

Crsc Research & Design Institute Group ... vs Dedicated Freight Corridor ... on 1 October, 2020

Author: Rajiv Sahai Endlaw

Bench: Rajiv Sahai Endlaw, Asha Menon

\$~VC-14

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ FAO (OS) (COMM) 123/2020

CRSC RESEARCH & DESIGN INSTITUTE GROUP CO. LTD.

.....Appellant

Through: Mr. Rajiv Nayar and Mr.

Sudhanshu Batra, Senior

Advocates with Mr. Krishna Vijay

Singh, Mr. Manish Dembla & Mr.

Nachiketa Goyal, Advocates

versus

DEDICATED FREIGHT CORRIDOR CORPORATION OF

INDIA LTD. & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% 01.10.2020 [VIA VIDEO CONFERENCING] C.M. Appln. No. 24786/2020 (of the appellant seeking exemption from filing originals, certified copies, legible/fair/typed copies of dim documents with proper margins and vernacular)

1. Allowed, subject to just exceptions and as per extant rules.

2. The application is disposed of.

FAO (OS) (COMM) No. 123/2020 & C.M. Appln. No. 24784/2020 (of appellant u/O XLIII Rule 2 CPC read with Order XLI Rule 5 and Section 151 CPC seeking interim relief); C.M. Appln. No. 24785/2020 (of appellant u/O XLI Rule 27 read with Section 151 CPC seeking leave to file certain documents handed over during the course of arguments)

1. The appeal has been received at 1543 hours on listing on urgent mentioning and has been taken up for hearing at 1610 hours.

2. Senior counsels for the appellant appear but none appears for the respondents. Telephonic contact has been made by Mr. Manish Dembla, Advocate for the appellant with Mr. Abhishek Kumar Tripathi, Advocate who had appeared for the respondents before the Single Judge and Mr. Dembla, Advocate states that Mr. Tripathi, Advocate has informed him that he will not be able to join the hearing before 20 minutes.

3. It is already 1621 hours and it is deemed appropriate to post the matter on 6th October, 2020.

4. The counsels for the appellant to inform Ms. Garima Prashad and Mr. Abhishek Kumar Tripathi, Advocates for the respondents before the Single Judge, of the next date of hearing and to also email to them a copy of the appeal paperbook, today itself.

5. The appeal impugns the order dated 30th September, 2020 of dismissal of a petition under Section 9 of the Arbitration and Conciliation Act, 1996 seeking interim measure of restraint of invocation and encashment of Bank Guarantees issued by the respondent No.2 Standard Chartered Bank Limited and the respondent No.3 Industrial and Commercial Bank of China Limited, Mumbai Branch, at the instance of the appellant, in favour of the respondent No. 1.

6. The senior counsels, on enquiry inform that during the pendency of the proceedings before the Single Judge, there was a verbal understanding that the Bank Guarantees will not be encashed and further state that though the Bank Guarantees have since been invoked but the monies thereunder have not been released by the respondent No.2 Standard Chartered Bank Limited and the respondent No.3 Industrial and Commercial Bank of China Limited, Mumbai Branch in favour of the respondent No. 1 as yet.

7. The respondent No.2 Standard Chartered Bank and the respondent No.3 Industrial and Commercial Bank of China Limited, Mumbai Branch are restrained, till the hearing scheduled on 6th October, 2020, from, if have not already released the monies in favour of respondent No. 1 Dedicated Freight Corridor Corporation of India Ltd., from releasing the said monies and the respondent No. 1 Dedicated Freight Corridor Corporation of India Ltd. is restrained, if has not already received the monies, from receiving the monies, under the following Bank Guarantees:

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BG No. Issued By Currency Amount Amount in INR Valid upto 316020698264 Standard INR 14,51,49,012.00 14,51,49,012.00 01-May-21 Chartered BG No. Issued By Currency Amount Amount in INR Valid upto Bank 316020700153 Standard INR 14,51,49,012.00 14,51,49,012.00 01-May-21 Chartered Bank 316020700527 Standard CNY 69,95,795.49 7,16,33,447.90 01-May-21 Chartered Bank 316020700545 Standard USD 2,81,292.91 1,87,19,790.00 01-May-21 Chartered Bank Total of Advance Bank Guarantees 38,06,51,262/-

or 38.06 crore
Approx

LG	Industrial &	INR	23,55,00,000.00	23,55,00,000.00	24-
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28501B600124 Commercial
Bank of
China
Limited,
Mumbai

Total Amount of all Bank Guarantees	61,61,51,262/- crores approx.	on
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*Exchange rate of 1 CNY = INR 10.2395 and 1 USD = INR 66.5411 applied as per Clause 14.15 read with Appendix to Tender"

8. List on 6th October, 2020.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J. OCTOBER 01, 2020 pkb