

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.03.2021

CORAM:

THE HONOURABLE Mr.JUSTICE **M.SUNDAR**

O.P.No.470 of 2019

AND

OP.No.519 of 2020

OP.No.470 of 2019

M/s.Hyundai Motors India Ltd.,
A Company Registered under the Companies Act, 1956
Represented by its Deputy General Manager-
Legal and Secretarial-Authorised Signatory
Having their registered office at
5th & 6th Floor, Corporate One (Baani Building)
Plot No.5, Commercial Centre
Jasola, New Delhi-110 076.

... Petitioner

Vs.

M/s.Sudeep Motors Pvt. Ltd.,
A Company Registered under the Companies Act, 1956
Represented by its Managing Director
Dilip Babubhai Shah
Having their registered office at
No.210, GIDC, Vapi

... Respondent

OP.No.519 of 2020

M/s.Sudeep Motors Pvt. Ltd.,
A Company Registered under the Companies Act, 1956
Represented by its Managing Director,
Having their registered office at
No.210, GIDC, Vapi

... Petitioner

Vs.

M/s.Hyundai Motors India Ltd.,
A Company Registered under the Companies Act, 1956
Represented by its Managing Director
Having their registered office at
Fifth and Sixth Floor, Corporate One (Baani Building)
Plot No.5, Commercial Centre
Jasola, New Delhi-110 076.

... Respondent

Prayer in OP.No.470 of 2019: Original Petition filed under Section 34(2)(a)(iv), 34(2)(b)(i) & 34(2)(b)(ii) of the Arbitration and Conciliation Act, 1996, praying to set aside the Arbitration Award dated 30.11.2018 passed by the Learned Sole Arbitrator in Arbitration Case No.1 of 2018 arising out of O.P.No.785 of 2012.

Prayer in OP.No.519 of 2020: Original Petition filed under Section 34(1) of the Arbitration and Conciliation Act, 1996, praying to (a) quash and set aside the impugned Award dated 30.11.2018 passed by the Sole Arbitrator to the limited extent the said award rejects the claims of the petitioner (b) pending the hearing and final disposal of this petitioner, direct the respondent to pay the amount awarded by the learned arbitrator in the impugned award dated 30.11.2018 and (c) Ad interim relief in terms of prayer (b) above and (d) Any other and further reliefs/orders may be deemed fit and proper in the circumstances of the case be granted.

For Petitioner

in OP.470/2019 : Mr.G.Rajkumar
assisted by Ms.R.Anitha

For Respondent

in OP.470/2019 : Ms.Pushpa Menon
assisted by Mr.Vivek Menon

For Petitioner
in OP.519/2020 : Ms.Pushpa Menon
assisted by Mr.Vivek Menon
For Respondent
in OP.519/2020 : Mr.G.Rajkumar
assisted by Ms.R.Anitha

COMMON ORDER

Captioned 'Original Petitions' ['OPs' in plural and 'OP' in singular for the sake of brevity] are cross OPs. For the sake of convenience, 'OP.No.470 of 2019' shall be referred to as 'senior OP' and 'OP.No.519 of 2020' shall be referred to as 'junior OP'.

2. As mentioned supra, senior OP and junior OP are cross OPs as both are directed against the same arbitral award i.e., an 'arbitral award dated 30.11.2018 bearing reference Arbitration case No.1 of 2018 arising out of O.P.No.785 of 2012' [hereinafter 'impugned award' for the sake of convenience and clarity]. Senior OP has been filed by the respondent before 'Arbitral Tribunal' ['AT' for the sake of brevity] and the junior OP has been filed by the claimant before AT.

3. Mr.G.Rajkumar assisted by Ms.R.Anitha, learned counsel on record for sole petitioner in the senior OP/lone respondent in junior OP and Ms.Pushpa Menon, assisted by Mr.Vivek Menon, learned counsel on record for lone respondent in senior OP/sole petitioner in junior OP are before this physical Court. Learned counsel on both sides make a request for dispensing with the presence of the authorised representatives of their clients citing the present Covid-19 situation. This Court was also informed that the authorised representative of respondent in senior OP is very ill. The request of both learned counsel is acceded to.

4. Both aforementioned learned counsel submit that the lis between the adversaries [qua which the impugned award was passed and out of which the captioned OPs arise] has been amicably settled between the parties and the parties have reduced to writing the terms by way of a document dated 09.03.2021 captioned 'Memo of Settlement' [hereinafter 'said MOS' for the sake of convenience].

5. Aforementioned said MOS has been filed in the Registry, the same has been placed before this Court and it is as follows:



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

O.P.No.470 of 2019
&
O. P. No. 519 of 2020

M/s. Hyundai Motors India Ltd.
A company registered under the Companies Act, 1955
having their registered office at
Fifth and Sixth Floor, Corporate One (Bahl Building)
Plot No. 5, Commercial Centre,
Jasola, New Delhi 110076. Petitioner in O.P.No.470 of 2019&
Respondent in O.P.No.519 of 2020

Versus

M/s. Sudeep Motors Private Limited,
A Company registered under the Companies Act, 1956
represented by its Managing Director,
Mr. Dilip Babubhai Shah, Respondent in O.P.No.470 of 2019
having their registered office at
No. 210, GIDC, Vapi, Gujarat & Petitioner in O.P.No.519 of 2020



MEMO OF SETTLEMENT

The Petitioner and the Respondent begs to state as follows:

- 1) The Parties are referred as per their nomenclature in O.P.No.470 of 2019 viz. Petitioner and Respondent for brevity's sake except when specifically stated.
- 2) The Petitioner in O.P.No.519 of 2020 M/s. Sudeep Motors Private Limited originally filed a Claim Statement before the Sole Arbitrator Mr.

Thriyambak J. Kannan to declare the order of termination of dealership dated 30.09.2010 issued by M/s. Hyundai Motor India Limited (HMIL) as illegal and to pay a sum of Rs.8,80,96,146 and Interest. The Arbitrator after hearing the parties, passed an award dt.30.11.2018 directing HMIL to pay apart of the Claim with interest of 12% per annum to Sudeep Motors. Aggrieved by the Award, both HMIL and Sudeep Motors filed Original Petitions as aforesaid before the Hon'ble Madras High Court and the same are pending. In the meanwhile, the Petitioner and the Respondent have negotiated and settled the above Original Petitions filed by both parties challenging the Arbitration Award dated 30.11.2018 and the parties hereto desire to record the terms of settlement as under and pray that this Hon'ble Court may be pleased to pass an order in terms of this settlement and thus dispose of both the Original Petitions namely OP No. 470 of 2019 and OP No. 519 of 2020.

3) It is submitted that both the Petitioner and Respondent above named (hereinafter referred to jointly as "the parties") agree that the Petitioner Company namely M/s Hyundai Motors India Ltd., shall pay to the Respondent namely M/s Sudeep Motors Private Limited a net sum of ₹ 35,00,000/- (Rupees Thirty-Five Lakhs Only) towards full and final settlement of all the claims as against the Petitioner.

4) It is submitted that both the parties agree that the said amount of ₹ 35,00,000/- (Rupees Thirty-Five Lakhs Only) shall be towards full and final settlement of all the claims of the parties towards each other and the said sum of Rs.35,00,000/- shall be paid to Respondent by way of Bankers Cheque/DD drawn in the name of "Sudeep Motors Private Limited" to be drawn at Vapi branch on the same day, the Hon'ble Madras High Court passes an order disposing of the aforementioned 2 Original Petitions filed by the parties against each other.

5) It is submitted that pursuant to an Interim Order passed by this Hon'ble High Court in O.P.No.470 of 2019, the Petitioner had already deposited a sum of Rs. 15,00,000/- by way of Demand Draft to the credit of O.P.No.470 of 2019. The Respondent (Sudeep Motors) hereby agree and accept that they do not have any objection for the Petitioner withdrawing the said sum of Rs.15,00,000/- lying to the credit of O.P.No.470 of 2019 as detailed above, subsequent to the payment of ₹.85 lakhs to the respondent (Sudeep Motors) by the petitioner (Hyundai Motor India Ltd.).

6) The Parties hereby agree that the Arbitral Award dated 30.11.2018 shall be set aside in toto and this memo shall be recorded in the abovementioned Original Petitions and the Parties pray that the Hon'ble Madras High Court may be pleased to pass an order recording that in view of the above matter being settled between the parties, the award has been complied with.

7) The Respondent (Sudeep Motors) do hereby agree and accept that they do not have any claim of whatsoever nature against the Petitioner (Hyundai Motor India Limited), arising out of termination letter dated 30.09.2018 issued by the Petitioner, terminating the dealership awarded to the Respondent, consequent to this Settlement.

8) The Respondent (Sudeep Motors) do hereby agree and accept that consequent to this settlement, all the reliefs awarded to the Respondent by the Arbitrator vide Arbitration Award dated 30.11.2018 shall stand fully complied with and they do not have any claims against the Petitioner, arising out of the Arbitration Award dated 30.11.2018.

9) It is submitted that the Parties hereby agree to maintain utmost confidentiality of the terms of this settlement memo and the Respondent shall not disclose the same to any outside party including other dealers of the Petitioner, Media etc.

Admitted

Agreed

सत्यमेव जयते

WEB COPY

It is submitted that both the parties agree that they do not have any claims against each other, of whatsoever nature pertaining to the erstwhile dealership agreement between the parties, past, present or future and shall not have any right or claim against each other, of whatsoever nature pertaining to the said dealership and the above settlement memo settles all the disputes, of whatsoever nature, between the Petitioner and the Respondent.

11) It is submitted that the parties pray that this Hon'ble Court may be pleased to pass an Order in terms of the above memo and dispose of both the aforementioned petitions namely OP No. 470 of 2019 and OP No. 519 of 2020 in terms of these settlement terms and thus render justice.

Dated at Chennai on this 4 day of March, 2021

Counsel for the Petitioner For M/s Hyundai Motor India Ltd
(Authorized Signatory)

Counsel for the Respondent For M/s Sudeep Motors Private Limited
Witness:-

Mr. Dilip Babubhai Shah
(Managing Director)

Witness :-

Serial No. 1716/2021
Date: 09/03/2021

NOTARY NOTARY NOTARY

PERMANENT ACCOUNT NUMBER
AJLPSS0478
नाम / NAME
DILIP BABULAL SHAH
पिता का नाम / FATHER'S NAME
BABULAL SARDARMAL SHAH
जन्म तिथि / DATE OF BIRTH
19-02-1952
हस्ताक्षर / SIGNATURE
आयकर आयोग-1, पुणे
Commissioner of Income-tax-1, Pune

HIGH COURT OF JUDICATURE MADRAS
भारत सरकार
Unique Identification Authority of India
Government of India
नियुक्ति संख्या / Enrolment No. 11547061300065
To: Shan Drakumar Babushan
105/4, 1st Floor,
Chandru Gentry,
Shan Drakumar Babushan,
Chandru Gentry,
Vandana Vengal,
Guwahati - 781005
9227307222
K1 606813462049
606813462049
तमारे आधार नंबर / Your Aadhaar No.:
6068 1346 2049
आधार - सामान्य भाषसनी अधिकार
WEB COPY
Government of India
Shan Drakumar Babushan
जन्म तिथि - 02-02-1952
पुल - 105/4
6068 1346 2049
आधार - सामान्य भाषसनी अधिकार

નિર્દેશ

- આધાર ઓળખાણનું પ્રમાણ છે, નાગરિકતાનું નહિ.
- ઓળખાણનું પ્રમાણ ઓનલાઈન ઓથેન્ટિકેશન દ્વારા પ્રાપ્ત કરો.

INFORMATION

- Aadhaar is proof of identity, not of citizenship.
- To establish identity, authenticate online.

■ આધાર દેશભરમાં માન્ય છે.

■ આધાર ભવિષ્યમાં સરકારી અને બિન-સરકારી સેવાઓનો લાભ મેળવવામાં ઉપયોગી થશે.

■ Aadhaar is valid across the country.

■ Aadhaar will be helpful in availing Government and Non-Government services in future.

સત્યમેવ જયતે

 **આધાર**

યુનિક આઈડેન્ટિફિકેશન ઓથોરિટી ઓફ ઇન્ડિયા
Unique Identification Authority of India

અધિકારીનું પત્ર - સુપુશ્પ
અધિક કોલોની
ગુસ્માઈડીસી નીકર ટંક નો પાસે
કુમ્ભાઈડીસી વાપી, વાપી રોડ, વાપી જી.એ.
વલસાડ, ગુજરાત, 396195

Address: 103/H2, Supushp,
Chand Colony, Near GIDC
Water Tank, GIDC Vapi,
Pardi, Vapi i.e., Valsad,
Gujarat, 396195

6068 1346 2049

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6. To be noted, the annexures to said MOS, which are photo identity cards of the signatories have also been scanned and reproduced supra.

7. Both aforementioned learned counsel reiterate the contents of Memo of Settlement and make a joint request that impugned award may please be set aside and the parties will stand governed by said MOS. This common say of learned counsel on both sides is recorded.

8. This Court is informed that pursuant to paragraph 5 of said MOS, learned counsel for petitioner in senior OP has handed over a limited cashier's order dated 19.03.2021 for Rs.35,00,000/- [Rupees Thirty Five Lakhs only] (this Court is informed that this cashier's order is akin to a demand draft) to learned counsel for respondent in senior OP. A scanned reproduction of this instrument is as follows:

WEB COPY

STRAIGHT THROUGH SERVICES

By the order of
HYUNDAI MOTOR INDIA LIMITED

19 MAR 2021
Customer Reference:
SCB Reference:
Delivery Method:
Payment Summary:

Page 1 of 1
HYUNDAI
IN00026Q2043895
Pickup by Payee

GROSS AMOUNT 3,500,000.00

Remitting Bank Charges less 0.00
Value Added Tax less 0.00
Discount less 0.00
Net Amount 3,500,000.00

Dear Sir/Madam,
Standard Chartered Bank has attached a cheque 300801 in the amount of INR **3,500,000.00 payable to yourself as instructed by HYUNDAI MOTOR INDIA LIMITED
Payment Description: HYUNDAI MOTOR INDIA LIMITED
52206010938

REFERENCE	DATE	INVOICE REFERENCE & DESCRIPTION	AMOUNT (Rs.)
TOTAL: Rs.			3,500,000.00

Standard Chartered Limited Cashier's Order

Valid for three months from the date of issue

19 03 20 21

Pay To the order of: "SUBDEEP MOTORS PVT. LTD."

Payable in Rupees: "Three million five hundred thousand and 00/100 Only"

Amount in Words: ₹ **3,500,000.00

For Standard Chartered Bank

Payable At Par At All SCB Branches in India

Cust Ref: HYUNDAI
DD Number: 300801

On a/c of HYUNDAI MOTOR INDIA LIMITED

300801 000036000 735525 16

9. Adverting to paragraph 5 of said MOS, both learned counsel made a joint request that a payment out directive may also please be given vide this order itself as Rs.35,00,000/- [Rupees Thirty Five Lakhs only] has been paid by the petitioner in senior OP to the respondent in senior OP. This common request is acceded to.

10. Registry shall treat this common order as an order for payment out also. This Court is informed that petitioner in senior OP is now entitled to take back Rs.15,00,000/- deposited owing to the settlement. There shall be a directive to the Registry to pay out to petitioner in senior OP [Hyundai Motor India Limited] Rs.15,00,000/- (deposited by petitioner in senior OP) together with accrued interest if any. To be noted, by accrued interest if any, this Court means interest accrued on Rs.15,00,000/- [Rupees Fifteen Lakhs only] while lying in deposit to the credit of senior OP i.e., OP.No.470 of 2019. It is open to the Registry to make standard deductions as applicable. This payment out is also subject to counsel on record for petitioner in senior OP complying with procedural formalities in this regard. At request of learned counsel on record for petitioner in senior

OP, this payment out shall be made by way of an instrument drawn in favour of the petitioner in senior OP i.e., Hyundai Motor India Limited.

11. As already alluded to supra, impugned award being 'arbitral award dated 30.11.2018 bearing reference 'Arbitration case No.1 of 2018 arising out of O.P.No.785 of 2012' is set aside by consent. Parties will stand governed by aforementioned said MOS i.e., MOS dated 09.03.2021. The payment out shall be made by the Registry as expeditiously as possible and in any event, within five (5) weeks from today i.e., on or before 27.04.2021.

Captioned OPs disposed of on above terms. There shall be no order as to costs.

23.03.2021

Speaking order: Yes/No

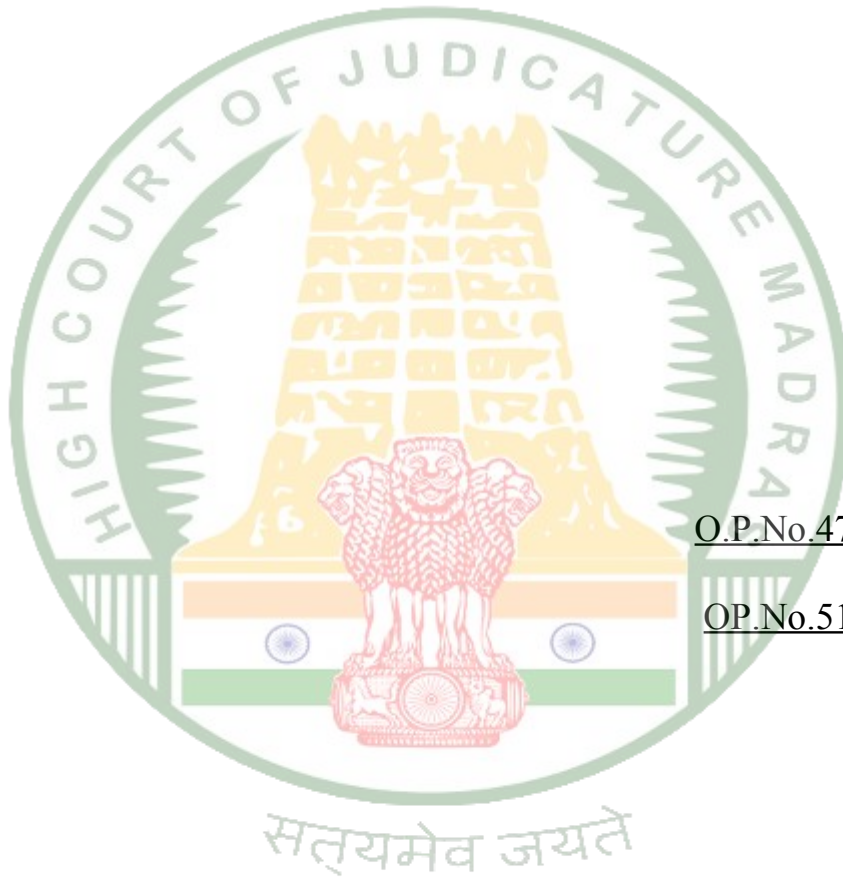
Index: Yes/No

kmi

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M.SUNDAR. J.,

kmi



O.P.No.470 of 2019
and
OP.No.519 of 2020

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23.03.2021