IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
14.11.2025	09.12.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS. 22968 & 23060 OF 2025

AND

W.M.P. NOS. 25805, 25806, 25808, 25904, 25906, 25907 & 30459 OF 2025

PVR INOX Ltd.
Rep. by its Authorised Signatory
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Gurgaon 122 002, Haryana
Also at No.25, Mamatha Complex
5th Floor, Whites Road
Royapettah, Chennai 600 014
Tamil Nadu. .. Petitioner in WP 22968/2025

Y.Jayant Kartik
Zonal Head – Chennai
PVR INOX Ltd.
25, Mamatha Complex

5th Floor, Whites Road
Royapettah, Chennai 600 014
Tamil Nadu. .. Petitioner in WP 23060/2025

- Vs -

1.Airports Authority of India
Rajiv Gandhi Bhawan
Safdarjung Airport
New Delhi 110 003.

2.Meenambakkam Realty Private ltd.
No.617, New No.418, Bharat Kumar Bhavan
Anna Salai, Chennai 600 006.
Also at Olympia Techpark Chennai Pvt. Ltd.
1, SIDCO Industrial Estate, Guindy
Chennai 600 032, Tamil Nadu.

3. Union of India
Through Ministry of Civil Aviation
Rajiv Gandhi Bhawan Block B
Jorbagh, Safdarjung Airport Area
New Delhi 110 003. .. Respondents in both WPs

W.P. No.22968 of 2025 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records of the respondent No.1 relating to the Letter AAMC/C.MLCP/2022/606

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dated 20 June 2025 issued by the respondent No.1, set aside the same and consequentially direct the respondent No.1 to permit the petitioner No.1 to continue its business operations in the MLCP Complex in terms of the Development Agreement and the Sub-License Deed.

W.P. No.23060 of 2025 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records of the respondent No.1 relating to the Letter dated 20 June 2025 issued by the respondent No.1, quash the same and consequentially direct the respondent No.1 to permit PVR Inox Limited to continue its business operations in the MLCP Complex, in terms of the Development Agreement and the Sub-License Deed.

For Petitioner : Mr. P.S.Raman, SC, for
M/s.Arva Merchant in
WP No.22968/2025
Mr.Sathish Parasaran, SC, for
M/s.Arva Merchant in
WP No.23060/2025

For Respondent : Mr.AR.L.Sundaresan, ASG
Assisted by Mr.Ramaswamy Meyyappan for R-1 in both WPs
Mr.Abhishek Jenasenan for R-2 in both WPs
No Representation for R-3

COMMON ORDER

Aggrieved by the impugned letter in and by which the 1st respondent had called upon the petitioner for closure of its lawful operation of its multiplex in the Multi-Level Car Parking Complex (for short 'MLCP') at Chennai Airport, the present writ petitions have been filed.

2. The formation of a MLCP Complex in the Chennai Airport was conceived, developed and executed in which various activities, including a multiplex containing a cinema hall was sought to be developed, which was approved by resulting in the construction of a cinema hall, which had the approval of the 1st respondent on the basis of the Development Agreement dated

20.6.2018 entered into with the 2nd respondent. However, later in point of time, the 1st respondent vide its impugned letter had taken a position that the operation of a cinema hall cannot be given effect to as the said operation is not a permissible activity under the Airports Authority of India Act, 1994 (for short 'AAI Act'), which according to the petitioner is in clear derogation of the 1st respondent's contractual obligations and also the directions passed by this Court ordering maintenance of status quo. Further, the writ is maintainable as it does not arise from any private contractual dispute, nor is it contingent upon the enforcement of rights under the Development Agreement between the 1st and 2nd respondents; rather the gravamen of the challenge lies in the arbitrariness and unconstitutionality of the conduct of the 1st respondent, which is in violation of Articles 14 and 19 (1) (g) of the Constitution, as the said act of running a cinema hall has been expressly permitted by the 1st respondent and that it is not an isolated act, but a consistent affirmative conduct by the 1st respondent giving rise to a legitimate expectation showcasing that the petitioner would be entitled

to operate the cinema halls lawfully and the sudden issuance of the impugned letter is not only in breach of the petitioner's legitimate expectation, but it against the doctrine of promissory estoppel.

3. The case of the petitioners as averred before this Court is as under :-

Request for Proposal (for short 'RFP') along with Notice Inviting Tender (for short 'NIT') was issued inviting bids for the development of a MLCP facility on Design, Build, Operate and Maintain basis (for short 'DBOM') with integrated commercial infrastructure at the Chennai Airport. The project was not merely confined to creation of a structured parking facility, but was also planned to include commercial complex within the car parking blocks so as to elevate the overall passenger experience to international standards. In the RFP, the list of permissible activities was expansively given, more particularly in relation to passenger amenities and prohibited activities did not attract cinema halls.

4. Pursuant to the NIT, on the 2nd respondent coming out successful, Development Agreement was duly executed between the 1st respondent and the 2nd respondent. Under the terms of the said Development Agreement, the 2nd respondent was granted comprehensive rights to design, construct, operate and maintain the MLCP facility with integrated commercial space with the premises of the Chennai Airport on a construction-cum-license to operate and maintain basis for the contractual term. The Development Agreement specifically envisaged the entitled of the 2nd respondent to develop and carry out commercial activities within the MLCP complex as part of the integrated commercial development, which constituted an essential and inseparable element of the project design. The contract period of the said Development Agrement was for a period of 15 years and the said agreement also allowed the 2nd respondent to sub-license its rights to third parties.

5. In furtherance to the Development Agreement, respondents 1 and 2 committed various acts that led the petitioners to invest and commit substantial time and resource for the development of a multiplex in the MLCP complex at the Chennai Airport, which would be evident from the acts of respondents 1 and 2, as could be enumerated in the subsequent paragraphs.

6. The 1st respondent actively obtained environmental clearance in respect of the MLCP for establishment of a 'Cinema Multiplex' by allocating specific area and the said environment clearance was granted by the Ministry of Environment, forest and Climate Change on 21.12.2018. therefore, as early as on 21.12.2018, the 1st respondent was fully aware of the proposal of establishment of a cinema multiplex within the MLCP complex and had been proactively participating in securing the requisite statutory approvals.

7. Further, in February, 2019 and 01.01.2021, architectural plans and construction drawings for the MLCP project was approved by the 1st respondent, which explicitly provided for the establishment of a cinema hall located in the East Block of the MLCP Complex.

8. Pursuant to the sanction of the revised plan and in compliance with the contractual obligation to procure all permits under Article 5.1.5 of the Development Agreement, the 1st respondent addressed communication dated 20.07.2021 to the Commissioner of Police, Chennai, requesting the issuance of a location No Objection Certificate in respect of proposed five screen cinema hall within the integrated MLCP complex. Further, the urgency in processing the application has also been highlighted by the 1st respondent by pointing out that the cinema hall facility was conceived as an integral element of the development of the Chennai Airport in line with the world class standards.

9. Based on the 1st respondent's proposal seeking issuance of location No Objection Certificate for the cinema multiplex to the Commissioner of Police, the 2nd respondent also submitted an application seeking grant of NOC on 24.8.2021.

10. Pursuant to the approval by the 1st respondent and the application made for statutory and regulatory permits, the 2nd respondent entered into negotiation with the petitioner for grant of sub-license for cinema space with the MLCP and the independent engineer appointed by the 1st respondent, issued communication to the 2nd respondent confirming its approval of the draft license agreement between the petitioner and the 2nd respondent and directed the 2nd respondent to submit the executed copy of the agreement to the 1st respondent.

11. Upon obtainment of approvals from the 1st respondent, in exercise rights conferred upon the 2nd respondent under the Development Agreement, the petitioner entered into a sub-licence deed dated 15.11.2022 with the 2nd

respondent for the purpose of operating a cinema multiplex within the MLCP complex at the Chennai Airport.

12. On the basis of the sub-license deed, permission was granted to the petitioner with exclusive rights to establish, manage, operate and maintain a multiplex with five screens within the demarcated area of MLCP complex and the tenure of the sub-license was fixed at 13.5 years in line with the terms set forth in the overarching Development Agreement. Further, the sub-license deed was executed with the full knowledge and express understanding that the 2nd respondent had been lawfully vested with the right to undertake and implement commercial operations, including, cinema exhibition, within the MLCP complex.

13. Consequent upon the grant of location NOC, the petitioner applied for licence in Form 'C' under Rules 41 and 42 of the Tamil Nadu Cinemas (Regulation) Rules, 1957, which was granted to the petitioner on 31.1.2023 pursuant to which,

the petitioner commenced operations on 1.2.2023 in the East Block of MLCP Complex at Chennai Airport.

14. The multiplex operations commenced in accordance with the terms of the sub-license deed and continued uninterrupted generating revenue for all the stakeholders, including respondents 1 and 2, through the integrated commercial development model under the Development Agreement and the sub-license deed.

15. Out of blue came the order of the 1st respondent on 21.7.2023, through its letter, unilaterally and without prior notice or opportunity of hearing, directing the 2nd respondent to close the cinema hall operations with immediate effect on the ground alleged that the operation of cinema hall within the airport premises was not permissible under the AAI Act. The said order challenged the

very foundation of the commercial arrangement in operation which is with the knowledge and acquiescence of the 1st respondent for a considerable period.

16. Aggrieved by the arbitrary act of the 1st respondent contained in the letter dated 21.7.2023, the 2nd respondent, in exercise of its rights under the arbitration clause contained in the Development Agreement filed O.M.P. (I) (COMM) No.229/2023 before the High Court of Delhi u/s 9 of the Arbitration and Conciliation Act, 1996 on 24.7.2023, in and by which urgent interim direction of stay of operation of the letter of the 1st respondent dated 21.7.2023 wherein immediate closure of the cinema hall was directed, was sought for pending constitution of Arbitral Tribunal and to restrain the 1st respondent from taking any steps to stop the operation of the cinema hall within the confines of MLCP complex of the Chennai Airport and the High Court of Delhi, vide its order dated 2.8.2023, and its subsequent order dated 7.8.2023, passed an order directing

maintenance of *status quo* and restraining the 1st respondent from acting upon or giving effect to its letter dated 21.7.2023 till the next date of hearing.

17. Invoking the arbitration clause contained in 38.3 of the Development Agreement, the 2nd respondent had the Arbitral Tribunal constituted as per the procedure laid in the Development Agreement and in consonance with the provisions of the Arbitration and Conciliation Act, 1996, to adjudicate the disputes subsisting between respondents 2 and 1. Thereafter, the application before the Delhi High Court was converted into an application for interim relief u/s 17 of the Arbitration and Conciliation Act before the Arbitral Tribunal.

18. The petitioner was not appraised of any of the developments either by respondents 1 or 2 and the knowledge of the brewing conflict involving public interest, in which the rights and the sub-license deed of the petitioner were involved came to its knowledge only through public sources and media reports

and, therefore, to protect its business interests, the petitioner issued a letter to the 2nd respondent about the nature and extent of the implication of the dispute with the 1st respondent and sought clarification on the steps that have been taken to resolve them. It was all along the stand of the 2nd respondent that all clearances, approvals and sanctions were obtained for running a multiplex cinema in the MLCP complex and, therefore, the petitioner called upon the 2nd respondent to ensure that all steps are taken so that no hindrance, obstruction or interference is caused with regard to the operation of the multiplex in accordance with the terms and conditions.

19. Vide the communication dated 25.11.2023 of the 2nd respondent to the petitioner, the petitioner was put on notice about the grant of stay of the operation of the letter of the 1st respondent dated 21.7.2023. However, by a letter dated 15.5.2025, the 2nd respondent intimated the petitioner that the Development Agreement dated 20.6.2018 between respondents 1 and 2 stood

terminated and as a consequence thereof, the 2nd respondent informed the petitioner that the 1st respondent would take over complete control and management of the entire MLCP complex, including the multiplex with effect from 30.5.2025 and that post the said take over by the 1st respondent, all matters, issues, rights and obligations pertaining to the sub-license deed would be handled directly by the 1st respondent.

20. Apprehending threat to the sub-licence deed, the petitioner addressed the 2nd respondent seeking complete disclosure vide its letter dated 22.5.2025, but the 2nd respondent's letter was evasive, incomplete and failed to address the petitioner's legitimate business concerns and failed to provide any information with regard to the Development Agreement and the 2nd respondent resiled itself under the garb of confidentiality obligations and did not reveal material information, which were relevant to the petitioner's contractual rights and legitimate business interests.

21. Since proper information was not forthcoming from the 2nd respondent inspite of repeated communications by the petitioner, vide its letter dated 29.5.2025, the petitioner addressed the 1st respondent on the termination of the Development Agreement and pointing out the knowledge of the petitioner about the 1st respondent stepping into the shoes of the 2nd respondent to take over complete control of the MLCP complex and informed the 1st respondent that the petitioner is fully committed to continuing its operations at the MLCP complex and sought a personal one-to-on interaction with the 1st respondent to discuss the course of moving forward.

22. Inspite of the petitioner's request for transparency, the 2nd respondent did not provide any details with regard to the Development Agreement and hid behind Article 39 of the Development Agreement relating to the confidentiality

obligations and also Section 42-A of the Arbitration and Conciliation Act and pleaded its difficulty to share specific information as sought for by the petitioner.

23. Vide e-mail dated 10.6.2025, to the shock of the petitioner, the Arbitral Tribunal vacated the interim order dated 7.2.2024, which had been protecting the cinema operations by way of interim stay of the letter of the 1st respondent dated 21.7.2023 calling on the 2nd respondent to immediately cease operation of all five cinema halls in the multiplex operated by the petitioner. The vacation of the interim order left the petitioner without any clarity on the status and fate of the multiplex operations at the MLCP complex and apprehended that the 1st respondent would attempt to interfere with the peaceful operation of the multiplex.

24. Apprehending threat of closure of its business operations based on the contractual rights under the sub-license deed, the petitioner along with one of

the shareholders filed W.P. Nos.21208/2025 seeking a direction to restrain the 1st respondent from interfering with the petitioner's rights under the sub-license and vide order dated 16.6.2025, this Court directed the 1st respondent to maintain status quo in relation to the running of the cinema halls in the MLCP complex and directed the 1st respondent to take a decision on the request made by the petitioner for continuation of its business operations vide letter dated 29.5.2025.

25. However, inspite of the above order, vide communication dated 20.6.2025, the 1st respondent issued the impugned letter to the petitioner rejecting the representation stating that operation of cinema halls in MLCP complex cannot be permitted, thereby, ignoring to exercise its obligations under the Development Agreement. As per the Development Agreement, the 1st respondent was obliged to allow continuation of the operations of the multiplex, but has taken an erroneous position that the surrender provisions under the

Development Agreement in the case of cinema hall cannot be given effect to since operation of the same is not permissible under the AAI Act. The impugned communication of the 1st respondent is not only in derogation of its contractual obligations, but also against the spirit of the directions issued by this Court vide its order dated 16.6.2025.

26. Since the vacation of the interim order by the Arbitral Tribunal and the communication of the 1st respondent to cease operation of the cinema hall as is being contrary to the provisions of the AAI Act, closure of the multiplex in the MLCP is necessary and surrender provisions under the Development Agreement also does not permit operation of the cinema hall under the AAI Act and, therefore, the prayer for continuation of the cinema hall by the petitioner was rejected.

27. Since the impugned order had robbed the right of the petitioner, which crystallised in the sub-licence deed, which had the express knowledge and approval of the 1st respondent, the same cannot be interdicted by a unilateral impugned letter without any legal foundation and rational justification and the belated operations that the operation of cinema hall is impermissible under the AAI Act and is inconsistent with the prior conduct of the 1st respondent and contrary to the terms of the Development Agreement and since it infringes on the petitioner's fundamental rights under Articles 14 and 19 (1)(g) and extinguishes a lawful, ongoing commercial operation without following the due process of law, the same is manifestly arbitrary, discriminatory and perverse and the said is liable to be interfered and praying so, the present writ petitions have been filed.

CONTENTIONS OF THE PETITIONERS :

I)***Writ Petition is maintainable :***

28. Learned senior counsel appearing for the respective petitioners submitted that the present dispute is not a private contractual dispute under the sub-license deed, but it is a larger challenge to the conduct of the 1st respondent culminating in the impugned letter being issued, which is arbitrary, unreasonable and violative of Articles 14 and 19 (1)(g) of the Constitution. The arbitrariness of a public authority's conduct can only be tested before a writ court, especially where it involves the powers and duties of the 1st respondent.

29. It is the further submission of the learned senior counsel that the past representation and acts of the 1st respondent operate as promissory estoppel, as the said acts allowed the petitioner to alter its position by relying upon the same. Therefore, there arises a legitimate expectation for the petitioner which cannot be arbitrarily disrupted by the impugned letter. It is the further submission of the learned senior counsel that the act of the 1st respondent is a clear discrimination against the petitioner, as other similarly placed commercial/retail outlets in the

MLCP complex have been permitted to run the outlets and the reasoning for rejecting the petitioner by placing reliance upon Section 12 of the AAI Act is wholly erroneous.

30. It is the specific submission of the learned senior counsel that there is no explicit prohibition for the running of a cinema multiplex in the MLCP complex and, therefore, the rejection of permission, that too after the 1st respondent has taken all the steps to obtain the clearance for establishment of the multiplex clearly shows that the entire action of the 1st respondent is only with a mala fide intent and for reasons best known to it and, therefore, in the absence of prohibition, the rejection of the 1st respondent by placing reliance on Section 12 of the AAI Act is wholly perverse, impermissible and erroneous.

31. Learned senior counsel for the petitioner further submitted that it has been the consistent view of the courts that where there is violation of

fundamental rights, even in the event of existence of contractual remedies, writ proceedings could be maintained against the State. It is the submission of the learned senior counsel that a public body even in respect of its dealing with a tenant, must act in public interest and infraction of that duty is amenable to examination either in a civil suit or even under the writ jurisdiction. In this regard, reliance was placed on the decision of the Apex Court in ***Dwarkadas Marfatia & Sons. – Vs – Port of Bombay (1989 (3) SCC 293)***.

32. It is further pointed out by the learned senior counsel that the respondents have not question the writ petitions on the question of maintainability.

II)Operation of Multiplex is permissible under AAI Act

33. It is the submission of the learned senior counsel that the rejection of AAI is predicated upon Section 12 of the AAI Act, which provision, according to

the 1st respondent, prohibits the operation of Aerohub. This submission, according to the learned senior counsel is untenable, as Aerohub does not fall within the definition of 'Airport' u/ 2 (b) of the AAI Act as there is no express bar or prohibition for running a multiplex u/s 12 of the AAI Act.

34. It is the further submission of the learned senior counsel that Section 12 only applies to an 'airport', which only includes the buildings and land that are utilised for the performance of aeronautical activities and none of the 'aeronautical services' as defined u/s 2 (a) of the Airports Economic Regulatory Authority of India Act, 2008 are performed in the MLCP Complex.

35. It is the further submission of the learned senior counsel that even the 1st respondent has not treated Aerohub as an 'Airport' as would be evident from the AERA Tariff Order dated 7.9.2021, which covers all aeronautical and non-aeronautical activities within an airport. The 1st respondent has specifically

excluded the Aerohub/MLCP from the purview of non-aeronautical services in the Airport. Inspite of the existence of MLCP in the Tariff Order, there is a significant omission of MLCP as the 1st respondent has not disclosed all revenue generating non-aeronautical activities in the airport during the determination of tariff. Therefore, Aerohub does not fall under the definition of 'Airport' for the purpose of AAI Act and further it is the admitted stand of the parties that the Aerohub is located outside the restricted security area of the airport.

36. It is the further submission of the learned senior counsel that AAI Act does not prohibit the establishment or operation of a cinema theatre within the 'airport' and Section 12 (1) vests the 1st respondent with overarching statutory mandate to manage the airports, civil enclaves and aeronautical communication stations efficiently. Section 12 (3) specifies the functions which the 1st respondent may undertake without prejudice to the generality of its powers u/s

12 (1) , which makes it clear that the list, which is provides is only illustrative and not exhaustive.

37. It is the further submission of the learned senior counsel that even otherwise to the exclusion of specifics in clause (f) of Section 12 (3), clause (r) of Section 12 (3) provides the residuary provision, which confers the authority on the 1st respondent to undertake *"any other activity at the airports and the civil enclaves in the best commercial interests of the Authority; including the cargo handling, setting up of joint ventures for discharge of any function assigned to the authority".* Such being the case, there being no express prohibition u/s 12, the rejection order passed by the 1st respondent adverting to Section 12 (1) is grossly erroneous.

38. It is the further submission of the learned senior counsel that the restriction of clause (r) by invoking the interpretation *noscitur a sociis* is grossly

erroneous, as the term *including* used is one of extension and not limitation and, therefore, wide latitude is afforded to the 1st respondent to include various types of activities as there is no common genus or shared category uniting *'cargo handling'* and *'joint ventures for discharge of any function'* and the legal maxim aforesaid cannot be invoked.

39. It is the further submission of the learned senior counsel that if the interpretation adopted by the 1st respondent is allowed, then it would render all the retail outlets impermissible u/s 12. It is the submission of the learned senior counsel that it is an admitted fact that airports, including the Chennai Airport, throughout the country, have various retail outlets for clothing, beauty products, pharmacies, electronic goods, toys, etc., all of which would fall foul if the interpretation as given to Section 12 by the respondent is accepted.

40. It is the further submission of the learned senior counsel that the provisions of the AAI Act should be read harmoniously in the evolving context of the international air travel, more particularly when all the major international airports routinely house cinema multiplexes and entertainment complex, which is towards revenue generation and a commercially imperative venture to benefit the spiralling travelling cost that is incurred by the passengers.

41. It is therefore the submission of the learned senior counsel that the restrictive interpretation given only to cinema multiplex, as not having been specifically spelt out u/s 12 of the AAI Act and, therefore, it is not permissible would render many other such entities, which are operating in the airport premises liable to be closed, but the restrictive interpretation is given only to the petitioner and not to other establishments and, therefore, it is a clear case of vindictive targeting against the petitioner and in the absence of any specific

prohibition u/s 12 of the AAI Act, the rejection order passed by the 1st respondent cannot stand the test of legal scrutiny.

III)<u>Doctrine of Promissory Estoppel</u>

42. It is the submission of the learned senior counsel that the clause 1.31 of the sub-licence deed pertains to the term of the sub-licence, which specifies that the said term is locked with the term of agreement between respondents 1 and 2 and, therefore, before the completion of the said term, the 1st respondent cannot terminate the sub-license with the petitioner. It is the submission of the learned senior counsel that this lock-in structure was adopted to ensure long term contractual relationship between the parties, so that the petitioner can make sustained investments and realise the commercial benefits, which not only accrues to the petitioner but also to the respondents and that such benefits accrue only over an extended period of stable operation and, therefore, to realise

the same, the petitioner has no other option, but to seek continuance of the operations of the multiplex.

43. It is the further submission of the learned senior counsel that the multiplex is situated within a commercial complex outside the security hold area, which serves both the airport users and others and contributes to non-aeronautical revenue, which is well within the framework of the AAI Act and, therefore, the stand of the respondent that there is no estoppel against law is wholly misconceived.

43. The conduct of the 1st respondent is clear, deliberate and endorsing the activity of the petitioner, towards establishment of the cinema multiplex would be evident from the fact that concerted efforts were taken by the 1st respondent to obtain multiple approval plans for MLCP complex, which included the multiplex. Formal approval of the sub-licence deed to be entered into

between the petitioner and the 2nd respondent was approved by the 1st respondent. Further, the 2nd respondent took active participation in obtaining environmental and construction clearances and its tacit approval would also stand revealed through the affirmative acts including promotional tweets and public press releases as also the continued receipt and enjoyment of financial benefits arising out of the multiplex, including acceptance of license fees under the sub-licence deed. Further, the 1st respondent having derived substantial financial benefits from the continued operation of the multiplex, cannot resile itself from its obligations.

44. It is the further submission of the learned senior counsel that Sections 24 and 56 of the Indian Contract Act are not applicable to the case on hand. It is the further submission of the learned senior counsel that the doctrine of promissory estoppel would stand squarely attracted to the present case, as laid down by the Apex Court in the case of ***SPIC – Vs – Electricity Inspector (2007 (5)*** 32

SCC 447), wherein it has been laid down that the representations made by public bodies being clear, unambiguous and acted upon by third parties, necessarily operates as estoppel to bind the authority to its prior stance.

45. It is the further submission of the learned senior counsel that there is no basis for alleging that the multiplex causes traffic congestion or impedes airport access. On the contrary, the counter affidavit filed by the 2nd respondent confirms, based on real-time traffic management software, the availability of adequate parking and smooth vehicular flow. It is the further submission of the learned senior counsel that the rejection order is silent on parking issues and, therefore, the 1st respondent cannot improve its case through the counter affidavit.

46. It is the further submission of the learned senior counsel that there is clear exclusion of MLCP from the confines of Airport, as would be evident from

the Determination of Aeronautical Tariff for Chennai International Airport in which accounts for revenue is taken only upto the MLCP link bridge and there is a conscious exclusion of revenue generated from MLCP complex, which clearly demonstrates that the 1st respondent did not consider the MLCP complex to fall within the definition of Airport u/s 2 of AAI Act and, therefore, the 1st respondent is estopped to claim, on the basis of its consistent stand, that MLCP complex forms part of the Airport or that it is regulated u/s 12 of the AAI Act, as the 1st respondent cannot approbate and reprobate. Therefore, the impugned letter of rejection suffers from arbitrariness and perversity.

IV)AAI cannot expand the scope of reasons beyond Section 12 as offered in the impugned letter

47. It is the submission of the learned senior counsel that it has been the consistent stand of the 1st respondent that the closure of the cinema halls is based on the prohibition contained u/s 12 of the AAI Act and at no point of time,

either in the letter dated 21.7.2023 issued to the 2nd respondent or in the impugned letter dated 20.6.2025, the 1st respondent has asserted that the petitioner cannot continue operations to to any discretionary power under the Development Agreement.

48. It is the further submission of the learned senior counsel that the letter dated 21.7.2023 of the 1st respondent to the 2nd respondent, in clear and unambiguous terms spells out that the competent authority has decided to close cinema hall (PVR 5 screens) with immediate effect as running of cinema hall is not permissible under the AAI Act and the impugned letter simply reiterates the said reason and in fact, in the impugned letter, the 1st respondent has expressly stated that it is not acting under Article 42 of the Development Agreement, which relates to the surrender provisions, wherein the 1st respondent has spelt out that the surrender provisions under the Development Agreement in the case of cinema hall cannot be given effect to since the operation of the same is not

permissible under the AAI Act. Therefore, all along, the rejection of the 1st respondent is based on Section 12 of the AAI Act, which, according to the 1st respondent prohibits the running of cinema hall and, therefore, the 1st respondent is precluded from invoking Article 42 of the Development Agreement.

V)R-1 cannot rely on termination of Development Agreement or its clauses to evade its obligations

49. It is the submission of the learned senior counsel that when the 1st respondent has challenged the termination of the Development Agreement in the arbitral proceedings, it cannot simultaneously treat the termination as final and binding solely to dislodge the petitioner. Further, it is submitted that the termination arose from the breaches committed by the 1st respondent and, therefore, the 1st respondent cannot rely on its own default to contend that the petitioner's rights under the sub-licence deed stand extinguished on the termination of the Development Agreement.

50. It is the further submission of the learned senior counsel that the order dated 9.6.2025 records the stand of the 1st respondent that it is willing to take over all the project facilities, but submits that the order dated 30.9.2025 between the respondents 1 and 2 has no bearing in the present case, as the petitioner is not a party to the arbitration and stands on a fundamentally different legal footing from the other sub-licensees as the closure of the multiplex stems from the unilateral rejection letter dated 21.7.2023 invoking Section 12 of the AAI Act and, therefore, the legality of the impugned closure must be tested solely on public law principles governing the 1st respondent's statutory actions and the arbitral order would have no relevance to the present case.

51. It is the further submission of the learned senior counsel that the foundation of the dispute is the letter dated 21.7.2023, which is issued much prior to the termination of the Development Agreement.

52. It is the further submission of the learned senior counsel that Article 42.2 of the Development Agreement casts an obligation upon the 1st respondent to step into the shoes of the Concessionaire upon termination and to assume all rights and obligations including those validly executed sub-licensing arrangements. The only exception carved out under Article 42.2 is for *"onerous"* contracts. Therefore, the 1st respondent must act fairly and with constitutional conscience and that Article 5.2.4 has to be read with Article 41 for a holistic reading of the Development Agreement.

53. It is the further submission of the learned senior counsel that the sub-licence deed is not onerous nor is it the stand of the 1st respondent that it is onerous as the said sub-licence deed was expressly approved by the 1st respondent and such being the case, the exception carved out under clause 42.2 would not be available to the 1st respondent.

54. It is the further submission of the learned senior counsel that the invocation of Section 210 of the Indian Contract Act is misplaced as the said provision governs the termination of a sub-agent's authority upon the revocation of the principal agent's authority. However, in the present case, the petitioner is neither a sub-agent nor is acting under delegated agency, but is governed by the sub-licence under a contractual licence, which bears no resemblance to any agent u/s 210 of the Contract Act.

55. It is the further submission of the learned senior counsel that the 1st respondent having issued the letter dated 21.7.2023 directing closure of the cinema halls, now cannot contend that the petitioner's remedy is purely contractual in nature and that if at all, it should seek damages from the 2nd respondent. The tortuous interference of the 1st respondent directing arbitrary closure of the cinema hall and shifting the responsibility to the 2nd respondent is

only an attempt to wriggle out of its liability and the said stand is impermissible and arbitrary.

56. In fine, it is the submission of the learned senior counsel that the act of the 1st respondent in ordering closure by resorting to the provisions of Section 12 of the AAI Act is grossly misconstrued as there is no prohibition to run a multiplex in an area, which is not within the confines of an airport, as the area where the multiplex is situate is not an airport as defined u/s 2 of the AAI Act. Further, the contractual terms does not cloth the 1st respondent with power to cancel the sub-licence deed, as it steps into the shoes of the 2nd respondent upon the termination of the Development Agreement and, therefore, the 1st respondent is bound to honour the sub-licence deed entered into between the 2nd respondent and the petitioner and, therefore, prays for allowing the present petition.

57. In support of the aforesaid submissions, learned senior counsel placed reliance on the following decisions :-

i)Sivanandan C.T. – Vs – High Court of Kerala (2024 (3) SCC 799);

ii)Mihan India Ltd. – Vs – GMR Airports Ltd. (2022 (19) SCC 69);

iii)D.K.Trivedi & Sons. – Vs – State of Gujarat & Ors. (1987 (Supp) SCC 20);

iv)Naresh Agarwal – Vs – Institute of Chartered Accountants of India & Ors. (AIR 2024 SC 1139);

v)International Airport AI Officers Association – Vs – Union of India (2005 SCC OnLine Del 950);

vi)R (Fox) – Vs – Secretary of State for Education (2015 EWHC 3404);

vii)Manuelsons Hotels (P) Ltd. – Vs – State of Kerala (2016 (6) SCC 766);

viii)SPIC – Vs – Electricity Inspector (2007 (5) SCC 447);

ix)State of Punjab – Vs – Nestle India Ltd. (2004 (6) SCC 465);

x)CIDCO of Maharashtra – Vs – Shishir Realty Pvt. Ltd. (2022 (16) SCC 527);

xi)Mohinder Singh Gill – Vs – Chief Election Commissioner (1978 (1) SCC 405);

xii)Greater Kailash Part II Welfare Association & Ors. – VS – DLF Universal Ltd. & Ors. (2007 (6) SCC 448); and

xiii)Dwarkadas Marfatia & Sons. – Vs – Port of Bombay (1989 (3) SCC 293)

58. Per contra, learned Addl. Solicitor General appearing for the 1st respondent prefaced his submissions under the following heads :-

I)Whether the writ petitions are maintainable

a)No Privity of Contract

59. It is submitted by the learned Addl. Solicitor General that there is no jural relationship between the 1st respondent and the petitioner and the derivation of rights of the petitioner is only from the sub-license agreement to which the 1st respondent is not a party. The contractual relationship in the present case is only between the 1st and 2nd respondents through the Development Agreement and between the 2nd respondent and the petitioner

through the sub-licence deed and the 1st respondent not being a party to the sub-license deed, there is no contractual relationship and any claim by the petitioner could at best be made only against the 2nd respondent and not against the petitioner as there is no privity of contract nor *consensus ad idem* between the parties.

60. It is the further submission of the learned Addl. Solicitor General that the 2nd respondent opted to terminate the Development Agreement by giving notice of intent to terminate the Development Agreement under Article 31.2.2 vide letter dated 28.2.2025 and the subsequent letter of termination under Article 31.2.2 vide letter dated 31.3.2025 and as a consequence thereof, the 1st respondent, under Article 42.2 is vested with the discretion to decide the continuance of the sub-licence agreement, if any, entered by the 2nd respondent with the third parties on mutually negotiable terms and conditions and in such

circumstances, the petitioner cannot misuse the jurisdiction of this Court to enforce a consensus between the petitioner and the 1st respondent.

b)Proxy Litigation

61. It is the submission of the learned Addl. Solicitor General that these petitions deserve to be dismissed *in limine* as the concerned dispute is purely a commercial/contractual dispute and the recourse available to the petitioners are only against the 2nd respondent based on the sub-licence deed in a suit for damages for relief to indemnify the losses and damages. Further, it is submitted that on independent arbitration between the 2nd and 1st respondents under the Development Agreement, the issues pertaining to the sub-licensees were agitated before the learned Arbitrator by the 2nd respondent and the petitioner having complete knowledge of the proceedings and pleadings made by the 2nd respondent, has approached this Court under its extraordinary jurisdiction, through the instant petition, which is nothing but a proxy litigation as what could

not be achieved by the 2nd respondent before the Arbitrator is sought to be achieved through the petitioner in the present petitions.

c)Not a State Function under Article 12 of the Constitution

62. It is the further submission of the learned Addl. Solicitor General that the function of the 1st respondent entering into a commercial contract, by no means, could be categorized as a State function and the contention advanced in this regard is untenable and in such circumstances, the writ petitions at the instance of the petitioners are not maintainable.

d)Alternate Relief Available

63. It is the submission of the learned Addl. Solicitor General that the petitioner has an alternative remedy available against the 2nd respondent under the sub-license agreement, and particularly referencing clause 16, learned Addl. Solicitor General submits that it contains an Arbitration clause, which could be enforced in respect of any dispute or controversy or claim arising out of or in

connection with the sub-licence agreement, including question regarding its existence, validity, construction and/or interpretation of termination.

64. It is the further submission of the learned Addl. Solicitor General that it is settled principle of law that when an alternative remedy exists, particularly in the form of arbitration, agreed to between the parties voluntarily, the jurisdiction of this Court under Article 226 cannot be invoked. The issue of legality and consequences of termination, including rights of the parties under the sub-licence deed, being adjudicated by the Arbitral Tribunal, the petitioner cannot maintain a parallel proceeding before this Court on the very same subject and, therefore, the writ petition is not maintainable.

I)Whether subsidiary agreement co-terminus with the principal agreement survive post termination of principal agreement

65. Learned Addl. Solicitor General submitted that the power of the 2nd respondent to enter into a contract flows from the power granted vide clause 3.1 of the Development to sub-license its function to parties, which is a creature of contract. Therefore, in accordance with Article 3.1.2.h, any sub-license agreement entered into by the 2nd respondent with any third party would be on a co-terminus basis to the parent agreement, viz., Development Agreement. The existence of the sub-license is subject to the existence of the Development Agreement, which grants the 2nd respondent power to license its activity to third parties. In the light of the termination of the Development Agreement, the sub-licensee cannot claim a better right than the licensee with the principal licence.

66. It is the further submission of the learned Addl. Solicitor General that subsequent to the termination of the Development Agreement under Article 31, Article 42 comes into operation, on a perusal of which it could be discerned that the surrender provision will come into operation at the option of the 1st

respondent. It is further submitted that Article 42.2.b casts an obligation on the Developer, viz., 2nd respondent, to incorporate the devolution of rights of the 1st respondent and with a specific obligation on the parties to such contracts to enter into novation agreement with the 1st respondent upon exercise of option by the 1st respondent with respect to the sub-license agreement entered into with third parties. It is the submission of the learned Addl. Solicitor General that the option is with the 1st respondent to enter into novation agreement with the third parties. It is pointed out that no such clause is available in the subsidiary co-terminus sub-lease agreement entered between the 2nd respondent and the petitioner and, therefore, action, if any, by the petitioner, would be only against the 2nd respondent for not duly notifying the petitioner and cannot be against the 1st respondent.

67. It is the further submission of the learned Addl. Solicitor General that the 1st respondent is vested with discretion under Article 42.2 to allow or decline

any sub-licensee, including the petitioner to continue operation upon mutually negotiable terms and, therefore, the discretion vested in the 1st respondent to enter into a commercial contract cannot be forced upon them by way of a writ by rewriting a new commercial contract at the terms and conditions of the petitioner under the guise of promissory estoppel.

68. It is the further submission of the learned Addl. Solicitor General that there was no privity of contract between the petitioner and the 1st respondent and a contract, in which the terms and conditions have to be mutually discussed and agreed between the parties, cannot be thrust upon the 1st respondent through the present writ petition. It is further submitted that the petitioner cannot feign ignorance that it did not have any knowledge about the discretion vested with the 1st respondent under Article 42.2 with regard to allowing or prohibiting a particular activity, which could be evidenced from the letter dated 15.5.2025 written by the 2nd respondent to the petitioner as also the e-mail dated

23.5.2025 in which the 2nd respondent had reproduced the relevant extracts from the Development Agreement and had asked the petitioner to negotiate with the 1st respondent, which in turn resulted in the communication of the petitioner dated 29.05.2025 seeking negotiations at the hands of the 1st respondent for running the cinema multiplex. Therefore, it is the submission of the learned Addl. Solicitor General that it is clear that the petitioner was well aware of the procedure and the discretion vested with the 1st respondent with regard to any negotiation and that the petitioner knew very well that it is not a walk in the park for it to seek for license, which has prompted it to file the petitions. It is therefore the submission of the learned Addl. Solicitor General that the above sequence would establish that it is not termination of the petitioner, but rather it is the rejection of the petitioner's request for negotiation, which is on the basis of the express discretion provided under Article 42.2 of the Development Agreement.

69. It is the further submission of the learned Addl. Solicitor General that the termination of the main agent would result in consequential termination of the sub-agency as per Section 210 of the Indian Contracts Act and, therefore, the rejection of the case of the petitioner was rightly done so. It is further submitted that even otherwise, Section 24 provides that when the object of the contract or any part thereof is unlawful, the contract is void and an agreement to do an impossible act is also void u/s 56 of the Contract Act. Therefore, operating the cinema multiplex within the premises of the 1st respondent being not permitted within the framework of AAI Act, it cannot be permitted to be continued.

II)Whether the area covering MLCP is included within the definition of 'Airport' u/s 2 (B) of AAI Act and whether the functioning of a cinema multiplex is a permissible activity within the functions of the authority

70. It is the submission of the learned Addl. Solicitor General that the area covering MLCP is included within the definition of 'Airport' under Section 2 (b) of the AAI Act.

71. It is submitted that the definition of airport includes passenger facilities and the idea for a multi level car park was formulated as a passenger facility for the passengers and the visitors to park their vehicles. The contention of the petitioners to consider only the security hold area or restricted area as airport within the definition u/s 2 (b) is wholly misconceived and untenable.

72. It is the further submission of the learned Addl. Solicitor General that restricting the definition of airport only to the security hold area would lead to a chaotic situation as construing the AAI Act as a whole, the legislature never meant to limit the operation of definition of airport only to the restricted area. It is further submitted that any area appertaining to the security hold area, which

provides facilities to the passenger, including area to enter the premises, area to board, arrival area, restrooms and other facilities located outside the security hold/restricted area, which facilitates the passengers would come within the meaning of 'Airport' u/s 2 (b) of the AAI Act.

73. It is further submitted that without admitting for the sake of argument that MLCP is not considered as part of the area within the definition of Airport u/s 2 (b), the question before this Court is not whether MLCP is an airport or not; rather the question is whether running a cinema multiplex is a permissible function for the authority undue/s 12 of the AAI Act, which for the submissions made above, is not a permissible activity u/s 12 of the AAI Act.

74. It is further submitted that the functions of the authority u/s 12 of the AAI Act encompasses such other activities as establishing schools/institutions u/s 12 (3)(d), constructing residential buildings for employees u/s 12 (3)(e) and

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provide such transport facilities u/s 12 (3)(e) and, therefore, the functions of the authority is not limited to geographical bounds of the airport u/s 2 (b) of the AAI Act.

75. It is further submitted that as a corollary, the authority is confined to the express functions provided u/s 12 of the AAI Act regardless of whether it is within the airport or otherwise as Section 12 of the AAI Act does not contemplate running of an entertainment multiplex within the functions of the authority and, therefore, running the cinema multiplex is not a permissible activity within the functions of the 1st respondent as provided for u/s 12 of the AAI Act.

76. It is further submitted that the MLCP complex was developed within the operational boundary of the airport for facilitating passenger amenities and it cannot be treated as a standalone entity or a non-aeronautical land exempt from the purview of AAI Act. It is further submitted that Section 12-A clearly identifies

the area appertaining thereto and in this case the complex in such area appertaining thereto and the entire lands are contiguous and there is no difference or that it is not an external area as described by the petitioner and, therefore, it would fall within the ambit of the definition of 'Airport' u/s 2 (b) of the AAI Act.

77. It is further submitted that any leasing activity should not affect the main services such as air traffic service, security, etc., as also the safe operation of the airport. However, operation of the cinema multiplex within the MLCP complex would introduce significant public ingress and egress, more particularly non-passengers, which would undermine the operational efficiency and security at the airport premises.

78. It is further submitted that the petitioner on the one hand cannot argue that MLCP is not an airport and on the other hand take recourse to Section 55

12 (3 (r), which specifically deals with any other activity at the airport. It is further submitted that the interpretation given by the petitioner to the words used in Section 12 (3)(r) is erroneous as the meaning of the general words used in the section is influenced by the context in which it is used. Therefore, the best commercial interest used in Section 12 (3)(r) cannot be widely interpreted to include operation of a cinema multiplex for purely commercial purposes which has no relation to the function of the authority towards passenger facilities and the airbase.

III)<u>Whether there can be any estoppel against a statute</u>

79. It is the submission of the learned Addl. Solicitor General that there can be no estoppel against a statute. Further, a plea of legitimate expectation based on past practice can only be taken by someone, who has dealings or negotiations with a public authority and a total stranger to the authority cannot invoke the same by claiming that the authority has a duty to act fairly. When it

involves the safety and security of the passenger as also the premises, it is the duty of the authority to act in a prudent manner and it cannot be claimed as a matter of routine.

80. In this regard, learned Addl. Solicitor General placed reliance on the decision of the Apex Court in ***Union of India – Vs – Godfrey Philips India Ltd. (Air 1986 SC 806)***, wherein the Apex Court held that any alleged promise claimed by the petitioner does not constitute a promissory estoppel as promissory estoppel cannot be used to compel government or a public authority to carry out a representation or a promise, which is contrary to law or which is outside the authority or power of the Government or the concerned officer or public authority.

81. Placing reliance on the decision of the Apex Court in ***Tinku – Vs – State of Haryana (C.A. No.8540/2024)*** it is submitted that no direction can be issued

mandating the State to perpetuate any illegality or irregularity committed in favour of a person, an individual or even a group of individuals, which is contrary to the policy or instructions and the Court cannot ignore the law nor can it overlook the same to confer a right or a claim that does not have a legal sanction and equity cannot be extended, that too negative to confer a benefit or advantage without legal basis or justification.

82. In fine it is the submission of the learned Addl. Solicitor General that the writ petition is not maintainable, as the petitioner is a mere sub-licensee and the main Development Agreement, which forms the basis for entering into the sub-license having been terminated by the 2nd respondent, there is no privity of contract between the petitioner and the 1st respondent and any claim that the petitioner may have would be only against the 2nd respondent and the petitioner cannot evoke the sympathy of this court to perpetuate an illegality or irregularity, which does not have the authority of law, more so when the clauses in the

Development Agreement has granted full discretion to the 1st respondent to decide whether sub-licenses could be continued or not and this Court cannot compel the 1st respondent to enter into a license with the petitioner and the particular activity carried out by the petitioner not being within the purview of Section 12 of the AAI Act, rightly, the 1st respondent had directed closure and, thereafter, upon termination of the Development Agreement rejected the representation of the petitioner for negotiation for running the cinema multiplex, which is in consonance with the provisions of the AAI Act and, therefore, no interference is warranted with the order impugned herein and, accordingly, prays for dismissal of the petitions.

83. In support of the aforesaid contentions, learned Addl. Solicitor General placed reliance on the following decisions :-

i)Union of India – Vs – Godfrey Philips India Ltd. (1985 (4) SCC 369 :: AIR 1986 SC 806);

ii)Tinku – Vs – State of Haryana & Ors. (2024 SCC OnLine SC 3292);

iii)Army Welfare Education Society – Vs – Sunil Kumar Sharma (2025 SCC OnLine SC 1683);

iv)Joshi Technologies International Inc. – Vs – Union of India & Ors. (2025 (7) SCC 728);

v)Raunaq International Ltd. – Vs – IVR Constructions Ltd. & Ors. (1999 (2) SCC 492);

vi)TATA Cellular – Vs – Union of India (1994 (6) SCC 651);

vii)Satya Prakash Gupta & Ors. – Vs – NDMC (2017 SCC OnLine Del 7814);

viii)A.Baldwin & Co. Ltd. – Vs – Magnetic Car Co. Ltd. (1925) 42 RPC 454);

ix)Dunlop Tyre Co. – Vs – Selfridge (1915 AC 847); and

x)State of West Bengal – VS – Anwar Ali (AIR 1952 SC 75)

84. Learned counsel appearing for the 2nd respondent, while submitted that the mere termination of the Development Agreement by the 2nd respondent would not be a bar for the 1st respondent to consider the case of the petitioner

for running the multiplex, further sailed along with the submissions advanced by the learned senior counsel for the petitioners.

85. It was further submitted by the learned counsel for the 2nd respondent that the stand of the 1st respondent that there is no privity of contract cannot be attracted to the present case, as there exists an exception to the doctrine of privity of contract in cases involving a sub-licensee. In the present case, not only the sub-licensee but also the act to be perpetrated by the sub-licensee must be approved by the 1st respondent. The 1st respondent had taken all the steps for the clearance of the activity of the petitioner by securing environmental clearance and also No Objection Certificate from the Commissioner of Police and had given its approval for the activity of the petitioner, which had enabled the 2nd respondent to grant the sub-license to the petitioner. It is therefore the submission of the learned counsel that the 1st respondent having accepted the

sub-licensee, the notice issued by the 1st respondent to close the cinema multiplex constitutes a violation of the terms and conditions.

86. It is the further submission of the learned counsel that the termination of the Development Agreement by the 2nd respondent was mainly due to the multiple violations that was perpetrated by the 1st respondent, for which arbitration proceedings was taken up.

87. It is the further submission of the learned counsel that the permission for operation of a cinema multiplex under Section 12 of the AAI Act is a residuary power, which has been utilized by the 1st respondent to grant permission for running the cinema multiplex within the MLCP complex and having granted the said permission, the 1st respondent cannot retract from its position by claiming refuge under the termination, which termination has nothing to do with the sub-license granted to the petitioner.

88. This Court gave its careful consideration to the erudite submissions advanced by the learned senior counsel and learned counsel appearing for the parties and perused the materials and the relevant provisions of law as also the decisions to which the attention of this Court was drawn.

89. The following issues that arise for consideration in the present writ petitions are :-

i)Whether the cinema multiplex run by the petitioner is situated within the confines of 'Airport' as defined u/s 2 (b) of the AAI Act.

ii)Whether there is any express prohibition for running a cinema multiplex u/s 12 of the AAI Act.

iii)*Whether the termination of the Development Agreement by the 2nd respondent would result in*

automatic termination of the sub-license entered into between the petitioner and the 2nd respondent and in such a scenario whether the 1st respondent is bound to negotiate with the petitioner for continuance of the activity inspite of the fact that there is no privity of contract between the petitioner and the 1st respondent.

iv) *Whether, is it mandatory that upon termination of the Development Agreement, stepping into the shoes of the 2nd respondent, the 1st respondent is required to negotiate with the sub-licensees for grant of license to carry on the activities as per the terms of the Development Agreement and failure to do so would attract the doctrine of promissory estoppel against the 1st respondent.*

v) *When Article 42 of the Development Agreement provides for negotiations between the sub-licensee and the 1st respondent upon termination of the contract by the 2nd respondent, whether the surrender provisions under Article 42 of the Development Agreement would cloth the 1st respondent with unbridled power to reject any type of activity for which sub-license has been entered into by the 2nd respondent notwithstanding the activities contained in Section 12 r/w Section 2 (b) of the AAI Act.*

90. Before proceeding to analyse the issues that have been framed for consideration, the contentions have been advanced on the legality of the rejection on the basis of Section 12 (3) r/w 2 (b) of the AAI Act and also on the doctrine of promissory estoppel and legitimate expectation. Insofar as the issue

relating to the legality of rejection on the basis of Section 12 (3) r/w 2 (b) of the AAI Act, the relevant provisions are to be tested on the basis of the language employed to find out if there is ambiguity, which alone will warrant looking into the law on the subject.

91. Though very many decisions have been pressed into service by the learned senior counsel appearing on either side, though arguments were advanced on very many facets of law, the two main grounds on which the issues are to be tested are on the doctrine of promissory estoppel and legitimate expectations and to this end, this Court will advert to such of those decisions, which alone are required to be looked into to render a finding on the aforesaid issues.

92. In *Godfrey Philips case (supra)*, on the doctrine of promissory estoppel, the Apex Court analysed the various decisions on the subject and held as under :-

"9. Now the doctrine of promissory estoppel is well established in the administrative law of India. It represents a principle evolved by equity to avoid injustice and, though commonly named promissory estoppel, it is neither in the realm of contract nor in the realm of estoppel. The basis of this doctrine is the interposition of equity which has always, true to its form, stepped in to mitigate the rigour of strict law. This doctrine, though of ancient vintage, was rescued from obscurity by the decision of Mr Justice Denning as he then was, in his celebrated judgment in Central London Property Trust Ltd. v. High Trees House Ltd. [(1956) 1 All ER 256] The true principle of promissory estoppel is that where one party has by his word or conduct made to the other a clear and unequivocal promise or representation which is intended to create legal relations or effect a legal relationship to arise in the future, knowing or intending that it would be acted upon by the other party to whom the promise or representation is made and it is in fact so acted upon by the other party, the promise or representation would be binding on the party making it and he would not be entitled to go back upon it, if it would be inequitable to allow him to do so, having regard to

the dealings which have taken place between the parties. It has often been said in England that the doctrine of promissory estoppel cannot itself be the basis of an action: it can only be a shield and not a sword: but the law in India has gone far ahead of the narrow position adopted in England and as a result of the decision of this Court in Motilal Padampat Sugar Mills v. State of U.P. [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] it is now well settled that the doctrine of promissory estoppel is not limited in its application only to defence but it can also found a cause of action. The decision of this Court in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] contains an exhaustive discussion of the doctrine of promissory estoppel and we find ourselves wholly in agreement with the various parameters of this doctrine outlined in that decision.

10. More importantly, it is necessary to point out that the decision in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] marks a significant development in the law relating to the doctrine of promissory estoppel. The principal question debated in that case was as to whether and if so, to what extent, is the doctrine of

promissory estoppel applicable against the Government. It was contended on behalf of the State of Uttar Pradesh that the plea of promissory estoppel is not available against the exercise of executive functions of the State, for the State cannot bind itself, so as to fetter its future executive action. This contention was sought to be supported by relying on the observations of Rowlatt, J, in an early decision in Rederiaktiebolaget Amphitrite v. Rex [(1921) 3 KB 500] . But this Court observed in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] that what Rowlatt, J. said in that case did not represent the correct law on the subject and pointed out that the doctrine of executive necessity propounded by Rowlatt, J. was disapproved by Denning, J. as he then was, in Robertson v. Minister of Pensions [(1949) 1 KB 227] . Denning, J. categorically expressed the view in Robertson case [(1949) 1 KB 227] that the Crown cannot escape its obligation under the doctrine of promissory estoppel "by praying in aid the doctrine of executive necessity". This Court also in Union of India v. Indo-Afghan Agencies Ltd. [AIR 1968 SC 718 : (1968) 2 SCR 366 : (1968) 2 SCJ 889] exploded the doctrine of executive necessity.

Shah, J. speaking on behalf of the Court negatived the argument urged on behalf of the Government that "it is not competent for the Government to fetter its future executive action which may necessarily be determined by the needs of the community when the question arises and no promise or undertaking can be held to be binding on the Government so as to hamper its freedom of executive action" and observed at p. 376 of the Report:

> *"We are unable to accede to the contention that the executive necessity releases the Government from honouring its solemn promises relying on which citizens have acted to their detriment. Under our constitutional set-up no person may be deprived of his right or liberty except in due course of and by authority of law; if a member of the executive seeks to deprive a citizen of his right or liberty otherwise than in exercise of power derived from the law — common or statute — the courts will be competent to and indeed would be bound to, protect the rights of the aggrieved citizen."*

The learned Judge also after examining the decisions cited before him summed up the position in the following words:

"Under our jurisprudence the Government is not exempt from liability to carry out the representation made by it as to its future conduct and it cannot on some undefined and undisclosed ground of necessity or expediency fail to carry out the promise solemnly made by it, nor claim to be the judge of its own obligation to the citizen on an ex parte appraisement of the circumstances in which the obligation has arisen."

The defence of executive necessity was thus clearly negatived by this Court and it was pointed out that it did not release the Government from its obligation to honour the promise made by it, if the citizen, acting in reliance on the promise, had altered his position. The doctrine of promissory estoppel was in such a case applicable against the Government and it could not be defeated by invoking the defence of executive necessity. This Court in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] also negatived the argument that if the Government were held bound by every representation made by it regarding its intention, the result would be that the Government would be bound by a contractual obligation even though no formal

contract in the manner required by Article 299 of the Constitution was executed. It was held by this Court that a party who has, acting in reliance on a promise or representation made by the Government, altered his position, is entitled to enforce the promise or the representation against the Government, even though the promise or representation is not in the form of a formal contract as required by Article 299 and that article does not militate against the applicability of the doctrine of promissory estoppel against the Government.

11. The resultant position was summarised by this Court in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] in the following words: (SCC p. 442, para 24)

> *"The law may, therefore, now be taken to be settled as a result of this decision that where the Government makes a promise knowing or intending that it would be acted on by the promisee and, in fact, the promisee, acting in reliance on it, alters his position, the Government would be held bound by the promise and the promise would be enforceable against*

the Government at the instance of the promisee, notwithstanding that there is no consideration for the promise and the promise is not recorded in the form of a formal contract as required by Article 299 of the Constitution. It is elementary that in a republic governed by the rule of law, no one, howsoever high or low, is above the law. Everyone is subject to the law as fully and completely as any other and the Government is no exception. It is indeed the pride of constitutional democracy and rule of law that the Government stands on the same footing as a private individual so far as the obligation of the law is concerned: the former is equally bound as the latter. It is indeed difficult to see on what principle can a Government, committed to the rule of law, claim immunity from the doctrine of promissory estoppel. Can the Government say that it is under no obligation to act in a manner that is fair and just or that it is not bound by the considerations of "honesty and good faith"? Why should the government not be held to a high "standard of rectangular rectitude while dealing with its citizens"? There was a

time when the doctrine of executive necessity was regarded as sufficient justification for the Government to repudiate even its contractual obligations; but, let it be said to the eternal glory of this Court, this doctrine was emphatically negatived in the Indo-Afghan Agencies case [AIR 1968 SC 718 : (1968) 2 SCR 366 : (1968) 2 SCJ 889] and the supremacy of the rule of law was established. It was laid down by this Court that the Government cannot claim to be immune from the applicability of the rule of promissory estoppel and repudiate a promise made by it on the ground that such promise may fetter its future executive action."

The doctrine of promissory estoppel as explained above was also held to be applicable against public authorities as pointed out in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] . This Court in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] quoted with approval the observations of Shah, J. in Century Spinning and Manufacturing Co. Ltd. v. Ulhasnagar Municipal Council [(1970) 1 SCC 582 : AIR

1971 SC 1021 : (1970) 3 SCR 854] where the learned Judge said: (SCC pp. 586-87, paras 11 and 12)

> *"Public bodies are as much bound as private individuals to carry out representations of facts and promises made by them, relying on which other persons have altered their position to their prejudice.*
>
> ** * **
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> *If our nascent democracy is to thrive different standards of conduct for the people and the public bodies cannot ordinarily be permitted. A public body is, in our judgment, not exempt from liability to carry out its obligation arising out of representations made by it relying upon which a citizen has altered his position to his prejudice."*

The Court refused to make a distinction between a private individual and a public body so far as the doctrine of promissory estoppel is concerned.

12. There can therefore be no doubt that the doctrine of promissory estoppel is applicable against the Government in the exercise of its governmental, public or executive functions and the doctrine of executive necessity or freedom of future

executive action cannot be invoked to defeat the applicability of the doctrine of promissory estoppel. We must concede that the subsequent decision of this Court in Jit Ram v. State of Haryana [(1981) 1 SCC 11 : AIR 1980 SC 1285 : (1980) 3 SCR 689] takes a slightly different view and holds that the doctrine of promissory estoppel is not available against the exercise of executive functions of the State and the State cannot be prevented from exercising its functions under the law. This decision also expresses its disagreement with the observations made in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] that the doctrine of promissory estoppel cannot be defeated by invoking the defence of executive necessity, suggesting by necessary implication that the doctrine of executive necessity is available to the Government to escape its obligation under the doctrine of promissory estoppel. We find it difficult to understand how a Bench of two Judges in Jit Ram case [(1981) 1 SCC 11 : AIR 1980 SC 1285 : (1980) 3 SCR 689] could possibly overturn or disagree with what was said by another Bench of two Judges in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] . If the Bench of two Judges in Jit Ram

case [(1981) 1 SCC 11 : AIR 1980 SC 1285 : (1980) 3 SCR 689] found themselves unable to agree with the law laid down in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] , they could have referred Jit Ram case [(1981) 1 SCC 11 : AIR 1980 SC 1285 : (1980) 3 SCR 689] to a larger Bench, but we do not think it was right on their part to express their disagreement with the enunciation of the law by a coordinate Bench of the same Court in Motilal Sugar Mills [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] . We have carefully considered both the decisions in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] and Jit Ram case [(1981) 1 SCC 11 : AIR 1980 SC 1285 : (1980) 3 SCR 689] and we are clearly of the view that what has been laid down in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] represents the correct law in regard to the doctrine of promissory estoppel and we express our disagreement with the observations in Jit Ram case [(1981) 1 SCC 11 : AIR 1980 SC 1285 : (1980) 3 SCR 689] to the extent that they conflict with the statement of the law in Motilal Sugar Mills case [(1979) 2 SCC 409 : 1979 SCC (Tax) 144 : (1979) 2 SCR 641] and

introduce reservations cutting down the full width and amplitude of the propositions of law laid down in that case."

93. On the very same issue of promissory estoppel, the Supreme Court in *Manuelsons case (supra),* held as under :-

> *20. The above statement, based on various earlier English authorities, correctly encapsulates the law of promissory estoppel with one difference—under our law, as has been seen hereinabove, promissory estoppel can be the basis of an independent cause of action in which detriment does not need to be proved. It is enough that a party has acted upon the representation made. The importance of the Australian case is only to reiterate two fundamental concepts relating to the doctrine of promissory estoppel—one, that the central principle of the doctrine is that the law will not permit an unconscionable departure by one party from the subject-matter of an assumption which has been adopted by the other party as the basis of a course of conduct which would affect the other party if the assumption be not adhered to. The*

assumption may be of fact or law, present or future. And two, that the relief that may be given on the facts of a given case is flexible enough to remedy injustice wherever it is found. And this would include the relief of acting on the basis that a future assumption either as to fact or law will be deemed to have taken place so as to afford relief to the wronged party."

94. On the issue of legitimate expectation, the Constitution Bench of the Apex Court in *Sivanandan case (supra)* has propounded the following ratio :-

"44. In a constitutional system rooted in the rule of law, the discretion available with public authorities is confined within clearly defined limits. The primary principle underpinning the concept of rule of law is consistency and predictability in decision-making. A decision of a public authority taken without any basis in principle or rule is unpredictable and is, therefore, arbitrary and antithetical to the rule of law. [S.G. Jaisinghani v. Union of India, 1967 SCC OnLine SC 6] The rule of law promotes fairness by stabilising the expectations of citizens from public authorities. This was also considered in a recent decision of this Court

in SEBI v. Sunil Krishna Khaitan [SEBI v. Sunil Krishna Khaitan, (2023) 2 SCC 643] , wherein it was observed that regularity and predictability are hallmarks of good regulation and governance. [SEBI v. Sunil Krishna Khaitan, (2023) 2 SCC 643] This Court held that certainty and consistency are important facets of fairness in action and non-arbitrariness : (Sunil Krishna Khaitan case [SEBI v. Sunil Krishna Khaitan, (2023) 2 SCC 643] , SCC pp. 678-79, para 59)

> *"59. … Any good regulatory system must promote and adhere to principle of certainty and consistency, providing assurance to the individual as to the consequence of transactions forming part of his daily affairs. [Union of India v. Raghubir Singh, (1989) 2 SCC 754. Also see, The Nature of the Judicial Process, Benjamin N. Cardozo, p. 33:"I am not to mar the symmetry of the legal structure by the introduction of inconsistencies and irrelevancies and artificial exceptions unless for some sufficient reason, which will commonly be some consideration of history or custom or policy or justice. Lacking such a reason, I must be logical just as I must be impartial, and upon like*

grounds. It will not do to decide the same question one way between one set of litigants and the opposite way between another."(emphasis supplied)] … This does not mean that the regulator/authorities cannot deviate from the past practice, albeit any such deviation or change must be predicated on greater public interest or harm. This is the mandate of Article 14 of the Constitution of India which requires fairness in action by the State, and non-arbitrariness in essence and substance. Therefore, to examine the question of inconsistency, the analysis is to ascertain the need and functional value of the change, as consistency is a matter of operational effectiveness."

(emphasis supplied)

45. The underlying basis for the application of the doctrine of legitimate expectation has expanded and evolved to include the principles of good administration. Since citizens repose their trust in the State, the actions and policies of the State give rise to legitimate expectations that the State will adhere to its assurance or past practice by acting in a consistent, transparent, and predictable manner. The principles of good

administration require that the decisions of public authorities must withstand the test of consistency, transparency, and predictability to avoid being regarded as arbitrary and therefore violative of Article 14."

95. Though arguments have been advanced on the maintainability of the writ petitions, with the 1st respondent claiming it to be not maintainable, as it involves contractual clauses, which could be very well settled before the Arbitral Tribunal, that too between the 2nd respondent and the petitioner as there is no privity of contract between the petitioner and the 1st respondent, however, it is countered by the petitioner by submitting that even in contractual matters, writ remedies are available and it is not totally barred and, therefore, these petitions could be maintained. However, this Court is not inclined to enter into the said aspect of maintainability for the simple reason that the main issue relates to the prohibitory nature of the activity on the basis of Section 12 (3) of the AAI Act and on that basis the writ petitions could be very well entertained by this Court.

Therefore, this Court is not addressing the issue of maintainability in contractual matters, suffice to say that the law with regard to writ remedies in contractual matters is settled by various decisions.

Issue Nos. 1 & 2 :

i)Whether the cinema multiplex run by the petitioner is situated within the confines of 'Airport' as defined u/s 2 (b) of the AAI Act.

ii)Whether there is any express prohibition for running a cinema multiplex u/s 12 of the AAI Act.

96. Issue Nos.1 and 2 sail together and deals with the type of activities that could be permitted u/s 12, which, according to the 1st respondent, prohibits the activity undertaken by the petitioner, and, therefore, is impermissible and cannot be allowed under the Act and, therefore, they are taken up together for consideration.

97. The main plank on which the activity of the petitioner is rejected by the 2nd respondent is by holding it to be a prohibitory activity undertaken within the precincts of the Airport as defined u/s 2 (b) and further it is not a passenger facility and, therefore, it cannot be permitted as only activities, which are in the interests of the passenger are permissible within the Airport, while it is argued to the contra by the petitioners that such facilities are mainly provided keeping in mind the passengers, who could utilise the same in the event of delay in departure of their aircraft due to unforeseen circumstances and also for visitors, who accompany the passengers or who are residing nearby the Airport. To substantiate the respective stand, the petitioner and the 1st respondent rely on Sections 2 (b) and 12 (3) of the AAI Act, showcasing it to be favouring them, which, it is claimed by the petitioner formed the basis for rejection of the petitioner's representation. The relevant provisions contained in clauses (a), (f),

(j) and (r) of Section 12 (3) of the AAI Act, which are very material for deciding the aforesaid issue Nos.1 and 2 are quoted hereunder :-

> *"**12. Functions of the Authority –***
>
> * * * * * * *
>
> *(3) Without prejudice to the generality of the provisions contained in sub-sections (1) and (2), the authority may –*
>
> *(a) plan, develop, construct and maintain runways, taxiways, aprons and terminals and ancillary buildings at the airports and civil enclaves.*
>
> * * * * * * *
>
> *(f) establish and maintain hotels, restaurants and restrooms at or near the airports;*
>
> * * * * * * *
>
> *(j) regulate and control the plying of vehicles and the entry and exit of passengers and visitors, in the airports and civil enclaves with due regard to the security and protocol functions of the Government of India.*
>
> * * * * * * *
>
> *(r) any other activity at the airports and the civil enclaves in the best commercial interests of the Authority including*

cargo handling, setting up of joint ventures for the discharge of any function assigned to the Authority."

98. Clauses (a) of sub-section (3) of Section 12 relates to the power of the Authority to plan, develop, construct and maintain runways, taxiways, aprons and terminals and ancillary buildings at the airports and civil enclaves, while clause (f) provides for the establishment and maintenance of hotels, restaurants and restrooms at or near the airports; clause (j) provides power to the authority to regulate and control the plying of vehicles, the entry and exit of passengers and visitors in the airports and civil enclaves and clause (r) provides for performing any other activity at the airports and the civil enclaves in the best commercial interests of the Authority.

99. Holistically looking at the clauses supra, all the said clauses use the terminology *'Airport'* and all the facilities that are provided for passengers at the

airport would fall within the sweep of the term 'Airport'. In this backdrop, it is for the Court to determine as to what are all the areas that would form part of the Airport, as according to the 1st respondent, irrespective of the security cover of the area, any area appertaining to the security hold area which provides facilities to the passenger, including area to enter the premises, area to board, arrival area, restrooms and other facilities located outside the security hold area/restricted area which facilitates the passengers would come within the meaning of '*Airport*' u/s 2 (b) as restricting the meaning of the Airport to security hold area would lead to a chaotic situation.

100. The definition of 'Airport' is provided for u/s 2 (b) of AAI Act, which runs thus :-

> *"**2. Definitions :** - In this Act, unless the context otherwise requires –*
>
> * * * * * * *

(b) "airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934 (22 of 1934)."

101. Any landing and taking off area for aircrafts together with runways, aircraft maintenance space, passenger facilities and including aerodrome would come with the ambit of the term *'Airport'* as it evident from the above provision.

102. In the light of the definition of the term *'Airport'* u/s 2 (b) coupled with the functions of the Authority u/s 12 (3) of the AAI Act, it becomes imperative for this Court to find out the expansiveness of the term *'Airport'*, which alone would form the basis to decide the nature of activities that would fall within the realm of Section 12 (3) of the AAI Act.

103. According to the learned Addl. Solicitor General, the expansiveness of the term *'Airport'* would include both the restricted area, which is the secured zone as also the unrestricted zone, which is the outer periphery and all such areas would come within the term *'airport'* as defined u/s 2 (b) and, therefore, the cinema multiplex activity being not an activity spelt out u/s 12, would be a prohibited activity, which cannot be permitted.

104. There could be no quarrel with the fact that screening of cinema is not an activity, which is specifically spelt out u/s 12. So also, there are many activities, which, as pointed out by the petitioner, not being disputed by the 1st respondent, have been permitted to be carried on in the outer periphery/unrestricted zone, which have also not been spelt out u/s 12 and, therefore, singling out cinema activity alone as an impermissible one since it has not been specifically spelt out u/s 12 cannot be accepted.

105. Necessarily *'Airport'* is an expansive term, but the list of activities, which are to be performed are captured in a nutshell in the definition of *'airport'*, which gives an understanding as to the activities that could be permitted. It is to be pointed out that where there is no explicit prohibition, permission could be granted and if there is an explicit prohibition, no permission could be granted. Therefore, necessarily, the definition of 'Airport' has to be looked at with a larger lens, as it takes within its fold restricted and unrestricted zones.

106. The nature of activities that are to be carried on with the definition of *'airport'* are activities, which are performed within the restricted zone, which specifically relates to landing and taking off areas for aircrafts, the runways, the area of aircraft maintenance and passenger facilities, including aerodrome as defined under clause (2) of Section 2 of the Aircraft Act, 1934.

107. Even from a bare perusal of the definition of *'Airport'* it clearly shows that the activities, which are brought within its ambit are secured activities. Barring the landing and taking off areas and runways and aerodrome, the only other activity relates to passenger facilities, which is permitted within the airport, more particularly the restricted zone, as the activities, that are spelt out u/s 2 (b) relates to activities, which are performed within the restricted zone. Therefore, the facilities, which are provided for the passengers, as codified u/s 2 (b) are exclusively for the passengers and are not for any other persons, including the visitors and, therefore, the said facilities could be provided only in the security zone.

108. However, clauses (f), (g) and (r) of Section 12 (3) are also claimed to be activities, which fall within the functions of the 1st respondent, which are provided in the airport. But the said activities could not be said to be activities falling within the restricted zone, as the said activities, which are permitted are

outside the security zone, viz., unrestricted area. In this regard, useful reference can be had to Section 28-A of the Act, falling under Chapter V-A, which deals with the eviction of unauthorised occupants, etc., of airport premises. Clause (a) of Section 28-A defines *'airport premises'*, which takes within its fold the following :-

> *"28-A. Definitions. – In this Chapter, unless the context otherwise requires, -*
>
> *(a)"airport premises means any premises –*
>
> *(i)Belonging to airport;*
>
> *(ii)Taken on lease for the purposes of airport;*
>
> *(iii)Acquired for the Authority under the provisions of the Land Acquisition Act, 1894, or any other corresponding law for the time being in force.*
>
> *Explanation. – For the removal of doubts, it is hereby declared that for the purposes of this clause, "airport" includes private airport."*

109. From the definition of *"airport premises"* u/s 28-A (a), it is clear that any portion which belongs to the airport would stand attracted under the

aforesaid term. Therefore, the unrestricted zone, where the cinema multiplex of the petitioner as also the other activities, which have been permitted by the 1st respondent are being carried out, will fall within Section 28-A (a), as it would relate to premises, which is not only within the vicinity or adjoining the airport, but also any other premises, which is held by the 1st respondent and belongs to the 1st respondent. Therefore, technically, the said portion though not airport as defined u/s 2 (b), but it is the airport premises, as defined u/s 28-A (a) and, necessarily would be within the control of the 1st respondent.

110. Therefore, the unrestricted zone adjoining the airport would squarely fall u/s 28-A (a) of the AAI Act as it would be the premises belonging to the airport and would be part of the airport, though would not stand covered by the term *'airport'* as defined u/s 2 (b) of the AAI Act, as only activities of a restricted nature and for specific purposes could be taken up within the security zone of the

airport, as provided u/s 2 (b) and not all and sundry purposes, which would be in the commercial interests of the airport.

111. Further, the above view of this Court also finds strength from clause (f) of Section 12, which deals with the regulation and control of plying of vehicles and entry and exit of passengers and visitors in the airports and civil enclaves. Therefore, any place which is used both by the passengers and visitors of which regulation and control is with the 1st respondent, the same would only fall within the unrestricted zone, as visitors are not permissible within the restricted zone. However, it is to be recognized without a semblance of doubt that regulation and control with regard to plying of vehicles and entry and exit of passengers and visitors would be purely within the realm of the 1st respondent, which is purely for security purposes, but in an unrestricted zone.

112. From the above, it could safely be concluded that the place where the cinema multiplex of the petitioner is established would fall u/s 28-A (a) of the AAI Act which will be in an unrestricted zone and would not be within the term *'airport'* as defined u/s 2 (b) of the AAI Act, which would only attract activities, that are permissible within the restricted zone.

113. In this backdrop, this Court has to now consider whether the unrestricted zone in which the cinema multiplex is located could be said to be a prohibited activity.

114. Clause (f) of Section 12 (3) relates to establishment and maintenance of hotels, restaurants and restrooms at or near the airports. If really a facility provided by the 1st respondent is relatable only to passengers, then clause (f) would not have taken within its fold the establishment and maintenance of hotels, restaurants and restrooms near the airport; rather, it would have

confined itself to the provision of facilities at the airport/inside the airport. The necessity for establishment and maintenance of hotels, restaurants and restrooms near the airport could only be inferred to be for the purpose of visitors who come to pick-up and drop the passengers, who could utilise the said facilities, inclusive of it being used by the passengers, before entering into the restricted area, where facilities are provided as per Section 2 (b). Therefore, it could be said without a semblance of contradiction that the provision of facilities to the visitors, including passengers could only be visualised outside the airport, more particularly in the airport premises and even areas adjoining the airport and such places would not fall within the confines of the definition of *'Airport'*.

115. True it is that establishment and maintenance of hotels, restaurants and restrooms at or near the airport alone is provided for in Section 12, but there is no express prohibition with regard to any particular activity. In this regard, reference can be had to clause (r) of Section 12 (3), which relates to *"any other*

activity at the airports and the civil enclaves in the best commercial interests of the Authority, including cargo handling, setting up joint ventures for the discharge of any function assigned to the Authority".

116. It is to be pointed out that where there is no express and explicit prohibition, it is within the realm of the authority to grant permission for the running of a particular activity, but when there is an express and explicit prohibition, the authority is denuded of any power to grant any permission.

117. It is the specific case of the petitioner and one which is not disputed by the 1st respondent that various other retail outlets, such as matrimonial agency, clothing, beauty products, electronic goods, pharmacy, etc., are granted permission to function in and around the cinema multiplex, though as per Section 12 of the AAI Act, there is no specific provision which permits these activities and such being the case, the running of cinema multiplex cannot be singled out by the

1st respondent to say that it is not spelt out u/s 12 (3) and, therefore, it is a prohibited activity.

118. It is not disputed by the 1st respondent that retail outlets, such as matrimonial agency, clothing, beauty products, electronic goods, pharmacy, etc., have been granted permission and are functioning within the airport premises, more particularly, in the unrestricted zone, where it could be accessed by the passengers as also by the visitors and other general public. There is no prescription u/s 12 with regard to permitting the aforesaid activities and, therefore, the contention of the 1st respondent that there is no explicit permission granted u/s 12 (3) for running the cinema multiplex, would have to be construed as a prohibition, does not deserve acceptance.

119. In this regard, even a bare perusal of clause (r) to Section 12 (3) provides for carrying on "*any other activity at the airports and the civil enclaves*

in the best commercial interests of the authority" which could very well take within its fold a cinema multiplex, as it is not only a viable option in the best commercial interests of the authority but also commercial interest in the interests of the passengers, as the commercial benefit derived from such activity could be passed on to the passengers from out of the income generated by the said commercial activity.

120. In the present case, the amount generated by way of sub-license fee from the running of the cinema multiplex together with the car parking facilities, which yield more money from the visitors and general public, who visit the cinema multiplex and also the other outlets for shopping purposes, definitely add to the income of the authority, which could be passed on to the passengers. Only in the said backdrop, clause (r) has specifically prescribed the taking up of any other activity at the airports and the civil enclaves in the best commercial interests of the authority, which otherwise would not have formed part of the

provision u/s 12 (3). Therefore, the non-spelling out of the particular activity, viz., cinema multiplex cannot be held that there is a prohibition for running the said activity within the airport premises and, therefore, no permission could be granted is against the spirit of the provisions of the AAI Act.

121. Moreover, in the present case, the activity of the petitioner, viz., cinema multiplex, is not within the restricted area of the airport, as defined u/s 2 (b); rather, it is in the unrestricted zone of the airport premises, where there is no express prohibition and, therefore, it is well within the powers of the 1st respondent to grant permission for running the cinema multiplex.

122. When the provisions in the AAI Act, more particularly, Sections 2 (b), 12 (3) and 28-A are clear and unambiguous and clearly spell out the areas of airport, which fall under the restricted zone and the other areas of the airport

premises, which fall under the unrestricted zone, then it is very much within the power of the 1st respondent to grant permission.

123. In this backdrop, it could very well be concluded that the cinema multiplex, which is run by the petitioner, though is situated within the airport premises, but definitely it is not within the definition of 'airport' as defined u/s 2 (b), but would only fall u/s 28-A (a) of the AAI Act. Therefore, necessarily, the cinema multiplex cannot be held to be situated within the restricted area of an *'Airport'* as defined u/s 2 (b) and further, there is no express prohibition u/s 12 (3) of the AAI Act for running of a cinema multiplex within the airport premises, as the said cinema multiplex is not situated within the confines of *'Airport'* as defined u/s 2 (b) of the AAI Act. ***Issue Nos.1 & 2 are accordingly answered against the 1st respondent*.**

<u>Issue Nos.3, 4 & 5</u> :

101

i)***Whether the termination of the Development Agreement by the 2nd respondent would result in automatic termination of the sub-license entered into between the petitioner and the 2nd respondent and in such a scenario whether the 1st respondent is bound to negotiate with the petitioner for continuance of the activity insptie of the fact that there is no privity of contract between the petitioner and the 1st respondent.***

ii)***Whether, is it mandatory that upon termination of the Development Agreement, stepping into the shoes of the 2nd respondent, the 1st respondent is required to negotiate with the sub-licensees for grant of license to carry on the activities as per the terms of the Development Agreement and failure to do so would attract the doctrine of promissory estoppel against the 1st respondent.***

iii)***When Article 42 of the Development Agreement provides for negotiations between the sub-licensee and the 1st respondent upon termination of the contract by the 2nd respondent, whether the surrender provisions under Article 42 of the Development Agreement would cloth***

the 1st respondent with unbridled power to reject any type of activity for which sub-license has been entered into by the 2nd respondent notwithstanding the activities contained in Section 12 r/w Section 2 (b) of the AAI Act.

124. As all the three issues relate to the interpretation of the contractual terms and its applicability for continuance of the petitioner as a sub-licensee, they are taken up together for appreciation.

125. To address the aforesaid issues, it is necessary to refer to the various clauses in the Development Agreement, Sub-License Deed, the respective communications that have emanated between respondents 1, 2 and the petitioner as also the communications between the various statutory authorities, which have a bearing on deciding the issues and, therefore, it becomes imperative for this Court to look into the various provisions and communications,

which have been referred to, to find out whether the action of the 1st respondent directing the 2nd respondent to close the cinema multiplex is sustainable.

126. At the time of submission of the bid document, in Annexure'A', which pertains to 'Design Proposal', there is clear spell out of the design by the 2nd respondent, that is proposed, which, provided for a cinema multiplex. Therefore, it is evident that even at the earliest stage, there is a clear prescription in the bid that there would be a cinema multiplex at site, which could be easily accessed from the GST Road and, therefore, the proposed commercial development has potential to attract even resident population within 5-10 km radius. The aforesaid proposal design and bid was accepted by the 1st respondent, which is not in dispute. The design proposal submitted by the 2nd respondent is quoted hereunder for reference :-

"Design Proposal

The design being presented envisages a retail & cinema multiplex component of approximately 220,000 sft with a large F&B component as well as a 30,000 sft transit hotel facility. The retail occupancy will be positioned to serve the needs of arriving and departing passengers as well as to serve as a community mall/multiplex for residential localities situated in the vicinity of the airport complex."

(Emphasis Supplied)

127. It is further clear from the records that not only the bid envisaged the proposal for putting up a cinema multiplex, but that it is also to be made accessible to the passengers, visitors and general public. The above position conclusively establishes the findings of this Court that even at the nascent stage, it was the stand of the 1st respondent that there is no prohibition for the establishment of a cinema multiplex, but what is necessary is only permission with regard to having the said activity, though, for reasons best known, after the establishment of the cinema multiplex, the 1st respondent took a 'U' turn and

held that the cinema multiplex is a prohibited activity. Further, the usage of the cinema multiplex by outsiders, more particularly, the residents of the locality residing within 5 to 10 Kms., radius, would also clearly show that the establishment of the said activity is outside the restricted periphery of the airport, but within the airport premises.

128. The petitioner had drawn the attention of this Court to clause 3.1.4 of the Development Agreement, which provides for the 2nd respondent to enter into sub-licensing agreements for commercial purposes and the present sub-license agreement entered into between the petitioner and the 2nd respondents falls squarely within the said clause, and for better appreciation, the said clause is quoted hereunder :-

> *"3.1.4 In consideration of the DEVELOPER achieving the COD in accordance with the provisions hereof, the Authority hereby agrees to allow signing of sublicensing agreements between the DEVELOPER and the end users for the use of the*

commercial area on terms and conditions, no greater in scope than those granted to the DEVELOPER under this Agreement. The built up areas in the commercial area shall be available for relevant commercial uses by way of sublicensing agreements between the DEVELOPER and a Third Party. Such sublicensing agreements shall be executed any time after COD and the DEVELOPER shall submit a certified true copy of such sublicensing agreement (s) to the Authority within 7 (seven) days of its execution.

a) The Sublicensing Agreements shall be for a maximum period of 15 (fifteen) years from the Appointed Date, whether executed on such date or prior to such date, and the term of the Sublicensing Agreements shall be renewable at the sole discretion of the DEVELOPER provided the tenure of any Sublicensing Agreement by way of original agreement or by process of renewal shall not exceed 15 (fifteen) years from the Appointed Date ***and such tenure shall be co-terminus with the Agreement****.*

b) The DEVELOPER and the persons claiming through or under it shall indemnify and keep indemnified the Authority, its employees, agents and advisors from and against any

claim, liability, cost, suit or legal proceeding and attorney costs arising in any manner from the construction, implementation and use of the MLCP facility or any part thereof, including the soundness of any design, civil or engineering or other works, structural strength, construction quality, workmanship etc. thereof or the marketing, allotment and licensing of the built up areas in the Commercial Facility, or the demanding, charging, collection, retention and appropriation of premium or any other payments in respect thereof or the execution of Sublicensing Agreements."

(Emphasis Supplied)

129. Conditions Precedent in Article 4 of which sub-clause (c) of clause 4.1.2 provides for approval of the design, provides as under :-

"c) Constituted a design approval committee to review the concept design for the Project Facilities submitted by the DEVELOPER, and subject to satisfaction, approve the same."

130. It is not in dispute that the design for the MLCP complex along with the cinema multiplex had received the assent of the approval committee whereupon the Development Agreement had been come to be executed. There is no quarrel with the said fact by the 1st respondent.

131. Obligations relating to project agreements to be entered into by the 2nd respondent/Developer with third parties with regard to grant of sub-licenses or sub-contracts, is provided under clause 5.2 and sub-clauses 5.2.2 and 5.2.4, which are material, more particularly with regard to the continuance of relationship upon termination or suspension, is quoted hereunder :-

> *"5.2.2 The DEVELOPER shall submit to the Authority the drafts of all the Project Agreements including a template for license etc. of any built-up area in the Project to a Third Party, or any amendments or replacements thereto for its review and comments, and the Authority shall have the right, but not the obligation, to undertake such review and provide its comments and approval, to the DEVELOPER within 30 (thirty)*

days of the receipt of such drafts. The DEVELOPER shall execute such Project Agreements only after approval by the Authority. Within 07 (seven) days of execution of any Project Agreement or amendment thereto, the DEVELOPER shall submit to the Authority a true copy thereof, duly attested by a director of the DEVELOPER, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that any failure or omission of the Authority to review and/or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and/ or observation of the Authority and/or its failure to review and/or convey its observations on any document shall relieve the DEVELOPER of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.

* * * * * * *

52.4 The DEVELOPER shall procure that each of the Project Agreements expressly contain provisions that entitle the Authority to step into such agreement in substitution of the

DEVELOPER in the event of Termination or Suspension (the "Covenant"). For the avoidance of doubt, it is expressly agreed that in the event the Authority does not exercise such rights of substitution, the Project Agreements shall cease to be in force and effect on the Surrender Date without any liability whatsoever on the Authority and the Covenant shall expressly provide for such eventuality. The DEVELOPER expressly agrees to expressly include the Covenant in all its Project Agreements and undertakes that it shall, in respect of each of the Project Agreements, procure and deliver to the Authority an acknowledgment and undertaking, in a form acceptable to the Authority, from the counter party(s) of each of the Project Agreements, where under such counter party(s) shall acknowledge and accept the Covenant and undertake to be bound by the same and not to seek any relief or remedy whatsoever from the Authority in the event of Termination or Suspension."

(Emphasis Supplied)

132. Based on the aforesaid provisions, the sub-license agreements have been entered into which is also the basis for the agreement between the petitioner and the 2nd respondent, which, it is not disputed, has met with the approval of the 1st respondent, through its independent engineer. On the basis of the provisions in the Development Agreement, the 1st respondent has also taken efforts for obtainment of No Objection Certificate from the Commissioner of Police by the 2nd respondent as also for Environment Clearance Certificate upon change in scope of the work for inclusion of the cinema multiplex, which, according to the petitioners clearly denote that permission has been granted by the 1st respondent for establishment of a cinema multiplex and, therefore, they cannot turn back now and claim that cinema multiplex is a prohibited activity under the AAI Act and cannot restrain the petitioner from operating the cinema multiplex. For the sake of clarity, the letter dated 20.7.2021, addressed by the 1st respondent to the Commissioner of Police requesting for early consideration of No Objection Certificate is quoted hereunder :-

"Dear Sir,

SUB:- Location NOC Request for 5 Screen Cinema at integrated MLCP Building located at Chennai Airport.

We herewith bring in to your kind notice that as a part of Modernization of Chennai Airport Plan we have entered in to an PPP agreement bearing agreement number AAI/BD/MLCP-Chennai/2018-19/01 dated 20th June 2018 with M/s Meenambakkam Realty Pvt Ltd for Development of Multi Level Car Parking with Integrated Commercial on DBOM Basis at Chennal Airport - Tamil Nadu on Blended Financing Model. As a part of this overall development - there are two Multi Level Car Parking Buildings on either flank of the existing Airport Metro Stations - East MLCP Building & West MLCP Building.

Since the overall project is integrated with commercial development in the East MLCP building there is a 5 screen multiplex planned and designed. We are herewith enclosing the sanctioned plan copy of the overall development wherein the Multiplex portion is also covered.

We request your office to kindly grant us an NOC (No Objection Certificate) for this location as Location NOC so that

we can go ahead with this project. We are in the process of creating a world class facility at Chennai Airport and your early turnaround response on this will be highly appreciated.

133. Insofar as environment clearance is concerned, environment clearance was granted vide order dated 25.10.2019, on the basis of the online proposal of the 1st respondent, in and by which, the clearance was granted by way of amendment for the establishment of a cinema multiplex in an extent of 40,016 sft. (3,717.61 sqm).

134. From the aforesaid documents, it would be evident that the 1st respondent had, all along, been inclined to permit the activity of cinema multiplex in the design and towards such permission, the 1st respondent had taken all steps for obtaining the statutory clearances. However, the crucial fact that requires to be noted here is that during such time, the Development Agreement between the 1st and 2nd respondent was very much in existence. 114

However, during the continuance of the Development Agreement, after establishment of the cinema multiplex by the petitioner, the 1st respondent had pressed upon the 2nd respondent to close the cinema multiplex, as according to the 1st respondent the running of the cinema hall is not permitted under the AAI Act.

135. In this regard, the attention of this Court was drawn to the communication addressed by the 1st respondent to the 2nd respondent in which a veiled attempt is made by the 1st respondent to cite that the cinema hall is to be closed with immediate effect as running of the cinema hall is not permissible under the AAI Act. In fact, there is a conspicuous absence in the said communication with regard to the relevant provision under which the cinema multiplex activity is not permissible. For the sake of convenience, the said communication dated 21.07.2023 is quoted hereunder :-

"Sir,

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It has been decided by Competent Authority to close the Cinema Hall (PVRs 5 Screens) with immediate effect as running of Cinema Hall is not permissible under the AAI Act.

In view of the above, you are requested to close the running of Cinema Hall (PVRs 5 Screens) with immediate effect and ensure the compliance."

136. The said communication of the 1st respondent to the 2nd respondent was informed to the petitioner through the communication of the 2nd respondent dated 25.11.2023, wherein, the 2nd respondent has taken the following stand :-

"Dear Sir,

We are in receipt of your letter dated 07.11.2023, and we are grateful to you for reaching out to us with your concerns and thoughts about MRPL's dispute with Airport Authority of India. It is true that we received a written communication from AAI on 21-July-2023, requesting us to close the Cinema Halls.

We were astonished to receive such unilateral communication from AAI without citing any cogent reasons

for making such demand. It is pertinent to note that the decision to have a Cinema Hall as a part of Multilevel Car Parking (MLCP) with integrated commercial was not our unilateral decision. From the stage of Bid itself the Cinema Hall was an integral part of the integrated commercial plan for MCLP. Also the Cinema Hall was part and parcel of Bid documents which were submitted by MRPL to AAI. Aerohub itself was envisaged as a retail and Cinema Multiplex, including a food court for serving the needs of passengers and local residents and all our negotiations and subsequent execution of project was with a clear understanding that Cinema Hall is the quintessential part of the complex and the License agreement with AAI and MRPL was executed with this understanding.

* * * * * * *

The status Quo order is continuing till date and from the merits of this matter we are confident that we will prevail in the Arbitration. As mentioned in Paragraphs 2 to 5 of your notice you The status Quo order is continuing till date, and from the merits of this matter we are confident have mentioned about the Sub License Deed dated 15th November

2022 entered between yourself and MRPL for operating the Cinema Halls for a period of 13.5 years. The stipulations of the Sub License deed and all its recitals, terms, representations, warranties etc., are mutually binding on the parties and for the sake of brevity we do not wish to reiterate the same in this reply. All our rights as a Sub Licensor for the aforesaid Sub License Deed dated 15.11.2022 is flowing from the Development Agreement entered by MRPL and AAI, dated 18th June 2018, under which we have the right to develop and operate the MLCP Project and integrated commercial, for the duration of the Development Agreement.

As mentioned in paragraph 6 of your letter we agree that you have invested money and effort to realize the shared goal of the project and stated in the preceding paragraph AAI has granted us rights to Develop and operate the MLCP as per the Development Agreement and all our representations and deliverables are based on back to back rights provided to us by AAI. It is pertinent to mention that all necessary sanctions and approvals from AAI and other authorities have been procured for operating the MLCP with integrated commercial activity."

137. Pursuant to the aforesaid communication, there have been multiple communications between the petitioner and the 2nd respondent, including the 2nd respondent informing the petitioner of its act of terminating the Development Agreement and called upon the petitioner to implore the option of continuance of the cinema complex by interacting with the 1st respondent, as the 1st respondent has taken over the MLCP complex on the basis of the provisions in the Development Agreement.

138. Though the Development Agreement provides all those clauses, however, the main bone of contention of the 1st respondent rests on sub-clause (h) of clause 3.1.2 of the Development Agreement, which relates to Project Rights and the said provision is quoted hereunder :-

"3.1 Grant of Project Rights

* * * * * * *

h) Sub-license/enter into O&M contract/franchise arrangement in respect of the Built up Area of the

Project Facilities by entering into appropriate contractual arrangements co-terminus with the Agreement *through a transparent mechanism on terms and conditions decided on arm's length basis and subject to the provisions of this Agreement, provided however that :*

DEVELOPER shall not part with, create any Encumbrance on the whole or any part of the Project Site to any person in any form or under any arrangement, device or method. This is an essential condition of this Agreement, the breach of which shall constitute a DEVELOPER Default that shall entitle the Authority to terminate this Agreement in accordance with the provisions hereof; and

ii. the DEVELOPER shall establish fair, reasonable and objective criteria for the grant of such sub-license of Project Facilities. Further, in granting and in determining whether or not to grant any sub-license of the Project Facilities to any person or entity and in determining whether to amend waive, terminate or

extend any such rights the DEVELOPER shall consistently comply and apply such criteria."

(Emphasis Supplied)

139. The above provision reveals that the sub-license granted to the petitioner is co-terminus with the contractual arrangement, viz., the Development Agreement and the survival of the sub-license is only till the Development Agreement survives. Therefore, once the Development Agreement stands terminated by the 2nd respondent, it is contended that the petitioner will have no separate legs to stand.

140. The said proposition as advanced on behalf of the 1st respondent definitely merits acceptance for the simple reason that the term *'co-terminus'* means *"having the same boundaries, scope, or duration"*. Therefore, so long as the Development Agreement survives and during its term, the sub-license deed entered into between the petitioner and the 2nd respondent would also survive

and any severance of the Development Agreement would lead to the automatic severance of the sub-license deed, as the sub-license deed cannot have a better scope or duration than the original Development Agreement.

141. Further, clause 12.2 of the sub-license deed provides that in the event of the cinema operating licenses not being renewed or being cancelled for reasons not attributable to the sub-licensee, necessary precautions and measures safeguarding the interests of the sub-licensee have been provided and, therefore, the course open to the sub-licensee is to seek for remedy under clause 12.2. So also clause 13.2 and 13.6 of the sub-licence agreement safeguards the interests of the sub-licensee and, therefore, the sub-licensee cannot have grievance with regard to the termination on the sole ground that it is not able to derive any profit from out of the activity for which the sub-license had been granted. From the above, not only inference, but even a finding can be rendered that in case of

cancellation/termination of sub-license, necessary safeguards have been provided to the petitioner.

142. It is further borne out by record that the 2nd respondent had informed about its decision to terminate the Development Agreement with the 1st respondent, which termination has also been informed to the petitioner by pointing out that the 1st respondent will take over the entire MLCP complex with effect from 30.05.2025 and post the said takeover, all matters pertaining to the license agreement of the petitioner, including administration and future course would be handled by the 1st respondent. The relevant portion of the said letter dated 15.5.2025 is quoted hereunder :-

> *"We write to inform you that the said Development Agreement with AAI dated 20.06.2018 now stands terminated. Consequently, AAI shall take over the entire MLCP Complex with effect from 30.05.2025. Post the said takeover, all matters pertaining to your license arrangement,*

including its administration and future course, shall be handled directly by AAI."

143. The reply of the petitioner dated 22.05.2025, is more intriguing in which the position of the petitioner, further to the termination of the Development Agreement, was even noted by the petitioner, pointing out as to how the right of the petitioner to operate the multiplex under the sub-license deed would continue in an unfettered and unhindered manner. The relevant portions of the said communication is quoted hereunder :-

"8. It is also pertinent to mention that the said Letter does not provide any assurance as to how PVR INOX's right to operate the multiplex under the Sub-License Deed would continue in an unfettered and unhindered manner when you are obligated under the terms of the Sub-License Deed to ensure that the rights accrued in our favour under the Sub-License Deed are not disturbed and/or alienated in any manner. Therefore, you are called upon to clarify on this aspect, failing which we will be inter alia constrained to

initiate appropriate legal proceedings in order to protect our rights and interests. You will appreciate that we will suffer irreparable harm and injury if our rights are trampled upon in an illegal and arbitrary manner. We will suffer immeasurable damages on account of loss of capital expenditure, loss of revenue, loss of profits, loss of goodwill and reputation and other incidental and ancillary losses. We reserve our right to quantify such losses at the relevant stage.

* * * * * * *

11. Please also note that this letter is without prejudice to rights available to PVR INOX under law. In case we are compelled to institute any proceedings against you in relation to the Sub-License Deed or otherwise, you shall solely be liable for all the costs and expenses incurred by us, including legal costs. All rights are reserved."

(Emphasis Supplied)

144. By the aforesaid letter, while the petitioner has sought for details with regard to the Development Agreement and the details of the termination, however, as already aforesaid, vide e-mail dated 23.5.2025, the 2nd respondent

had expressed its reservation to inform the grounds of termination as it is bound by the confidentiality obligations. In the said communication, the 2nd respondent has pointed finger against the petitioner with regard to absence of due diligence on its part to the Development Agreement and the sub-license deed, which is material and the said portion of the communication is quoted hereunder :-

> *"7. We would also like to reiterate that, prior to the execution of the Sub-License Deed, a copy of the Development Agreement was duly shared with PVRF. It is under understanding that PVR independently undertook a comprehensive review and due diligence of the said agreement. The Sub-License Deed itself expressly records that it was executed pursuant to 3.1.1 of the Development Agreement, which confers upon MRPL the authority to grant sub-licenses for specific components of the project, including the multiplex area.* ***Such authority, however, is expressly made subject to the terms and conditions stipulated therein, including the provision that all sub-licenses are co-terminus with the Development Agreement****.*

8. Further, Article 31.4(e) of the Development Agreement grants AAI the discretion to determine whether it wishes to assume MRPL's interest in any sub-license. However, Article 42.1(c) qualifies this discretion, stating that AAI shall not be required to assume contracts that, in its sole opinion, are unreasonably onerous and would have been deemed so at the time of execution.

* * * * * * *

10. Additionally, Article 42.2 of the Development Agreement expressly provides that AAI may, at its discretion, permit sub-licensees to continue on mutually acceptable terms - a provision that offers both flexibility and a framework for continuity."

(Emphasis Supplied)

145. From the above communications between the petitioner and the 2nd respondent, it is clear beyond a shadow of doubt that the nuances in the sub-license agreement, more pertinent in relation to the Development Agreement between the 1st and 2nd respondent, inclusive of the co-terminus nature of the

sub-license deed was very much within the knowledge of both the petitioner and the 2nd respondent which was to have been independently assessed by the petitioner by exercising due diligence. In fact, it is admitted by both the petitioner and the 2nd respondent that the right of continuance of a sub-license entered into with a sub-licensee with the 2nd respondent is subject to the discretion of the 1st respondent and that the continuance is not a matter of right.

146. It is also to be pointed out that the petitioner has canvassed the plea of legitimate expectation by stating that it had accepted to the terms for grant of sub-license on the assurance of the 2nd respondent and, therefore, having incurred huge sums of money in the establishment of the cinema multiplex, it cannot be caught of-guard with the order of rejection not to continue its operation. However, it is to be noted that the petitioner can, at best, have a legitimate expectation against the 2nd respondent, but that it cannot expect the same yardstick to be made applicable to the 1st respondent in the absence of any

contract between the petitioner and the 1st respondent. Therefore, the plea of legitimate expectation advanced on behalf of the petitioner does not merit acceptance.

147. Further, it would be evident from the orders of the Delhi High Court in the Section 9 application, which was later referred to the Tribunal, the Tribunal has passed an order on 9.6.2025 in which the 1st respondent has given its intention to take over all project facilities, clear of any encumbrance with good title in favour of AAI on 30.06.2025, and had further requested the Tribunal that the interim order dated 7.2.2024 with regard to cinema multiplex, which was granted at the instance of the 2nd respondent be lifted for which the 2nd respondent did not have any opposition and, accordingly, the interim order was vacated. Therefore, even the 2nd respondent had acknowledged the right of discretion of the 1st respondent with regard to continuance of the cinema multiplex.

148. Pursuant to vacating the order of stay by the Arbitral Tribunal, the petitioner had filed W.P. No.21208/2025 before this Court seeking direction to the 1st respondent herein to consider the representation of the petitioner dated 29.5.2025 for continuance of the cinema multiplex in which an order had come to be passed on 16.06.2025, wherein, learned Judge of this Court had made a clear recording that the Tribunal had lifted the order of stay upon being appraised that the Development Agreement had been terminated and in the said scenario, on the prayer of the petitioner, direction was issued to the 1st respondent to consider the representation of the petitioner, which had resulted in the order of rejection.

149. From the above, it would be clearly evident that the order directing to close the cinema hall was issued only to the 2nd respondent by the 1st respondent and there was no explicit order of termination passed by the 1st

respondent. The petitioner was visited with the rejection order only on the basis of the directions issued in W.P. No.21208/2025, as the 1st respondent was very clear of its position that it cannot pass any direct orders terminating the sub-license of the petitioner since there was no privity of contract between the petitioner and the 1st respondent. Therefore, the said order of rejection, though would be termination for all purposes, but cannot be construed to be an order of termination directly passed by the 1st respondent against the petitioner, but it could at best be said to be an order of rejection passed on the directions issued by this Court. The letter dated 29.5.2025 addressed by the petitioner to the 1st respondent would stand testimony to the above finding of this Court and the relevant portion of the same is quoted hereunder :-

> *"We hope this letter finds you well. We write to you with regard to the recent communication by MRPL, informing us that the Development Agreement executed between AAI and MRPL stands terminated. In addition to this, MRPL, has also informed us that AA1 shall be taking over the integrated retail*

cum shopping and entertainment centre ("Aerohub") in the Multi-Level Car Parking Complex at Chennai International Airport ("MLCP Complex") with effect from 30 May 2025. We also understand that post the takeover, you shall decide all the matters pertaining to the Sub-License Deed dated 15 November 2022 executed between us and MRPL ("Sub-License Deed"). Naturally, this came as quite a surprise to us, and we are keen to protect the rights granted to us under the Sub-License Deed."

(Emphasis Supplied)

150. From the above, it is evident that even the petitioner has acknowledged the fact that there was no contractual obligation between the petitioner and the 1st respondent and everything rested on the Development Agreement, which, upon being terminated, necessarily, any contractual rights and obligations have to be worked out by the petitioner with the 1st respondent, which could only be in terms with clause 42.2 of the Development Agreement. Therefore, not only the 1st respondent was conscious of its contractual position,

but equally the petitioner was also conscious of its position to the effect that there was no privity of contract between the petitioner and the 1st respondent, which fact was also highlighted by the 2nd respondent in its letter addressed to the petitioner.

151. In the aforesaid position, the whole case is predicated upon Clause 42 of the Development Agreement, which deals with surrender provisions, on which much reliance is placed by the petitioner to contend that unless the conditions imposed are onerous, the 1st respondent cannot divest the petitioner of its rights with regard to running of the cinema multiplex, which has been granted under the sub-license and necessarily the 1st respondent has to grant sub-license to the petitioner by stepping into the shoes of the 2nd respondent. For better appreciation, Clause 42 of the Development Agreement is quoted hereunder :-

"ARTICLE 42: SURRENDER PROVISIONS

42.1 Upon termination of this Agreement and consequent obligation/right of Authority to acquire the Project Assets under ARTICLE 31 and ARTICLE 41 at nil value without the Authority required to pay any amount to the DEVELOPER. The DEVELOPER shall ensure that on the Surrender Date all the rights/interest of DEVELOPER in:

* * * * * * *

b) the rights and obligations under or pursuant to all contracts relatable to the Projects Assets and other arrangements entered into in accordance with the provisions of this Agreement between DEVELOPER and any third party shall (in consideration of Authority's assumption of the obligations under or pursuant to the contracts and other arrangements), at the option of Authority, be vested in Authority or its nominee, clear of any Encumbrance and with good title. The DEVELOPER shall ensure such rights of Authority are incorporated in all contracts between DEVELOPER and third party(ies) with a specific obligation on the parties to such contracts to enter into novation agreement with Authority upon exercise of its option by Authority; and

c) Notwithstanding anything contained in Article 42.1(a) and (b), prior to any surrender of the Project Assets, Authority shall have the right to conduct a due diligence of the contracts and agreements, the rights and obligations of which it is assuming and shall not be bound to assume the rights and obligations of contracts that, in the sole opinion of Authority are unreasonably onerous, and would be considered onerous at the time that the contracts were entered into. In relation to all such contracts that are not surrendered to Authority, no third entity, including the counter-party of such contract shall have any right, license title, interest, benefit, claim or demand against or over any Project Assets and such Project Assets shall be surrendered to Authority or its nominee, clear of any Encumbrance and with good title.

42.2 The Authority at its own discretion may allow the sub-licensees/tenants/and users to continue on mutually negotiable terms and conditions."

(Emphasis Supplied)

152. No doubt, Clause 42.1 provides in the event of there being a termination/surrender of the Development Agreement by the 2nd respondent, in which event the 1st respondent will step into the shoes of the 2nd respondent and take over all the activities, the sub-licences would be considered by the 1st respondent on the basis of its onerous nature. Therefore, what is material to be looked into for the continuance/discontinuance of the sub-licence is the onerous nature of the rights and obligations, however, the same comes with a catch, in that, such onerous nature of the said rights and obligations should be so, in the considered opinion of the authority/1st respondent. Therefore, to this end, to find out the onerous nature of the activity, discretion has been vested in the authority to decide the onerous nature of the rights and obligations so as to safeguard its position.

153. It is to be noted here that what is onerous for one may not be onerous for the other and only in that backdrop, the Development Agreement

has provided for the clause that it is on the basis of formation of opinion of the authority which alone will be the factor in making an act onerous. This would be evident from clause (c) of Article 42.1 of the Development Agreement which mandates that *"prior to any surrender of the Project Assets, Authority shall have the right to conduct a due diligence of the contracts and agreements, the rights and obligations of which it is assuming and shall not be bound to assume the rights and obligations of contracts that, in the sole opinion of Authority are unreasonably onerous".*

154. Further, clause 42.2 of the Development Agreement provides that the *"Authority at its own discretion may allow the sub-licensees/tenants/and users to continue on mutually negotiable terms and conditions".*

155. The 1st respondent had called upon the 2nd respondent to stop operation of the cinema multiplex even prior to the termination of the

Development Agreement. Upon termination of the Development Agreement, the right accrues to the 1st respondent to find out the onerous nature of the activity. However, the 1st respondent refrained from passing any order of termination, till a direction was issued by this Court to pass orders on the representation, as the 1st respondent was clear in its mind that there was no privity of contract with the petitioner.

156. Therefore, it is clear that based on clause 42.1 (c) of the Development Agreement, the onerous nature of the activity had resulted in the invocation of the discretion by the 1st respondent to reject the representation of the petitioner on the directions of this Court, which is on the basis of formation of opinion of the authority on consideration of various factors, including the activity of a sub-licensee.

157. Section 12 of the AAI Act has not spelt out the different types of activities that could be undertaken in the airport/airport premises; rather it has, through clause (r) of Section 12 (3), left it to the discretion of the 1st respondent to permit carrying on such activities that are in the best commercial interests of the authority. Clause 42 has been coined in such a manner in the Development Agreement only for the purpose of safeguarding the interests of the 1st respondent, keeping in mind the benefits that could be provided to the passenger by securing the commercial interests of the authority, which would ultimately flow to the passengers.

158. It is to be pointed out, at the risk of repetition, that clause 5.2.4 enjoins upon the 2nd respondent to make provisions in the Project Agreements that entitle the Authority to step into such agreement in substitution of the Developer in the event of termination or suspension and that the Developer expressly undertakes to procure and deliver to the Authority an

acknowledgement and undertaking in a form acceptable to the authority from the counter party(s) of each of the Project Agreements where the counter party(s) acknowledge and accept the covenant and undertake to be bound by the same and not to seek for any relief or remedy whatsoever from the Authority in the event of Termination or Suspension.

159. The aforesaid clause provides that the counter party(s) are to submit an undertaking to the aforesaid effect as provided under clause 5.2.4 and the petitioner, being a counter party, necessarily would be bound by clause 5.2.4, with regard to the obligations relating to the project agreements entered into by the 2nd respondent and, therefore, reading clause 5.2.2 holistically with clause 5.2.4, the only inference that could be drawn is that the petitioner having accepted the condition, which has been laid in the Development Agreement and had entered into the sub-license deed, is bound by the undertaking given in this regard and, therefore, cannot now come out and claim that the rights and

obligations claimed as onerous by the 1st respondent are not onerous and, therefore, the 1st respondent is bound by its obligations to resort to clause 42.2 and give sub-license to the petitioner by stepping into the role of the 2nd respondent.

160. On a conjoint and harmonious reading of all the aforesaid provisions in the Development Agreement and the sub-license deed, it could safely be concluded that upon termination of the Development Agreement, any sub-licenses granted by the 2nd respondent drawing power from the Development Agreement would cease to continue and necessarily, the 1st respondent would take over the activities of the MLCP complex by stepping into the shoes of the 2nd respondent and in such a backdrop, all the sub-licensees would have to fall under clause 42.2 of the Development Agreement to negotiate with the 1st respondent for continuance of the activity on the basis of the sub-license by entering into a fresh contract/license with the 1st respondent on mutually agreed terms and it

cannot be on the basis of the sub-license entered into with the 2nd respondent and further the onerous nature of the activity will be purely within the opinion of the 1st respondent and not otherwise.

161. When the 2nd respondent has terminated the Development Agreement with the 1st respondent and the 1st respondent has shown its inclination to discontinue the cinema halls, the petitioner cannot try to prevail upon the 1st respondent to honour the commitment of the 2nd respondent in terms of the sub-license agreement, as there is no privity of contract between the petitioner and the 1st respondent and as per clause 42.2 of the Development Agreement, and it is purely the discretion of the 1st respondent to allow the sub-licensees/tenants/users to continue occupation on mutually negotiable and agreed terms and conditions upon forming an opinion that such an activity for which sub-license is granted is not onerous.

162. Though the plea of promissory estoppel has been advanced on behalf of the petitioner, it is to be pointed out that no promise has been made by the 1st respondent to the petitioner and reasonable expectation of any act by the petitioner can only be against the 2nd respondent as the sub-license deed has been entered into between the petitioner and the 2nd respondent. Such being the case, the petitioner having not exercised due diligence as provided under clauses 12.2, 13.2, 13.6 of the sub-license deed, cannot plead promissory estoppel as against the 1st respondent and the petitioner has to work out its remedy only against the 2nd respondent.

163. Further, as already held by this Court, there is no prohibition u/s 12 of the AAI Act for running cinema halls in the airport premises, more specifically in the unrestricted area and only to that end, clause (r) of Section 12 (3) provides power to the 1st respondent to permit any other activity to be undertaken at the airports in the best commercial interests of the Authority. Therefore, in the

absence of prohibition for running cinema halls, it is well within the domain of the 1st respondent to grant permission for carrying on the said activity, which will be on the basis of exercise of discretion by the 1st respondent and cannot be as a matter of routine or at the instance of the petitioner or any particular party. Therefore, to that extent, this Court is of the considered view that the discretion granted to the 1st respondent, which has been exercised cannot be questioned by the petitioner, though the activity carried on by the petitioner is not a prohibited activity within the ambit of Section 12 of the AAI Act.

164. For the reasons aforesaid -

i) *On issue No.3, this Court holds that there is no privity of contract between the 1st respondent and the petitioner and the termination of the Development Agreement by the 2nd respondent would result in automatic termination of the sub-license entered into*

between the petitioner and the 2nd respondent and the 1st respondent cannot be forced to negotiate with the petitioner either under the terms of the Development Agreement or under the terms of the sub-license deed and the petitioner cannot have any legitimate expectation against the 1st respondent to honour the sub-license.

ii)*On issue No.4, this Court holds that upon termination of the Development Agreement, while the 1st respondent steps into the shoes of the 2nd respondent for the takeover of the MLCP Complex and all the associated activities, however, discretion is vested with the 1st respondent for the purpose of negotiating with the sub-licensees for grant of license to carry on the activities and the 1st respondent cannot be forced to*

negotiate with the sub-licensees for granting sub-license. Further, the doctrine of promissory estoppel is not applicable to the facts of the present case

iii) *On issue No.5, this Court holds that though Article 42 of the Development Agreement provides for negotiations between the sub-licensee and the 1st respondent upon termination of the Development Agreement by the 2nd respondent, discretion is vested with the 1st respondent to enter into negotiation and no direction can be given to the 1st respondent inspite of the fact that the activity of the petitioner is not prohibited u/s 12 r/w 2 (b) of the AAI Act.*

Issue Nos. 3, 4 and 5 are answered accordingly in favour of the 1st respondent and against the petitioner.

165. However, would the exercise of the said discretion, not be interfered with or looked into by this Court, sitting under Article 226 of the Constitution, irrespective of the answer to the issues framed above, is the larger question that falls before this Court, as necessarily, the interests of the petitioner and other sub-licensees, similarly place like the petitioner requires to be looked into.

166. This Court has already held that there is no prohibition for running a cinema multiplex in the airport premises, which is within the unrestricted area. Needless to say that permission for establishing the said activity has to be granted by the 1st respondent, which, in the present case, though has been granted initially, has been rejected at a later point of time, which has led to the present writ petitions.

167. This Court has already held that discretion is vested with the 1st respondent/Authority to grant permission for establishing any other activity at

the airports in the best commercial interests of the Authority beyond the specific activities that have been spelt out in Section 12 (3) in the absence of any prohibition and such being the case, there can be no embargo for the 1st respondent to permit the activity of the petitioner.

168. It has been the consistent view of the Courts that there should be equality and rational assessment while permitting activities and in this backdrop, 1st respondent has to satisfy this Court that it treats the various activities as equal and when rejecting a particular activity as not permissible, necessarily, a semblance of reason requires to be given by the 1st respondent, which is very much necessary, as an unreasoned order cannot be allowed to prevail. Therefore, the discretion vested on the 1st respondent will necessarily call for a reasoned order to show the manner in which the discretion has been exercised, which in the present case is predicated upon the provisions of the AAI Act, which has been answered against the 1st respondent by this Court in issue Nos. 1 and 2.

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169. Coming to the broader spectrum of the case, the MLCP Complex was designed, constructed and put into operation by the 1st respondent, keeping in mind the flowing international passenger activity at the Chennai Airport. The design of the complex is mainly to cater to the passenger activity, which includes international passengers and at the same time targeting commercial interests, which would minimise the monetary load on the passengers as the commercial activities returning monetary dividends would off-set the load on the passengers by way of lesser ticket costs and other operational costs. The MLCP Complex has been designed with this objective in mind, by putting into operation Section 12 (3)(r) of the AAI Act, which vests control on the 1st respondent to permit any activity in the commercial interests of the Authority. Therefore, as already held, there is no embargo on the 1st respondent to permit activities, which are commercial in nature and are in the best interests of the authority, so long as it is not prohibited.

170. It is the case of the 1st respondent that the activity of the petitioner is not a permitted activity under the AAI Act, which has already been negatived by this Court. However, what needs to be determined is as to why the particular activity is sought to be curtailed by the 1st respondent, to which the only answer given on behalf of the 1st respondent is that it relates to security and that it is within the definition of 'Airport' and, therefore, not permitted. It is to be pointed out that when the area in which the cinema multiplex is located is accessible to visitors, who accompany the passengers and the various other facilities, which are operational therein, are being used by visitors and other persons, who are residents of the locality, the stand of the 1st respondent in not permitting the said activity, the reason for such rejection really comes into focus before this Court.

171. It is to be pointed out that in many of the major international airports throughout the world there is functioning of cinema multiplex even inside the

secured area in addition to cinema multiplex outside the security zone. Though cinema multiplex inside the security area could be accessed only by passengers, however, the cinema multiplex outside the security zone are available for access by all the persons, including visitors and other persons, who live in close proximity to the airports. Such activities are permitted only to off-set the travel costs as would otherwise be imposed on the passenger. As already stated above, no worthwhile reason other than the provisions of AAI Act not permitting the establishment of cinema halls has been provided by the 1st respondent to negative the claim of the petitioner for continued operation of the cinema halls inside the MLCP Complex. This could definitely be said to be an infraction of Article 14, which guarantees equality, but in the present case, the discretion has been vested with the 1st respondent for permitting the said activity on formation of opinion by the 1st respondent, which has been accepted to by the petitioner.

172. However, security issue is one of the issues projected by the learned Addl. Solicitor General. But what should not be lost sight of the fact is that the cinema multiplex, in the case on hand, is outside the security zone. To a pointed query by this Court as to whether across the airports all over India, whether functioning of cinema multiplex is barred or not permitted, it is submitted that as on date, no permission has been granted, though it is stated that there are many proposals in the loop seeking for approval to establish such cinema halls. It is also to be noted that there are many airports in the country, which are run by private players to which also AAI Act is applicable and the Explanation to Section 28-A takes within its fold private airports as well and in which airports as well the 1st respondent wields power. In such a scenario, the operating cost of the private airports would be of such huge proportions, that viable commercial interests would have to be roped in by AAI so as to off-set the burden that would otherwise have to be shouldered by the passenger on account of operating costs. One such viable option is the operation of a cinema multiplex, which, as in the

present case, is operational outside the secured zone, which can be accessed by visitors, who come to receive the passengers and also by passengers, who come before hand and who would want to spend their time in leisure without walking out of the airport. In such a scenario, cinema multiplex, such as the petitioner, would be beneficial to passengers, which would also fall within the passenger facility, as provided u/s 2 (b) of the AAI Act.

173. Though security, safety and other concerns are projected by AAI, however, there is no prohibition under the AAI Act, more particularly Section 12 (3) and, therefore, if AAI is reluctant to permit operation of cinema multiplex within the airport premises, inspite of the absence of an express prohibition u/s 12 (3), then necessarily, the matter has to be decided at the higher echelons of the Government as it is only a policy decision which would be necessary so as to avoid further litigations. Further, when the matter is placed for consideration of the Government, then many other aspects including the operation of such

facilities in other countries could be taken into consideration before the Government evolves a policy decision. Therefore, the just and reasonable course with regard to addressing the issue would be to direct the 1st respondent to address the Government for taking a policy decision with regard to permitting establishment of cinema multiplex like the petitioner in the airport/airport premises, viz., in the secured as well as unsecured zone, in the interest of the passenger and the public at large, keeping in mind the spiralling travelling cost of the passengers, which could be off-set from out of the monetary yield that would be derived from the commercial ventures that are allowed to operate in the airport/airport premises.

174. In such view of the matter, while the writ petitions are disposed of by answering the issues as stated in paragraph Nos.123 and 164 of this order, this Court, on a holistic consideration of the entire issue, is inclined to pass the following further order :-

i)*The 1st respondent is directed to place the issue with regard to establishment of cinema multiplex within the secured/unsecured zone of the airport/airport premises before the Ministry of Civil Aviation, Government of India, with due emphasis on Section 12 (3) within a period of four weeks from the date of receipt of a copy of this order so as to enable the Ministry of Civil Aviation, Government of India to take a policy decision on this aspect;*

ii)On such issue being placed before it, the Ministry of Civil Aviation, Government of India, is directed to consider the same and take a policy decision on the issue with regard to permitting of cinema multiplex within the secured/unsecured zone of the airport/airport premises as expeditiously as possible;

iii) *Till such time a policy decision is taken with regard to operation of cinema multiplex within the secured/unsecured zone of the airport/airport premises by the Ministry of Civil Aviation, Government of India, as directed above, the order of status quo granted by this Court in favour of the petitioners shall continue;*

iv) *If the Ministry of Civil Aviation takes a policy decision to permit the establishment of cinema multiplex within the secured/unsecured zone of the airport/airport premises, then the 1st respondent shall follow Clause 42.2 of the Development Agreement and shall negotiate with the petitioners for entering into a sub-license to run the cinema multiplex in the MLCP Complex;*

v) *If the Ministry of Civil Aviation takes a policy decision not to permit the establishment of cinema multiplex in the*

airport/airport premises, the petitioners are granted liberty to work out their remedy against the 2nd respondent and the 2nd respondent is granted liberty to work out its remedy in accordance with law on the basis of the sub-license deed and the Development Agreement as against the 1st respondent;

vi) *Registry is directed to mark a copy of this order to the Secretary, Ministry of Civil Aviation, Government of India, New Delhi for information and necessary action.*

vii) *Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.*

09.12.2025

Index : Yes / No

GLN

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To

1.The Secretary
Ministry of Civil Aviation
Government of India
New Delhi.

2.The Director
Airports Authority of India
Rajiv Gandhi Bhawan
Safdarjung Airport
New Delhi 110 003.

M.DHANDAPANI, J.

GLN

PRE-DELIVERY ORDER IN

W.P. NOS.22968 & 23060 OF 2025

Pronounced on

09.12.2025