scanned and reproduced infra.

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
(ORDINARY ORIGINAL CIVIL JURISDICTION)

O. P. No. 916 and 933 of 2015

M/s. Chennai Petroleum Corporation Limited,  
Maruti Refinery,  
Manali,  
Chennai – 600 088

... Petitioner

Versus

Lakshmi Travels,  
Represented by its Sole Proprietor,  
Mrs. Meera Sivasanikaran  
No. 1, Vasantha Garden Street,  
Ayazavaram,  
Chennai – 600 023

... First Respondent

[The Second Respondent in the O. P. No.916 and O. P. No. 933 of 2015 was the Learned Arbitrator and he is not shown as a party to this memorandum of Compromise]

MEMORANDUM OF COMPROMISE & UNDERSTANDING

THIS MEMORANDUM OF COMPROMISE & UNDERSTANDING (the Agreement) is entered into at Chennai on this the 13th day of November 2020 by and

BETWEEN

M/s. Chennai Petroleum Corporation Limited, a public sector undertaking, having its registered office at No. 536 Anna Salai, Teyyanpet, Chennai – 600 018 [hereinafter called the Party of the First Part] and the Petitioner in OP No. 916 and OP No. 933 of 2015,

AND

M/s. Lakshmi Travels, represented by its Sole Proprietress, Mrs. Meera Sivasanikaran, having its office at No. 1, Vasantha Garden Street, Ayazavaram, Chennai – 600 023 [hereinafter called the Party of the Second Part], i.e., the Crossed Respondent.

The terms 'Party of the First Part' and 'Party of the Second Part' unless specifically stated to the contrary, shall mean and include their respective successors-in-office, successors-in-interest, agents, executors, administrators and assigns. The First Party and the Second Party are collectively referred to as the 'Parties' and individually as a 'Party'

For LAKSHMI TRAVELS

MEERA SIVASANIKARAN  
Proprietress

For CHENNAI PETROLEUM CORPORATION LIMITED

For CHENNAI PETROLEUM CORPORATION LIMITED

WHEREAS:

- A. The Party of the First Part floated two tenders, viz., Tender NIT No. CPCL/CC/T-035(C) 2005-08 and Tender NIT No. CPCL/CC/T-035(TT) 2005-06, for the provision of transportation services by Ambassador Cars (Non-A/C and A/C) and Tempo Travelers.
- B. The Party of the Second Part emerged as a successful bidder and accordingly, upon agreeing to the terms and conditions, more fully set out in the Fax of Acceptance and Letter of Acceptance, rendered services and raised bills on the Party of the First Part on regular basis. The Party of the First Part processed the bills and made payments towards the services rendered. The tenure of the Contract, after extensions, expired on 30/11/2008.
- C. Subsequently, dispute arose between the Party of the First Part and Party of the Second Part in respect to the payments made under the invoices and eventually, the Party of the Second Part filed two Writ Petitions, W.P. No. 12483 of 2011 and W.P. No. 12482 of 2011, before the Hon'ble High Court of Madras and, after hearing the submissions, the Learned Single Judge of the Hon'ble High Court, vide order dated 27/04/2012, directed the Party of the First Part to pay a sum of Rs.54,83,110/- to the Party of the Second Part, within 8 weeks from the date of the order. The Party of the First Part challenged the order of Learned Single Judge in its appeals, W.A. No. 1564 of 2012 and W.A. No. 1565 of 2012 wherein the Division Bench of the Hon'ble High Court, vide its order dated 22/11/2012, allowed the appeals in light of the arbitration clause incorporated in the Contract entered into between the parties and thereby set aside the order dated 27/04/2012 passed by the Learned Single Judge.
- D. Thereafter, the Party of the Second Part issued a letter to the Standing Conference of Public Enterprises (SCOPE), referring the disputes between the Parties in respect of for arbitration. The Party of the Second Part came to know about the invocation of arbitration clause upon receiving a copy of the letter dated 15/12/2012 issued by SCOPE to the Party of the First Part. Before the Arbitral Tribunal, the Party of the Second Part filed the claim statement raising claims to the extent of Rs.35,29,978.20/- and Rs. 12,50,114 in respect of both the contracts respectively (Ambassador Cars and Tempo Travelers). The Party of the First Part filed its Statement of Defence and strongly contended that the claims are barred by the law of limitation. On merits, the Party of the First Part contended that all payments due and payable to the Party of the Second Part were settled as per the terms and conditions of the contract and therefore no amounts are outstanding to the first Respondent under the contract.

For LAKSHMI TRAVELS:

Signature  
Proprietor

Stamp  
P. Srinivasan  
Proprietor  
Outsourcing Secretary  
Standing Conference of Public Enterprises  
National Institute of Public Administration

E. By a Common Award, the Arbitral Tribunal partially allowed the claims of the Party of the Second Part and directed the Party of the First Part to pay an aggregate sum of Rs.19,94,874/- (Rupees Nineteen Lakhs Ninety Four Thousand Nine Hundred and Seventy Four only) to the Party of the Second Part along with interest at the rate of 9% per annum from 03/09/2011 to the date of the award. The Arbitral Tribunal further held that the rate of interest from the date of the award until realization will be as per the Arbitration Act. The above sum of Rs.19,94,874/- comprises a sum of Rs.7,44,600/- towards the total amounts payable under the contract for rendering transportation service by Ambassador Cars (AC & Non AC) and a sum of Rs.12,50,114/- towards the total amounts payable under the contract for rendering transportation service by tempo travellers.

F. The claims relating to cars and tempo travellers were the subject matter of two arbitration proceedings heard and disposed of by the Common Award. Accordingly, the Party of the First Part challenged the Common Award before the Hon'ble Madras High Court by way of two original petitions under Section 34 of the Arbitration and Conciliation Act. In precise terms, OP No. 916 of 2015 relates to the contract for provision of transportation services by Ambassador Cars, while OP No. 933 of 2015 relates to the contract for provision of transportation services by Tempo Travellers.

G. Upon hearing the Party of the First Part, the Hon'ble Madras High Court was pleased to grant stay of the Common Award, subject to the deposit of 30% of the award amount and the same was deposited with Indian Bank, High Court Branch, Madras, in favour of Deputy Registrar, Madras High Court, in an interest bearing fixed deposit account, to the credit of O.P. Nos. 916 and 933 of 2015.

H. Under these circumstances, when the matters are pending before the Hon'ble Madras High Court, the Parties have decided to amicably resolve all pending disputes between them in so far as O.P. Nos. 916 and 933 of 2015 are concerned by entering into a Memorandum of Compromise.

After detailed discussion and deliberation, the parties arrived at a FULL and FINAL SETTLEMENT under the following terms and conditions:

1. The Parties had arrived at a FULL and FINAL SETTLEMENT under this Agreement whereby the Party of the First Part agreed to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to the Party of the Second Part as FULL and FINAL SETTLEMENT including the Principal and Interest (the Settlement Amount).
2. Accordingly, within 30 days from the date of execution of this Agreement, the Party of the First Part agrees and assures to pay a sum of Rs. 2,00,000/-

Page 3 of 5

(Rupees Two Lakhs only), inclusive of taxes as applicable under GST and IT, to the Party of the Second Part, towards FULL AND FINAL SETTLEMENT as agreed under the Agreement.

3. The Party of the First Part has also undertaken to hand over the tax deduction certificate to the Party of the Second Part within the end of the financial year quarter when the Settlement Amount was remitted in the account of the Party of the Second Part.

4. Upon execution of this Agreement, the Party of the First Part will withdraw the Original Petitions, namely O. P. Nos. 916 and 933 of 2015 and will also be permitted to withdraw the amounts that were earlier deposited to the credit of the aforesaid Original Petitions as detailed in Recital G above; with interest accrued as on date. The Party of the Second Part shall not have any right/ entitlement over these amounts, be it the principal sum deposited, or interest accrued thereon.

5. The Party of Second Part agrees and assures that upon execution of this Agreement and on the receipt of the Settlement Amount, all liabilities and obligations of the Party of the First Part towards the Party of Second Part with regards to the payments as per the Agreement/ MOU and anywhere else, in so far as the disputes arising out of the Contracts bearing Tender NIT No. CPCL/ CC/ T-035(C) 2005-06 and Tender NIT No. CPCL/ CC/ T-035(TT) 2005-06 and culminating in O. P. Nos. 916 and 933 of 2015, shall stand fully settled, satisfied, and discharged.

6. The Party of Second Part agrees that with the execution of this Agreement, and on the receipt of the Settlement Amount, all the claims under the Contracts bearing Tender NIT No. CPCL/ CC/ T-035(C) 2005-06 and Tender NIT No. CPCL/ CC/ T-035(TT) 2005-06 and Common Award dated 12/07/2015 culminating in O. P. Nos. 916 and 933 of 2015, against the Party of the First Part will stand withdrawn and cancelled / terminated.

7. It is understood that on the date of FULL and FINAL payment being made, both the Parties shall have no future claim of any kind against each other, in so far as the claims under the Contracts bearing Tender NIT No. CPCL/ CC/ T-035(C) 2005-06 and Tender NIT No. CPCL/ CC/ T-035(TT) 2005-06 and culminating in O. P. Nos. 916 and 933 of 2015 are concerned. Each Party releases the other from all the rights and claims that they may have against the other arising from the dispute described above.

8. The Party of the First Part shall not discriminate or show any bias against the Party of the Second Part in the event the party of the Second Part chooses

to participate in any tender floated by the Part of the First Part only due to the reason that the Party of the Second Part had initiated arbitration.

8. This Agreement is a compromise of disputed matters and both the parties agreed to abide by the terms of this Agreement. This Agreement was the result of a negotiated settlement and may not be construed as having been prepared by any one party.

10. This agreement is intended to bind and benefit the Parties, their heirs, agents, legal representatives, assigns and successors.

11. Both the parties have agreed to treat this Agreement as final and the same would be accordingly reported to the Honble Court.

It is therefore prayed that this Honble Court may be pleased to dispose of O.P. Nos. 916 and 933 of 2015 in terms of this Agreement and pass such further or other orders as this Honble Court deems fit and thus render justice.

Dated at Chennai on this the 11th day of November 2020

**PARTY OF THE FIRST PART**  
**PETITIONER**  
(Chennai Petroleum Corporation Limited)

**COUNSEL FOR THE PETITIONER**

सत्यमेव जयते

**PARTY OF THE SECOND PART**  
**FIRST RESPONDENT**  
(M/s. Lakshmi Travels)  
For LAKSHMI TRAVELS

**COUNSEL FOR THE FIRST RESPONDENT**

MEENAKSHI  
Proprietor

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
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O. P. No. 916 & 933 of 2015

M/s. Chennai Petroleum Corporation Limited,  
Manali Refinery,  
Manali, Chennai – 600 088

... Petitioner

Versus

Lakshmi Travels,  
Represented by its Sole Proprietor,  
Mrs. Meera Sivasankaran,  
No. 1, Vasanthi Garden Street,  
Ayanavaram, Chennai – 600 023  
& another

... Respondents

MEMO FILED BY THE COUNSEL FOR THE PETITIONER

The Counsel for the Petitioner respectfully submits as follows:

1. We appear for the Petitioner in the above captioned Original Petitions. We had earlier filed a Memo dated 1<sup>st</sup> December 2020 wherein we had informed the Hon'ble Court that the Petitioner and the First Respondent have decided to amicably resolve the pending disputes between them by entering into a Memorandum of Compromise dated 3<sup>rd</sup> November 2020 ("the Memorandum of Compromise"). In furtherance thereof, as agreed under the Memorandum of Compromise, the full and final amount, as agreed between the parties towards settlement, has been credited to the account of the First Respondent by the Petitioner today viz., on 3<sup>rd</sup> December 2020. The UTR number (Unique Taxpayer Reference Number) in respect of the transfer is UTR No. SDIN420338836319.
2. As per the Memorandum of Compromise, the First Respondent does not have any right/entitlement over the amounts that were earlier deposited by the Petitioner to the credit of the Original Petitions. Accordingly, the Petitioner craves leave of the Hon'ble Court to permit the Petitioner to withdraw the principal amounts that were deposited by them to the credit of the aforesaid Original Petitions, with interest thereon accrued as on date. The details of the deposits made by the Petitioner to the credit of the Original Petitioner are enclosed along with this Memo.

It is therefore prayed that the Petitioner be permitted to take this Memo on record and pass any further or other orders as it may deem fit in the interest of justice.

Dated at Chennai on this the 3<sup>rd</sup> day of December 2020

  
COUNSEL FOR THE PETITIONER.

**M.SUNDAR.J.,**

mk

9. Aforementioned said MOC and said Memo shall form part of this common order in captioned OPs.

10. Registry to process payment out without insisting on separate payment out application or separate orders for the same. For the purpose of payment out, the person entitled/authorised to receive the payment from the Registry on behalf of petitioner-Company is signatory of said MOC namely, Mr.P.Shankar, aged 54 years, S/o.Late P.S.Parameswaran, Company Secretary of petitioner-Company.

11. Though obvious common impugned award will now stand substituted by said MOC, both captioned OPs are disposed of on aforesaid terms. There shall be no order as to costs.

08.12.2020

Speaking/Non-speaking order

Index : Yes / No

Internet : Yes / No

mk

**O.P.Nos.916 & 933 of 2015**