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

+ **W.P.(C) 9792/2018**

SURYA ALLOY INDUSTRIES LIMITED &
ANR

..... Petitioners

Through: Mr Pukhrambam Ramesh Kumar,
Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Jagjit Singh, Sr. Standing Counsel
for Railways with Mr Vipin Chaudhary, Mr Preet
Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **17.09.2018**

C.M. No. 38138/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 9792/2018 & C.M. No. 38139/2018

3. The petitioners have filed the present petition, *inter alia*, impugning a purchase order dated 27.12.2017 and the risk purchase notice dated 19.07.2018.
4. Petitioner no.1 (hereafter 'SAIL') had participated in a tender for supply of 2.00 lakh Kgs of steel (ISMB (600x200mm. as per IS:2062: 2011, E-250, FE-410, Grade-BO/A, Length 10 metre or above). The petitioners state that the said bid was submitted in August, 2017 and was valid for a

period of 90 days. It is stated that SAIL received a letter dated 11.11.2017 calling upon SAIL to extend the validity of the bid for a further period of 45 days. SAIL did so and the validity of the bid was extended till 30.12.2017. It is the petitioners' case that SAIL did not receive any communication accepting its bid during the validity period.

5. On 02.02.2018, SAIL received an e-mail, which the respondent claims to be a purchase order (P.O. No. 06175009147280 dated 27.12.2012) accepting SAIL's bid for supply of 2.00 lakh Kgs of the product in question. SAIL sent a communication disputing the same as according to SAIL its offer had elapsed on 30.12.2017 and, therefore, could not be accepted.

6. The respondents, on the other hand, alleges that an advance acceptance letter dated 08.12.2017 had been issued to SAIL and was delivered at its registered e-mail account. Thus, according to the respondents, a binding contract with SAIL had come into existence. Since, SAIL does not accept that there is any contract between the parties, it has not supplied the product in question. The respondents are now proceeding on the basis that a contract for supply of the steel did exist. And, since SAIL has failed to discharge its obligations under the contract, the respondents have issued a risk purchase notice putting SAIL to notice that the respondents are proceeding to purchase the product in question from another source(s) at the risk and cost of SAIL.

7. It is in this context that the petitioners have filed the present petition.

8. It is seen that the disputes between the petitioners and respondents have no element of public law; the disputes are essentially private disputes. It is also apparent that the controversy involves disputed questions of fact.

9. In this view, this Court does not consider it appropriate to entertain

the controversy in this petition. The petition is, accordingly, dismissed. It will be open for the respondents to avail of such remedies as available in law. The pending application is also disposed of.

VIBHU BAKHRU, J

SEPTEMBER 17, 2018

pkv