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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ O.M.P. (COMM) 140/2021, I.A. 6459/2021, I.A. 6460/2021,
I.A. 6461/2021, I.A. 9478/2021, I.A. 9479/2021, I.A.
9480/2021, I.A. 9532/2021, I.A. 9533/2021 & I.A. 9534/2021

BIBBY FINANCIAL SERVICES INDIA PVT LTD

..... Petitioner

Through: Ms. Anjali Sharma, Advocate
with Mr. Abhishek Singh AR of
petitioner.

versus

OK PLAY INDIA PVT LTD

..... Respondent

Through: Mr. Vipul Kumar, Advocate
with Ms. Meenu Goswani and
Mr. Yaspal, AR of respondent

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (O R A L)

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04.08.2021

(Video-Conferencing)

**I.A. 9478/2021 (under Section 151 of CPC, 1908- for taking the
settlement agreement on record)**

1. This application seeks disposal of O.M.P. (COMM) 140/2021 on the basis of the settlement arrived at, between the parties, *vide* settlement agreement dated 30th July 2021, which has been placed on record. The terms of the settlement agreement may be extracted thus:

“ 1. That in full and final settlement of all and any claims that OK Play may have against Bibby, Bibby shall pay a sum of Rs. 76,00,000/- (Rupees Seventy six lakhs only) to OK Play in the manner elucidated in the following paragraphs.

The payment of this sum of money by Bibby to OK Play shall absolve Bibby and its constituents and sister companies and other entities under the same management of all liability whatsoever that it may have owed to OK Play, and all claims by OK Play against Bibby or its constituents and sister companies and entities under the same management shall stand satisfied in entirety by the payment of this sum of money.

2. That in order to effectuate this settlement, in the first instance the authorized signatories of the parties shall sign this Settlement Agreement. After the signing of the same, Bibby shall forthwith take steps for the drawing out cheques in favor of OK Play aggregating to the agreed sum of Rs. 76,00,000/- (Rupees Seventy six lakhs only) (dated prior to the date of signing of the present settlement agreement). The lawyers representing Bibby will then draw out, and together with the lawyers representing OK Play, file a joint application before the Hon'ble High Court of Delhi, placing this settlement agreement on the record of O.M.P. (Comm) 140/2021. The details of the cheques in favor of OK Play will be mentioned in this application. The parties shall then seek, in terms of this settlement arrived at between them, a direction from the Hon'ble Court that the amount of Rs. 44,42,637/- (Rupees Forty four lakhs, forty two thousand, six hundred and thirty seven only) that had been placed by Bibby in fixed deposit, with deposit effective date 10th April, 2018, and an interest rate of 6.25 % compounded quarterly, as well as an automatic renewal clause pursuant to order dated 26th March, 2018, passed by Shri Naresh Kumar Laka, ADJ - 03 (SE), District Courts, Saket, where the petition under Section 34 of the Arbitration and Conciliation Act was originally filed and pending, be released to Bibby together with such interest as may have accrued thereupon. It is also a term of this settlement that OK Play will not file / press any petition for enforcement of the arbitral awards in question passed in its favor.

3. That after the said direction mentioned in the preceding paragraph for release of the deposited amount together with such interest as may have accrued thereupon is

issued by the Hon'ble High Court, the lawyers representing Bibby shall hand over the original cheques aggregating to the sum of Rs. 76,00,000/- (Rupees Seventy six lakhs only) (dated prior to the date of signing of the present settlement agreement) to the lawyers representing OK Play upon the order containing the said direction being uploaded onto the website of the Hon'ble High Court, and becoming available to the parties. The present Settlement Agreement and all actions taken by the parties in pursuance thereto (including any orders passed by Hon'ble Delhi High Court or any other court) shall automatically stand vitiated without any further action of the parties if the cheques so handed over to OK Play are dishonored. The proceedings before the Hon'ble Delhi High Court in O.M.P. (Comm) 140/2021 and any other litigation being pursued/to be initiated by OK Play will automatically stand revived in the event of dishonor of cheques. OK Play also agrees to cooperate with Bibby to enable it to actually secure the release of the sum that had been placed by Bibby in fixed deposit pursuant to order dated 26th March, 2018, passed by Shri Naresh Kumar Laka, ADJ - 03 (SE), District Courts, Saket, together with such interest as may have accrued upon the same. If a joint application has to be filed for the said purpose before the concerned court, OK Play agrees to do so, and agrees as well to take any other lawful step to effectuate the same.

4. It is reiterated and the parties agree that under the terms of this settlement, Bibby is liable to pay only a sum of Rs. 76,00,000/- (Rupees Seventy six lakhs only) to OK Play, and it is reiterated that the payment of this sum of money by Bibby to OK Play shall absolve Bibby and its constituents and sister companies and other entities under the same management of all liability whatsoever that it may have owed to OK Play, and all claims by OK Play against Bibby or its constituents and sister companies and entities under the same management shall stand satisfied in entirety by the payment of this sum of money. The parties agree that after OK Play receives the agreed sum of Rs. 76,00,000/- (Rupees Seventy six lakhs only) from Bibby, the parties shall close / terminate all litigation that either may have initiated against the other, including petition/s to enforce the arbitral awards passed in

favor of OK Play and against Bibby, and the petition setting out objections to the said awards filed by Bibby, as well as all and any other litigation initiated by the parties against each other, all of which shall be disposed off in terms of this settlement agreement. The arbitration awards passed in favour of OK Play and against Bibby shall be deemed to have been satisfied in entirety, and no fresh or further or other litigation shall be initiated by either party with respect to the same.

5. The parties further agree that all disputes emanating out of the agreement for factoring receivables dated 14th August, 2013, entered into between them, shall be settled in the manner mentioned in this agreement; and after OK Play receives the sum of Rupees Seventy Six lakhs only from Bibby in the manner stated hereinabove, it shall not seek any further or other amount from it, whether by way of interest or any other charge whatsoever. It is also a term of this agreement that if the direction and order to be sought from the Hon'ble High Court of Delhi, as mentioned at para 2 hereinabove, pursuant to which the cheques in question aggregating to a sum of Rs. 76,00,000/-(Rupees Seventy six lakhs only) are to be released by Bibby to OK Play has not been passed until 31st August, 2021, this Settlement Agreement shall lapse and stand cancelled thereby automatically reviving the proceedings before the Hon'ble Delhi High Court in O.M.P. (Comm) 140/2021 and any other litigation being pursued/to be initiated by OK Play, unless both parties agree to extend the same in writing on such terms as they then deem fit.

6. That this agreement forms the entire agreement between the parties with respect to the settlement of OK Play's claims against Bibby, and the parties agree that its terms shall not be varied otherwise than in writing, signed by the authorized representatives of the parties."

2. As per the settlement agreement, (i) the petitioner has to draw out cheques in favour of the respondent for ₹ 76 lakhs, (ii) a joint application, for disposal of the present OMP in terms of the settlement

agreement would thereafter be filed by the parties before this Court (which is the present application), (iii) a direction would be sought, from this Court, that an amount of ₹ 44,42,637/- placed by the petitioner in fixed deposit, deposited with the Saket District Court, be released to the petitioner, along with interest accrued thereon and, (iv) thereafter the petitioner would hand over the cheques of ₹ 76 lakhs to the respondent, consequent on uploading of the present order on the website of this Court.

3. In view thereof, the Registry of the Saket District Court is directed to return, to the petitioner, the fixed deposit for the aforesaid amount of ₹ 44,42,637/- along with the interest accrued thereon, within a period of ten days of the petitioner producing before it, a copy of the present order as e-mailed to learned counsel by the Registry of this Court. The parties would abide by the other terms of settlement, as drawn up between them.

4. The petition as well as all applications filed therewith including the present application stand disposed of in terms of the aforesaid.

C.HARI SHANKAR, J

AUGUST 4, 2021

Aj/ss