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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 203/2016 and C.M.No.25124/2016 (delay)**
STATE BANK OF PATIALA

..... Appellant

Through: Ms.Shobha Gupta, Advocate.

versus

GOVT OF NCT OF DELHI & ANR

..... Respondents

Through: Mr.Naushad Ahmad Khan, ASC
(Civil) for R1/GNCTD.
Mr.Ashish Dholakia, Mr.Gautam
Bajaj and Mr.Rohan Chawla,
Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **07.05.2018**

The present appeal under Section 37 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as 'the Act') assails the order dated 16th May, 2016 passed by the learned Single Judge in OMP No.272/2015 whereby the application instituted on behalf of the appellant-Bank being I.A.No.3291/2016 seeking discharge from the subject bank guarantee came to be dismissed by the learned Single Judge of this Court.

The said application was instituted in a proceeding under Section 34 of the said Act by the Government of NCT of Delhi, who were the beneficiaries of the subject bank guarantee in relation to a contract entered into by and between them and the respondent No.2-

M/s. DSC Ltd.

It is an admitted position that the appellant-Bank was neither a party in the arbitration proceedings nor in the objections filed under Section 34 of the Act before the learned Single Judge of this Court. It is also an admitted position that the appellant-Bank has instituted appropriate proceedings under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 against the respondent No.2 – M/s.DSC Ltd. which are pending adjudication before the DRT, Delhi.

It is in this view of the matter that, the learned Single Judge of this Court came to a conclusion that in case the appellant-Bank has to recover any amounts from respondent No.2 – M/s.DSC Ltd, the same can be recovered, in accordance with law.

Having heard the learned counsel appearing on behalf of the parties, we find ourselves in agreement with the finding arrived at by the learned Single Judge in the impugned order. We are, thus, of the view that the relief prayed for by the appellant-Bank cannot be granted in the present proceedings.

The appeal is devoid of any merit and is accordingly dismissed.

SIDDHARTH MRIDUL, J

DEEPA SHARMA, J

MAY 07, 2018

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