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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 31.01.2017

+ W.P.(C) 1518/2016 & CM Nos.6552/2016 (directions),
43349/2016 (directions)

M/S. PATEL ENGINEERING LIMITED

..... Petitioner

versus

NATIONAL THERMAL POWER CORPORATION & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Dayan Krishnan, Sr. Advocate with Mr. Ananga
Bhattacharya, Advocate.

For the Respondents : Mr. Tarkeshwar Nath with Mr. Onkar Nath, Advocates for
respondent No.1.
Mr. Ajay Diggpaal, CGSC with Ms. Mohita, Advocate for
respondent No.2.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

31.01.2017

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner, by the present petition, has sought a direction to the respondent No.1- National Thermal Power Corporation to pay to the Commissioner of Customs the customs duty alongwith the applicable interest on the import of Hot Rolled Plates under advance

authorizations dated 03.07.2008 and 10.02.2009 for Loharinag Pala Hydro Electric Power Project, District Uttarkashi, Uttarakhand.

2. The petitioner, who had been awarded the contract of the project, for execution of the said project, had imported Hot Rolled Plates under advance authorizations. Since the project did not go through, the Hot Rolled Plates, imported by the petitioner, were diverted by the respondents for another project.

3. The issue relates to securing the payment of customs duty on the said plates that were imported under the advance authorizations.

4. The petitioner had furnished a bank guarantee in the sum of Rs.8,15,00,000/- to the Customs Authorities, for securing the claim of custom duty. The petitioner has sought release of the bank guarantee because the Hot Rolled Plates, imported for the project of the respondent Nos.1 and 3, consequent to the scrapping of the project, have been diverted by the respondent No.1 for being utilized in some other project.

5. The petitioner contended that the respondent No.1 had agreed to replace the bank guarantee, submitted by the petitioner to the Custom Authorities, with a bank guarantee of the respondent No.1.

6. On 23.11.2016, this Court had noted the contentions of the petitioner that, by letter dated 22.10.2016, the respondent No.1 had reiterated its commitment that the bank guarantee furnished by the

petitioner would be replaced by a bank guarantee of the respondent No.1.

7. Learned counsel appearing for the respondent No.1, under instructions, submits that NTPC is willing to replace the bank guarantee in the sum of Rs.8,15,00,000/-, furnished by the petitioner to the Custom Authorities, with a bank guarantee of NTPC.

8. In view of the above statement, the writ petition is disposed of directing the respondent No.1 to approach the Custom Authorities for the replacement of the bank guarantee in the sum of Rs.8,15,00,000/- furnished by the petitioner. The petitioner shall afford all assistance for the said purpose and both the parties shall execute such necessary documents, as may be required by the Customs Authorities, for replacement of the bank guarantee.

9. The writ petition is disposed of in the above terms.

Dasti under the signatures of the Court Master.

SANJEEV SACHDEVA, J

JANUARY 31, 2017
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