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

+ **FAO(OS) 235/2015 & CM 7835/2015**

PCT INTER-TECH LENHYDRO CONSORTIUM JV Appellant

Through : Mr Sandeep Sethi, Sr Advocate with Mr Vikas
Goel and Mr Abhishek Kumar

versus

THDC INDIA LTD & ORS Respondents

Through : Mr Parag P. Tripathi and Mr S. K. Taneja, Sr
Advocates with Mr Puneet Taneja for Respts.
Ms Kiran Suri, Sr Advocate with Mr Purvesh
Buttan for R-3.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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22.05.2015

This appeal is directed against the order dated 04.02.2015 passed by a learned Single Judge in OMP 3/2014 which was an application under Section 9 of the Arbitration and Conciliation Act, 1996. Earlier, the learned Single Judge had passed an order on 06.01.2014 to the following effect:-

“Till the next date, status quo shall be maintained with regard to the refund of the TDS to the respondents No. 1 & 2 by respondent No. 3.”

By virtue of the impugned order dated 04.02.2015, the learned Single Judge has continued the order dated 06.01.2014 as further clarified by the order dated 02.04.2014 during the arbitral proceedings, subject to any modification of the said order by the Arbitral Tribunal in an application moved by any party under Section 17 of the said Act.

The learned Single Judge also noted that in the meanwhile, the arbitration proceedings have already commenced before the Arbitral Tribunal.

The learned counsel for the appellant also submitted that the income tax authority is not a party to the arbitration proceedings and, therefore, the Arbitral Tribunal may not have the jurisdiction to bind the income tax authorities insofar as the question of refund of TDS is concerned. To obviate this difficulty, we feel that the order passed by the learned Single Judge needs to be modified by removing the impediment for refund of TDS to the appellant by the income tax authorities. However, when the appellant receives the said amount, it shall be placed in a fixed deposit before this Court with the Registrar General, initially for a period of 91 days, to be renewed from time to time. This would be subject to any order/direction that the Arbitral Tribunal may give with regard to release of the funds to any of the parties on an application made by a party to the Arbitral Tribunal.

The appeal stands disposed of accordingly.

BADAR DURREZ AHMED, J

**MAY 22, 2015
SR**

SANJEEV SACHDEVA, J