

STATUS REPORT ON ARBITRATION AWARDS CHALLENGED BY JNPA BEFORE HIGH COURT BOMBAY

Sr. No	Case No.	Since the case is pending	Name of the Party	Brief of the case	Present status of the case	Name of the Solicitors/Firm
01	Arbitration petition No.517 of 2013 (Log. No.1123 of 2012)	2012	JNPT V/s 1. IMC 2. IOCL 3. IOTL 4. Deepak Fertilizer 5. HOCL 6. Viraj Agro 7. Bharat Cell Ltd 8. Reliance Indust 9. Ganesh Benzopla st	JNPT has filed arbitration petition no.517 of 2013 before the High Court challenging the impugned arbitral award dated May 21, 2012 wherein Tribunal directed JNPT to refund balance amount of Rs. 1.20 crore within one (1) month of common pool fund to LCBUA failing which it shall be liable to pay interest thereon at the rate of 18% until payment and also refund way leave charges and MGT charges within one month collected from the respective members (tank farm operators) of LCBUA.	The matter was listed on board on 22.04.2022 for hearing. Next date of hearing yet be notified.	M/s Legasis Partners
02	Comm, Arbitration Petition No. 6 of 2019 (L) 1364/2018 JNPT vs. IMC & OTHERS (Other than GBL) – Challenging Award dtd. 8 th June, 2018	2018	(i) M/s. IMC Ltd (ii) Indian Oil Coporation, Mumbai (iii) Indian Oil Tanking, Ltd, Mumbai (iv) Deepak Fertilizers & Petrochemicals Corpn, Ltd, Taloja (V)	Arbitration Petition is filed by JNPT to challenge the Award dated 08.06.2018 passed by the Arbitral Tribunal towards lease rent and an annual escalation recovered by the JNPT from 2005 in the matter of Arbitration between Liquid Chemical Birth Users Association and The Board of Trustees of JNPT U/s 34 of Arbitration Conciliation Act 1996.	The matter lastly listed on board on 14.11.2019 for admission. The next date for admission yet to be notified.	M/s. Khaitan & Co.

			Hindustan Organic chemicias Ltd (HOCL) Rasayani, (vi) Bharat Shell Ltd. Taloja, (vii) Reliance Infrastructure India Ltd and (viii) Viraj Agro Products Pvt. Ltd. vs. The Board of Trustees of JNPT.			
03	Comm, Arbitration Petition No. 1 of 2019 (L) 1389 /2018 JNPT vs. GBL – Challenging Award dtd. 8th June, 2018	2018	GBL vs. BOT of JNPT	Comm.Arbitration Petition is filed by JNPT to challenge the Award dated 08.06.2018 passed by the Arbitral Tribunal towards lease rent and an annual escalation recovered by the JNPT from 2005 in the matter of Arbitration between Liquid Chemical Birth Users Association and The Board of Trustees of JNPT U/s 34 of Arbitration Conciliation Act 1996.	The matter lastly listed on board on 09.07.2020 for admission. The next date for admission yet to be notified.	M/s. Khaitan & Co.
04	Comm.Arbit. Petition No.1491 of 2019 (Log. No.1337 of 2019)	2019	JNPT Vs GTIPL	Dispute arose with respect to payment of certain claims including interest on differential tariff claimed by JNPT as per the MOU executed between the parties. The Arbitration Tribunal passed an award dated 09.08.2019 against JNPT. JNPT has challenged the award before the Hon' ble High Court.	The Matter is at admission stage.	M/s The Law Point Mumbai
05	Comm. Arbt. Petition No.102 of 2020 (Log.	2019	JNPT Vs NSICT	NSICT filed an Arbitration against JNPT seeking changes in terms of the license agreement dated 03.07.1997 with respect to payment for royalty from per TEU basis to revenue sharing	The Matter is at admission stage	M/s The Law Point Mumbai

	No.1557 of 2019)			<p>basis. The contention of NSICT is that after establishment of TAMP pursuant to orders passed by TAMP in April, 2005 and 2006 the royalty payment is not allowed as cost by TAMP in the determination of Tariff and this change in law is adversely affecting NSICT and the terms of the license agreement needs to be renegotiated. The NSICT has also relied upon tariff order dated 14.02.2012 whereby royalty payment is not allowed as pass through cost by TAMP in fixation of Tariffs. NSICT sought an amendments of the existing contract under Article 14 - Change in Law to make the project commercially viable. The Arbitral Tribunal vide its order dated 18.09.2019 observed that as the existing policy does not allow hundred per cent pass through of royalty as cost, the only other option which the JNPT can consider is that of "revenue share". The Arbitral Tribunal further observed that in all other private - public - projects the revenue share model has been adopted. Hence the present contract should be amended appropriately to make it a revenue - sharing model. The JNPT was further directed to amend the license agreement in consultation with the claimant within four months of the award. JNPT challenged this order before the Hon'ble High Court by filing Commercial Arbitration Petition (L) No. 1557 of 2019 which is at admission stage. Subsequently in a similar matter relating to VOPT, Hon'ble Supreme Court vide its Judgment dated 28.07.2021 in the case of PSA SICAL Terminals Pvt. Ltd, has settled the law that Arbitral Tribunal cannot direct the parties to change the terms of the contract</p>		
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				<p>from royalty share to revenue share under an Arbitration Award. Accordingly JNPT is filing an application for setting aside of the Award dated 18.09.2019 passed by Arbitral Tribunal based on the Supreme Court Judgment dated 28.07.2021 passed in the case of PSA SICAL Terminals Pvt. Ltd. Also, JNPT Board in its meeting held on 8.3.2021 has decided to refer the matter for conciliation and accordingly Shri S.S Hussain has been nominated as Conciliator in the matter.</p>		
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