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

+ W.P.(C) 8201/2011 and CM APPL. Nos.7506/2015

GAIL INDIA LTD.

..... Petitioner

Through: Ms. Sonia Arora, Advocate.
versus

GARDEN REACH SHIP BUILDERS
AND ENGINEERS LTD.

..... Respondent

Through: Ms. Neha Sharma, Advocate.

+ W.P.(C) 8202/2011 and CM APPL. Nos.7508/2015

GAIL INDIA LTD.

..... Petitioner

Through: Ms. Sonia Arora, Advocate.

versus

GARDEN REACH SHIP BUILDERS
& ENGINEERS LTD.

..... Respondent

Through: Ms. Neha Sharma, Advocate.

CORAM:

HON'BLE MR. JUSTICE V.P.VAISH

ORDER

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27.04.2015

By these two petitions under Articles 226 and 227 of the Constitution of India, the petitioner has assailed orders/ awards dated 25.06.2010 in W.P.(C) No.8201/2011 and 22.06.2010 in W.P.(C) No.8202/2011 passed by the Sole Arbitrator, Joint Secretary, Ministry of Heavy Industries and Public

Page 1 of 4

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Enterprises, Department of Public Enterprises and appellate award dated 20.07.2011 passed by the Appellate Authority, Ministry of Law & Justice in Appeal Nos.7/LS/2010 and 6/LS/2010 respectively.

Since both these petitions are between the same parties and involve identical questions of law, these are being disposed of by this common order. For the sake of brevity the facts are being extracted from W.P.(C) No.8201/2011.

The brief facts as borne out from the W.P.(C) No.8201/2011 are that the petitioner company had placed two purchase orders to the respondent company for supply of 2.8 MW Gas Engine Generator (GEG) sets. Due to delayed execution of work beyond the contractual period, the petitioner company imposed liquidated damages on the respondent and further imposed a price deduction clause on respondent acting contrary to the terms of contract. Thereafter, the matter was referred to the Committee of disputes and an agreement dated 11.09.2006 was entered into between the parties whereby parties agreed to refer the dispute to "Permanent Machinery of Arbitration" superseding all the earlier arbitrations.

Learned Sole Arbitrator passed an award on 22.06.2010 against the petitioner company and asked the petitioner to pay Rs.2,94,04,648/- (Rupees Two crores ninety four lakhs four thousand six hundred and forty eight) along with interest @ 12% per annum from December, 1998 till the date of realisation. It was further ordered that in case, the amount was not released within two months from the date of award an additional interest @ 2% per annum was to be paid by the petitioner company till the actual payment was made.

Aggrieved by the said award, the petitioner company preferred an appeal before the Appellate Authority, Ministry of Law and Justice, New Delhi who vide order dated 20.07.2011 upheld the award passed by the Sole Arbitrator.

Learned counsel for both the parties submit that parties have amicably settled the matter and a joint application under Order XXIII Rule 3 read with Section 151 CPC dated 13.04.2015, bearing C.M. Appl. No.7506/2015 has been filed and the copy of the Settlement Agreement dated 20.03.2015 has been filed as Annexure A-1 along with the said application. It is also submitted that in terms of settlement agreement dated 20.03.2015 the parties have settled all claims emanating from purchase orders dated 01.01.1996 and 21.07.1997 for a total sum of Rs.12,00,00,000/- (Rupees Twelve crores) inclusive of interest. Counsel for the petitioner further submits that the petitioner has paid the entire settled amount of Rs.12,00,00,000/- (Rupees Twelve crores) to the respondent and the respondent has acknowledged the receipt of said amount vide acknowledgement dated 27.03.2015 (Annexure A-2).

Ms. Neha Sharma, learned counsel appearing on behalf of respondent confirms that respondent has settled the matter with the petitioner and the respondent has received the entire settled amount of Rs.12,00,00,000/- (Rupees Twelve crores).

Learned counsel for the petitioner submits that in terms of order dated 03.07.2012 passed in in W.P.(C) No.8201/2011, the petitioner has deposited a sum of Rs.8,77,04,258/- (Rupees Eight crores, seventy seven lakhs four thousand two hundred and fifty eight) before this Court and Rs.7,92,21,989/-

(Rupees Seven crores ninety two lakhs twenty one thousand nine hundred and eighty nine) in W.P.(C) No.8202/2011 and the said amount may be released in favour of petitioner. He has pointed out that in the settlement agreement dated 20.03.2015 it is mentioned that the amount lying deposited in this Court may be released to the petitioner.

Learned counsel for respondent submits that since the petitioner has already made the payment of the entire settled amount she has no objection if the amount lying deposited in this Court along with interest accrued thereon is released to the petitioner in both the cases.

Accordingly, the Registry is directed to release the amount deposited in both the cases along with interest accrued thereon, if any, in favour of the petitioner.

In view of the settlement between the parties and the submissions made by learned counsel for both the parties, the petitions as well as applications stand disposed of.

C.M. Appl. No.18490/2011 in W.P.(C) No.8201/2011
C.M. Appl. No.18493/2011 in W.P.(C) No.8202/2011

Both the applications are dismissed as infructuous.

Vaish
27/4/15
V.P.VAISH, J

APRIL 27, 2015
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