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

+ **RFA 165/2006**

GOVT. OF N.C.T. OF DELHI Appellant
Through: Mr. Santosh Kumar Tripathi, Additional
Standing Counsel and Mr. Rizwan,
Advocate.

Versus

M/S MATREJA FOODS Respondent
Through: Mr. K. K. Bhuchar and Mr. Atul Bhuchar,
Advocates.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER
% **08.01.2018**

This is a cross-appeal seeking setting aside of the impugned order dated 06.05.2005 passed in Suit No.105-95-04, whereby Rs.4 lacs, which was deposited as security for the discharge of the tender for the supply of food items such as Bhuna Chana and Murmura, alongwith interest @ of 6% *per annum* from 01.01.1995 till its realization, was directed to be re-paid to the respondent.

The learned counsel for the appellant submits that the terms of the tender required Rs.10 lacs to be deposited as security amount. Instead the respondent had deposited only a sum of Rs.4 lacs. He submits that the appellant Department had accepted the supplies from 13th June to 31st October, 1991. He further submits that the appellant/government seeks to have forfeiture of the said security amount of Rs. 4 lacs on account of poor

quality of supply. The Court would note that there is no order on record-passed by the appellant/Government stating the reasons for or the decision to forfeit and not return the security amount. The waiver of the condition of pre-deposit of Rs. 10 lacs as security amount is evident from the fact that the appellant never insisted on it till the supplies were stop. The forfeiture could have been done only after a show cause notice is issued and upon considering a reply thereto from the respondent it is followed by a reasoned order having been passed in this respect.

Mr. Bhuchar, the learned counsel for the respondent submits that a show cause notice dated 17.09.1991 was issued to the respondent regarding the poor quality of the food items supplied. A reply was sent but no conclusive order was either passed or conveyed by the appellant. Hence there is no ground for forfeiture.

In the circumstances, there was no occasion for the appellant to forfeit the said security amount of Rs.4 lacs or to maintain the present appeal.

In view of the aforesaid discussion, the appeal being without merits, is dismissed. Costs are allowed as per Rules.

NAJMI WAZIRI, J.

JANUARY 08, 2018

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