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

+ **W.P.(C) 5708/2017**

SIMHAPURI ENERGY LIMITED Petitioner
Through Mr Ramji Srinivasan, Senior Advocate
with Mr M. Mishra, Mr Hemant Singh and
Mr Nishant Kumar, Advocates.
versus
CENTRAL ELECTRICITY REGULATORY
COMMISSION & ANR Respondents
Through Ms Suparna Srivastava, Ms Sanjana Dua,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% 11.07.2017

1. Ms Suparna Srivastava, learned counsel appearing for the respondents has earnestly contended that the petitioner has an alternate remedy to challenge the order dated 06.07.2017 passed by the Central Electricity Regulatory Commission (the Commission), which is impugned in the present petition.
2. Mr Ramji Srinivasan, learned Senior Counsel appearing for the petitioner does not dispute the existence of an alternate remedy. He, however, submits that order passed by the Commission was pursuant to the orders passed by this court wherein this court had directed the Commission to consider the issues involved. He has also referred to paragraph 11 of the impugned order and submitted that the Commission has not considered the issues raised as there was no reason provided by the Commission for concluding that the case of the petitioner is not covered under Article 9 of

the BPTA. In addition, he has submitted that there is serious urgency since even prior to the date of the impugned order the respondent had invoked letter of credit.

3. At this stage, this court is not inclined to examine the contentions advanced by Mr Srinivasan considering that it is not disputed that the petitioner has an equally efficacious remedy of approaching the Appellate Tribunal for Electricity under Section 111 of the Electricity Act, 2003.

4. In so far as the issue regarding the invocation of the letter of credit is concerned, this court is of the view that the ends of justice would be met if the *ad interim* order passed by this court on 10.07.2017 is continued for a further period of one week to enable the petitioner to approach the Appellate Tribunal for urgent orders. It is so directed. The Appellate Tribunal would be at liberty to extend, modify or revoke the order of *status quo* passed by this court.

5. It is clarified that nothing stated in any of the orders passed by this court should be considered as an expression of opinion on the merits of the contentions advanced and the Appellate Authority shall make its decisions, including whether to grant *ad-interim* orders regard to the letter of credit, uninfluenced by any of the orders passed by this court. It is further clarified that if the petitioner fails to approach the Appellate Tribunal within a period of one week and/or status quo is not extended it shall stand automatically vacated on the expiry of the period of one week. The petition is disposed of.

6. Order *dasti* under the signature of Court Master.

VIBHU BAKHRU, J

JULY 11, 2017

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