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

+ ARB.P. 495/2018

RAJASTHAN SUN TECHNIQUE ENERGY PVT.

LTD

..... Petitioner

Through: Mr. Parag P. Tripathi, Senior
Advocate with Mr. Hasan Murtaza,
Adv

versus

NTPC VIDYUT VYAPAR NIGAM LTD. Respondent

Through: Mr. M.G. Ramachandran with Ms.
Anushree Bardhan and Mr. Pulkit
Agarwal, Advs

+ O.M.P.(I) (COMM.) 124/2017

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CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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19.09.2018

ARB.P. 495/2018 & O.M.P.(I) (COMM.) 124/2017

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1. The captioned petitions have been filed under Section 11 and under section 9 of the Arbitration and Conciliation Act, 1996 (in short “the 1996 Act”)
2. I had heard arguments at length in the captioned matters on the previous date. Thereafter, upon suggestion being made by the Court, counsel sought accommodation to obtain instructions in the matter from their respective clients.
3. Counsel have returned with instructions.
4. Counsel agree that the captioned petitions can be disposed of based on the following directions:-
 - 4.1 The petition under Section 11 of the 1996 Act will be treated as petition under Section 79(1)(f) of the Electricity Act, 2003 and placed before the Central Electricity Regulatory Commission (‘CERC’) for decision as to whether it should adjudicate upon the disputes obtaining between the parties or instead refer the same to an Arbitral Tribunal.
 - 4.2 In case, the CERC takes the decision that the disputes should be referred to the Arbitral Tribunal, the interim order dated 30.03.2017 passed by this Court in O.M.P (I) (Comm.) 124/2017 will continue to operate till such time the Arbitral Tribunal decides to either confirm, or vacate or vary the order passed by this Court. Likewise, in case, CERC decides to adjudicate upon the matter, the said interim order dated 30.03.2017 will continue to operate till CERC decides to confirm or vacate or vary the order passed by this Court.

5. Needless to say, since I have not dealt with the merits of the matter, the issues raised in the petition have not been adjudicated upon by me.

RAJIV SHAKDHER, J

SEPTEMBER 19, 2018

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