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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB. A. (COMM.) 12/2016

LARSEN & TOUBRO LIMITED

..... Petitioner

Through: Mr. Tushar Mehta, Additional Solicitor General, Mr. Tarkeshwar Nath, Mr. Mukul Gautam, Mr. Param Kumar Mishra, Mr. Manan Popli, Mr. Sarabh Tuteja, Advocates.

versus

NTPC LIMITED

..... Respondent

Through: Mr. Kirat Singh Nagra and Mr. Kartik Yadav, Advocates for Applicant in IA No. 9826/2016.

CORAM: JUSTICE S. MURALIDHAR

ORDER

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09.11.2016

IA No. 9826/2016 (for clarification order dated 3rd June, 2016)

1. Mr. Tushar Mehta, learned Additional Solicitor General ('ASG') appearing for the NTPC Ltd. at the outset states that in respect of both the prayers in this application, viz., that NTPC should issue a bank guarantee for a sum of Rs.50 crores in the name of Larsen & Toubro Limited ('L&T') and also execute a Tripartite Escrow Agreement with L&T in terms of the order dated 3rd June, 2016, the Respondent is agreeable to do so without prejudice to the decision of the arbitral tribunal ('AT') on Issue No. 2 framed by the AT by the order dated 3rd November, 2016 viz., "Whether the claims of M/s. L&T, as a single unit of the Joint Venture, are maintainable?"

2. In that view of the matter, it is clarified that the Respondent will within two weeks from today furnish in favour of L&T a bank guarantee in the sum of Rs.50 crores to replace/modify the bank guarantee already issued in the name of the JV and also execute a Tripartite Escrow Agreement with L&T in terms of the order dated 3rd June, 2016. It is clarified that this without prejudice to and subject to the decision of the AT on Issue No. 2 as mentioned hereinbefore.

3. Mr. Mehta, learned ASG also draws the attention of the Court to the letter dated 11th August, 2016 written by NTPC to L&T regarding handing over of the keys “of rest of the equipment including above stated machineries” as well as “insurance papers, registration certificates and any other statutory papers and keys of TBM and other machinery at the earliest.”

4. Learned counsel for the Applicant, L&T, states that subject to compliance of the above directions by NTPC, they will hand over the keys of the remaining equipments that may not have been handed over till date as well as the other documents as requested for by NTPC.

5. The time for the Expert Committee to determine the hire charges is extended by four weeks from today.

6. The application is disposed of in the above terms. Order *dasti*.

S. MURALIDHAR, J

NOVEMBER 09, 2016/dn