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

+ W.P.(C) 801/2016 & CM Appls. 3483-3484/2016

VALENCY INTERNATIONAL TRADING PTE. LTD.

..... Petitioner

Through: Mr. Dushyant Dave and Ms. Vibha Datta
Makhija, Sr. Advocates with Mr. Rohan Thawani,
Ms. Priyanka Gladson, Advs.

versus

MMTC LTD. & ANR

..... Respondents

Through: Mr. Parag P. Tripathi, Sr. Advocate with
Ms. Anuradha Dutt, Mr. Kuber Dewan, Ms.
Neeharika Agarwal and Mr. Kunal Bahri, Advs.
for R-1

Mr. Ravi Prakash, CGSC with Ms. Evneet Uppal
and Mr. Vidur Mohan, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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05.02.2016

The present writ petition has been filed with the following
prayers:-

“A) Call for the records of the case;

*B) Issue a Writ of Certiorari, or any other appropriate writ,
order or direction, and quash the impugned Letter
No.MMTC/FZ(U) 2015-16/19 dated 18.12.2015 issued by the
Respondent No. 1 MMTC Ltd, as being arbitrary, unlawful,
malafide, and violative of Article 14 of the Constitution of
India;*

*C)Issue a Writ of Certiorari, or any other appropriate writ,
order or direction, and quash the impugned Letter No.
MMTC/FZ(U) 2015-16/19 dated 8.1.2016 issued by the
Respondent No. 1 MMTC Ltd, as being arbitrary, unlawful,*

malafide, and violative of Article 14 of the Constitution of India;

D) Issue a Writ of Mandamus, or any other appropriate writ, order or direction, commanding the Respondent No. 1 MMTC Ltd. to issue the necessary documents including Nomination and Letter of Authority to the Gangavaram Port Authority, so that the vessel MV Long DAR can berth at the port;

E) Issue a Writ of Mandamus, or any other appropriate writ, order or direction, commanding the Respondent No. 1 MMTC Ltd. to permit the discharge of the cargo of 66,500 MT of Granular/Prilled Urea, and take possession of the same;

F) Issue a Writ of Mandamus, or any other appropriate writ, order or direction, commanding the Respondent No. 1 MMTC Ltd. to make good the damage and prima facie loss caused to the Petitioner due to the arbitrary, unreasonable, discriminatory and malafide actions of MMTC, currently amounting to at least USD 270,000/- with interest @ 18% p.a., which the Petitioner has lost till date on account of Demurrage/Detention Charges & Port Charges, as a consequence of the vessel not being allowed to berth at the port;

G) Issue a Writ of Mandamus, or any other appropriate writ, order or direction, commanding the Respondent No. 1 MMTC Ltd. to refund to the Petitioner the sum of USD 566,685/- with interest @ 18% p.a., which sum has been unlawfully appropriated by MMTC by the wrongful invocation of the Performance Bank Guarantee;

H) Pass such other or further orders as this Hon'ble Court may deem fit in the facts of the case."

After some arguments, Ms. Makhija, learned senior counsel for the petitioner wishes to withdraw the present writ petition and applications with liberty to invoke the disputes resolution mechanism as well as to make a representation to respondent No. 2/Department of

Fertilizers.

Learned counsel for the Union of India states that the Union of India is not a party to the present contract.

However, this Court is of the view that it is not essential to determine this issue at this juncture as the petitioner wishes to withdraw the present writ petition to invoke the disputes resolution mechanism under the contract. Consequently, the present writ petition and applications are dismissed as withdrawn with liberty to the petitioner to invoke the disputes resolution mechanism as well as to make a representation to respondent No. 2/the Department of Fertilizers.

It is clarified that this Court has not expressed any opinion on the controversy.

Rights and contentions of all parties are left open.

Order dasti.

MANMOHAN, J

FEBRUARY 05, 2016
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