



Arbitration Application Nos.655 & 656 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Application Nos.655 & 656 of 2025

Deekay Exports Limited,
represented by its Authorized Signatory,
No.219, Lal Bhadur Shastri Street,
Puducherry - 605 001. Applicant in both applications

Vs.

M/s.Premier Enterprises Limited,
No.162/3, East Coast Road,
Kanagachettykulam,
Puducherry - 605 014. Respondent in both applications

PRAYER

Arb Appln No. 655 of 2025

To pass an order of attachment of the respondent's stock worth of Rs.39,76,429/- for the year 2025-2026 as mentioned in Schedule-A herein, pending disposal of arbitral proceedings between the applicant and respondent.

Arb Appln No. 656 of 2025

To pass an order of attachment of the respondent's bank account as mentioned in Schedule-B and freeze the same, pending disposal of the arbitral proceedings between the applicant and respondent.

For Applicant : Mr.Arun C Mohan



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[in both applns.]

For Respondent : No appearance

[in both applns.]

COMMON ORDER

When these applications came up for hearing on 16.07.2025,

this Court passed the following order:

"These applications have been filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking for the following reliefs:-

a) To pass an order of attachment of the respondent's stock worth Rs.39,76,429/- for the year 2025-2026, morefully described in the Schedule – A of the Judges Summons, pending disposal of the arbitral proceedings.

b) to pass an order of attachment of the respondent's bank account morefully described in the Schedule B to the Judges Summons and freeze the same, pending disposal of the arbitral proceedings.

2. The applicant is a liquor manufacturer. They have sold liquor to the respondent through various invoices. The invoices raised by the petitioner on the respondent have been filed as documents along with this application. According to the applicant, the total value of the unpaid invoices is Rs.4 Crores and 3 Lakhs. According to the applicant, the respondent has failed to pay the outstanding dues of the applicant amounting to Rs.4 Crores and 3 Lakhs. According to the applicant, the cheques issued by the respondent towards part payment of the applicant's outstanding dues were also returned-dishonoured for "insufficiency of funds". The applicant has also filed the returned cheques along with this application. According to the applicant in all the invoices raised by the applicant on the respondent, there exists an arbitration clause and the same is reproduced hereunder:-

5. All Disputes shall be decided by arbitrator only before the Courts at Chennai.

3. The applicant has expressed its willingness to go for



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arbitration in accordance with the arbitration clause contained in all the invoices. To secure the claim of the applicant pending arbitration, they have filed these applications under Section 9 of the Arbitration and Conciliation Act, 1996.

4. A counter affidavit has been filed by the respondent in these applications. They claim that the invoices filed by the applicant are fabricated documents. They have also filed documents viz., the invoices which according to the respondent were the actual invoices raised by the petitioner on the respondent, which are dated 06.12.2022 to 27.02.2023. According to the respondents, the invoices raised on the respondent by the petitioner does not contain an arbitration clause. The respondent also contend that no part of cause of action arose within the jurisdiction of this Court. They contend that the entire cause of action arose only at Puducherry, where both the applicant and the respondent are having their respective offices. With regard to the merits of the applicant's claims, the respondent has not stated anything in the counter affidavit but they have reserved their right to raise all defences as and when the claim is made by the applicant before the Arbitral Tribunal.

5. On the first hearing date i.e., on 18.06.2025, after the respondent received notice in these applications, the respondent's Managing Partner Mr.S. Vakisan, S/o. C. Subramanian appeared as a Party-in-person. He submitted that he will be meeting the representatives of the applicant for the purpose of arriving at an amicable settlement. He sought four weeks time for negotiating with the applicant and for arriving at an amicable settlement.

6. On 18.06.2025, when the Managing Partner of the respondent appeared as a Party-in-person, he never raised any objection with regard to the invoices raised by the applicant against the respondent, which were filed along with these applications and he never submitted that the said invoices are fabricated documents. He also did not object to the jurisdiction of this Court to decide these applications. Similarly, on 02.07.2025 when the applications were heard on the next adjourned date, the learned counsel for the respondent, on instructions had submitted that the respondent is making all out efforts with the financial institutions to avail loan to settle the claim of the applicant. He sought further time for the respondent



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to settle the claim of the respondent. Based on the said representation, this Court had adjourned the matter to 16.07.2025 i.e., today.

7. However, the respondent has taken a contradictory stand today by filing a counter in these applications raising the jurisdiction issue on the ground that the entire cause of action arose only at Puducherry and further the invoices raised by the applicant on the respondent are fabricated invoices and these invoices do not contain an arbitration clause. To substantiate the case of the respondent, the learned counsel for the respondent has filed invoices raised by the applicant on the respondent(20 Nos.), which are dated 06.12.2022 to 27.02.2023 and would submit that those were the invoices received by the respondent and the said invoices does not contain an arbitration clause as claimed by the applicant.

8. The learned counsel for the respondent submitted that invoices filed by the applicant based on which, these applications have been filed are fabricated invoices. Admittedly as on date, there is no conclusive evidence placed on record before this Court, either in the form of Court orders or in the form of orders from the statutory authorities that the invoices filed by the applicant in support of these applications are fabricated invoices.

9. According to the respondent only after obtaining permit, the respondent had obtained delivery of the goods from the applicant. He would also submit that the permit granted by the statutory authorities, as seen from the invoices, which are produced by the respondent, confirm that the said invoices are only the genuine ones and not the one submitted by the petitioner.

10. The learned counsel for the applicant claims that the invoices filed by the applicant in support of these applications are computer generated invoices and therefore, the question of fabricating the invoices does not arise. However, there is no conclusive evidence placed on record to support the contention of the respondent that the invoices filed by the applicant are fabricated invoices. Therefore, the question of accepting the contention of the respondent that the applicant's invoices are fabricated one at this stage does not arise. When the



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respondent's Managing Partner earlier before this Court had acknowledged in open Court on 18.06.2025 the fact that the respondent is due and liable to pay outstanding amount due to the applicant towards the unpaid invoices and having agreed to negotiate with the applicant for the purpose of arriving at an amicable settlement, the respondent cannot go back on their commitment to pay and they are now estopped from raising objections without any supporting evidence.

11. While deciding an application under Section 9 of the Arbitration and Conciliation Act, 1996, this Court will have to be prima facie satisfied that the applicant has filed the invoices in support of the applicant's claim for Rs.4 Crores and 3 Lakhs as against the respondent. According to the petitioner the said invoices are disputed, even though, earlier the very same respondent had agreed to negotiate with the applicant and arrive at an amicable settlement. This Court at this stage, without any record of conclusive evidence with regard to the objections raised by the respondent cannot accept the contentions of the respondent.

12. The applicant has established a prima facie case that a sum of Rs.4 Crores and 3 Lakhs is due and payable by the respondent towards the supplies effected by the applicant on the respondent, which are supported by invoices and also supported by the returned cheques issued by the respondent, favouring the applicant towards part payment of the unpaid invoices. In view of the above discussion, necessarily, this Court has to grant the interim protection to the applicant, but however this Court, for the present, is inclined only to direct the respondent to furnish security to the extent of the claim amount i.e.Rs.4 Crores and 3 Lakhs, within a time frame to be fixed by this Court. Accordingly, the respondent is directed to furnish security to the extent of the claim amount i.e.,Rs.4 Crores and 3 Lakhs, within a period of four weeks from the date of receipt of a copy of this order, failing which, further orders will be passed against the respondent by this Court to protect the interest of the applicant, pending arbitration.

13. Post the matter “for reporting compliance” on **13.08.2025.**”



2. The matter was once again listed for hearing on 13.08.2025

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"Learned counsel for the respondent reports no instructions. She has also made an endorsement to that effect in the court bundle.

2. Since the counsel has reported no instructions for the respondent, registry is directed to print the name of the respondent and post the matter on 01.09.2025."

3. Pursuant to the above order, the name of the respondent has also been printed in the cause list and there is no appearance either in person or through any counsel newly engaged by the respondent.

4. In the light of the reasoning given in the earlier order dated 16.07.2025 and also considering the fact that the respondent has not furnished security to the extent of the claim amount of Rs.4,03,00,000/- [Rupees Four Crores and Three Lakhs only], there shall be an order of attachment of the Schedule-A property and there shall also be an order of attachment of the bank account of the respondent and the same shall remain freezed pending disposal of the Arbitral proceedings.

In the result, these applications are allowed in the above terms.



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N.ANAND VENKATESH, J.

gm



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