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

+ **W.P.(C) 5612/2016**

VASCON ENGINEERS LIMITED

..... Petitioner

Through : Mr.L.M.Asthana and Mr Siddhant
Asthana, Advocates.

versus

**NATIONAL BUILDING AND CONSTRUCTION CORPORATION
LIMITED**

..... Respondent

Through : Mr Pravesh Tyagi & Ms Mugdha,
Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **23.10.2017**

W.P.(C) 5612/2016 & CM No.23324/2016(stay)

1. The petitioner is aggrieved by the Risk Purchase Tender Notice issued by the respondents.
2. The brief facts are that petitioner was awarded a Works Contract in 2013. On 23.08.2014, the Contract was terminated for non-performance. Subsequently, an NIT/Tender was issued by the respondents.
3. The petitioner's contention is that the First Tender Notice issued later in 2015 did not contain any reference to the works that was the subject-matter of the Contract between the parties and did not, therefore, contain reference to the risk purchase. Thereafter a subsequent NIT dated 18.05.2016 was issued at the risk and cost of the petitioner, which is

challenged in this petition.

4. The Court notices that the petitioner had approached the Civil Court by filing CS(Comm.) No.1140/2016 on the file of this Court, challenging the invocation of the bank guarantee. Subsequently the suit was amended to include another claim.

5. The Court had expressed the opinion, during hearing, that since the termination of the Contract (Awarded in 2013) had not been challenged, the assessment as to the correctness or otherwise of the Risk Purchase NIT of 2016, cannot be gone into in these proceedings under Article 226 of the Constitution.

6. On the basis of these observations, the learned counsel had sought instructions. It is stated by counsel after obtaining instructions that the petitioner wishes to avail all other civil remedies by way of suit for injunction/declaration, as are available in law. In these circumstances, the Writ Petition may be permitted to be withdrawn.

7. The Writ Petition is dismissed as withdrawn in terms of the liberty sought for. At the same time, it is clarified that the rights and contentions of the parties are expressly reserved.

8. The Writ Petition is dismissed as withdrawn in the above terms.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

OCTOBER 23, 2017

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