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A.No.3030 of 2022
in
A.No.1535 of 2022
in
O.P.No.358 of 2021
and
A.No.1828 of 2021
in
O.P.No.358 of 2021

M.SUNDAR, J.,

This common order will now dispose of the captioned two applications.

2. 'O.P.No.358 of 2021' [hereinafter 'main OP' for the sake of convenience] was filed under Section 34 of 'The Arbitration and Conciliation Act, 1996 (Act 26 of 1996)' [hereinafter 'A and C Act' for the sake of brevity, convenience and clarity] assailing an arbitral award dated 13.02.2020 vide Arbitration Case No.238 of 2017 made by an Arbitral Tribunal constituted by a sole Arbitrator.

3. Aforementioned main OP was dismissed after full contest by a Hon'ble single Judge of this Court in and by a detailed order dated 16.11.2021 and the same was subsequently clarified vide an order dated 04.02.2022 when the main OP was listed under the caption 'FOR BEING MENTIONED'.



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4. To be noted, captioned A.No.1828 of 2021 was taken out along with main OP with a prayer for interim stay. Technically, it stood extinguished on 16.11.2021 / 04.02.2022 when the main OP was dismissed but a formal order was not made. Therefore, A.No.1828 of 2021 is shown in the cause list today as this application is technically pending. In any event, this application will also now be disposed of by this common order.

5. Reverting to the narrative, post dismissal of the main OP, the award holder / applicant took out a payment out application in A.No.1535 of 2022 and orders were made in the same by this Court on 08.06.2022. Thereafter, the award holder / applicant came up with captioned A.No.3030 of 2022 with a prayer to modify this 08.06.2022 order in A.No.1535 of 2022.

6. It is at the above stage that the captioned matter was referred to mediation at the instance of both sides. To be noted, mediation was by 'Tamil Nadu Mediation and Conciliation Centre under the aegis of this Court' ['TNMCC' for the sake of brevity]. Today, TNMCC has sent a mediation report dated 08.07.2023 saying that mediation has been completed and



agreement has been enclosed. To be noted, agreement dated 05.06.2023 is enclosed to the Mediation report.

7. A scanned reproduction of mediation report and agreement are as follows:

Received - 05/06/2023

Mediation File No. *8-12-23*

From:

H. Vidya, M.A., B.A.L.S.L.N.,
Assistant Registrar,
Tamil Nadu Mediation and Conciliation Centre,
High Court, Madras.

To:

The Assistant Registrar (A.S. & R.), Madras High Court,
High Court, Madras.

Sir/Madam,

Sd/- Tamil Nadu Mediation and Conciliation Centre, High Court, Madras. Order No. 8-12-23 dated 05/06/2023.

2. Order No. 8-12-23 dated 05/06/2023.

Between: by *Madras High Court for Mediation - Mrs. Suresh -*
Mediation's Report - Forwaring of - Bala

Ref: Copy of the External Order, dated 05/06/2023, received on 05/06/2023.

I am enclosing herewith the Mediation Report in the above internal case.

The receipt of this letter along with process may be acknowledged.

Yours faithfully,

[Signature]
ASSISTANT REGISTRAR (INMCC)

Enc:

1. Mediation Report.

2. *Enclosure of Settlement*



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TAMIL NADU MEDIATION AND CONCILIATION CENTRE (TNMCC),
HIGH COURT, MADRAS

MEDIATION REPORT

Mediation File No. : MF No. 810/2022
Court Case No. : OP No. 358/2021
Referred By : Hon'ble Mr. Justice M. Sundar
Date of Referral : 02-12-2022
Name of the Mediator : AJ JAWAD
Dates of Mediation Sessions : 21-12-2022, 21-03-2023, 18-04-2023.
Name of the Petitioner(s) : Mittsu Logistics (India) Pvt. Ltd.
Name of the Respondent(s) : Aarkay Consultants
Counsel for Petitioner(s) : Mr. G. Sarat Babu
Counsel for Respondent(s) : Ms. P. Pooja (for Girishar and Sai)

1. Mediation completed. Agreement enclosed
or
2. Mediation completed. No agreement reached. --
or
3. Parties were not willing to participate in the mediation.

Signature of the Mediator

Dated: 08-07-2023



தமிழ்நாடு TAMILNADU

5.6.2023 M/s. Aarkays Consultants

Nilsa Logistics (India) Private Limited

Memorandum of Settlement

The Agreement executed at Chennai on 5th day of June 2023

Between

M/s NX Logistics India Private Limited [Formerly known as Nilsa Logistics India Private Limited] represented by its Authorized Representative, Mr. Tomy Aarai having its registered office at Unit No. 307, Third floor, Walkers Tech Park, Scheme Road, Sector-48, Gurgaon-122015, Haryana being the 'First Party'

And

M/s Aarkays Consultants, rep. by its Proprietor Shri R. Krishnamurthy, having its office at 75/4, 2nd Floor, First Avenue, Ashok Nagar, Chennai-600 093 being the 'Second Party'

The First Party and Second Party are being collectively called as Parties.

Whereas:

- The dispute between the parties under Service Supply Agreement Dated 01.07.2016 resulted in an Arbitral Award dated 15.02.2020 wherein the Arbitral Tribunal directed the First Party to pay a sum of Rs. 24,34,000/- with interest @ 9% per annum from 01.10.2016 till realization.

Be it stated that the parties have

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M/s AARKAYS Consultants
Proprietor



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2. The First Party filed O.P. No.358/21 before the Madras High Court challenging the Arbitral Award dated 13.02.2020 and the Madras High Court after hearing the arguments of the Counsel for the First Party and Second Party, passed an interim order dated 23-04-2021 staying the operation of the award on the condition that the First Party deposits a sum of Rs. 30 lakhs to the credit of O.P. No.358/21 in the Madras High Court. The First Party on 22-05-2021 deposited the sum of Rs. 30 lakhs to the credit of O.P. No.358/21 in the Madras High Court.
3. Immediately the Second Party filed an Application In A.No. 3126 of 2021 before the Madras High Court to withdraw the sum of Rs. 30 lakhs deposited to the credit of O.P. No.358/21 in the Madras High Court.
4. The Madras High Court by order dated 22-06-2021 in A.No. 3126 of 2021 permitted the Second Party to withdraw the sum of Rs.30 lakhs on a condition that the Second Party furnishes security for the sum of Rs. 30 lakhs. The Second Party did not furnish security and the sum of Rs. 30 lakhs remained to the credit of O.P. No.358/21 in the High Court.
5. The Hon'ble High Court of Madras passed the final order dated 16.11.2021 dismissing the said OP and thereby confirming the award passed by the Tribunal.
6. Subsequent to the dismissal of the OP, the Second Party again filed a second Application No.1535/21 for payment of sum of Rs.30 Lakhs deposited by the First Party in the Court.
7. Meanwhile, EP vide No. 2223/2021 was also filed by the Second Party on the file of XXV Assistant Judge's Court, City Civil Court, Alankulam for recovering balance money due in terms of the Award.
8. The Madras High Court after hearing the arguments of the Counsel for the First and Second parties, passed the order dated 08.06.2022 in Application No.1535/21, recording the submission of the Counsel for the First Party that the First Party is not filing an appeal against the order dated 16.11.2021 and also recorded the submission of the counsel for the Second Party that the sum of RS. 30 lakhs lying to the credit of OP No. 358 of 2021 can be considered as full and final settlement and recording full satisfaction in EP No. 2223/2021 on the file of XXV Assistant Judge's Court, City Civil Court, Alankulam. Accordingly payment out of Rs.30 Lakhs was ordered on these terms.
9. Subsequently, the Second Party filed an Application No.3036/22 seeking modification of the order dated 08.06.2022 in Application No.1535/21 to enable the Second Party to recover balance money due under the Award over and above the money deposited by the First Party in the court.
10. At that stage, the Hon'ble High Court having referred the Parties for mediation, both the Parties have arrived at a compromise to fully and finally settle the dispute with respect to the money payable under the Award and accordingly Parties are entering into this agreement.

BY ORDER OF THE JUDGE

11.06.2022

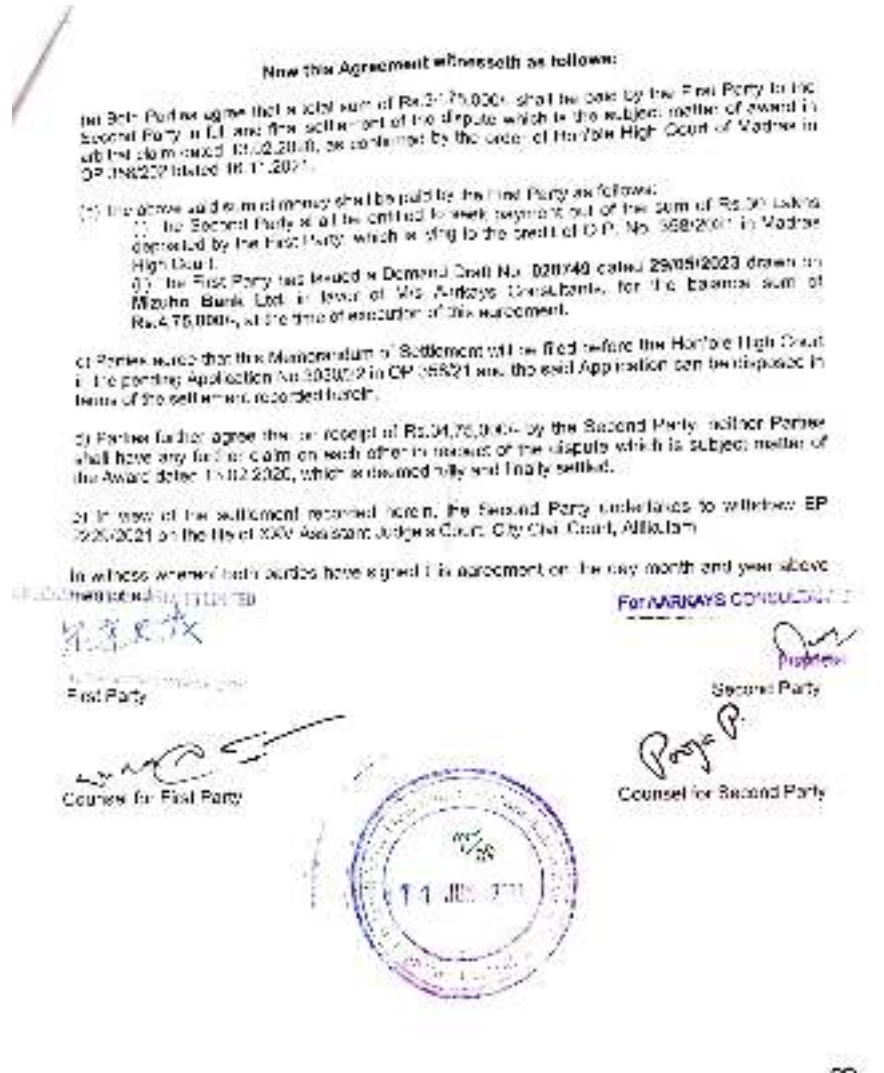


For AARKAYS CONSULTANTS

Proprietor
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8. Today, Ms.Pooja, learned counsel of M/s.Giridhar and Sai (Law Firm) for the applicant in A.No.3030 of 2022 and Ms.Monicka, learned counsel representing Mr.NRR.Arun Natarajan, learned counsel for respondent in A.No.3030 of 2022 are before this Court.

9. Adverting to the aforementioned mediation report and annexed



agreement dated 05.06.2023 captioned / styled 'Memorandum of Settlement', both aforementioned learned counsel submit that as regards Rs.34.75 Lakhs which has been crystallized as full and final settlement, Rs.4.75 Lakhs has already been paid and both counsel request for payment out order for the remaining Rs.30 Lakhs which is lying to the credit of main OP. As regards execution petition namely, E.P.No.2229 of 2021 on the file of the XXV Assistant Judge's Court, City Civil Court, Allikulam, Chennai, this Court is informed that the same has since been closed. This submission is recorded.

10. In the light of the narrative thus far, the following order is made:

(a) A.No.3030 of 2022 is disposed of in terms of aforementioned agreement dated 05.06.2023 styled / captioned 'Memorandum of Settlement' which shall be annexed to this order and which shall form part of this order;

(b) Rs.30 Lakhs lying to the credit of main OP i.e., O.P.No.358 of 2021 is ordered to be paid out subject to following normal operating procedures and statutory deductions, if any. To be noted, this Court is informed that this sum of Rs.30 Lakhs is lying in a non-interest bearing account



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in the Registry of this Court to the credit of main OP i.e., O.P.No.358 of 2021. As payment out was already taken out and ordered and also owing to settlement that has been arrived at by the parties by way of mediation, Registry to process the payment out without insisting on a separate payment out application;

(c) Termination of E.P.No.2229 of 2021 on the file of the XXV Assistant Judge's Court, City Civil Court, Allikulam is recorded;

11. In the light of the narrative thus far, A.No.1828 of 2021 is disposed of as closed.

12. Both applications i.e., A.No.3030 of 2022 and A.No.1828 of 2021 are disposed of in the aforementioned manner. There shall be no order as to costs.

08.08.2023

mk

M.SUNDAR, J.,



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