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

+ O.M.P.(I) (COMM.) 287/2017

OTIK HOTELS AND RESORTS PRIVATE LIMITED Petitioner

Through Mr. Manjit Singh Ahluwalia with Mr.
Jitendra Kumar Singh, Advocates.

versus

INDIAN RAILWAY CATERING AND TOURISM
CORPORATION LTD

..... Respondent

Through Mr. Nikhil Majithia, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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27.09.2017

IA No.11539/2017 (seeking clarification of order dated 28.09.2017)

1. This is an application on behalf of the petitioner seeking clarification of order dated 28.09.2017.

2. It is contended by the learned counsel for the petitioner that the respondent is not permitting the petitioner to participate in the tender/bidding process and are contending that the Earnest Money Deposit of Rs.3 lakhs, which was the deposit made for empanelment for participating for temporary licence, is sought to be forfeited and the petitioner is being required to deposit the said amount of Rs.3 lakhs afresh.

3. Learned counsel for the respondent submits that since the petitioner did not deposit the security deposit in terms of the bid

documents, the Earnest Money Deposit of Rs.3 lakhs was liable to be forfeited and has, accordingly, been forfeited.

4. Since the dispute of forfeiture of Earnest Money Deposit Rs.3 lakhs does not arise from the order dated 25.08.2017, it is agreed by the learned counsel for the parties that the petitioner shall deposit the sum of Rs.3 lakhs with the respondent without prejudice to the rights and contentions of the parties and would be at liberty to raise the additional claim with regard to same before the Arbitral Tribunal to be constituted.

5. The application is, accordingly, disposed of by holding that no clarification of order dated 28.09.2017 is called for.

6. The petitioner is permitted to deposit the sum of Rs.3 lakhs, without prejudice to the rights and contentions of the parties. On the petitioner depositing the said amount of Rs.3 lakhs, the petitioner would be permitted to participate in the tenders. The petitioner would be at liberty to raise additional claim before the Arbitral Tribunal seeking refund of the said amount.

7. The application is, accordingly, disposed of.

8. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

SEPTEMBER 27, 2017
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