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

\+ O.M.P.(I) (COMM.) 349/2017

SHIPRA INFRATECH PRIVATE LTD. ..... Petitioner

Through: Mr. Sanjay Katyal, Adv.

versus

CAIRNS INDIA LTD., & ANR. ..... Respondents

Through: Mr. Rajiv Nayar, Sr. Adv. with Mr. Tejas Karia, Mr. Gauhar Mirza and Mr. S. Singh, Advs.

**CORAM:**
**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**O R D E R**

% **12.09.2017**

**CAV 808/2017**

Learned counsel for proposed respondent/caveator has appeared. Caveat is discharged.

**I.A. 10510/2017 & 10511/2017 (Exemption)**

Both the applications allowed, subject to all just exceptions.

**O.M.P.(I) (COMM.) 349/2017**

The petitioner by this petition under Section 9 of the Arbitration & Conciliation Act, 1996 seeks a restraint on the respondent from invoking and encashing performance bank guarantee dated 09.06.2014 in the sum of Rs. 2,99,64,004.00 and performance bank guarantee dated 16.06.2014 in the sum of Rs. 2,99,66,004.00 issued by State Bank of India, Overseas Branch.

After some arguments under instructions from Mr. Man Mohan

Singh, Project Incharge seeks leave to withdraw the petition with liberty to approach the Arbitral Tribunal under Section 17 of the Act raising the issue of wrongful encashment of the bank guarantees and also for interim measures of protection/restitution of the said amount and other consequential interim measures in accordance with law.

In view of the above, the petition is dismissed as withdrawn with liberty to petitioner as prayed for.

It is clarified that the Arbitral Tribunal when constituted would expeditiously consider the application of the petitioner under Section 17 of the Act, if so filed.

**SANJEEV SACHDEVA, J**

**SEPTEMBER 12, 2017**
***'rs'***