

National Company Law Appellate Tribunal, New Delhi

Company Appeal (AT) No. 145 of 2020

IN THE MATTER OF:

Air Water Inc.

...Appellant

Vs.

Ellenbarrie Industrial Gases Ltd. & Ors.

...Respondents

Present:

For Appellant:

**Mr. Arun Kathpalia and Mr. Abhinav Vasisht,
Senior Advocates.**

**Mr. Dheeraj Nair, Ms. Anjali Anchayil, Mr. Kumar
Kislay, Mr. Sidharrth, Mr. Angad Baxi, Ms. Priya
Singh, Advocates.**

For Respondents:

**Mr. S.N. Mookherjee, Mr. Ratnanko Banerji,
Senior Advocates alongwith Mr. Rishav Banerjee,
Mr. Nipun Katyal, Mr. Sanku Chakraborty,
Advocates for R-1.**

**Mr. Ramji Srinivasan, Senior Advocate alongwith
Mr. Vikrant Pachnanda and Mr. Rishub Kapoor,
Mr. Shaunak Mitra, Advocates for R-2.**

**Mr. Abhrajit Mitra, Senior Advocate alongwith
Mr. Iram Hassan, Mr. Chayan Gupta, Mr. Vikrant
Pachnanda, Mr. Sanket Sarawgi, Advocates for
R-3.**

**Mr. Abhrajit Mitra, Senior Advocate alongwith Mr.
Vikrant Pachnanda, Mr. Iram Hassan, Mr.
Shaunak Mitra, Mr. Chayan Gupta, Advocates for
R-4.**

**Mr. Joy Saha, Senior Advocate alongwith Mr.
Varinder Singh Dhiman, Advocate for R- 5 to 7.**

ORDER

(Through Virtual Mode)

10.09.2020: Heard the Learned Senior Counsel for the Appellant. He submits that admitted position is that there is an Arbitration Agreement. It is alleged that the Tribunal has erroneously held that the Tribunal has

Jurisdiction to deal the matter. It is further, submitted that the Appellant has filed an Application under Section 45 of the Arbitration and Conciliation Act ,1996 before the Tribunal, which is pending.

He further submits that the Operation of the Impugned Order be stayed.

Issue Notice to Respondents. Learned Counsels for the Respondents accept Notice. Learned Counsels for the Respondents seek and are allowed to file Reply Affidavit before 22nd September, 2020. Rejoinder, if any, may be filed before 29th September, 2020.

It is an admitted fact that an Application under Section 45 of the Arbitration and Conciliation Act,1996 is pending before the Learned Tribunal.

We request the Tribunal to decide such Application as early as possible. We make it clear that while deciding the above referred Application the findings arrived at in Para 22 of the Impugned Order shall not come in the way.

We are not inclined to stay Operation of the directions in Para 23 of the Impugned Order.

Let the Appeal be fixed on **29th September, 2020.**

[Justice Jarat Kumar Jain]
Member (Judicial)

[Balvinder Singh]
Member (Technical)

[V.P.Singh]
Member (Technical)

sr/nn