



Arb.Appln.Nos.107 & 108 of 2024

WEB COPY

Arb.Appln.Nos.107 & 108 of 2024

KRISHNAN RAMASAMY, J.,

The application in Arb.Appln.No.107 of 2024 has been filed to direct the respondent to disclose the details as contemplated in Form 16A of the Appendix E of the Code of Civil Procedure and further restrain the respondent from selling/alienating and disposing off its assets, pending final adjudication of the disputes between the applicants and the respondents through arbitration.

2. The application in Arb.Appln.No.108 of 2024 has been filed to direct the respondent to pay or deposit a sum of Rs.94,97,527/- as the admitted dues agreed to be payable under the Memorandum of Settlement dated 09.08.2021.

3. The learned counsel for the applicant would submit that the respondent has entered into the Memorandum of Settlement dated 09.08.2021, wherein at Clause 3, the respondent had agreed to pay the entire due amount of a sum of Rs.1,44,97,527/- in the following manner:



Arb.Appln.Nos.107 & 108 of 2024

“3. PAYMENT PLAN

<i>S.No</i>	<i>Installment amount (INR)</i>	<i>Installment Date</i>
1	15,00,000	30 th August, 2021
2	15,00,000	30 th September, 2021
3	15,00,000	30 th October, 2021
4	15,00,000	30 th November, 2021
5	15,00,000	30 th December, 2021
6	18,00,000	30 th January, 2022
7	18,00,000	28 th February, 2022
8	18,00,000	30 th March, 2022
9	17,41,550	30 th April, 2022
10	3,55,976	30 th April, 2022

4. However, the respondent had failed to make any payment in the manner prescribed above and hence, the applicant approached the National Company Law Tribunal to initiate the Corporate Insolvency Resolution Proceedings. In the course of the said proceedings, the respondent paid a sum of Rs.50,00,000/- to the applicant.

5. At that point of time, another creditor, M/s.Shapoorji Pallonji and Co. Ltd., has also filed a similar petition for winding up of the respondent-



Arb.Appln.Nos.107 & 108 of 2024

WEB COPY

Company. In the petition filed by M/s.Shapoorji Pallonji and Co. Ltd., order was passed by the NCLT to initiate CIRP proceedings, whereas, the petition filed by the applicant was closed vide order dated 02.05.2023 for the reason that the CIRP process was initiated in the petition filed by M/s.Shapoorji Pallonji and Co. Ltd.

6. Challenging the said order dated 02.05.2023, the respondent filed an appeal before the National Company Law Appellate Tribunal, whereby, stay was granted vide order dated 10.05.2023. Hence, he requests this Court to direct the respondent to pay the admitted dues to the applicant and disclose the details as contemplated in Form 16A of the Appendix E of the Code of Civil Procedure.

7. After filing of these applications, notice was ordered and served to the respondent and the name of the respondent was also printed in the cause list. However, none appeared on behalf of the respondent, which shows that the respondent has no interest to contest this matter.



Arb.Appln.Nos.107 & 108 of 2024

WEB COPY

8. Considering the submissions made by the learned counsel for the applicant and perusing the Memorandum of Settlement dated 09.08.2021, it appears that the respondent has admitted to pay a sum of Rs.1,44,97,527/- to the applicant on or before 30.04.2022. However, till date, the respondent has only paid a sum of Rs.50,00,000/- and he is evading to pay the balance due amount of a sum of Rs.94,97,527/-. Hence, this Court is inclined to allow these applications.

9. Accordingly, these applications are allowed. The respondent is directed to pay or deposit the balance due amount of a sum of Rs.94,97,527/- to the applicant. Further, the respondent is directed to disclose the details as contemplated in Form 16A of the Appendix E of the Code of Civil Procedure.

11.06.2024

nsa



WEB COPY



Arb.Appln.Nos.107 & 108 of 2024

KRISHNAN RAMASAMY, J.,

nsa

Arb.Appln.Nos.107 & 108 of 2024

11.06.2024