

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Thirtieth day of April Two Thousand Twenty One

PRESENT

THE HON`BLE MRS JUSTICE PUSHPA SATHYANARAYANA

WP No.3905 of 2020

and WMP Nos.16595, 4636 & 4638 of 2020

NEYCER INDIA LIMITED [PETITIONER WP No.3905 of 2020]
REGISTERED OFFICE and WMP Nos.4636 & 4638 of 2020
AT NO.145, SAINT MARYS ROAD, & 1ST RESPONDENT WMP.NO.16595 OF 2020
ALWARPET, CHENNAI 600018.
REP. BY MR.T.MANI, AUTHORISED SIGNATORY.

Vs

1 UNION OF INDIA, 1 TO 3 RESPONDENTS IN WP No.3905 of 2020
REP. BY ITS MINISTRY and WMP Nos.4636 & 4638 of 2020
OF CORPORATE AFFAIRS,
SHASTRI BHAWAN, DR.RAJENDRA PRASAD ROAD,
NEW DELHI 110001.

2 MINISTRY OF PETROLUMN AND
NATURAL GAS,, SHASTRI BHAVAN,
NEW DELHI 110 001.

3 GAIL (INDIA) LTD., & 3RD RESPONDENT IN WMP.NO.16595 OF 2020
GAIL BHAWAN, 16 BHIKAIJI CAMA PLACE,
NEW DELHI 1100 66.

Writ Petitions under Article 226 of the Constitution of India
praying that in the circumstances stated therein and in the
respective affidavits filed therewith the High Court will be
pleased to issue a Writ of Mandamus

(1)Directions to the respondents for implementing Clause 10
(L) of Ms.08 (Modified Rehabilitation Scheme) as approved by Board
of Industrial and Financial Reconstruction vide order dated 6th
October 2008 and consequentially also specifically direct the 3rd
respondent to (i) refund to the petitioner Rs.27,99,39,185/-
(Rupees Twenty Seven Crores Ninety Nine Lakhs Thirty Nine Thousand
One Hundred and Eighty Five Only) towards excess amount of fixed
transportation charges recovered from the Petitioner towards the
cost of laying pipelines with Interest (ii) waive future fixed
transportation charges on account of cost laying the pipelines and
(ii) allocate additional natural gas of 35000 scm per day for the
proposed expanded activities(in WP.3905/2020);

(2) To vacate the interim order dated 16.03.2020 passed in WMP.NO.4636 IN WP.NO.3905 OF 2020 in WMP.NO.16595 OF 2020 and;

(3) To Direct the 3rd respondent not to give effect to the letter dated 24th December 2019 with respect to the invocation of arbitration proceedings and consequently not proceed with the arbitration (in WMP.4636/2020) and

(4) To Direct the 3rd respondent to draw up a Bank Guarantee to the extent of Rs.27,99,39,185/- (Rupees Twenty Seven Crores Ninety Nine Lakhs Thirty Nine Thousand One Hundred and Eighty Five Only), being the amount of excess Transportations charges received by the 3rd respondent, in favour of the Petitioner (in WMP.4638/2020) respectively pending WP No.3905 of 2020 respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of MR.P.H.ARAVINDH PANDIAN SENIOR COUNSEL for MR.PAWAN JHABAKH, Advocate for the petitioner in all the petitions and of MR.S.JANARTHANAM, SPCGSC for 1 & 2 Respondents and of M/S. GIRIDHAR AND SAI, ADVOCATE on behalf of the 3rd respondent the court made the following order:-

There were three questions, which were referred to the Arbitration Tribunal, of which two of them were stayed by this Court vide order dated 16.03.2020.

2. It is the grievance of the respondents that the Arbitration proceedings have come to a stand still, in view of the interim order granted. The Interim order specifically directs that the other issues mentioned therein, can be proceeded with by the Arbitration Tribunal. Now both the counsels agreed that there was no progress, except filing the claim statement before the Arbitration Tribunal. Admittedly, the petitioner herein, who is respondent therein, has not filed the counter statement though it is stated that he has got the counter claim.

3. The petitioner herein has filed the counter claim, which he is now making, has not been placed before the Arbitration Tribunal. Therefore, pending decision of this Court, the parties are directed to complete the pleadings by making the respective averments, statements, allegations, including the claims with respect to the two issues, which are now stayed by this Court. Subject to the final decision of the Writ petition, the said issues may either be proceeded with or given up.

Post the matter for final hearing on 23.06.2021.

-sd/-
16/03/2020
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE MINISTRY OF CORPORATE AFFAIRS,
UNION OF INDIA,
SHASTRI BHAWAN, DR. RAJENDRA PRASAD ROAD,
NEW DELHI 110001.

2 MINISTRY OF PETROLEUM AND NATURAL GAS,
SHASTRI BHAVAN, NEW DELHI 110 001.

3 GAIL (INDIA) LTD.,
GAIL BHAWAN, 16 BHIKAIJI CAMA PLACE,
NEW DELHI 1100 66.

4 THE HON'BLE MR. JUSTICE G.P. MITTAL,
RETIRED JUDGE
HIGH COURT OF DELHI
SOLE ARBITRATOR,
OFFICE H-37, GREEN PARK EXTENSION,
NEW DELHI 110 016.

Order

सत्यमेव जयते in

WP No.3905 of 2020

and WMP Nos.16595 and 4636 & 4638 of 2020

Date :16/03/2020

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
VS 20.03.2020
VC (28/05/2021)