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

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O.M.P. (I) (COMM.) 558/2017

EMCO LTD.

..... Petitioner

Through: Mr. A.S. Chandhiok, Sr. Adv. with  
Mr. Anupam Varama, Ms. Abha  
Zaidi and Mr. Ritesh Kumar, Adv.

versus

DELHI TRANSCO LTD. & ANR.

..... Respondents

Through: Mr. B.B. Gupta, Sr. Adv. with  
Mr. Vikram Pradeep and Mr. Neha  
Tanwar, Adv. for R-1 along with  
Mr. Jagat Singh (Manager Technical),  
Mr. S.K. Garg (Manager Technical),  
Ms. Kavita Sharma (DGM-Legal),  
Mr. Arshad Ali (AM-Legal) and  
Mr. Avdesh Divedi (JLO) in person.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**ORDER**

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**27.12.2017**

The present petition has been filed by the petitioner under Section 9 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Act') *inter-alia* praying for the following relief:

*“a) pass an order of interim injunction restraining the Respondent No. 1 from invoking or encashing the Bank Guarantee, bearing No.116214IGPER0114 for INR 3,80,29,783 (INR Three Crore Eighty Lakh Twenty Nine Thousand Seven Hundred Eighty Three Only) dated December 04, 2014 issued by Respondent No.2 on behalf of the Petitioner.”*

This is the second round of litigation between the parties. The earlier petition filed by the petitioner, being OMP(I)(COMM) 477/2017, was disposed of by this Court vide its order dated 20.11.2017 on the basis of the statement made by the learned counsel for the respondent No.1 to the effect that a final decision on the question of invocation of bank guarantee was yet to be taken by respondent No.1. A direction was, therefore, issued that in case the respondent No.1 wishes to invoke the bank guarantee in question, it will give an advance notice of seven days in writing to the petitioner, who would be free to take appropriate legal remedy against such invocation in accordance with the law.

The respondent No.1 thereafter issued a communication/notice dated 19.12.2017 to the petitioner informing that the bank guarantee will be invoked after seven days of the said notice. The petitioner, therefore, filed the present petition.

Learned senior counsel for respondent No.1 submits that a Show Cause Notice dated 14.07.2017 on the merits of the disputes has been issued to the petitioner by the respondent and a reply dated 04.08.2017 to the same has been received. The respondent No.1 is in the process of taking final decision on this Show Cause Notice and does not intend to invoke the bank guarantee before such decision is taken and duly communicated to the petitioner.

In view of the statement made by learned senior counsel for respondent No.1 on instruction from the officers who are present in the Court, no further direction is required at the present stage. It would always be open to the petitioner to seek appropriate remedy in case any adverse order is passed by respondent No.1 on the Show Cause Notice that has been

issued. It is made clear that in case any adverse order is passed against the petitioner, the respondent would not invoke the bank guarantee for a period of seven days from the date of communication of the said order to the petitioner.

All rights and contentions of either party are left open and nothing stated herein above would be an expression on the merits of the claims of either party.

The petition is disposed of in the above terms.

Copy of the order be given *dasti* under the signature of the Court Master.

**NAVIN CHAWLA**  
**(Vacation Judge)**

**DECEMBER 27, 2017/vp**