



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 24th DAY OF JUNE 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.No.578 of 2019

and

O.A.No.111 of 2020

and

A.Nos.741, 743 & 744 of 2020

O.P.No.578 of 2019

In the matter of Disputes between
Subway Systems India Private Limited
and

Mr.Srinivasa A Chidhambaram

In the matter of the Arbitration &
Conciliation Act 1996

and

In the matter of Arbitral Award dated
22.10.2018.

Subway Systems India Private Limited
Level 2, Elegance Mathura Road,
Jasola, New Delhi 110025
Represented by its Authorized Signatory
Mr.Jaganath Rao

: Petitioner

Vs

Mr.Srinivasa A Chidhambaram
Subway R 63526
Alwarpet, No.58/98, Dr.Ranga Road,
Mylapore, Chennai 600 004.

:Respondent

Original Petition praying that this Hon'ble Court be pleased to a)



Hon'ble Court and direct the Respondent to deposit an amount of Rs.3,17,132.29/- from 22.10.2018 being the date of the Award towards the unpaid royalties and advertising fees till the date of actual payment and further direct the respondent to pay Rs.15,000/- per day which as of 04 June 2019 amounts to Rs.33,75,000.00/- from 22.10.2018 being the date of the Award towards unauthorized use of the Subway R trade mark, trade names, service marks and in any form of advertising and to return the Subway R Operations Manual, till the date of actual payment and further direct the respondent to pay a sum of 2.150/- U.S.D. being the costs incurred by the Petitioner in the arbitration proceedings in accordance with the Award dated 22.10.2018 along with an interest of 18% per annum from the date of Award till the date of actual payment.

O.A.No.111 of 2020

and

A.Nos.741, 743 & 744 of 2020

Subway Systems India Private Limited
Level 2, Elegance Mathura Road,
Jasola, New Delhi 110025
Represented by its Authorized Signatory
Mr.Jaganath Rao

: Applicant/Petitioner

Vs

Mr.Srinivasa A Chidhambaram

Subway R 63526

Alwarpet, No.58/98, Dr.Ranga Road,



Mylapore, Chennai 600 004.

:Respondent/Respondent

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O.A.No.111 of 2020

Original Application praying that this Hon'ble Court be pleased to grant an order of temporary injunction restraining the Respondent from using the Subway® trademarks in any form whatsoever, and dis-identify himself with the Subway® Franchise and to cease and desist from using the Subway® trademarks, pending enforcement of the Arbitral Award.

A.No.741 of 2020

Application praying that this Hon'ble Court be pleased to direct the Respondent to furnish security to the tune of Rs.38,42,632.29/- (Rupees Thirty Eight Lakhs Forty Two Thousand Six Hundred and Thirty Two and Twenty Nine Paise only) by way of a bank guarantee or in any other manner as may be directed by this Hon'ble Court.

A.No.743 of 2020

Application praying that this Hon'ble Court be pleased to pass an order of attachment of the Respondent's bank account No.041883800000786 with YES Bank Limited, T.Nagar Branch, Chennai and the monies lying therein.

A.No.744 of 2020

Application praying that this Hon'ble Court be pleased to disclose and produce an affidavit a complete inventory of all his assets and



properties, both movable and immovable, within such time as may be specified by this Hon'ble Court.

This Original Petition along with these applications coming on this day before this Court for hearing in the presence of Mr. Adarsh Subramanian, Advocate for the petitioner in O.P.No.578 of 2019 and for the applicant in O.A.No.111 of 2020 and A.Nos.241, 743 and 744 of 2020 and Mr. P. Saravanan, advocate for the respondent in O.P.No.578 of 2019 and O.A.No.111 of 2020 and A.Nos.741, 743 and 744 of 2020 and upon reading petition and the award dated 22.10.2018 filed in O.P.No.578 of 2019 and the Judges Summons and the Affidavit of Jaganath Rao filed in O.A.No.111 of 2020 and A.Nos.741, 743 and 744 of 2020 and the counter affidavit of A. Srinivasa filed in O.P.No.578 of 2019 and the order dated 30.07.2019 filed in O.P.No.578 of 2019 and this Court having observed that the learned Arbitrator has recorded in paragraph 7 of the award to the effect that the nature of service effected on the respondent, he has mentioned about the date of service and UPS tracking including the tracking number etc. to substantiate the above finding, on perusal of the proof filed in typed set, the same clearly shows that notice was received by the respondent and the delivery tracking number also mentioned in the award which is also found in the proof of delivery receipt, therefore contention of the learned counsel

for the respondent that no notice of arbitration received by the respondent



cannot be countenanced, in such view of the matter, this Court do not find any merits in the contention of the respondent and, It is ordered as follows:

That the foreign award dated 22.10.2018 passed by the Sole Arbitrator does not suffer any infirmity and the same is enforceable as the decree of the this Hon'ble Court.

2. That these O.A.No.111 of 2020 and A.Nos.741, 743 and 744 of 2020 do stand closed.

3. That there shall be no costs.

WITNESS THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 24th DAY OF JUNE 2021.

Sd./-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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O.P.No.578 of 2019
and
O.A.No.111 of 2020
and
A.Nos.741, 743 & 744 of 2020

ORDER:
DATED : 24.06.2021

THE HON'BLE MR.JUSTICE
N.SATHISH KUMAR

FOR APPROVAL:

APPROVED ON :



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THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 24.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

O.P.No. 578 of 2019
and O.A.No.111 of 2020
and A.Nos.741,743 and 744 of 2020

Subway Systems India Private Limited
Level 2, Elegance Mathura Road,
Jasola, New Delhi- 110025
Represented by its Authorized Signatory
Mr.Jaganath Rao

. . . Petitioner

Versus

Mr.Srinivsa A Chidhambaram
SUBWAY ® 63526
Alwarpet
No.58/98, Dr.Ranga Road
Mylapore
Chennai – 600 004

. . . Respondent

PRAYER : Petition filed under Sections 47 and 49 of the Arbitration and Conciliation Act, 1996 to declare that the award dated 22.10.2018 be deemed to be a decree of this Hon'ble Court and direct the respondent to deposit an amount of Rs.3,17,132.29/- from 22.10.2018 being the date of actual payment and further direct the respondent to pay Rs.15,000/- per day which as of 04 June 2019 amounts to Rs.33,75,000.00/- from 22.10.2018 being the date of the Award towards unauthorized use of the Subway ®



to return the Subway ® Operations Manual, till the date of actual payment and further direct the respondent to pay a sum of 2,150/- U.S.D being the costs incurred by the petitioner in the arbitration proceedings in accordance with the Award dated 22.10.2018 along with an interest of 18% per annum from the date of Award till the date of actual payment.

For Petitioner : Mr. Adarsh Subramanian

For Respondent : Mr. P. Saravanan

ORDER

This original petition has been filed under Sections 47 and 49 of the Act to enforce the foreign award passed in favour of the applicant.

2. As the dispute arose between the parties in respect to the Franchise agreement dated 03.07.2014 as to the continuation operation of the Subway Restaurant, trade mark, the matter went to the arbitration. The learned Arbitrator was appointed by the International Centre for Dispute Resolution (ICDR).

3. The learned Sole Arbitrator considered the matter after sending the notice to the respondent on analysing the entire claim of the petitioner and passed a foreign award on 22.10.2018.

4. Now the above award was put into enforcement before this Court.

5. The main contention of the respondent before this Court is that the

foreign award is not enforceable since no notice of arbitration is sent to him.



Except the above ground, no challenge whatsoever made as against the award. It is also to be noted that receipt of the award from the learned Arbitrator is not disputed in the counter. Though the counter is filed with the vague allegations, the only allegation is made with regard to the award is non service of the arbitration notice except that there was no other circumstances whatsoever pleaded in the counter.

6. It is to be noted that the party applying for the enforcement of a foreign award shall, at the time of the application, produce the original award or a copy thereof, duly authenticated in the manner required by the law of the country in which it was made and the original agreement for arbitration or a duly certified copy thereof. Once those requirements have been complied by the party applying for enforcement, it is for the respondent to show that the award cannot be enforced on any of the conditions stipulated under Section 48 of the Arbitration and Conciliation Act. Except pleading that no notice was served, there was no other circumstances pleaded by the respondent. Therefore, this Court will deal only with the allegation of non service of notice alone and the same is perused.

7. On perusal of the award, the learned Arbitrator has recorded in paragraph 7 of the award to the effect that the nature of service effected on the respondent. He has mentioned about the date of service and UPS



tracking including the tracking number etc. to substantiate the above finding, on perusal of the proof filed in typed set, the same clearly shows that notice was received by the respondent and the delivery tracking number also mentioned in the award which is also found in the proof of delivery receipt.

8. Therefore contention of the learned counsel for the respondent that no notice of arbitration received by the respondent cannot be countenanced. In such view of the matter, this Court do not find any merits in the contention of the respondent.

9. Accordingly, foreign award passed by the Sole Arbitrator does not suffer any infirmity and the same is enforceable as the decree of the Court.

10. This original petition is ordered accordingly. No costs. Consequently, connected applications are closed.

Sd./- N.S.K.J
24.06.2021

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
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