

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

C O R A M

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Application No.8524 of 2019

1. TVS Motor Company Limited,
“Jayalakshmi Estates”,
No.29, Haddows Road,
Chennai-600 006.

2. TVS Latin America Limited,
American Drywall Building,
Unit # 2, Vide Boutielle,
St. Lucia, West Indies.

... Applicants

Vs

Moto Importaciones Totales S.A.,
6, Avenida, 10-37, Zona 9,
Guatemala City,
Guatemala – 01009.

... Respondent

PRAYER : Application filed under Order XIV Rule 8 of Original Side Rules r/w Section 29A of the Arbitration and Conciliation Act, 1996, praying

to extend the time limit under Section 29A (5) of the Arbitration and Conciliation Act, 1996 for completion of arbitration before the learned Arbitrator until 28.02.2020.

For Applicant : Mr.Vishnu Mohan

For Respondents : No appearance

ORDER

This application has been filed for extension of the time limit under Section 29A (5) of the Arbitration and Conciliation Act, 1996 for completion of arbitration before the learned Arbitrator until 28.02.2020.

2. The learned counsel appearing for applicants has filed affidavit of service, which would indicate that email and hot copy sent by the applicants could not be served on the respondent and it appears that it was returned with an endorsement “no such consignee at the address given”.

Though the email and hot copy sent to the last known address was returned, the above endorsement can be considered as the respondent has refused to receive the notice and the same would be considered as the conduct of the party before the Arbitrator. Hence, the respondent was remain exparte after

filing the claim application, particularly, after the counter claim made by the applicant, the respondent is evading summons.

3. In such view of the matter, this Court is of view that even though the applicants have taken all steps to serve summons on the respondent by the means as directed by this Court, the respondent is evading service of notice and refusing to receive notice. Having regard to the nature of records, particularly, the respondent having filed counter claim before the learned Arbitrator has failed to receive notice by all means. Hence, if the time limit is not extended, the rights of the applicant will be defeated. Accordingly, the time limit for completion of arbitration before the learned Arbitrator is extended for the period of six months from the date of receipt of the copy of this order.

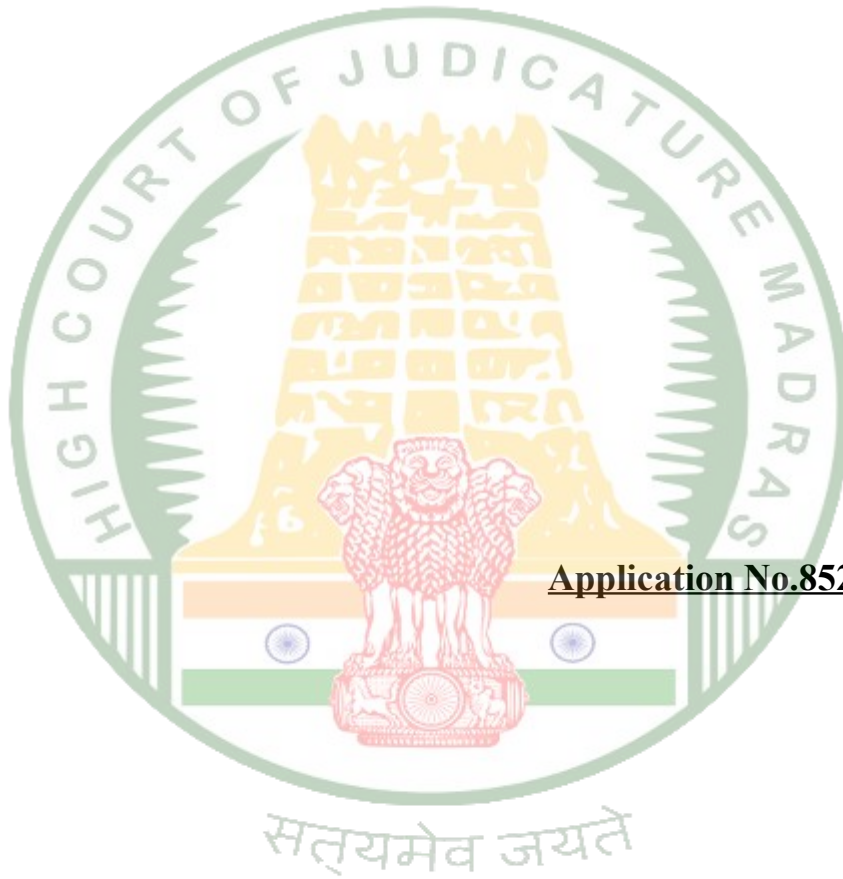
4. With the above direction, this application is allowed.

04.08.2020

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N. SATHISH KUMAR, J.

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