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

+ **FAO(OS) 380/2015**

BHARAT HEAVY ELECTRICAL LIMITED

..... Appellant

Through : Mr Rajiv Nayar, Sr Advocate with Mr A. S.
Mathur and Mr Vivek Mathur

versus

POWER MECH PROJECTS LIMITED

..... Respondent

Through : Mr N. Kantawala with Mr Abhinav Sharma

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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20.07.2015

CM 12572/2015

Allowed subject to all just exceptions.

CM 12571/2015

The delay in filing the appeal is condoned.

The application stands disposed of.

FAO(OS) 380/2015 & CM 12570/2015

This appeal is directed against the order dated 29.05.2015 passed by a learned Single Judge of this Court in OMP (I) 250/2015 which was a petition under Section 9 of the Arbitration and Conciliation Act, 1996. The petition is still pending before the learned Single Judge and the next date in the matter is 24.08.2015. The learned Single Judge has, by virtue of an ad interim order, directed that the appellant will not deduct the general sales tax amount from the pending and running bills of the respondent.

We have heard the learned counsel for the parties. We modify the order passed by

the learned Single Judge to the extent that the appellant shall pay the amount, which is admittedly due to the respondent against the pending and running bills of the respondent, by withholding the general sales tax element. This order is without prejudice to the rights and contentions of the parties in the OMP which is pending before the learned Single Judge. It will be open to the parties to establish their claims, *prima facie*, with regard to the liability of general sales tax. The appellant shall make the payments, as directed above, against the pending running bills as stipulated in the terms of contract.

The appeal stands disposed of.

Dasti under the signature of the Court Master.

BADAR DURREZ AHMED, J

JULY 20, 2015
SR

SANJEEV SACHDEVA, J