



Arb.OP(Com.Div)No.216 of 2024  
&  
O.A.No.346 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

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M/s.VIDVEDAA PRG AERO  
and PORTS VOYAGE PVT.LTD.,  
Rep., by its Director, Mr.Vanchinathan Thangavel,  
Olympia Teknos Park, Level-4, Plot No.28,  
SIDCO Industrial Estate, Guindy,  
Chennai 600 032.

...Petitioner

Vs.

The Director,  
Airports Authority of India,  
Chennai Airport,  
Chennai 600 016.

....Respondent

**Prayer in Arb.OP(Com.Div)No.216 of 2024:-** This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of the arbitration Agreement dated 28.06.2023.



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**Prayer in O.A.No.346 of 2024:** This Arbitration Original Petition has been filed under Section 9(2)(a) of the Arbitration and Conciliation Act, 1996, to grant an order of interim injunction restraining the respondent from encashing the Bank Guarantee submitted by the applicant in pursuant of the Concession Agreement dated 28.06.2023, pending disposal of the Arbitration.

For Petitioner : Mr.V.Raghavachari

Senior Counsel for Mr.S.Girish

For Respondent : Mr.R.Sankaranarayanan  
Senior Counsel for Mr.P.Rajkumar  
Jhabakh

### **Common Order**

When O.A.No.346 of 2024, came up for hearing i.e., on 30.04.2024, this Court passed the following order:

“This application has been filed to grant an order of interim injunction restraining the respondent from encashing the Bank Guarantee submitted by the applicant in pursuant of the Concession Agreement dated 28.06.2023.

2. The learned counsel for the applicant would submit that the applicant had entered into a Concession Agreement with the respondent on 28.06.2023 to design, fit-out, finance, develop, market, operate, maintain and manage the retail outlets inside the Chennai Airport for three terminals viz., T1, T2 and T4. While issuing the Tender, the works in T2 and T4 were ongoing. Further, it was informed by the respondent that the retail space in T2 and T4 would be similar to that of T1, however, they are completely contrary. Hence, the applicant was unable to



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achieve the revenue as expected by them.

3. Further, he would submit that though the aforesaid Concession Agreement was signed on 28.06.2023, the said premises was duly vetted by BCAS and issued to the applicant on 01.09.2023. Thereafter, the respondent issued demand notices dated 01.11.2023 and 14.11.2023 to the applicant towards concession fee for the period from 18.07.2023 to 30.09.2023. Hence, he would contend that since the said premises was handed over to the applicant only on 01.09.2023, it is not proper for the respondent to claim the concession fee for the said period. In this regard, the applicant sent several communication to the respondent. However, without considering the said communications, the respondent intend to encash the Bank Guarantee given by the applicant. Hence, he filed this application seeking for an order of interim injunction restraining the respondent from encashing the Bank Guarantee submitted by the applicant.

4. Considering the submission made by the learned counsel for the applicant, this Court is of the view that the applicant had made out a *prima facie* case and the balance of convenience is also in favour of the applicant. Further, if this Court refused to grant interim order as prayed for in this application, the interest of the applicant would be affected prejudicially. Therefore, this Court is inclined to grant an order of interim injunction.

5. Accordingly, there shall be an order of interim injunction as prayed for in this application till the next date of hearing.

6. Issue notice to the respondent, returnable by 04.06.2024. Private notice is also permitted.

7. Post this matter on 04.06.2024.”



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2. Pursuant to the order of this Court dated 30.04.2024, the learned counsel for the respondent entered appearance and made strong objections and requested this Court to vacate the interim injunction granted by this Court.

3. Today i.e., 18.07.2024, when these matters came up for hearing, this Court heard the submissions made by Mr.V.Raghavachari, learned senior counsel for the petitioner as well as the learned senior counsel for the respondent at length, in Original Application as well as the Arbitration Original Petition with regard to the appointment of an Arbitrator.

4. Upon hearing on both sides, this Court feels that, the total outstanding amount of the applicant-company is yet to be quantified. Further, the applicant submitted that they are ready to pay a sum of Rs.9 crore as admitted amount, however, the learned counsel for the respondent made a demand to pay a sum of Rs.10 crore and finally the learned counsel for the applicant submitted that, they would deposit a sum of Rs.10 crore,



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5. Both the learned senior counsel submitted that, the interim order granted by this Court on 30.04.2024 may be continued till the commencement of the arbitration i.e., the first hearing of arbitration proceedings.

6. Both the parties have agreed that the present case may be referred to the Arbitrator. The present dispute has arisen out of concession agreement dated 28.06.2023. Though in the present case, as per the agreement if the amount involved is above 25 crore, adjudication shall be made by Arbitral Tribunal comprising 03 arbitrators. Each party has to appoint one Arbitrator and the two appointed Arbitrators shall appoint the Presiding Arbitrator. However, both the learned senior counsel for the respective parties agreed for appointment of Sole Arbitrator. Therefore, this Court is inclined to appoint sole Arbitrator to adjudicate the dispute between the parties.



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7. Accordingly, this Court is inclined to pass the following order:

(a) **The Hon'ble Mr.Justice V.Parthiban, Former Judge, Madras High Court**, Residing at No.5069, 12<sup>th</sup> Street, Z Block, Anna Nagar, Chennai 600 040, Possessing Mobile No.9444094401, is appointed as an Arbitrator to enter upon reference and adjudicate the disputes between the parties, arising out of the above said agreement.

(b) The Sole Arbitrator shall initiate arbitration proceedings and after issuing notice to the parties concerned and upon hearing them, pass an award, on merits and in accordance with law and uninfluenced by any of the observations made in this order, within a period of six months from the date of receipt of a copy of this order.

(c) The Sole Arbitrator shall be paid fees and other incidental charges, as per the Schedule IV of the Act and the same shall be borne by both the parties equally. In the event of non-appearance of the Respondent, the Petitioner shall bear the entire remuneration and other expenses and thereafter, the Petitioner is at liberty to recover the same directly from the Respondent.

8. Interim order granted by this Court on 30.04.2024 is extended till the first hearing of the arbitration proceedings subject to the condition that the applicant/petitioner shall deposit the admitted sum of Rs.10 crore



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on or before 27.08.2024 and thereafter all the issues pertaining to the monthly payment upto date and from the date of initiation of the arbitration proceedings shall be decided by the learned Arbitrator.

9. With the above direction, this Arbitration Original Petition is allowed. Hence, the connected application O.A.No.346 of 2024 is disposed of. No costs.

**18.07.2024**

Index:Yes/No  
Web:Yes/No  
Speaking/Non Speaking  
Neutral Citation:Yes/No  
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**KRISHNAN RAMASAMY.J**

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