

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL  
NEW DELHI**

**Dated 17<sup>th</sup> April, 2020**

**MA No.85 of 2020  
(Arising out of the disposed of Telecom Petition No.77 of 2019)**

Reliance Jio Infocomm Ltd.

...Petitioner

Versus

Tata Communications Ltd. & Ors.

...Respondents

**BEFORE:-**

**HON'BLE MR. JUSTICE SHIVA KIRTI SINGH, CHAIRPERSON**

For Petitioner/Applicant : Mr. K.Vishwanathan, Sr. Advocate for  
R.S. Prabhu & Co.

For Respondent/Non-applicant : Mr. Gopal Jain, Sr. Advocate  
(Bharti Airtel) Mr. Harsh Kaushik, Advocate

For Respondent (Tata) : Mr. Shantanu Singh, Advocate  
Mr.Ravi S.S. Chauhan, Advocate

For Respondent(TRAI) : Ms. Maneesha Dhir, Advocate

**ORDER**

**By S.K. Singh, Chairperson** – This Miscellaneous Application (MA No.85/2020) has been taken up for urgent hearing as per request made on behalf of the applicant, M/s Reliance Jio.

2. Heard learned Senior Counsel for the petitioner, Mr. K.Vishwanathan and learned Senior Counsel for the non-applicant, Bharti Airtel, Mr.Gopal Jain through video-conferencing.

3. The applicant seeks a direction upon Bharti Airtel not to encash the Bank Guarantee (BG) to which it has become entitled vide judgment of this Tribunal dated 16.04.2020 whereby applicant's petition bearing T.P. No.77/2019 has been dismissed on merits. In the last paragraph of that judgment notice has been taken of an order of the Hon'ble Madras High Court dated 14.11.2019 and in view of the said consent order this Tribunal has directed that the BG submitted to the Tribunal stands invoked for immediate payment to the non-applicant. The prayer in the MA is solely on the ground that moving the Hon'ble Supreme Court in appeal is likely to take some time because of the prevailing pandemic COVID-19.

4. Learned counsel for the Bharti Airtel has seriously opposed the prayer for stay of the directions in the judgment dated 16.04.2020. According to him, it

would be against the terms of the consent order by Madras High Court. He further submits that having declared that the BG stands invoked, this Tribunal has become *functus officio*. Lastly, he submits that monetary payments through encashment of BG do not have irreversible effect and since final judgment is against the applicant, no stay or injunction need be granted.

5. Presently, the only issue is whether the money covered by the BG should be collected by the non-applicant/Bharti Airtel. There is no good reason for taking a view in favour of the applicant. Such monetary claims can always be effectively dealt with at the appellate stage. An order of restitution can take care of any apprehended injury to the applicant, if the appellate court finds merit in the case of the applicant. Further, there is no good reason to disregard the spirit of consent order passed by the Madras High Court. The prayer in the MA is, therefore, declined.

6. The MA stands disposed of.

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**(Shiva Kirti Singh)**  
**Chairperson**